



Advanced Diploma School Leadership and Management

Working within and for the school system

Module 7

Department of Basic Education



basic education

Department:
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Department of Basic Education

Working within and for the school system

A module of the Advanced Diploma: School Leadership and Management

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Acronyms and Abbreviations

AdvDip (SLM)	Advanced Diploma School Leadership and Management
CoP	Community of Practice
DAS	Developmental Appraisal System
DBE	Department of Basic Education
DoE	Department of Education
ECD	Early Childhood Development
EEA	Employment Equity Act
ELO	Exit Level Outcome
ELRA	Education Labour Relations Act
ELRC	Education Labour Relations Council
FET	Further Education and Training
HEI	Higher Education Institution
HOD	Head of Department
ICT	Information and Communications Technology
IQMS	Integrated Quality Management System
MEC	Member of the Executive Council
NCHE	National Commission on Higher Education
NEPA	National Education Policy Act
PAJA	Promotion of Administrative Justice Act
PED	Provincial Education Department
PP	Professional Portfolio
PPODP	Personal, Professional and Operational Development Plan
RCL	Representative Council for Learners
SACE	South African Council for Educators
SAQA	South African Qualifications Authority
SASA	South African Schools Act
SASP	South African Standard for Principalship
SGB	School Governing Body
SIP	School Improvement Plan
SMART	Specific, Measurable, Achievable, Relevant, Time-bound
SMT	School Management Team
SWOT	Strengths, Weaknesses, Opportunities, Threats
TLO	Teacher Liaison Officer
UNDP	United Nations Development Programme
WCED	Western Cape Education Department
WPP	Workplace Project

Module 7: Working within and for the school system

AdvDip (SLM) Course Modules

Module 1 Professional Portfolio and Workplace Project

Module 2 Leading and managing teaching and learning in the school

Module 3 Leading and managing extra- and co-curricular activities

Module 4 Leading and managing people and change

Module 5 Working with and for the wider community

Module 6 Leading and managing the school as an organisation

Module 7 Working within and for the school system



Overview

Welcome to *Module 7: Working within and for the school system*. This module aims to build on the knowledge and insights gained from engaging with the other six modules.

The module sets out to help you locate the school and its systems and practices within the wider context of the education system and the national education policy framework. The key purpose of this is to provide a legal base for schooling and the provision of quality teaching and learning, in a safe and secure environment, and in accordance with legislation and policy.

A good understanding of the legal framework is a critical aspect of developing and implementing a legally compliant Workplace Project (WPP) which forms an integral part of your Professional Portfolio (PP).

As has been noted in the preceding modules, systems and process issues which are implemented within schools are framed by the wider educational context. The Constitution is the benchmark by which all legislation (acts, policies, regulations) in South Africa are judged. The Constitution provides the underpinning principles and values which inform the development of all national, provincial and school-level policy, and governance and administration procedures. The position of a school principal requires compliance with the legislative and policy requirements that are critical to the functioning of the school.

As a principal and school leader, you need to act within the legal and policy frameworks which underpin the professional practices and systems of your school. Your engagement with this module will enable you to acquire further skills and competencies for this role. The South African Standard for School Principalship (SASP) (DBE, 2015a) stipulates that these competencies are a requirement for the role of principal.

This module will also help you to develop and strengthen the leadership attitudes and values that are necessary for the positive transformation of the schooling system. This is applicable to all levels of leadership, but particularly to those that are within your sphere of influence in the school be it as a principal, a deputy principal, a head of department (HOD) or of a phase (DBE, 2015a: 12–15).

Finally, this module emphasises that *contributing* to the system sometimes means being constructively critical of it, and sometimes being self-critical about your own capacity to contribute appropriately as a school leader within it.

Module learning outcomes

By the end of this module you should be able to:

1. Demonstrate sound knowledge of the overall contemporary legislative and policy context applicable to schooling in South Africa.
2. Demonstrate the personal qualities, knowledge and skills necessary for effective management of legislative mandates, policy, planning, school development and governance.
3. Develop and communicate school values, vision, mission, policies and plans in a collaborative way, and

secure shared commitment to these.

4. Develop and maintain sound working relationships with the school governing body as well as parents, learners, the community and the department.
5. Understand, and be able to apply, relevant content knowledge in leading and managing policy, planning, school development and governance.

Links to other modules

As you work through this module, you will draw upon the content covered in the other modules. Figure 1 illustrates how the modules fit together to comprise the AdvDip (SLM) programme.

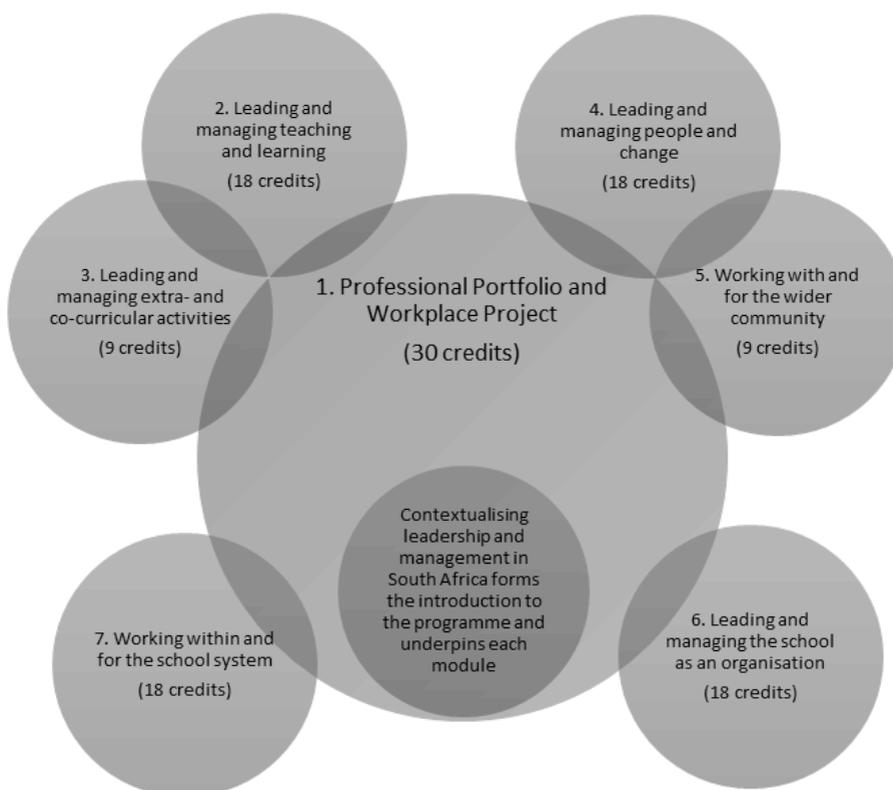


Figure 1: The components of the AdvDip (SLM) programme

(Source: DBE, 2015b: 8)

Units

The five units in this module are interconnected and informed by the South African Constitution and general principles of law in the education context:

Unit 1: The South African schooling policy context.

Unit 2: Effective management of policy, planning, school development and governance.

Unit 3: Develop and communicate school values, vision, mission, policies and plans.

Unit 4: Cooperative governance: Building positive working relationships with all stakeholders.

Unit 5: Lead and manage policy, planning, school development and governance.

Figure 2 illustrates the structure of this module and how the five units interconnect with each other.

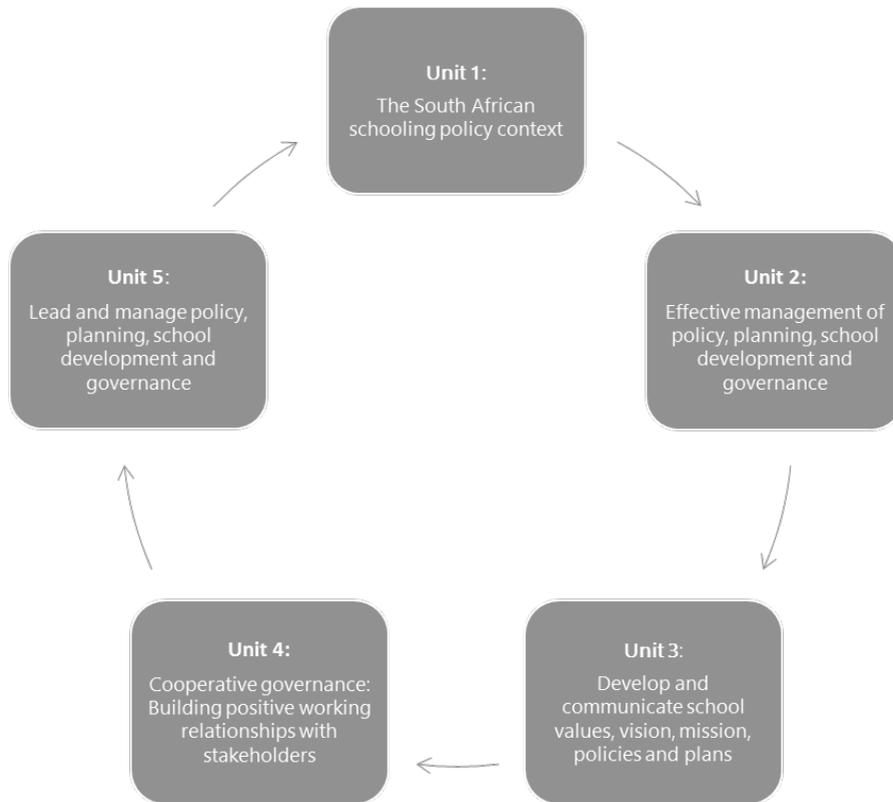


Figure 2: Units in Module 7: Working within and for the school system

In *Module 1: Professional Portfolio and Workplace Project*, you undertook a needs analysis of the school to determine your priorities for school improvement. During the course of the AdvDip (SLM) programme, you are required to engage in action research related to the area of improvement that you identified. As part of the research you also had to collect relevant information and evidence (data) to provide a rationale for why you selected the specific area for improvement in your school. This process was intended to develop your research capacity and scholarship (both of which are requirements of SASP (DBE, 2015a.) As emphasised in all modules, it is through regular reflective practice that you will become a researcher and scholar (Figure 3). This requires you to critically engage with the programme content so that any arguments that you put forward in response to the activities, assignments and reflective commentaries, are all well reasoned and substantiated. You are required to include a range of your completed tasks and reflective commentaries in your PP, together with your WPP.



Figure 3: The school leader developed through reflective practice

The recommended readings that form part of this module (as well as the literature in the reference list at the end of the module) and the mini-research projects you will undertake, will help develop you further as a reflective practitioner, researcher and scholar – a key programme requirement and an essential practice for a school leader.

Module credits and learning time

This module carries 18 credits. This is equivalent to 180 notional learning hours.

It is anticipated that you will take approximately 180 hours to complete the module successfully. The 180 hours will include contact time with your Higher Education Institution (HEI), reading time, research time and time required to write assignments. It is also expected that at least half of your learning time will be spent completing practice-based activities in your school. This will involve your individual work on the activity, and it will also require you to discuss these school-focused activities with your colleagues. Each activity in this module indicates the suggested time for completion. All these reflective and formative activities will form part of the PP and WPP which is explained in detail in *Module 1: Professional Portfolio and Workplace Project*.

In addition, information and assessment requirements will be provided by your HEI.

Exit level outcomes

This module contributes to the following eight of the nine exit level outcomes (ELOs) of the AdvDip (SLM) qualification:

ELO 1

Demonstrate accountability and take full responsibility for managing school leadership, teaching and learning, whilst engaging in school activities, decision-making and projects, and ensuring the responsible use of school and community resources in performing workplace tasks and projects.

ELO 2

Reflect on and develop own personal leadership attributes and characteristics, collaboration, knowledge of systems and processes, and demonstrate the ability to work effectively with others in the school context and beyond.

ELO 3

Gather, validate, critically reflect on and evaluate information, and apply theories and knowledge around pedagogy, and leadership and management to address complex problems encountered within the school and educational context, in and outside the classroom.

ELO 4

Demonstrate the ability to manage people and teams empathetically and firmly, encourage collaboration and develop and maintain sound working relationships with different stakeholders over time, and within a range of contexts such as collective bargaining, negotiation and dispute resolution.

ELO 5

Select, and apply effective and innovative organisational systems and processes (such as HR, Finance, Safety, ICT, etc.) to manage resources in a way that aligns with the school's vision and mission, as well as to ensure compliance with legislation, policy and best practice in addressing a range of organisational needs.

ELO 6

Plan for, select and manage staff and teams, assess and evaluate the performance of school stakeholders, and work together to improve performance whilst insisting on full accountability for performance.

ELO 7

Model ethical and values-driven leadership that adheres to professional standards of governance and Codes of Conduct for educators, and articulate why certain decisions are taken and standards are applied.

ELO 8

Communicate effectively and clearly with all school stakeholders across a range of issues and circumstances by using arguments and rationale effectively.

Take note

You are required to access the full details of the case law that is referred to in this module. You can access this at The Southern African Legal Information Institute (SAFLII), website: <http://www.saflii.org/>

Legal acts (and their amendments) relevant to the education system and schooling in particular, can be accessed online on www.polity.org.za.

In most of the module activities it is suggested that you work collaboratively with either your school-based or your HEI community of practice (CoP). However, depending on when you are doing the activity, you may need to select which CoP you work with (it may not always be possible to work with the CoP that is specified in the activity). If it is not possible to work with a CoP, try to work with a colleague or work on your own.

Unit 1: The South African schooling policy context

Introduction

Unit 1 outlines the South African education policy context to ensure that quality teaching and learning takes place safely and securely in accordance with legislation, in the school as a whole, but particularly, within your personal sphere of influence as a school leader (principal, deputy principal or HOD).

Unit 1 learning outcome

By the end of this unit you should be able to:

- Demonstrate a sound understanding of the overall contemporary policy context applicable to schooling in South Africa.

Preparation for this unit

To prepare for this unit you need to be familiar with:

- The legislation related to schooling (see Appendix 1).
- The South African Constitution (see Appendix 2).
- The Bill of Rights (see Appendix 3).
- The following article is recommended as it will assist you in understanding policy issues in your school:

De Clercq, F. 2010. Policy mediation and leadership: insights from best practices in South African school evaluation policies. *Southern African Review of Education*, 16(2): 100–116. Access online at: <https://tinyurl.com/y8atko8u>.

- The South African Schools Act (SASA) (84/1996). Access online at: <https://tinyurl.com/ybbokup8>.
- Your school vision and mission statement.

Activity 1: The South African legislative and policy context from a historical perspective

Suggested time:

1 hour

Aim:

To reflect on how South Africa has attempted to transform the schooling system since 1994.

What you will do:

Individual activity

As South Africa develops as a democratic society, you need to be aware of what is needed to effect transformation both in the wider education system and in your own school context. Start by reading the extract from Christie (2008) below:

Extract: The doors of learning and culture shall be opened

In 1994, a new government of national unity took power in South Africa, with the mandate of transforming the racial apartheid state into a modern democracy. The new government moved to bring the racially divided education departments into provincial departments. It developed a system of funding which would make it possible for the poorest provinces and schools to receive more than their wealthier counterparts. The government built more schools and classrooms, and improved the resources in the poorest and most disadvantaged schools. Soon, all primary age children were in school, and more and more children were in secondary schools. Unlike many other countries, girls and boys appeared to be attending school in more or less equal numbers. Governing bodies were set up for all schools, and a measure of self-management was progressively introduced. A new curriculum was put in place and revised when difficulties were encountered. Teachers' conditions of work and pay were regularised and a new system of teacher appraisal and whole school evaluation was put in place. A great achievement was that the system kept operating at the same time as fundamental changes were introduced.

However, several shadows fell over the achievements of change. First, test scores suggested that the system was not serving all of its students equally, or even well. Matriculation results told a mixed story of success and failure. Comparative international tests were equally – if not more – problematic. South Africa's performance was disappointingly poor, even in comparison with countries in the Southern African region. Internationally, even the best performances in South Africa were no more than average in comparison with top performing countries. A second, deep shadow was the poverty and poor functioning of many – if not most – of the country's schools. It seemed that for the majority of young people, democracy had not brought better prospects in education. Patterns of inequality in education remained the same: poverty, race, gender and

region mark out different educational experiences for most South African children. Why had this not changed? For decades, since its adoption in 1955, the Freedom Charter had provided a vision for a future society based on human dignity, democracy, equality and sharing of wealth. The Freedom Charter famously declared that

The doors of learning and culture shall be opened!

This vision was given legal status in the new South African Constitution of 1996, which declared that:

Everyone shall have the right: (a) to basic education, including adult education; and (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.

(Source: Christie, 2008: 3–4)

If possible do this with your HEI CoP (otherwise individually)

Address the important questions Christie (2008: 4) asks:

1. Why has the vision of the new government been so hard to put into practice?
2. Why are improvements still so uneven despite the many changes in education policy?
3. Why has it been difficult to 'open the doors of learning' to provide education for all as a basic human right?
4. What can be done about this situation and what part can you play?

Discussion of the activity

These questions have challenged educators, policy makers and social reformers in South Africa. Christie was looking for answers to them in 2008 and they have still not been answered today. She says that South Africa is not unique in this experience. However, the form these challenges take are specific to South Africa. It is the form of the challenges that you as a school leader need to understand and address. Schools are governed within the constraints of the legal framework applicable to them. You need to have a working knowledge of this framework and an in-depth understanding of the relevant documentation to make informed decisions that affect and develop your school community.

Activity 2: The structure and legal framework applicable to South African schools

Suggested time:
90 minutes

Aim:

- a. To outline the structure and legal framework applicable to South African schools.
- b. To sharpen your awareness of the present parameters of South African schools.

What you will do:

Individual activity

1. Study the organisational structure of the present schooling system as shown in Figure 4.
2. Then complete a similar organogram of those presently in office in your province, district and circuit that are relevant to your school. You will need to add boxes below those in the Provincial Government column below.

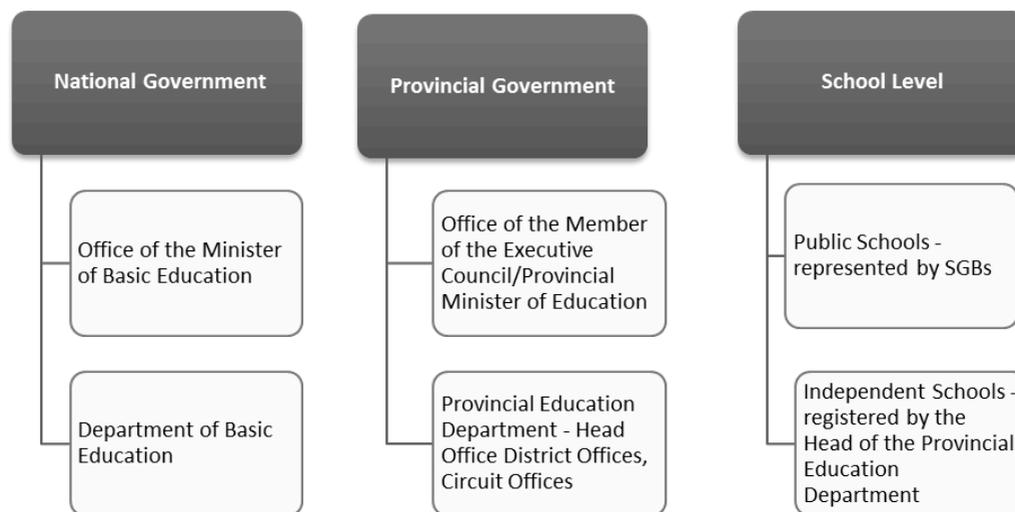


Figure 4: Organisational structure of the South African schooling system

(Source: Roos & Wilter, 2018: 137)

3. Read the extract by Christie on how the functions implemented through the organisational structure in the South African system came about .

Extract: Organisational structure

In terms of the Constitution, the National Department of Education has responsibility for developing norms and standards, frameworks and national policies for the system. Provincial departments have responsibility for implementing these frameworks and delivering services. However, the National Department developed policy frameworks without fully considering if or how these could be implemented by provinces. Some of these were:

- *The National Education Policy Act of 1996 which set out national and provincial powers in education and the structures for decision-making with the system.*
- *The South African Qualifications Authority (SAQA) which from 1996 set out the framework on which all qualifications could be registered and articulated with each other.*
- *The South Africa Schools Act (SASA) of 1996 which set out frameworks, norms and standards for the governance of schools. It stipulated that all schools should have democratically elected School Governing Bodies (SGBs) on which parents would be the majority. SGBs were given powers to determine the admissions policy, language policy, and school fees. They could also administer properties and make recommendations to provinces on hiring teachers. Section 20 gave basic management powers to all schools, and schools that had the capacity to manage their own budgets were given additional Section 21 powers.*
- *The 1998 National Norms and Standards for School Funding (amended in 2005) which set out the framework for funding provinces and schools. It included a pro-poor funding formula for part of the education budget, whereby more funds would be given to poorer provinces and schools.*
- *A National Commission on Higher Education (NCHE) which provided the basis for the Higher Education Act of 1997 and the redesign of the higher education system. In terms of this Act the colleges of education were either shut down or amalgamated with universities, and in later developments some universities were merged. Altogether 101 colleges were incorporated into universities and universities and technikons were merged to form 24 higher education institutions.*
- *Curriculum 2005 introduced an outcomes-based curriculum for general education. It was phased into schools from 1998, reviewed in 2000 and replaced by revised National Curriculum Statements.*
- *A National Committee on Further Education and Training (FET) presented its report in 1997, as the basis for the Further Education and Training Act of 1998.*
- *A White Paper on Early Childhood Development (ECD) in 2000 envisaged the introduction of a pre-school reception grade.*
- *A National Commission on Special Needs in Education and Training advocated 'mainstreaming' of learners with special educational needs and was followed by White Paper Six on Inclusive Education (2001).*
- *Frameworks for teacher employment were set out in the Education Labour Relations Act (ELRA) of 1995. Conditions of work, codes of conduct, and duties and responsibilities were agreed upon for educators. All teachers were required to register with the South African Council of Educators (SACE).*
- *A series of policies were adopted to monitor and evaluate quality in schools. The*

Development Appraisal System (1998) aimed to improve the performance of individual teachers through peer review. A Performance Measurement System (2003) was designed to evaluate teachers for promotion and salary purposes. The National Whole School Evaluation Policy (2001) looked at improving school effectiveness more broadly. To address the confusions and overlaps that arose between these different policies, the Integrated Quality Management System (IQMS) was introduced in 2003. It was amended to the Quality Management System (QMS) in 2018.

A particular policy architecture was therefore developed in the first period of government. As the implementation of these policies unfolded, the tasks of policy monitoring, evaluation and revision became increasingly important. In many ways, the policy documents developed by the 1994 government were 'state-of-the-art' as they specifically drew on what was judged to be best international practice at the time, bringing global ideas into the local context. They set out a vision of what an ideal education system might look like in South Africa, based on two main sets of principles: equality and human rights on the one hand, and human resource development on the other. What they envisaged was a functioning education system, linked to a high-skill economy and a fully-fledged democracy. They envisaged a modern, non-racial, citizenry with equal rights, including the rights to different languages and cultures in a shared social order. This was enormously important in breaking with the past and giving a sense of new possibilities and direction to the education system. But it was a far cry from the reality of what existed in South Africa in terms of education, economy and society.

This approach to the policy process soon ran into difficulties as the policies could not be implemented as envisaged because they were formulated in terms of an ideal rather than in terms of changing what existed. They emphasised structural design without attention to the implementation and support required in different contexts. Funding was inadequate to meet the policy design and the expertise and capacity of people working within the system were inadequate. The policies had many unintended consequences, as policy actors at the school level interpreted them in ways which had not been anticipated by policy makers. The overall result was that the deep inequalities did not shift substantially during the first 10 years of government (1994–2004).

(Adapted from Christie, 2008: 132–133)

4. In your Learning Journal reflect on what Christie means by the 'unintended consequences' of policy actors' interpretation of policy. Think of examples of the 'unintended consequences'. Consider the extent to which these unintended consequences are still being experienced in your context.
5. Think about yourself as 'an actor' and suggest what you could do to maximise effective interpretation of policy and to minimise unintended consequences.

With your HEI CoP (or if working individually, write your reflection in your Learning Journal)

Discuss and share your reflective insights related to the following two points:

1. The ways leadership and management agency at different levels in a school is a critical component for change in the interpretation of policy. Specifically refer to SGB, SMT, teacher and learner agency as well as the impact of the level of district support to the school.
2. Provide examples of how the interpretation of policy impacts on your work at school level, e.g. learner code of conduct.

Discussion of the activity

South Africa post-1994 presents a case study in the difficulties of educational change as well as the possibilities and limitations of policy. Two main strands of logic created tensions between *what was desirable* and *what was possible*; which both inspired and constrained the changes that policies could achieve. These two strands of thinking were not always compatible. The one emanated from the struggle for liberation that stressed justice, equity and rights; the other was influenced by globalisation and neoliberal approaches to economic and social development.

There are many policy examples that illustrate the difficulties of educational change in South Africa. Every policy intervention across the system from early childhood development to higher education has proved to be complex and contested. Effecting educational practice and systems change is an incredibly difficult undertaking mainly because of the competing views and vested interests on every issue. These issues include finance, governance, curriculum, teachers' conditions of work, qualifications and remuneration, assessment and qualification systems, management systems, provisioning, training, inclusion, and special needs education. Many actors influence and contest policy process which means the 'the state' or 'the government' does not always get what was intended. This results in compromises made by decision makers in the process (Christie, 2008: 133).

Activity 3: Understanding the legal framework applicable to South African schools

Suggested time:

1 hour

Aim:

To assess your understanding of the current legal framework applicable to South African schools.

What you will do:

Individual activity

1. Look at the overview of the legal framework applicable to the present South African schooling system presented in Figure 5.



Figure 5: Overview of the legal framework applicable to the South African schooling system
 (Source: Roos & Wilter, 2018: 137)

With either your HEI or school-based CoP

1. Quiz each other on what you know about the Acts. Access them online or get a copy from your school to check how much you really know about them in preparation for this.
2. From your experience, give examples of the Acts in practice in Table 1.

Table 1: Summary of the legislation applicable to South African schools

The Act	What the Act does in practice
National Education Policy Act (27/1996)	
South African Schools Act (84/1996)	
Employment of Educators Act (76/1998)	
General and Further Education and Training Quality Assurance Act (58/2001)	
Labour Relations Act (66/1985)	
Public Service Act (Proclamation 103/1994)	
Basic Conditions of Employment Act (75/1997)	

Individual activity

1. After the above activities, assess your own knowledge of these acts. In your Learning Journal list the Acts you now have a secure working knowledge of, and design a timeline for yourself to acquire an understanding of them all.

Discussion of the activity

A more comprehensive list of education legislation that you should be familiar with is available in Appendix 1 of this module. You will address some of the legislation in this module. As you do so, tick each one off on the appendix and keep it as a checklist of your increasing knowledge of legislation. If at the end of the module there are some that were not covered take it upon yourself to address this situation.

As discussed, the Constitution (Appendix 2) is the supreme law of the Republic of South Africa. It protects, amongst other things, the sovereignty of the eleven official languages and promotes equal recognition of these with additional provision for the development and use of Khoi, Nama, San and Sign Language. In the Constitution, the chapter devoted to the Bill of Rights (Appendix 3) affirms the values of human dignity, equality and freedom. It also makes a very clear statements about children and education (Section 29). However, in practice, there are many contradictions, and illegal practices involving children, especially given the reality of the socio-economic conditions under which many children in South Africa live. While solving these problems is a long-term challenge, a school principal needs to ask whether their school is meeting the

needs of all the learners? How does their school measure up against the statements in the Bill of Rights? What can they do to start addressing any of the social challenges that may exist in their school?

In summary, school principals and education authorities need to conduct themselves in a manner consistent with the Constitution and the Bill of Rights which enshrines the rights of all people in South Africa and affirms the democratic values of dignity, equality and freedom, and the constitutional right to education (Barry 2006: 8–9).

The recommended readings on the *Founding Provisions of the Constitution*, (Appendix 2) and the extract from the *Bill of Rights* (Appendix 3) will help to deepen your understanding of your constitutional obligations as a school leader. Links to the full documents are also provided in the appendices.

Activity 4: Distinguish between legislation, regulations and policy

Suggested time:
45 minutes

Aim:

- a. To understand the distinction between legislation, regulations and policy.
- b. To understand their implications for your school.

What you will do:

Individual activity

1. Refresh your memory by referring to the list of policies that you would have already discussed or engaged with in the other modules (Appendix 4).
2. In your Learning Journal reflect on how knowledge of, and interaction with, specific policy has benefitted your practice in the school.
3. What is the distinction between legislation, regulations and policy and why it is important for a school principal to understand and have clarity around this?
4. Record your thoughts in your Learning Journal.

With your HEI or school-based CoP

1. Discuss your interpretation of legislation, regulations and policy and how this is communicated in your school. Critique and contest your group's interpretations.
2. Come to a common understanding and insert this in Table 2.

Table 2: Interpretation of the terms legislation, regulations and policy

Legislation	Regulations	Policy

Discussion of the activity

In terms of setting out the differences between legislation and regulations on the one hand, and policy on the other, the difficulty is that *policy* has many interpretations and applications in everyday life which can be somewhat misleading. For example, different types of clubs (social, sports, etc.) have policies, retail stores have policies on trading hours, companies have staff policies, etc. However, in the context of education, it is government policies that are relevant. Sometimes such policies are also referred to as *public policy* or *official policy*.

Legislation refers to the making of laws through the democratic process at national or provincial level. It generally deals with issues of broad principle applicable to the wellbeing of society. The parliamentary process in policy making is structured to allow for both policy and laws (legislation) to be made. Policies are in the form of white papers while laws are in the forms of acts of parliament. White papers are government positional papers and are preceded by green papers which are discussion documents open for comment. Parliamentary portfolio committees hold hearings at which the public are invited to make representations following which changes may be made to policy documents or bills before they become acts. Legislation is published in either the national or provincial gazette and becomes binding from the date stipulated in the gazette.

Regulations are a form of subordinate or secondary legislation – secondary to the main legislation but which is just as binding on the public. Regulations are made either by the national minister on national matters or provincial members of executive council (MECs) with respect to areas of provincial competence. Regulations normally deal with the detail necessary for the implementation of legislation. Regulations are also published in the national or provincial gazettes and their operational dates are stipulated in the gazettes.

Policies are the product of consultation and debate and can be drafted at a national, provincial or school/organisation level and can change according to input and opinion. Once a policy is drafted and implemented, it may be adjusted in line with what happens in practice, following reviews and evaluations.

SASA gives rights to schools to formulate policies within the law and schools have policies on many matters – big and small, regulative and procedural. So *policy* is a word that doesn't have stable, reliable meanings. In terms of government, it is usually the case that official policy is set out within some sort of regulative

framework, so that when we talk of policy in relation to government, it has some formal connotation and is binding on everyone.

Processes of policy formulation often precede legislation/regulation with, for example, consultative processes occurring in the policy formulation stage outside of parliament and prior to legislation.

Education law is formed when Parliament *ratifies* (approves) legislation and it is non-negotiable in terms of interpretation and implementation. In terms of education, if legislation and Acts are not followed, schools face repercussions for breaking the law. A policy formulated at national or provincial level is government policy and based on constitutional mandates and limits to the influences of *input and opinion*. The powers that schools have in terms of policy formulation are also limited by the Constitution.

National and provincial policies are designed to enable schools to function effectively through the implementation of these policies in each school. School policies (e.g. the learner code of conduct, language and admissions policies, HIV/Aids policy, safety and security) need to be drawn up by the various constituent groups and stakeholders of the school and are specific to a situation. They exist to help lead, manage, govern and resource schools in an effective and efficient manner. A school policy needs to be developed through consultation. Each policy will be key to improving the effectiveness and efficiency of the school evidenced by quality teaching and learner performance.

Activity 5: Reflect on policy processes

Suggested time:

2 hours

Aim:

To understand more about policy processes in relation to your school.

What you will do:

Policies need to go through stages in development and this is important to understand in developing your school policies.

Individual activity

1. Pillay (2005: 444–449, cited in Terre Blanche, Durrheim & Painter, 2006) shows the complexities in the public policy process. To understand more about the stages of the policy-making process read the following extract:

Extract: Who influences policy?

Policy has two defining features: it is developed to influence and shape behaviour and is the result or outcome of some need. Government policies are usually more important than other policies because they affect large groups of people. It is important to understand the broad political context within which policy operates. This brings into the frame the issue of who influences policy. The pluralist view believes that the power to influence decision-making does not rest in the hands of the few whereas the elitist view considers it to be controlled by the elite (i.e. politicians, business people, the military or a combination of these groupings). An alternate view is that it depends on the type of policy. While policy decisions reflect political priorities, research and analysis are important for the different stages of the policy-making process.

Analysis, such as the force field analysis, is useful as it demonstrates where power lies in the supporting and opposing forces which can affect the implementation of a required policy. You may not be involved directly in the policy-making process given a policy is already in place but you can analyse an existing policy to determine if it meets the needs it seeks to address.

(Source: Adapted from Pillay, 2005: 444–449, cited in Terre Blanche, Durrheim & Painter, 2006)

2. Look at Table 3, at the types of methods that may be used in the different phases of the policy process and record your answers to the following questions in your Learning Journal:
 - Which methods in each of the stages are you familiar with?
 - What methods are you unsure about? Research the information you require online to share with your school-based CoP.
 - Which of these stages are undertaken in relation to policy making at your school?

Table 3: Methods used at the different stages of policy making

Policy-making stages	Methods
Problem definition	<ul style="list-style-type: none"> • Literature search • Interviews with key stakeholders • Needs assessment
Evaluating policy options	<ul style="list-style-type: none"> • Political feasibility analysis • Economic analysis • Implementation analysis
Monitoring policy implementation	<ul style="list-style-type: none"> • Before and after comparisons • Actual versus planned performance comparison • Programme evaluation • Quasi- and true-experimental methods

(Source: Pillay, 2005, cited in Terre Blanche, Durrheim & Painter, 2006: 448)

3. As discussed in various modules in this programme, and particularly *Module 4: Leading and managing people and change* and *Module 5: Working with and for the wider community*, schools are required to develop a number of their own policies. A part of the school-based policy process is also to analyse existing school policies both *before* and *during* implementation to determine if they can meet, or have already met, the needs they seek to address.

Think of a policy in use in your school that you are familiar with and answer the following questions (Pillay, 2005 cited in Terre Blanche, Durrheim & Painter, 2006: 449):

- Who initiated the policy and why?
- What does the policy do?
- What is the desired impact?
- What are the benefits, who benefits and who does not?
- Is the policy implemented?
- Who implements the policy?
- Do the school systems support the implementation of the policy?
- Are the required skills available to implement the policy?
- What are the costs of implementing the policy?
- Is the policy sustainable?

4. Note your responses in your Learning Journal.

With your school-based CoP

1. Using the questions above, evaluate a policy that has impact on your WPP.
2. Put forward your CoP's recommendations to your school management team (SMT).

Discussion of the activity

As a school leader, you will participate in policy processes. Provinces and schools can make their own laws but these need to take SASA and the Constitution into account.

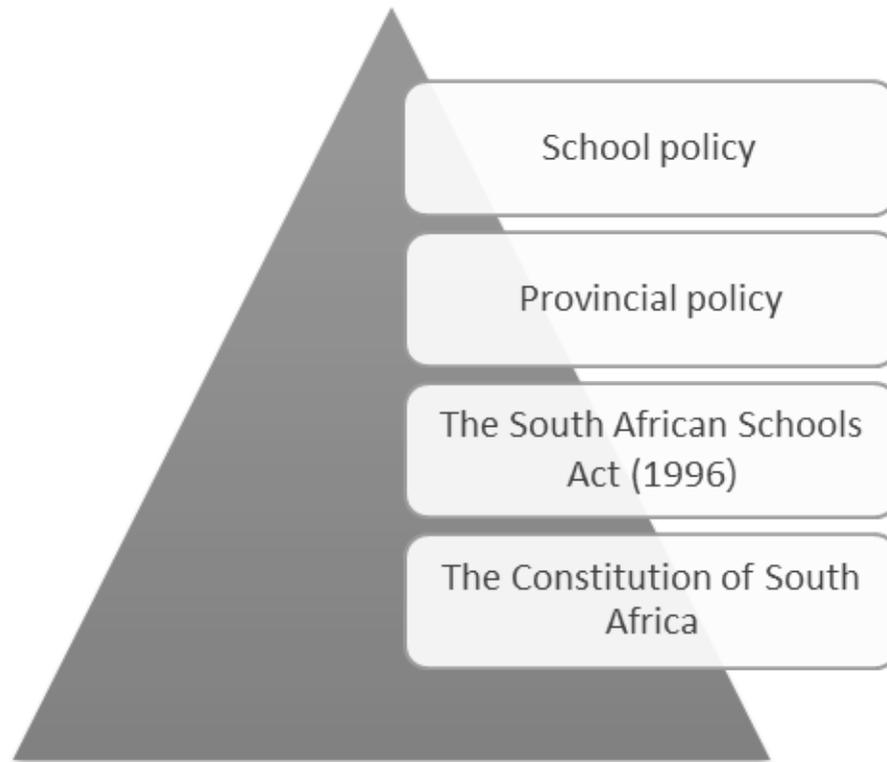


Figure 6: The development of school policy

(Source: Morrison, 1998: 4)

Often in schools, policies are developed but not evident in action. To remedy this, leaders should be involved in policy formulation as early as possible as well as in monitoring the implementation, evaluation and recommended changes. In a changing society like South Africa, policies are continuously being revised and changed and it is critical for leadership to keep abreast of these at national, provincial and local level.

Activity 6: Map your policy context – a mini research project

Suggested time:

4 hours

Aim:

- a. To deepen your awareness of what school policies are in place
- b. To inform you of how policies are drawn up in your school context.
- c. To help you develop as a researcher.

What you will do:

To help you develop as a researcher, you need to engage critically with issues of policy as presented in policy research literature. The following activity will assist you in understanding policy issues in your school.

Individual activity

1. Read the following article:

DeClercq, F. 2010. Policy mediation and leadership: insights from best practices in South African school evaluation policies. *Southern African Review of Education*, 16(2): 100–116. Accessed from: <https://tinyurl.com/y8atko8u>.

2. Make notes on the important points De Clercq makes about best practices.
3. Review your school's policy base and record your responses to these questions in your Learning Journal:
 - Which policies are in place?
 - How were policies drawn up in your school? (Explain the process, who was involved and why.)
 - How well did the process work? (Evaluate the process, giving reasons.)
 - Provide recommendations for improvement of policies and policy process.

With your HEI CoP

1. Discuss the value of the De Clercq article in respect to your understanding of policy evaluation.
2. Share your findings from the individual activity with the group for their critique and advice on how to make a presentation to your SMT. This will give you a *trial run* before you make the presentation to your SMT.

Individual activity

1. Using your notes from the individual activity and your discussion with your CoP, prepare a short PowerPoint presentation to give to your SMT. The aim of the presentation is to get their commitment to put your recommendations on the policy context at your school into practice.

Discussion of the activity

Literature reviews [a literature review is a comprehensive summary of previous research on a topic] are undertaken so that you can benefit from the knowledge and insights of others who have investigated the field before you. Authorities in the field of educational research like De Clercq, contribute to scholarship by imparting new information for you to learn from and use in working with policy. The starting point for school policies is that they should be developed in line with the proper policy process as stipulated by the Provincial Department of Education. When you look at policy development in more detail in Unit 3 of this module, your Learning Journal notes from this activity will provide useful material.

Activity 7: Analyse a policy for South African schools

Suggested time:

90 minutes

Aim:

To understand the implications of policy by analysing a policy presently in use in South African schools.

What you will do:**Individual activity**

1. Access the 1998 National Norms and Standards for School Funding (amended 2006) to use as an example of a policy in action if you do not have an updated copy in your school files, you can access it from: <https://tinyurl.com/y6wpom6e>
2. List the general implications this has for schools in relation to the allocation of funds.
3. What are the *specific* implications of this policy in relation to the quintile your school falls under and its school fees?
4. How does your school manage the financial challenges it faces?

With your HEI CoP

1. Share your responses in respect to the innovative ways in which your school utilises the budget to benefit the learners.
2. Record what you have learnt from your fellow participants in your Learning Journal.

Discussion of the activity

The intention of the South African government after 1994 was to introduce school fees to provide an injection of additional funds into a system which had a limited education budget. At the same time, a pro-poor policy was adopted, redistributing resources from the rich to the poor. In the discussion below you will be able to track how national policies on funding have had to be amended over time in an effort to make them more effective in achieving their pro-poor objectives.

In the interests of equity, more funding was given to poorer provinces so that they could afford to spend as much per school as richer provinces. However, funds were allocated to provinces in block grants and were not ring-fenced for education (i.e. while the funding was *intended* for education, the national department did not specify this as a condition). This meant that provinces could spend their national budget allocations as they wanted to, prioritising what they wanted to and not necessarily using their budget as the national department intended. The divisions and tensions between national and provincial government as well as a lack of capacity had a negative effect on the implementation of policy.

Christie explains the effect of a subsequent pro-poor policy to address the gap between rich and poor schools within provinces:

Extract: Pro-poor policy

As another equity measure, the National Norms and Standards for School Funding (1998) provided for redirecting a small part of the budget (about 5%) from rich schools to poor schools. Provinces were required to rank their schools according to a poverty index. If, for example, a province had 5 000 schools, it listed them from the poorest to the least poor. It then divided the list into five equal groups each with 20% of the schools (these are known as 'quintiles'). Funding was divided up according to quintiles with more money being given to the poorest quintile. The poorest quintile was given 35% of the funding, while the least poor (or the richest) received only 5%. In 2005, this system was amended, and national quintiles were drawn up to take into account the different poverty levels of provinces.

This is a clear equity policy, but its impact has been limited, mainly because the overall amount that is redistributed from this source is comparatively small. There are also big differences between provinces in terms of how this funding is distributed to schools, so that the poorest schools do not always benefit equally. Another unexpected outcome is that poorer schools have not always used funds to improve their facilities, in case this would move them up in the quintiles, in which case they would receive less funding.

(Source: Christie, 2008)

School fees are determined by SGBs and are used to supplement state funding. On the face of it this seems fair, but the policy also increases inequalities. The wealthier schools can charge high fees, improve facilities and employ additional teachers, whilst poorer schools struggle to collect even the low fees the parents of their learners can afford – thus exacerbating patterns of class privilege and disadvantage. In response to this, fee exemption policies were introduced (see Section 40 (1) of SASA 84/1996 and access *Regulations relating to the exemption of parents from the payment of school fees, 2005*, to be aware of the categories that apply to this). In addition, Section 41 (7) of SASA 84/1996 allows for full learner participation in the school programme with a learner not victimised in any manner for the non-payment of school fees by the parent. In 2007, there was a further measure introduced – non-fee paying schools for the poor.

Even though all of these measures have not worked optimally, Gustafsson and Patel argue that expenditure on education is more equitable than it was before 1994 with government spending much more per black child and less per white child (Gustafsson & Patel, 2006, cited in Christie, 2008: 141). However, the increased expenditure has not resulted in quality improvement in the schooling for the poor. This shows that well-intentioned, just, and equitable policy does not necessarily achieve the goals it sets out to achieve.

Activity 8: The principles of the National Education Policy Act

Suggested time:

1 hour

Aim:

To understand how the principles embedded in National Education Policy Act 27 of 1996 should influence the transformational agenda of your school.

What you will do:

Individual activity

1. Access the National Education Policy Act 27 (NEPA) of 1996 either from your school or online. You can access it from: <https://tinyurl.com/ycoo3jjs>.
2. Below is a list of the *directive principles of the NEPA* (Section 4) – the principles which guide the policy. Make notes on how leadership and management in your school is putting these principles into action:
 - Advancement of fundamental human rights;
 - Protection against unfair discrimination;
 - Equal access to education institutions;
 - Instruction in language of choice where this is reasonably practicable;
 - Freedom of conscience, religion, thought, belief, expression and association;
 - Full development of learners through cultivation of skills, disciplines and capacities;
 - Equitable opportunities and redress;
 - Life-long learning;
 - Development and training of staff;
 - Independent and critical thought;
 - Promoting enquiry and research;
 - Broad public participation in governance;
 - Cost-effective use of education resources;
 - Enhancing quality of education through research, monitoring and evaluation.

If possible, do this activity with your HEI CoP

1. Each member of the CoP should share three examples of how their school has implemented NEPA principles.
2. Reflect individually on what you have learned from the examples others have shared. (If you have worked on your own, you still need to take the time to reflect on your own school context.) What more could you be doing in your school to give expression to these principles?

3. In your Learning Journal, record how you can develop yourself personally and professionally to facilitate these principles in a manner that will benefit your school community in the future.

Discussion of the activity

The NEPA preamble states that the intention of the Act is “to adopt legislation to facilitate the democratic transformation of the national system of education into one that serves the needs and interest of all the people of South Africa and upholds their fundamental rights”. NEPA’s principles are linked to general practices, education structures and resource management at school level and they affect everyone in the school community.

However, it is often a challenge to translate into action what appears to be a long *wish list* into action. What is useful is to first understand NEPA, in effect *the mother* of education legislation in South Africa, and from there move on to the South African Schools Act (SASA), and the development of school policies and their implementation. NEPA sets out the responsibility for norms and standards at national level and responsibility for implementation at provincial level. SASA and other legislation then fall within this constitutional framework with relevant laws and regulations.

Activity 9: The critical importance of the South African Schools Act

Suggested time:

45 minutes

Aim:

- a. To deepen your understanding and implementation of the South African Schools Act (1996) in your school context.
- b. To debate key points from this Act with your CoP.

What you will do:

With your HEI CoP

1. Read the South African Schools Act (SASA) (Act 84 of 1996).
2. To debate the topic above requires that you have a good understanding of SASA. There is a good summary of SASA in the South African Yearbook for Education which you can access at: <https://tinyurl.com/y9qbql6u>.
3. Once you have carefully read through SASA and the South African Yearbook for Education summary, revisit your notes from Activity 6 of this module.
4. Each member of the CoP should prepare to contribute to a debate on the following topic: *Devolved decision making through SASA has led to greater inequality.*
5. Make notes of the key points made by each of the speakers and later write these up in your Learning Journal.

Discussion of the activity**Summary: The South African Schools Act**

The South African Schools Act (SASA), 1996 (Act 84 of 1996) is aimed at ensuring that all learners have access to quality education without discrimination, and makes schooling compulsory for children aged seven to 15. It provides for two types of schools namely independent and public schools. The provision in the Act for democratic school governance, through school-governing bodies (SGBs), has been implemented in public schools countrywide. The school-funding norms, outlined in SASA of 1996, prioritise redress and target poverty regarding the allocation of funds for the public-schooling system.

(Source: GCIS, 2017)

The key points stipulated in SASA have been the basis of many court cases, some of which you will familiarise yourself with in Unit 2. SASA established the SGB as a central accountability structure through which the voice of the parents/guardians should be heard and respected, and the Representative Council of Learners (RCL) as the body through which the voice of the learners could be heard. SASA states that the principal must be a member of the SGB but cannot be the chairperson or run the SGB. This role and function must be held by a parent or guardian. This makes the important distinction between the roles of governance and management. In SASA decision-making powers are devolved to the school. Taken together, these provisions create a devolved, democratic system that attempts to redress past inequalities

However, there have once again been unintended consequences. Parents/guardians are expected to take greater responsibility for their children's schooling but not all office bearers have the required expertise when it comes to making decisions about the allocation of school resources, fundraising and other school needs. While parents in high socio-economic status areas will have the required expertise, in poorer areas, many parents/guardians defer decision making to the principal, the SGB and teachers unquestioningly (Bloch, 2009; Mbokazi, 2015). It could therefore be argued that an unintended consequence of SASA has been to *increase* the socio-economic gaps between schools in urban, peri-urban and in rural areas.

While SASA and other policies provide the template of *how governance should work*, putting the role into practice is not a simple matter of learning that role, mastering technical skills, or following official procedures. All these processes involve people and it is more than likely there will be differences of opinions and strategy that result in conflict and require negotiation and compromise. However, it is the knowledge of policy and rights that will form your foundation and safeguard you in dealing with areas of conflict.

Activity 10: Connecting the rights in the Constitution to rights in the school

Suggested time:

30 minutes

Aim:

To engage with specific rights in the school context.

What you will do:

This activity has two parts – A and B.

Part A: Engage with rights in respect to schooling

With your HEI CoP

1. According to the Constitution, what are rights with respect to schooling? Give an example of each from a school context. To assist you, refer to the Bill of Rights (Appendix 3).
2. What can a person do if their rights have been infringed? Share any experience you have of this and its outcome (see cases in Unit 2).
3. List the rights you covered.
4. Were there any that you left out? If any rights were left out, discuss if certain infringements of rights appear to have more prominence than others in a school setting.

Discussion of the activity

You no doubt covered most of the rights in your discussion. The infringement of rights in the school sector are often covered by the media and this may have caused you to focus on certain rights more than others.

The right to equality before the law is arguably the most important and extensive of all the rights in South Africa's Constitution, given its colonial and apartheid history of inequality and segregation. Discrimination is something that many people experience, particularly the vulnerable, i.e. those who are poor, unemployed and uneducated. It is also particularly important for many women for whom gender inequity and discrimination continues to exist at many levels (Mahlase, 1997; Moorosi, 2010, 2014; Faulkner, 2015). Central to this right of equality is the principle of *fairness of treatment*. People who are not treated according to appropriate standards of fairness, are said to be discriminated against.

Part B: Engage with a specific right

Individual activity

Freedom of expression has been the basis of a few cases of infringement in relation to schooling (see Unit 2) and for that reason it is useful for you to engage with it.

1. To understand what constitutes *freedom of expression*, read the article below and respond to the questions that follow.

Article: Schools should teach pupils the habits of democracy - not condemn them

The mind boggles. Three pupils in a Pietermaritzburg high school hold up T-shirts advertising a political party. One of the T-shirts says something about getting the land back. The boys are immaculately dressed in the school outfit, ties and blazers to boot. They were not violent or disruptive. Simply holding up placards.

In a mature democracy, this is what young people do and ought to do – express social and political opinion. In a smart school, you let it slide; hell, a wise principal might even applaud the boys for their courage in taking a stand.

But our democracy is not mature, our schools are not smart, and our educators are not always wise. So the authorities bring down the full force of the disciplinary code on the heads of these children, citing liberally from the Schools Act.

When will we learn that a legalistic approach to such an expression of free speech is simply wrong and unlikely to gain much traction? Somewhere in 2011 amendments to the Schools Act forbade party-political activities on school grounds or the display of insignia of such parties.

What a ridiculous piece of legislation. Schools, like universities, like any public institutions, are political bodies; simply look at the racial and class inequalities dividing our schools and pretend these are wonderfully apolitical entities.

That point aside, schools are there to teach children the habits of democracy. This includes the right to advance and defend an opinion without fear.

Holding up a poster is, moreover, an expression of free speech. One would expect debates on the land question or the language question in classrooms and that children learn in the process about making public arguments and changing their minds.

How do you shut up a child from a shack who arrived by taxi but sits next to a child whose parents dropped him off in a Porsche after the short trip from their golfing estate home? Young pupils should engage with these issues about social injustice as part of teaching and learning in school and society.

When you use the sledgehammer approach to a tiny problem things quickly get out of control. I am sure the school must on reflection regret the course of action taken.

Now the provincial department wants to investigate racism. The leader of the political party named on the T-shirt took to social media to announce a high-profile visit to the school. Make no mistake, this act of protest will be disruptive.

Expect parents to keep their children at home for the day.

If the boys were allowed to protest, or even if they were simply ignored, that would likely have been the end of the matter.

There is no question that the university campus protests of 2015-16 have started to inspire social activism, especially at former white, English high schools. Expect such protests to expand across the country.

It started with the hair protests at girls' schools and the exposure of racist teachers at other schools. Something is stirring in schools where the standard for behaviour and codes of acceptable conduct were left unchallenged for decades. As more and more black pupils from outside the dominant culture come into these traditionally white schools, the politics of protest will become more prominent.

What can such schools do?

First, do not overreact. It is difficult and even humiliating to stand down when the reaction to a grievance is severe. Second, listen to the pupils. Give them the opportunity to express themselves even on long-standing, taken-for-granted practices in the school. Third, try to solve small problems amicably; avoid escalation at all costs. Fourth, determine what you can agree on: for example, drop meaningless policies such as forbidding pupils to speak languages other than English on the playground. Fifth, address discrimination openly and honestly. The problem with the St John's teacher was not the terrible things he was alleged to routinely say about black pupils. It was that the institution never acted against the allegations in previous years. Sixth, accept that some things have to change – a school called Settlers or a library called Malan must be up for discussion and change regardless of how the Old Boys and Old Girls might feel about such one-sided, even offensive, names. Seventh, change the institutional mindset that sees the mission of the school as accommodating and assimilating non-traditional pupils. Schools belong to all our children. Build inclusive schools that regard all pupils equally with respect to matters of rights, culture and traditions.

Most importantly – change your school in times of peace. You do not want to do so under pressure.

(Source: Jansen, 2017)

2. Answer the following questions:

- Do you agree with Jansen's opinion of the boys' actions?
- What do you think about the school's response?
- Would you support or contest these views and on what basis will you make a reasoned judgment (one supported by evidence)?

3. Go to Appendix 1 and select a case referring to freedom of expression to access more information online.

With your HEI CoP

Take your responses from the above activity into a discussion with your HEI CoP on the reality and implications of exercising freedom of expression in schools.

With your school-based CoP

Take the discussion to your colleagues. Discuss specific implications of exercising freedom of expression in your own school context.

Discussion of the activity

There are many implications for principals and teachers in all the constitutional and educational issues that involve learners. The Constitutional Court, in its ruling on *Governing Body of Juma Masjid Primary School and Others v Essay N.O. and Others 2011 (8) BCLR761 (CC)* confirmed that education authorities must respect, protect, promote and fulfill the right of every person to basic education.

Section 28 of the Bill of Rights states that amongst other rights, children have the right to a name and nationality; and to basic nutrition, shelter, basic health care services and social services. These rights are in addition to everyone's right to a basic education (Section 29[1]). Section 28(2) states that a child's best interests are of paramount importance in every matter concerning the child (this issue is also discussed in *Module 6: Leading and managing the school as an organisation*). Putting these rights into practice, especially in the context of orphaned, vulnerable and/or homeless children and refugees, has proved difficult to implement. Children have the right to family care and failing that, adequate foster care, alternative forms of care or institutional care and the Child Care Act 74 of 1983 deals with the implementation of these rights in practice (Barry, 2006: 184–185). How your school responds and deals with these situations within the legal framework is critical.

The rights of the child have been established through legislation but there are challenges in enforcing the law. For example, although corporal punishment in schools has been abolished there is plentiful evidence of its continuing prevalence. You will consider aspects such as these in more detail, in relation to your school context as well as the actions you need to take to ensure compliance with the law and the rights of the child, in the activities that follow.

Activity 11: Applying legislation in your school context

Suggested time:

90 minutes

Aim:

To expand your understanding of the application of legislation in practice.

What you will do:

1. Access and read the Employment of Educators Act (EEA) (1998).
2. Consider how your knowledge and awareness of the EEA relates to your professional practice.
3. How might your knowledge of staffing and deployment of staff impact on your WPP project or any other school improvement strategy?
4. What other acts would it be useful to review in this way? Go through the same process with other acts to empower yourself and your CoP.
5. Draw up a timeline of reviewing legislation to share with the SMT. Would it be useful to share this process with your staff as well?

Discussion of the activity

Reflection on professional practice leads to development but it is a process that may take time to become a part of your school culture. A way of instilling it into your school culture is to get school groups together to engage collaboratively in activities such as the one above and to share experiences. Learning from peers is an important part of professional development.

The EEA is an important piece of legislation that all professional staff in your school need to take notice of. You may already have explored key aspects of the employment, retention and development of teachers with specific regard to teachers at public (government) schools in *Module 4: Leading and managing people and change* – or you may still have to do this module. For this activity, it is enough to know that salaries and conditions of services of teaching staff are the direct responsibility of the Minister of Education, while the provincial Head of Department is responsible for the allocation of posts and appointments in line with national regulations and provincial needs. The SGB plays a key role under current legislation, but this role and the powers the SGB has are being contested. The school itself is the employer of school support services personnel but it also has input in the selection and employment of teachers as stated in SASA.

The courts have provided guidance on how teachers should be appointed in state-funded posts at public schools (see the decision of the Supreme Court of Appeal in *Head of the Western Cape Education Department v Governing Body of Point High School and Others (2008) ZASCA [31 March 2008]*).

However, in terms of Section 20(4) of SASA 84/1996, the State cannot “be held liable for any act or omission by the public school in relation to its contractual responsibility in posts established and funded by the governing body of that school” (Roos & Wilter, 2018: 38).

The EEA emphasises the importance of SACE which promotes the professional development of teachers and

a code of ethics which all teachers should adopt. All teachers must be registered with SACE to be eligible for employment in a public school.

Remember amendments to acts are found at <http://www.polity.org.za> with the most recent regarding the EEA found at <https://tinyurl.com/yc4tfjxz>

Activity 12: A professional code of conduct

Suggested time:

1 hour

Aim:

To deepen your understanding and development of professional ethics in your school.

What you will do:

Individual activity

1. Read the Code of Professional Ethics which you can access from: <https://tinyurl.com/ycx9uxqk> . (This code of ethics is discussed in *Module 4: Leading and managing people and change*.)
2. Conduct a self-assessment and reflect on the extent to which you apply these ethics in your professional life. Record your responses in your Learning Journal.

With your school-based CoP

1. Select one or two categories in the Code of Professional Ethics to focus on for an in depth discussion with your CoP.
2. Discuss the realistic challenges that impact on maintaining professional ethics and the ways in which members of the group can support each other.

With your HEI CoP

1. In a discussion, raise any challenges that you have experienced in working with those you may currently lead and manage (in your department or phase) in relation to the Code of Professional Ethics and discuss how these challenges could be better managed. If there are positive examples of ethical behaviour in your school, share and discuss these with your CoP as well.
2. The Code of Professional Ethics is underpinned by values. Identify these underpinning values, and think of how you can highlight and encourage them with the teaching staff you lead and manage.

Discussion of the activity

SACE is a statutory body established in 1994 with the objective to uphold and promote public respect for education and the teaching profession. It has three primary functions; the registration of teachers; the professional development of teachers; and the regulation of ethics of the profession through its code of conduct and its disciplinary measures (Joubert & Prinsloo, 2009: 175–178).

The Code of Professional Ethics serves as a guarantee that honest and accountable conduct may be expected from members of the teaching profession. In the event of a disciplinary hearing, SACE is not one of the parties involved. A disciplinary committee of appointed persons plays an impartial role. SACE's role is to guard the interests of the community, the teaching profession and the accused. SACE will act against those found guilty with either a caution or a reprimand; imposing a fine; removing them from the register for a specified period (or indefinitely or subject to specific conditions); or where appropriate, suspend the fine or removal for a certain period. SACE has set up a 24-hour hotline, which along with advocacy on teacher and learners' rights aims to encourage the reporting of any misconduct.

Activity 13: Making informed decisions in line with legislation

Suggested time:

30 minutes

Aim:

To deepen your understanding of what you need to know to apply the law correctly in your school context.

What you will do:

Individual activity

Understanding the law applicable to public schools makes for informed decisions and avoids litigation.

1. Read the extract from the Mail & Guardian article below.

Knowledge is key to effectively running schools

There can be no doubt that the high degree of autonomy given to all public schools in the South African Schools Act and exercised on their behalf by elected school governing bodies has in itself, presented challenges to the schooling system. These challenges are wide-ranging as they affect many aspects of the public school system including admissions, language policy, finance, staffing, curriculum choices and extra-mural activities.

Exercising these competencies, powers and responsibilities in a broad system of government, a government which also has mandates to carry out, is a delicate balancing act. Key to achieving this balance is recognising the centrality of the well-being of pupils.

When our schools and education authorities are unable to resolve disputes between themselves in good faith and instead frequently rely on the courts to settle matters, it is often the interests of pupils that are inadvertently compromised.

Protracted litigation involving our public schools, education authorities and other stakeholders in education is a financial drain on limited public and school funds. Not only does it distract from the core focus of ensuring the delivery of quality education but it also, by its adversarial nature, fails to foster a co-operative and collaborative relationship between everyone involved in education.

Perhaps, with the wisdom of hindsight, much of the litigation that we have seen could have been avoided had the parties involved made decisions that were informed by a clear understanding and appreciation of their respective rights and responsibilities.

A close study of the cases that have come before our courts since 1994 will show that the distinct roles and responsibilities of education authorities and school governing bodies have been the subject of much contestation and often protracted litigation.

As the demand for greater access to quality schooling exceeds the availability of suitable schools each year, we have seen, for example, education authorities seek expedient and ill thought through measures to force public schools to take in more pupils than they are willing to admit.

From simply ignoring the admission and language policies of public schools to unlawfully withdrawing the powers of governing bodies to determine such policies, our education authorities have made decisions that our courts have confirmed were not informed by the applicable legal framework.

In these cases, we have seen school governing bodies and governing body associations vehemently defend their power to determine the admission and language policies of their schools. And we have seen our courts repeatedly confirm that this power is not absolute and needs to be balanced with the responsibility of education authorities to ensure access to schooling.

A close study of the cases will also show that the policy decisions of public schools on matters such as pregnancy, school uniforms and school fee exemptions have been the subject of protracted litigation and been found wanting by the courts for the discriminatory effect that they have on pupils.

Time and again, our courts have stressed the need for school governing bodies and education authorities to act in accordance with the distinct powers and functions ascribed to them in law and, importantly, to work together to find workable solutions to the problems they face – solutions that ultimately protect and promote the best interests of pupils.

Reflecting on these cases, we have learnt the following: a clear and accurate understanding of the legal framework applicable to public schools makes for better and informed decision-making and avoids the need for costly litigation.

(Source: Mail & Guardian, 2018 accessed at: <https://tinyurl.com/yyend98t>)

2. Consider your views on the article you have just read. Critical engagement with the issues is very important.
3. Make notes on your views in your Learning Journal. Keep these written responses for future reference.

With your school-based CoP

Share your responses to this article with members of your CoP. Do their responses differ from or align with yours? What does this tell you of the different attitudes to and knowledge of education law of your school colleagues?

Discussion of the activity

After having read the article, you will realise how important it is to have a clear and accurate understanding of the legal aspects of schooling. For your actions to be lawful, reasonable and fair, it is critical that you have an awareness of the Constitution and the general principles of law applicable to the school context. Court judgments on education issues are important and you will be introduced to case law relevant to a school context in Unit 2. It is critical to know the legal implications of not adhering to nor implementing legal regulations in the education context. You need to be aware that constitutional law outlines the range and extent of rights available to school principals, teachers and learners; that situations may arise in the school context that could lead to litigation against you and/or the school; and that you are publically accountable for your leadership and management actions.

It is important for you to be aware of the attitudes and legislative knowledge of your staff to ensure that their professional conduct is exemplary. You need to create opportunities for discussion and debate as well as making it clear that certain actions are non-negotiable in line with the law.

Activity 14: The legal implications of your actions for your school

Suggested time:

1 hour

Aim:

- a. To increase your awareness of the potential legal implications for your school of certain actions or responses to events.
- b. To help you determine the steps the school leadership should take in such situations.

What you will do:

Individual activity

Find and read a recent short article in the news about a legal infringement in a school setting.

With your HEI CoP

Present a summary of the article that addresses the following:

1. How the school could have prevented the situation from happening.
2. The steps that should have been followed by the school leadership to resolve the issue.

Discussion of the activity

It is to be expected that the problems that affect society as a whole will also be experienced in schools. If a problem arises, it is important to be informed about the legal implications for the school of a particular course of action. A knowledge of the law is extremely useful in preventing mistakes being made in your school through inadvertently implementing actions which are unlawful.

The following explanations may help you. *Action* presupposes *voluntariness*. That means that you made the choice to act of your own free will and were not forced into doing something you didn't want to do. It is critical that you are aware of your responsibility and accountability within the law in handling incidents that arise in your school *and* in the wider school community (Faulkner 2015: 424–427).

To take the discussion a stage further, consider the notion of *vicarious liability*. This means that you are legally responsible, but by association or by being indirectly responsible or liable. It is an important legal principle that is increasingly applied today. A principal must be aware of the implications of *vicarious liability*. The point is that any *act* performed in a school will involve staff carrying out their duties as employees of the department. In a civil summons, it will be specifically stated that teachers are employed by the school and the department and were acting in accordance with their designated duties when the *civil wrong* was committed.

Wrongful action or failure to act when action was required (in other words, an *omission*) can make the person or the school liable. *Unlawfulness* is the term used to characterise acts and omissions which specifically transgress the law. *Unlawfulness* is then by definition, *wrongful*. By successfully characterising an act or omission as *unlawful* then it also becomes wrongful. An example of *unlawfulness* as opposed to *wrongfulness* might occur when an employer allows an employee to perform certain actions *in violation of the legislation* on safety standards and precautions.

For an act to be *wrongful* it must cause damage and if there is no evident damage then there cannot be a wrong. However, there can be wrongfulness by omission. An omission can be distinguished from a positive act in that it is a *failure to act*. The general principle is that an omission may be regarded as wrongful if the legal convictions of the community regard it as wrongful. Again, you need to be fully aware that the legal convictions of the community are shaped by people making the laws and by judges and, in the final instance, by the values in the Constitution. Wrongfulness is therefore a dynamic concept which allows for public attitudes to change.

However, as a matter of policy, the courts take the view that *inaction* should generally not be sanctioned. A good example of this is that of an adult ignoring a drowning child when simply, by literally *lending a hand*, at no risk to the adult, the child could be saved.

While this kind of behaviour can be condemned for being cruel and unacceptable, the person who did not save the child cannot be charged under civil law in South Africa. For a failure to act to be characterised as

wrongful, the courts require that this failure to act takes place in a certain context (e.g. in a school) and this context must establish a *legal duty* to act. If a legal duty to act can't be proved, then failure to act cannot be regarded as wrongful. At some point in the future, it may be a legal duty to try to save a drowning child, but right now it is not illegal, even if it is morally questionable.

Activity 15: The legal responsibilities of the school

Suggested time:

1 hour

Aim:

To deepen your understanding of the legal implications of staff and learner behaviour.

What you will do:

Individual activity

Prepare for the activity by reading the following article: School teacher accused of slapping and racially abusing pupil, 7. *Times Live*, 24 May 2018. Accessed from: <https://tinyurl.com/y7edu2yu> .

In both your HEI and school-based CoPs

1. Discuss the reality of how and why schools choose to ignore the law which prohibits the use of corporal punishment in schools.
2. Assess your school's attitude to corporal punishment and outline what you do or could do to guarantee SASA compliance.
3. Explain what is meant by a positive discipline culture and how it can be promoted, developed and sustained.
4. It is one thing when a teacher abuses a learner. But what can be done when learners abuse their teachers, or their peers? Look at this video to stimulate a further discussion with your CoPs on the issue of learner behaviour: Questions raised as high school teacher abused by learner. *The South Africa*, 9 March 2018. Accessed from: <https://tinyurl.com/y7x8w8ax> .

Individual activity

In your Learning Journal reflect on how your beliefs impact on your behaviour. In particular, how do your beliefs about corporal punishment affect how you reacted to the infringement outlined above.

Discussion of the activity

The law is quite clear in respect to the rights of your learners. Your role is to uphold and ensure the law is not broken in your school and to take measures against those who infringe it. This is a critical leadership role that starts with your knowledge of [Section 12(1) of the Constitution] <https://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf> which states that everyone has the right to freedom and security, including the right to be free from all forms of violence and not to be tortured, treated or punished in a cruel,

inhuman or degrading way. Section 28(1)(d) protects every child from maltreatment, neglect, abuse or degradation. Section 10 states that everyone has inherent human dignity and the right to its protection.

NEPA (1996) mandated the minister of education to develop policies on the control and discipline of learners, stating that “no person shall administer corporal punishment, or subject a student to psychological or physical abuse at any educational institution”. Section 10(1) of SASA of 1996 specifies that no person may administer corporal punishment at a school against a learner. The Constitutional Court confirmed this general prohibition as necessary “to promote respect for the dignity and emotional integrity of all children” and held that this applies to all forms of punishment in public and independent schools *despite* cultural or religious convictions of parents (*Christian Education South Africa v Minister of Basic Education (2000) ZACC 11 [18 Aug 2000]* in para 50). A person who contravenes this provision is guilty of the criminal offence of assault which, if convicted, can receive a sentence. The Abolition of Corporal Punishment Act of 1997 also banned corporal punishment in schools.

The Children’s Act no. 38 of 2005 (with Amendments) governs all the laws relating to the care and protection of children and brings South African law in line with the United Nations Convention on the Rights of the Child. It defines the responsibilities and rights of parents and makes provision for the establishment of Children’s Courts and the appointment of welfare officers. Its guiding principle is the best interests of the child. Section 7(1)(h) states that “any behaviour that would inflict injury on a child whether it is physical or emotional is not allowed”. The Child Justice Act (2008) establishes a separate criminal justice system for children in conflict with the law, and the Sexual Offences Act (2009) includes a wide range of crimes that commonly occur against children.

Together, these laws form the foundation of a comprehensive child protection framework. You must have knowledge of, and a belief in these laws, to promote their successful implementation in your school.

When learners’ behaviour is deemed to infringe the Learner Code of Conduct, measures that can be taken are set out in the Example of a Code of Conduct for a School (DBE, 2008). A copy of this DBE document should be available in your school or you can access it online from <https://tinyurl.com/yade9o3o>. The Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners (GenN 776, GG 18900, 15 May 1998) provide that the rights and obligations of learners, as well as the roles and responsibilities of educators and parents, should be clearly defined in the code of conduct for learners. The Policy of Learner Attendance (GN361, GG33150, 4 May 2010) also provides that the code of conduct should include rules dealing with punctuality and school attendance.

The code should contribute to establishing a disciplined, purposeful and enabling school environment (Roos & Wilter, 2018: 20). According to case law, it is worthwhile to remember that a school’s code of conduct must provide for deviations from the code on religious or cultural grounds, as well as provide provision for religious and cultural exemptions (See *MEC for Education: Kwa-Zulu Natal and Others v Pillay [2007] ZACC 21 (5 October 2007)*).

Bullying and cyber bullying through social media also infringe learners’ rights and you should be clear on the laws relating to them. Guidelines and advice are offered on the following two websites: <https://tinyurl.com/y8mxnq7y> and <https://tinyurl.com/ybl3kxgq>.

Activity 16: The scope of your school's legal duty

Suggested time:

1 hour

Aim:

To deepen your awareness of the legal implications for a school of actions that occur both on and off school property.

What you will do:

With your school-based CoP

1. Read about an accident that occurred close to this rural school:

Case study: PJ Phozza Primary School

Some learners attending PJ Phozza Primary School continue to cross a river using an old footbridge despite the principal having cautioned against doing this until the local authorities fix it. They are instructed to use a longer but safer route to get to school. One morning a learner slips on the bridge, falls in the river, and drowns in full view of a group of teachers who travel together to work using the roadway.

2. Consider the following questions:
 - What is the school's *legal duty* in respect to the teachers witnessing this happening to the learner?
 - Would the same apply if an accident involving a learner occurred on the school premises?
 - Discuss what factors and circumstances you can find in either of the situations (off the school premises or on the school premises) that may make it wrongful not to act?
 - How would you ensure you act in the correct manner so as not to compromise your school in situations involving staff or learners that might have legal implications?

Discussion of the activity

You need to be clearly informed as to when there is a legal duty to act and where failure to do so is wrongful. In this instance, you are not made aware of the actions of the teachers following the accident. Factors such as:

- At what time the teachers witnessed the occurrence (was it when the learner fell in or later when the learner drowned?);
- The attempts, if any, they made to rescue the learner; and
- If the principal had informed the parents of the unsafe crossing.

All these factors need to be taken into consideration to establish if there was a duty in law for the teachers and the principal to act.

You will find when you engage with readings on education law that landmark cases create legal precedents [examples]. These cases can affect education issues. The civil case of the Minister van Polisie v Ewels 1975 (3) SA 590 (A) is one such case, as it expresses a general rule that an *omission* to act is regarded as unlawful conduct by the person who neglected to perform a positive act.

In this case Ewels was assaulted in a police station by an off-duty officer in the presence of other officers. It was held by the court that a person has a legal duty to come to the assistance of a person in their care. When *all* the facts of this case are made available the teachers could be held responsible, as they have a special relationship (the term *bonus pater familias* applies as the origin of the legal principal in Roman Law refers of a standard of care) with the learner and therefore a duty to act.

Should the accident have occurred on school premises it brings the issue of *negligence* into play as to what supervisory and supportive systems were in place to avoid such an occurrence taking place. Teachers have an obligation to act and it would be considered *wrongful* not to do so. The critical question from a legal perspective asked here is 'what would a reasonable person do in a similar circumstance?'

Whether on or off school property, the principal should act pre-emptively and pro-actively. It was the principal's duty to inform the parents of the danger to their children, as well as to inform the staff of their public duty towards the learners. This is outlined in the SACE ethics, the Child Care Act and the Employment of Educators Act, all of which speak to the school's responsibility towards the safety of their learners.

This activity illustrates the significance of understanding the law as a failure to do the right thing can have severe consequences. The principal's legal duty to act will be further explored in the case law discussions in Unit 2.

Activity 17: Reflection on this unit

Suggested time:

30 minutes

Aim:

To reflect on the most important information and insights you gained while engaging with this unit.

What you will do:

Respond in your Learning Journal to the following questions:

1. What did you discover you knew and understood about contemporary policy and legal context applicable to schooling in South Africa?
2. What did you learn that you now need to incorporate in your school- based leadership and management practices?
3. In which areas do you require further knowledge and development to ensure that you are able to provide effective leadership and management regarding legal matters?

Discussion of the activity

The purpose of this unit was for you to be able to demonstrate a sound understanding of the overall contemporary policy context applicable to schooling in South Africa. It should have encouraged your personal reflection, self-assessment and the beginning of an ongoing, meaningful, professional dialogue with your colleagues in relation to the importance of a sound understanding of the legislative framework that underpins the implementation of policy at school level.

Unit 2 builds on this by examining the areas of law that affect your practice in more detail.

Key points

Unit 1 focused on the following key points:

- The origin and basic principles of policy in the South African context.
- The role of school leadership and management in promoting professionalism and distributing or sharing leadership authority within a democratic context.
- The school as a transforming community within the scope of legal mandates.
- The incorporation of reflection as a key learning strategy in personal, professional and organisational development.

Unit 2: Effective management of policy, planning, school development and governance

Introduction

In Unit 1, the Constitution of South Africa and general principles of law in the education context were discussed. In Unit 2, you will engage further with education law and the regulations and policy directly applicable to schools, and in particular, to those aspects that are the principal's professional responsibility.

Unit 1 (Activity 4) touched on the distinction between policy, regulations and the implications of these for your school. Unit 2 takes the discussion further by focusing on a deeper understanding of the differences and on how policy and legislation are constituted. This unit also builds on knowledge and insights gained from engaging with policy matters in previous modules. It builds on your understanding and engagement with legislation and policy issues that you engaged with in *Module 2: Leading and managing teaching and learning in the school*, *Module 4: Leading and managing people and change* and *Module 6: Leading and managing the school as an organisation*.

The South African Schools Act (SASA) (1996) and other legislation and policies will be discussed and their application shown in a number of school case studies. Case studies are provided to help you understand and apply legal requirements, processes and procedures that are compliant with school legislation and policy. The case studies are also used to explain requirements related to teachers' and school leaders' professional conduct and legal obligations in the workplace.

Unit 2 learning outcome

By the end of this unit you should be able to demonstrate a sound knowledge and understanding of the personal qualities necessary for effective management of legislative mandates, policy planning, school development and governance.

Preparation for this unit

To prepare for this unit you should be familiar with:

- The Policy on the South African Standard for Principalship (SASP) to understand what personal and professional qualities you need to ensure that you are able to effectively lead and manage a school community according to the required policy and legislation prescripts.
Available at <https://tinyurl.com/ydebt4yp>.
- The South African Council of Educators (SACE) Code of Conduct, specifically the Code of Professional Ethics.
Available at www.sace.org.za.
- The sections of SASA (1996) relevant to school governance. Available at <https://tinyurl.com/yae4pqzx>.

Activity 18: Aligning professional conduct with policy and legislation requirements

Suggested time:

1 hour

Aim:

To develop your understanding of what policy and legislation stipulates with regard to your professional conduct and obligations as a principal.

What you will do:

With your HEI CoP

To do this activity you need to refer to specific information in the SASP policy and to legislation related to the SACE Code of Professional Ethics as determined by the South African Council for Educators Act, 2000 (Act 31 of 2000).

1. Write down practical examples from the Code of Professional Ethics as to the legal obligations governing your conduct in relation to the following stakeholders:
 - Learners
 - Parents
 - The community
 - Colleagues
 - The profession
 - The employer.
2. Provide specific instances of how the Code of Professional Ethics and the SASP are aligned in respect to professional conduct and obligations.
3. Discuss how the Code of Professional Ethics and the SASP are upheld at your school and if they can be monitored.
4. Describe how ethics and legal compliance can form part of staff development. Give practical examples.

Discussion of the activity

As a principal or school leader (HOD or deputy principal), your performance is required to be both legally compliant and ethical. It cannot be emphasised enough that the profession requires the highest social, moral and ethical conduct. You are expected to uphold, protect and respect learners' rights to meaningful teaching and learning; the participation of the community; and the dignity of all the members of the school community in all their diversity. You need to ensure the safety and security of the site where learning takes place and prioritise learners' well-being in the school and the community (DBE, 2015a: 6). This is a challenge and one that requires an authentic moral code to address the problems you will face.

Activity 19: Aligning professional conduct and obligations with personal development

Suggested time:

1 hour

Aim:

To reflect on your professional conduct and professional obligations.

What you will do:

Individual activity

1. From your discussions in the previous activity think about and reflect on the expectations of the SASP and SACE as they relate to personal qualities you need to develop.
2. Link these areas of development to your Personal, Professional and Organisational Development Plan (PPODP) and update it.
3. Insert this updated PPODP into your Professional Portfolio (PP) and provide ongoing evidence of working towards developing and fulfilling these newly identified developmental competencies.

Discussion of the activity

By identifying personal qualities that you need to develop and by linking these to your PPODP, you will align your PPODP to the expectations of all school leaders as set out by SACE in the Ethical Code of Conduct and to key elements of the SASP (DBE, 2015a: 9). Identifying these qualities and working on them within your school context is an ongoing process. Being honest with yourself in doing this, will lead to authentic change and growth that will benefit both you and your school community.

In the next activity, you will build on this input by thinking and reflecting on ways to improve your professional conduct in the implementation of the daily activities of your school.

Activity 20: Strengthen professional conduct

Suggested time:

90 minutes

Aim:

To improve your professional conduct so that teaching and learning can be carried out effectively and efficiently.

What you will do:

With your school-based CoP

1. Focus on your Workplace Project (WPP) to identify and discuss the professional qualities needed to meet the stipulated professional conduct requirements and legal obligations in implementing the project.
2. Draw up an action plan that aligns conduct and obligations to the way things will be done in the WPP.
3. Think of *why* they need to be done that way, *how* they will be done, *who* will be involved and *how* it will be monitored.

Discussion of the activity

Thinking about the best way to implement or do things is not always easy. To ensure consistency and sustainability you need on-going monitoring of the implementation. Careful monitoring will also highlight areas of implementation that may need improving, thus providing an opportunity to strengthen implementation.

As referred to in Unit 1, decisions taken on the implementation of interventions such as your WPP, need to be aligned with the Constitution and SASA (1996) to ensure that rights and obligations are carried out and protected. The legal framework must always be considered in whatever action or intervention is proposed and non-compliance should be addressed in the appropriate way.

In the next activity, the focus is on how to actively involve, empower and motivate the role-players involved in the implementation of school policies and plans.

Activity 21: Empower and motivate others to implement school policies and plans**Suggested time:**

1 hour

Aim:

To involve, empower and motivate school stakeholders in the implementation of school policy.

What you will do:**With your school-based CoP**

1. Based on the action plan devised in Activity 20, look at ways in which you would involve the school management team (SMT) and project stakeholders in your WPP.
2. Consider how this will be communicated and prepare a PowerPoint presentation to promote involvement in and motivation for your proposal. Keep your presentation brief and only include a few slides.

Discussion of the activity

Planning and implementing changes in your school context is likely to cause conflict. Think back to Tuckman's team stages model (DoE, 2008a) which was discussed in *Module 1: Professional Portfolio and Workplace Project*, Part 2, Unit 3. Tuckman identified four stages that teams or groups of people working together typically go through. These are *forming*, *storming*, *norming*, and *performing*. When new ideas and change are introduced there is often a *storming* phase in which people begin to see themselves as part of a team or process, but it is also the stage at which they challenge the project leader and each other about how things should be done. As a school leader it is important to be prepared so that you can guide members of your school community in a manner that inspires confidence. They need to be confident that the proposed change is ultimately for the better. The broader aim of this exercise is for you to be able to replicate the process when introducing, reviewing and implementing policy to develop it into an accepted school practice.

Activity 22: Understanding legal implications: making responsible decisions

Suggested time:

1 hour

Aim:

To deepen your understanding of the legal implications of decisions made in a school setting.

What you will do:

With your school-based CoP

It is your responsibility as a principal to have a good understanding of legal requirement and the potentially negative implications and risks of acting – whether intentionally or not – in a non-compliant way.

1. Identify possible risk factors in your WPP that members of your school-based community of practice (CoP) need to be vigilant about.
2. Discuss one or two aspects of your WPP that could result in wrongful acts if not well managed. What preventative measures could you put in place?
3. Record the risk factors which were identified and prevention measures which were discussed and place this document in your PP.

Discussion of the activity

South African legislation and school policies should be known by those who enter the education profession. As a principal and school leader, you need to inform staff, especially newly qualified teachers, of all relevant policies and regulations, including recent amendments. Accountability is key to ensuring follow-through on what is required of teachers in terms of policy and legislation. However, as a principal, your responsibility does not stop with the staff. Your responsibility to communicate policy requirements needs to spread across the whole school community to all stakeholders.

The Constitution of South Africa has introduced a shift from a culture of authority to a culture of accountability and justification. The implication of this is that principals and school leaders should not only *respond* to policy and regulations but should be able to *justify* their actions. To respond correctly you need to develop the skills of *reasoned judgment*. Reasoned judgment requires an adequate understanding of the rules governing the education system, including the Constitution, legislation, regulations, policy and provincial circulars. In practice, this means that you need to engage systemically with the facts of a particular situation or problem – what happened, why it happened, who was involved and what could have been done to prevent it. You need to understand not only *what* policies and legislation say but also *why* a policy or piece of legislation was put in place, that is, the reason for it. Situations are often complex or difficult and require the principal to apply good reasoned judgment. Working with, and getting input from stakeholders will help you gather evidence of what has happened in a specific situation. There will always be many and varied facts and opinions, and you need to make the best possible decisions to ensure your school and community can thrive.

Activity 23: Apply reasoned judgment

Suggested time:

1 hour

Aim

To deepen your understanding and application of reasoned judgment using a legal case study.

What you will do:

Individual activity

1. Read the legal case study and answer the questions which follow to *justify* your argument.

Case study: Antonie v Governing Body, Settlers High School and Others 2002 (4) SA738 (C)

In the case of Antonie v Governing Body, Settlers High School and Others 2002 (4) SA738 (C) a fifteen-year old Grade 10 learner had been suspended from school for a period of five days. The reason for her suspension was cited as a case of serious misconduct. She wore her hair in dreadlocks as an expression of her Rastafarian religion. Although she had covered her hair with a cap, and despite asking permission on several occasions from the principal to be allowed to do this, permission was denied repeatedly. She saw this as the suppression of her freedom of expression and wore a black cap, which matched the school colours, to cover her dreadlocks. This was deemed to be in contravention of the school code of conduct, which led to a disciplinary hearing by the school governing body (SGB). They reasoned that her conduct was in contravention of the learner code of conduct adopted by the school and that her actions were disruptive to the school.

(Source: Joubert & Prinsloo, 2009: 122)

2. Was the decision taken by the principal refusing the learner's initial requests reasonable?
3. Was the learner's response to the refusal justifiable?
4. Refer to the meaning of the concept *freedom of expression* by outlining some practical applications, if any, you have encountered.
5. Consider if the contravention of the learner code of conduct of Settlers High School, as cited by the school governing body (SGB) as justification for the suspension, meant the learner's actions were disruptive.

With your HEI CoP

1. Share your responses from your individual activity. Did the members of the CoP come up with the same or different responses to the case?
2. To help you think about how to address cultural issues of inclusivity and diversity, read the following extract from the article *Hair-raising class action hits a nerve*. This article refers to the incident at Pretoria Girls High School where a learner was told to tie her dreadlocks in a way that would fit into the school's view of tidiness.

Extract: Hair-raising class action hits a nerve

...educationist Mary Metcalfe... argued that for school policies and codes of conduct to be reasonable, they must have an educational content.

There must be educational content in saying schools must be gun-free and non-violent spaces; pupils must not abuse substances on school premises and should not be late for class.

Something important is being said through such policies.

(Source: Sunday Independent, 4 September 2016. Accessed from: <https://tinyurl.com/y37b7dae>)

3. In your CoP, ask yourselves the questions: What is the educational content of the policy on black hair at Pretoria High School for Girls? What is the school teaching when ruling that black hair in its natural state is not acceptable, or in the Antonie case where she was sanctioned for wearing dreadlocks?

Discussion of the activity

Freedom of expression can be manifested verbally or non-verbally. In the Settlers High School case study, Antonie chose to wear dreadlocks as a symbol of her religion. The right to freedom of expression is important as it has been the subject of several high court rulings regarding role players in education. Schools do not only exist to educate learners and to advance their academic abilities. In a democratic society, such as South Africa, schools should also encourage learners to express critical thinking as individuals, so that each of them can become a productive citizen. However, this is not always the case in many mainstream schools where learner's voices are not always heard or even allowed. In addition to the development of critical thinking skills, schools also have the duty of teaching respect for all members of society, regardless of race, religion or cultural background. This is clearly provided for in the preamble of the Constitution. In the context of education, learners need to learn the rights and duties that form the basis of good citizenship in a democracy and how to apply or limit freedom of expression in an appropriate way. The Constitution defines freedom of expression as:

- Freedom of the press and other media;
- Freedom to receive or impart information or ideas;

- Freedom of artistic creativity;
- Academic freedom and freedom of scientific research.

Expression includes various artistic forms of movement, writing and photography. Symbolic acts of wearing specific clothing, uniforms, or insignia, are protected under freedom of expression (Van Vollenhoeven & Glenn, 2004: 148). The challenge for schools is to balance the “duty to educate and to encourage tolerance and democratic values” and to “limit activity that undermines these goals” (Van Vollenhoeven & Glenn, 2004: 152).

The case study confronts the importance of a school code of conduct that does not prevent freedom of expression. As discussed in Unit 1 of this module, the purpose of a learner code of conduct is to deal with learner discipline and to provide a prescription for disciplinary measures if there is learner misconduct. The learner code of conduct is intended to guide and govern learner behaviour and *interrelationships* at school (Bray, 2005: 137). It is essential that the code of conduct enhances awareness and understanding of a human rights culture, underlined by respect and tolerance for human rights, whilst emphasising the rights and responsibilities of all those involved.

In the case of Antonie, the court conceded that dreadlocks were not allowed as stipulated in the code of conduct, but that the assessment of Antonie’s conduct was done in a *rigid manner*. This rigidity did not support the “values and principles of justice, fairness and reasonableness” (Joubert & Prinsloo, 2009: 122). Antonie had not been given fair treatment in her need to express her religion and her actions did not constitute serious misconduct – the reason the SGB gave for her five-day suspension.

According to Bray (2005: 136) the decisions the disciplinary committee of a SGB take, involve discretion. The decisions need to be determined on the basis of the *facts* of the case and this will determine whether a learner should be suspended or expelled. These discretionary powers must be based on what is *justifiable* and *reasonable*, in light of the facts and circumstances of the case presented by both parties. The disciplinary committee therefore must balance and counterbalance both facts and circumstances to ensure that reason prevails and that the course of action prescribed is justified. The decision taken must be appropriate and suitable. In Antonie’s case, it was clear that the suspension was *not* reasonable *nor* justifiable.

Furthermore, the rule of law requires that no punishment may be meted out in the absence of a law, or a rule that has – *in advance* – publicly, precisely, generally and non-arbitrarily announced the kind of conduct that would invite disapproval and/or punishment. In short, no person can be found to be guilty of some *crime* if the action or conduct was not *illegal* at the time it occurred. Learners must know in advance what forms of behaviour are permissible and what forms are not. The Constitution is the supreme law in South Africa and it is the Constitution that protected Antonie in this case study. All law, including school codes of conduct, must not only be consistent with what the Constitution says but also be interpreted in the light of its values.

In this case, Antonie’s actions cannot be deemed as serious misconduct. A learner in a school, subject to the provisions of SASA (1996), will only be found guilty of serious misconduct if:

- They have been convicted by a court of a criminal offence and sentenced to imprisonment without the option of a fine; or
- They used or had in their possession intoxicating liquor or other drugs on the school grounds or during a school activity; or
- They are guilty of assault, theft or immoral conduct; or

- They have been repeatedly absent without leave from school and/or classes; or
- They have conducted themselves, in the opinion of the governing body, in a disgraceful, improper or unbecoming manner.

Having an act or policy in place does not mean implementing it will be simple. This is because conditions in schools vary due to cultural and socio-economic factors and funding allocation resulting in different challenges to the SMT and SGB. This case study shows very clearly how schools must pay attention to what is stipulated in their code of conduct to ensure that the learners' rights, especially with regard to culture and religion, are in keeping with the Constitution's commitment to affirming, promoting and celebrating diversity.

Take note

You can find discussions on landmark case studies in various texts. Recommended are:

- Deacon, J., Colditz, P., Mellet, S. & van der Merwe, J. 2016. *Case law handbook on education: twenty five cases that helped shape education law*. Cape Town: Juta.
- Joubert, R. & Prinsloo, S. 2009. *The law of education in South Africa*. Pretoria: Van Schaik.
- Roos, C. & Wilter, M. 2018. *Oxford South African dictionary of school terminology*. Cape Town: Oxford University Press.

The case studies in the next activities demonstrate how important it is for school leaders to have knowledge of the legislative frameworks and their implications for leadership and governance in implementing policies in school and ensuring full compliance with the law. Whilst the situations described in the case studies may not fit your context exactly, the principles underpinning the policies in place, and actions and decisions taken in any challenge to these policies, will apply. This will help you, your SMT, teachers and SGB to apply the correct procedures as part of your professional management and governance systems and processes. As South Africa's democracy matures, learners are also developing a greater understanding of their human rights. You will know that there have been many recent cases where learners have stood up against racial prejudice and bias – specifically in areas that affect their self-esteem, such as hairstyles and rules that they regard as being discriminatory.

Take note

South Africa has a 'mixed' legal system, formed by the interweaving of a number of distinct legal traditions: a civil law system inherited from the Dutch (referred to as Roman-Dutch), a common law system inherited from the British, and a customary law system inherited from indigenous Africans (often termed customary law). Roman-Dutch common law is followed in South African contract law, law of delict, law of persons, law of things and family law.

As a result of the Roman-Dutch base of the South African legal system, use is made of many Latin terms, some of which you will come across in this section of the unit. They are explained in the text, as it is important that you develop a basic understanding of these terms and legal principles in as far as they apply to your legal responsibilities as a school leader.

Law of delict

Law of delict is primarily about determining the circumstances in which one person can claim compensation from another for harm that has been suffered. The law of delict therefore is also about determining *wrongful* and *blameworthy* conduct which causes harm to a person in order to determine *liability* [responsibility]. This is exemplified in the cases below.

Activity 24a: Cases dealing with omission

Suggested time:

1 hour

Aim

To develop a greater understanding of the category *omission* by engaging with relevant case studies.

What you will do:

With your HEI and/or school-based CoP

Read the following short case studies that relate to the different categories of *omission* and respond to the questions asked after each case study. Write down the reasons for your answers in your Learning Journal.

1. Category of omission: Prior conduct

Ms Siko, a teacher at Ixopo Primary School, arrives at school at 06:30 every morning to ensure she is ready for the day. Learners who arrive early often come to her classroom to sit and work before school starts. At that time of the day there are no other colleagues around as most of them only arrive shortly before school starts at 07:30. Ms Siko enjoys this time of the morning as she feels she is helping learners and unofficially, she is responsible for those learners given she has been doing this for a few years now. One morning, she leaves her classroom to go to the administrative office to take an urgent telephone call. While she is out of her classroom two

boys get into a fight which results in one hitting his head against a desk resulting in concussion. If Ms Siko had been there, this would not have happened.

Is Ms Siko's absence from her classroom on the particular morning regarded as a wrongful act?

2. Category of omission: Control of a dangerous thing

Learners attending a school in a gang-infested area are not allowed to bring weapons to school. This is clearly stated in a sign at the entrance: No weapons or sharp objects allowed on the premises. This declaration is linked to the national policy on learner safety. Despite this, the majority of the teachers are not keen on checking if learners are carrying weapons or sharp objects. Although spot-checks are sometimes carried out, the teachers are not vigilant enough. When any weapons are found, these are confiscated and reported to the parents or guardians.

In a recent incident, a Grade 10 learner was violently attacked by three gang members who are in Grade 12 at the school. The gang members wanted to teach the Grade 10 learner's older brother (not in school) a lesson by attacking his sibling at school. The Grade 10 learner tried to defend himself with a knife he was carrying and stabbed one of the gang members, killing him. The gang members were also found to be carrying sharp objects.

If the principal and her SMT have neglected to instruct staff that regular searches for weapons and drugs had to be conducted, should they be held liable for what has happened here?

The principal and teachers, as employees of the Department of Basic Education, are required to ensure that learners do not carry weapons onto the school grounds. The fact that these learners were carrying such dangerous objects on that particular day is an indictment of the principal's and teachers' legal obligation to ensure that all learners are safe. The fact that no recent checks for dangerous objects had been conducted could have contributed to the fact that learners transgressed by carrying dangerous objects onto the school grounds. Learners have a right to be safe at school and outside the school gates, and even if this incident occurred outside, the principal and teachers would still be liable.

3. Category of omission: Legal obligation

In the previous case does the onus of responsibility and accountability rest on the shoulders of the principal and teachers only?

4. Category of omission: Public office

A learner, K, had posed repeated disciplinary challenges to Ms Jacobs and other teachers and had been referred for counselling on multiple occasions. On a specific day, Ms Jacobs sent K to the head of department (HOD) as he had refused to write a test and had written a death certificate for her in his journal. The HOD, Hutchings, took K with the journal to the principal who said he would deal with it and for K to wait outside his office. In the time that K was left unsupervised, he slipped back to class and attacked Jacobs with a hammer he had been carrying in his backpack. Despite the learners coming to her aid, she sustained severe injuries including various blows to her head.

Why is this situation regarded as public office omission? What can you learn from how this was handled?

5. Category of omission: Contractual obligation to be responsible for a third party

Learners are only allowed to play on a small trampoline at the school under adult supervision. The teacher in charge was called to the principal's office and asked four learners to watch the younger learners in her absence. While the teacher was gone, a Grade 2 learner was pushed off the trampoline by another learner. She landed on the ground and broke her wrist.

Is this an example of omission of contractual obligations of responsibility to a third party? Consider parents' expectations of care for their children from the school.

There is a school obligation to ensure the safety of the learners which may arise out of contract between the school and the parents of a learner. Teachers would generally fit this category of omission. Even if learners' parents had signed an indemnity form for learners to play on the equipment at school, such as the trampoline, then the teacher, principal and Education Member of Executive Council (MEC) will be held accountable for the safety of learners. Placing four older learners in charge to watch on behalf of the teacher is not good enough.

6. Category of omission: A special relationship between parties

Revisit case number 4 above, *Jacobs v Chairman, Governing Body, Rhodes High School, and Others* 2011 (1) SA 160 (WCC) (Deacon, et al., 2016: 61).

Jacobs was traumatised by the events and injury inflicted by K. Although she returned to work, she could not cope physically and emotionally and had to resign. She forfeited her teaching career to work as an administrative clerk. Prior to the events that occurred on the day Jacobs was attacked, K had been found in contravention of the school code of conduct on various occasions over a period of six months. These contraventions included fighting, defacing exam scripts and leaving the school grounds without permission. The HOD, Hutchings, had prior to the attack, met with the mother and grandmother and a plan for managing K's conduct was drawn up. K was also required to go for sessions with the school counsellor. He was expelled from Rhodes High following the incident of assault with a dangerous weapon on Jacobs. Jacobs' claim was against the principal and the MEC based on delict from the principal's conduct on the day of the attack and the way in which K's misconduct was handled by other teachers prior to the attack.

Were the principal and MEC and the other employees involved in working with K negligent and how can this be linked to what happened to Jacobs on the day of the attack?

Discussion of the activity

There is a special relationship between the employer and the employee, as in the case of teachers and the Department of Basic Education (DBE) and more specifically, the provincial education departments (PEDs), whose responsibility is delegated by the Department of Basic Education. As employees, teachers have certain rights and should be protected by their employer. Safety at schools is a major concern, and the PEDs should provide and support safety services, such as security guards. This unfortunately remains a contested issue as schools are often required to arrange this with little financial support from the department.

These case studies focused on wrongful actions. In legal terms a **delict** is a wrongful act which could be the result of intention (direct or indirect) or negligence. The field of delict is extremely wide, however for the purposes of this module, only those aspects of delict that have a bearing on obligations in the school, its wider context and its systems to avoid instances of wrongful actions, will be discussed. To help you understand the implications of delict for your school actions (and for your WPP) you need to understand the following three aspects of delict.

1. **Wrongfulness:** Refers to the circumstances where a *wrong* has been committed. A delict is brought about by something someone *has done*. This is examined and then followed by an examination of wrongfulness in relation to omissions, i.e. something someone *has not* done or when they have *omitted to act*. According to the Oxford Law Dictionary the word *omission* means a *failure to act* – when a person is bound to do or act but they omit to do that or deliberately neglect it.

2. **Fault:** *Fault* is different from *wrongfulness* and there are different kinds of fault. You will be able to consider exceptions and qualifications to the rule as applied to children of different ages. You have considered the categories of *wrongfulness* as omission, so you can now return to *fault* which was referred to earlier in categorising the various elements of a delict. To help you understand more on this complex but very important area of your school role, and which has relevance and application in every school context, you need to focus on *intentional conduct* or *behaviour*. You have probably heard the following in many situations at home and at work, “Whose *fault* was it?” and “It wasn’t my *fault*”. You should consider how in the school context you would need to understand *fault* in the previous forms of conduct, within the law of delict – or negligence. It is important that you remember that fault is a *subjective* enquiry and is concerned with the state of mind of the wrongdoer and is mainly about *intention*.
3. **Negligence:** The law of delict does not deal very much with intentional wrongdoing. Most causes of action, certainly in a school context, arise in relation to negligence (not doing). Schools being *negligent* because of *not doing something, which causes damage or harm within the school*.

You could ask yourself whether anything like the case studies above could happen at your school. In other words, would your systems, policies and practices always ensure learner and staff safety? You might find the following discussion helpful in deciding this for yourself.

It has been proved by the cases and recent verdicts of the courts that omission in some circumstances can lead to serious crimes, like murder and manslaughter. There are cases where it can be said that omission leads to gross negligence. This type of omission needs to be dealt with by way of appropriate laws and statutes that punish a failure to act. The parameters of the duty to act should be made much clearer. In the cases relating to close relation there should be a line drawn between *who* owes duties towards *whom*. For example, it would be very difficult to punish all the bystanders who watch a child drowning, so the criteria of punishing people for not doing anything should be handled carefully and with caution. In the complicated cases of omission, it should be the court who decides on the duties or negligence. In every case, the punishment for the omission should be handled with the utmost care.

The examination of these legal principles has been adapted from the following site: Law Teacher. 2013. *Omission means a failure to act*. Accessed from: <https://tinyurl.com/y22fvnrt> .

As a principal or school leader, your focus needs to be on how you can develop your knowledge to identify possible wrongful acts and minimise the likelihood of possible claims of wrongful acts against you and/or your school. Wrongful acts may be an issue within your school context and in your WPP.

The next activity is designed to help you consider and understand aspects of causation and damages as applicable to your school context and its systems.

Activity 24b: Cases dealing with causation and damages

Suggested time:

1 hour

Aim

To consider and understand aspects of causation and damages.

What you will do:

With your HEI and/or school-based CoP

1. Read the two short case studies below which deal with causation and damages.
2. Prepare a written response and the reasons for your answers in your Learning Journal.

Case study 1: Intentional conduct

The school principal of a Gauteng secondary school was secretly recorded on a cell phone in compromising positions with female Grade 10 learners in his office. Images and video footage, which were circulated among learners and on Facebook, were reported to the Education MEC of the province. Although the principal resigned the MEC reported the teacher to SACE hoping that he would be struck from the roll and not be allowed to work in a school again. The parents of two of the learners also laid charges against the principal for his inappropriate sexual behaviour with their daughters.

(Source: <https://tinyurl.com/y46an958>)

Where does intention lie?

Case study 2: Negligence

In March 2018, a five-year old Grade R learner was reported missing from school after failing to return to class. A search party consisting of the police and the community tried to find her. A day later her body was found in the school's pit toilet. She had fallen in and drowned.

(Source: <https://tinyurl.com/y3nu2hk2>)

Why was the tragic death of this learner regarded as negligence on the part of the school and teachers involved?

Discussion of the activity

Intentional conduct (*dolus*) can be divided into three types (forms) of intention, each of which has been given a Latin name: *dolus directus*, *dolus indirectus* and *dolus eventualis*.

- ***Dolus directus*** – describes an action directed or aimed with purpose at achieving a specific goal, without taking account of any intervening considerations which might dilute the purpose to which the action is directed.
- ***Dolus indirectus*** – the perpetrator intends to cause damage incidental to their primary purpose.
- ***Dolus eventualis*** – where harm as a possible result of conduct is foreseen, but the perpetrator (wrong-doer) nevertheless reconciles themselves to the possibility, or remains *reckless* as to the possible consequences of the conduct in question.

As far as intentional conduct (*dolus*) is concerned, there is an overlap between crime and delict. At a civil trial, the same three forms of intention (see above) can be established. The only difference lies in the burden of proof. The prosecutor needs to establish the *form of intention* beyond reasonable doubt. The plaintiff [accuser] merely needs to prove the requisite *form of intention* on the balance of probabilities.

Dolus indirectus

In the first case study, the principal's intention was to have inappropriate sexual relationships with learners to gratify his needs. His actions were directed purposefully with no consideration of how this would affect learners' development. The SACE Professional Code of Ethics prohibits sexually-related behaviour with a learner, with or without consent, and ranges from sexual remarks to actual contact. The principal who has a duty of care in the place of the parent or guardian, must observe a range of conduct related to respecting learners' rights and, in this case, refrain from courting learners or having sexual relationships with them. This was an infringement of the code of conduct of his profession and regarded as a criminal act.

Dolus eventualis

The following example is not taken from an educational context but clearly illustrates *dolus eventualis*. In the well-publicised case of Oscar Pistorius, the Olympic athlete, he fired shots through a toilet door killing his girlfriend, Reeva Steenkamp, and claimed he thought an intruder had entered his home. The court overturned a conviction of manslaughter to murder on appeal by the state. The basis for this decision was that Pistorius should have foreseen, and did foresee, regardless of who was behind the toilet door, that under those circumstances the person might die. He gambled with the person's life and therefore is guilty of murder. (Source: <https://tinyurl.com/yyjq9qsk>)

In criminal law, to sustain a conviction for murder, it is up to the prosecution to show that the defendant knew and contemplated the possibility that the accident could be serious enough to cause death. If it can be shown that these possibilities were present in the defendant's mind and they reconciled themselves to their happening, then intention to murder is established in this *indirect* form. It wouldn't matter if the *direct* and over-riding intention was to scare the other party. If the other consequential possibilities are apparent and if the defendant was aware of them and proceeded to act, then their intention is extended to cover these consequences. You can see that fault can be established through assessing intention and this aspect is very important to understand within the school context.

The key question in this discussion is: **Can a child have the intention to harm another or would the law be sympathetic to a child's actions?** The ability to tell the difference between right and wrong, and the ability to act in accordance with that understanding, must be established as a *prerequisite* of the ability to form an intention. In adults, this prerequisite to forming a proper intention may be assumed, but it may very well be lacking in children.

To help you understand more fully the implications for your school context regarding the behaviour of learners, you need to know that children below the age of seven are not considered legally liable for their actions. Although children between the ages of seven and fourteen have the same presumption as those below seven, this *can* be contested. This is because a child over the age of seven can be shown to be capable of *fault* in either form, and evidence can be led to establish their culpability. It is here that the prerequisite for intention can be raised to show that the culpability of a child below fourteen and over seven is reduced. It can be demonstrated that the child has a diminished ability to distinguish fact from fiction or cannot fully appreciate the consequences of a certain course of action.

Negligence

In negligence, the criterion of *standard of reasonableness* plays a central role. In South African case law, the case of *Kruger v Coetzee 1966 2 SA 428(A)* is regarded as the defining judgment in ascertaining negligence. The appeal court judge gave a three-stage, question-based test for negligence as follows:

Stage 1

Would a reasonable person in the position of the defendant have foreseen harm? In other words, was the harm foreseeable. If the answer is "No" then the enquiry ends and the element of *fault* is absent and no liability is imposed on the defendant. If the answer is "Yes" then you should proceed to the second stage of the test.

Stage 2

Was the harm of such a nature that a reasonable person in the position of the defendant would have guarded against it? Once again, a “No” answer ends the enquiry in favour of the defendant and no negligence is held to be present. If the answer is “Yes” then you proceed to the third stage of the test.

Stage 3

Did the defendant in fact take reasonable steps to prevent the harm from happening? If the answer is “Yes” then the defendant will be found not to have been negligent. If the answer is “No” then the defendant’s negligence will have been established.

This three-stage test is very important in a school context where ensuring the safety of learners is paramount. If the three-stage test is applied to the earlier case of the Grade R learner falling into the pit toilet at school and it is assumed that the SGB, principal, teacher and the provincial MEC were charged with negligence. The following questions would need to be asked to determine negligence:

Stage 1 Should the defendant (teacher and employer) have foreseen that a young child of that age could come to harm if she went to the pit toilet on her own? *Yes.*

Stage 2 Was the harm to her such that the *reasonable person* (defendant) would have guarded her against being harmed? *The harm in this case, is her death. Yes.*

Stage 3 Were reasonable steps taken to prevent harm to the learner? *No. Negligence is thus established.*

Remember that the Department of Education is held accountable for any unlawful acts of employees. This is called vicarious liability [responsibility]. The following conditions need to exist for vicarious liability to be established: an unlawful act performed when the duties of the employer are carried out, within the limits of the employer’s competencies and while there is an employer-employee relationship.

Activity 25: Respond to negligence in schools

Suggested time:

45 minutes

Aim:

- a. To deepen awareness and understanding of the legal implications of negligence of actions affecting staff and learners.
- b. To plan for possible actions to be taken within your school context.

What you will do:

Read the following case study:

Case study: Negligence

Learners of the Durbanville Preparatory School stayed at Hawekwa Youth Camp during an excursion and were allocated bungalows with double bunks but not assigned to specific bunks. Gary Byrne's son M, elected to sleep on one of the upper bunk beds. Sometime during the night the boy was discovered unconscious on the cement floor and seemed to have had convulsions as well as sustained injuries. The teacher in charge acted quickly and took the boy to hospital where the medical examination revealed he had a fractured skull and brain injuries resulting in a degree of permanent brain damage. Gary Byrne sued both Hawekwa Youth Camp and the Minister of Education in the Western Cape for damages, as a result of injuries his son sustained. The basis for Byrne's case was that the incident could have been prevented had the teachers, as employees of the Minister in the Western Cape, taken proper care.

With your school-based CoP

1. What could have been done to prevent this incident from occurring?
2. Explain how you will take due regard to prevent *delict* and *negligence* in your WPP to ensure compliance with the laws that you have learned about.

Discussion of the activity

Negligence may be determined when:

...a person is blamed for a conduct of carelessness, thoughtlessness or imprudence. By giving insufficient attention to his or her action, he or she failed to adhere to the standard of care legally required of him or her. Before an educator can be accused of negligence, it has to be ascertained whether a reasonable person would have behaved differently in the same situation. (Joubert & Prinsloo, 2009: 147)

Byrne won the case which was then taken on appeal. The Supreme Court of Appeal had to determine:

- Whether the teacher in charge was negligent by not ensuring the boy's safety; and whether the Minister should therefore be held liable as this was related to public and legal policy.
- Whether there was negligence based on foreseeability.
- What steps the teacher could have taken to guard against the danger that he had foreseen (Deacon, Colditz, Mellet & van der Merwe, 2018: 47).

In the appeal, the majority found that a reasonable person (teacher), upon inspection, would have foreseen the danger and should have arranged to guard against it.

From this brief discussion, you will be aware it is important that teachers know and understand they have a *duty of care* towards learners and that learners' safety and physical and spiritual wellbeing should be their first concern. The law requires teachers to act in the place of the parent (*in loco parentis*) to ensure that learners are safe. SASA (1996) has a provision that refers to the responsibility of the state if loss or damage is the result of a school activity on the school premises or outside. Any official, social, educational or recreational activity would be included in this responsibility (Deacon, et al., 2018: 53).

Activity 26: Demonstrate reasonableness in the school context

Suggested time:

45 minutes

Aim:

- a. To deepen your understanding of reasonable actions in and by schools.
- b. To show how your WPP will demonstrate reasonable action.

What you will do:

With your school-based CoP

1. Read the two case studies that follow and write down your comments in your Learning Journal.

Case study: Azwifarwi Secondary School

Mr Madina is the Physical Science teacher at Azwifarwi Secondary School. His classroom is a well-equipped laboratory that was recently installed. One day, while Grade 11 learners were busy conducting experiments, Mr Madina was called to the office by the principal. He left the classroom, urging learners to continue with their experiment, but to take care. While he was out of the office, one learner accidentally spilt a chemical on her laboratory partner, who sustained chemical burns on her arm and hands. There were no signs in the laboratory instructing learners to take care when working with chemicals.

Taking into consideration the various criteria for the actions of a reasonable person, how reasonable are the actions of the school in not putting up any signs?

Case study: Litha Road Primary School

Every morning many of the learners of Litha Road Primary school arrive ten to fifteen minutes before the siren goes at 7:50. The gates of the school are generally opened at 7:15 with learners allowed access to the school grounds. Learners play without adult supervision and the principal regularly reminds learners and parents that learners are not to play games and should talk or read until school starts for the day. Teachers pass through the grounds but do not monitor learner conduct. The principal might glance through his office window now and

then. One morning, a seven-year old learner is kicked on the shin while playing soccer on the tar. His shin was found to be splintered requiring surgery and aftercare.

Are the principal and teachers behaving in a reasonable way by not monitoring learner activities on the grounds and outside the gates before school?

2. Additional background material can be found in this article: Newnham, H. 2000. When is a teacher or school liable in negligence? *Australian Journal of Teacher Education*, 25(1): 45–51. Accessed from: <https://tinyurl.com/y2khvqje>.
3. Focus on the problems and concerns you have identified from these two examples to help you reflect on your actions in relation to your WPP.
 - How will you make sure that your school is fully compliant with the law? Describe what processes and systems are currently in place at your school to ensure reasonableness in all situations.
 - Will you need to change anything in your initial improvement plan for your WPP to ensure that you will be compliant with the legal requirements? If so, what is this and why will it be necessary?
4. Prepare a PowerPoint presentation to show clearly what you have planned, what you may have changed and why you have done this regarding improvements to your WPP. Do this in collaboration with your school-based CoP.
5. This presentation can be made to and discussed with your HEI CoP.

Discussion of the activity

Both case studies illustrate that teachers were negligent in providing the expected duty of care before and during school hours. Not enough reasonable measures were taken to ensure that learners were adequately and reliably supervised. It is important to remember the teacher must act in the place of the parent (*in loco parentis*).

An important aspect of negligence relates to the actions of professionals. The standards required of professionals are higher than those expected of ordinary citizens and special rules are set in place to assess their actions. The leading case in South Africa regarding failure to act in a professional manner is the case of *Van Wyk v Lewis* (1924) (Wikipedia, 2016).

You can access the details of the case online at <https://tinyurl.com/y3jt3j5j>. The case is in a medical context but the principles are relevant to all professionals. It is important that you consider your professional standards of conduct in your school context.

Four of the six elements of the law of delict have been examined, i.e. *an Act; wrongfulness; wrongfulness as omission and fault*. There are still two additional elements that need to be understood, these are: *causation and damage*. They will be discussed in the next activities.

Activity 27: Legal causation

Suggested time:

45 minutes

Aim:

To reflect on actions where there may be possible liability for your school.

What you will do:

Individual activity

1. Can you think of any way in which the causation element referred to in the previous discussion would apply in your school context? If you can, give an example of causation referring to a situation at your school.
2. Discuss how the situation was managed. Explain your reasons and actions.

With your school-based CoP

1. Compare your responses.
2. Consider collectively how you would manage the situation with the knowledge you now have.

Individual activity

1. Record the responses from your school-based CoP in your Learning Journal.
2. Use your responses to reflect on your WPP. You may need to adapt or change it to ensure it is legally compliant. Remember that however good your intentions are to improve the teaching and learning in your school through your WPP, it must be legally compliant within all the categories you have learned about before it is put into operation.

Discussion of the activity

In considering liability [responsibility] you need to understand two other elements, *causation* and *damage*. Knowledge and awareness of these are important within the school context and for your Workplace Project (WPP).

What is meant by *causation*? To understand this element of delict, it is necessary to distinguish between two kinds of causation – *factual* and *legal*. The plaintiff [accuser or complainant] must prove on a balance of probabilities that there is a causal connection between conduct and damage – whether the behaviour of the defendant can be shown to have caused damage to the plaintiff. To prove causation, the courts rely on the test for *factual* causation and the question is asked: “But for the conduct of the defendant, would the harm have occurred?” The test is sometimes called the *but for* test. *Legal* causation asks whether the defendant should have to answer for the consequences of his conduct once factual causation has been established. Legal causation is a flexible tool used to decide whether liability should be imposed.

Damage and damages

In explaining legal causation and application to the school context, it is helpful to remember that no act may be considered wrongful in delict unless it causes harm. In cases of physical harm the nature of the harm suffered is established by expert testimony that can be admitted into evidence by agreement between the parties. In cases of damage to property the plaintiff will use an assessor qualified as an expert in the field to prove the amount of a claim.

Financial loss or hardship is assessed in terms of the pain and suffering and/or psychological damage incurred. Damages are awarded in compensation for loss or harm which occurred. It is important to know the difference in meaning between the words *damages* and *damage*. *Damages* means the actual amount of compensation in monetary terms. *Damage* on the other hand means *harm*. Physical harm requires damages to be assessed in terms of pain and suffering. The amount awarded is regarded as a comfort for what was endured by the plaintiff. There is no real way of equating pain and suffering to a sum of money but, in practice, amounts have been awarded in previous cases and the courts tend to be guided by these precedents. Past awards are recalculated taking inflation into consideration.

Activity 28: Understand 'damage' in the school context

Suggested time:

1 hour

Aim:

- a. To be aware of the legal implications for the school of damage.
- b. To understand the importance of the implication of damage for your WPP.

What you will do:

With your school-based CoP

1. Read the following two case studies and answer the questions that follow each of them.

Case study A

Two soccer teams from a secondary school travelled on a bus to a tournament in a city. They were on the bus without any adult supervision. The teachers travelled in separate transport. The first team soccer players gave the junior soccer players an induction by beating them. This resulted in severe injury to two of Grade 8 boys. The matter was reported to the principal by some parents and learners and charges of *assault* and *crimen injuria* [the act of "unlawfully, intentionally and seriously impairing the dignity of another"] were laid against the members of the first soccer team who participated in the beatings. However, parents also felt that charges

of *neglect* and the abandonment of *duty of care* should be laid against the teachers who were in charge of the soccer teams.

Questions:

- From the point of view of *causation*, could the teachers have foreseen that learners might behave in this way without adult supervision?
- From the point of view of *negligence*, how would you assess the teachers' attitude to the safety of learners on the bus?
- Should the actions of the principal be considered in this matter?

Discussion of the activity: Case study A

Teachers can be blamed for negligence only if the damage caused was reasonably foreseeable and preventable. The test of the reasonable person is applied here to determine what the law expects of educators. Ask yourself these questions again:

- Would a reasonable person have acted in the same way?
- Could the damage have been foreseen?
- Could the damage have been prevented?

Case study B

Three Cape Flats primary school teachers were each fined R4 000 for punishing learners by applying corporal punishment. The teachers admitted guilt, but felt that there are many other teachers doing the same who are never reported or caught out.

(Source: De Waal, et al., 2001: 152)

Questions:

- Taking into account the fact that corporal punishment is prohibited by national legislation, what is your opinion regarding case study B? Based on what you have learned in this unit, consider what evidence you would put forward to support your opinions.
- Discuss the opinions of others in your CoP.

Discussion of the activity: Case study B

Through the Constitution and SASA (1996), learners are protected against cruel, inhuman or degrading punishment. Corporal punishment of learners at school is prohibited by sections 10(1) and 10(2) of the Schools Act. Principals and teachers who contravene this Act are guilty of an offence and can be penalised for assault.

It is worthwhile considering why these transgressions occur. Is it because of carelessness, ignorance of the laws and policies or a lack of understanding of their individual legal position?

What complicates matters is the perceived imbalance between the individual rights and freedoms of learners and teachers. To many it seems as if learners have all the rights while teachers' hands are bound. Legally there is no excuse for administering corporal punishment. Therefore, teachers and learners should be well-informed of learner rights and know that corporal punishment is never an option.

In Unit 1 you engaged with the development of a learner code of conduct. In this regard, the SGB and SMT need to develop a policy for the school that respects learners' rights and then they need to apply it consistently to ensure constitutionality.

Administrative law

Administrative law is that section of public law which governs the organisation, powers and actions of the state administration. All actions performed by departments of state are therefore *administrative actions*. These actions are governed by the Promotion of Administrative Justice Act (2000)(PAJA) accessed at: <https://tinyurl.com/y2qfo2j9>.

Departments of state perform public actions in the name of the state and are therefore considered *organs of state*. Officials, including teachers and all employees of the education departments, are *functionaries of the state* (they make the state function). This is especially important where decisions taken by functionaries impact negatively on the rights of others. Hence the need to:

- Give notice of intended administrative action;
- Allow those affected by the proposed action to make representations;
- Provide written reasons for the action taken;
- Provide the right of appeal against the decision taken.

Practical examples of administrative action in the school context are teacher subject allocations, allocation of extra-mural duties, decisions on whether to promote learners to the next grade, nominations for appointments, decisions on learner suspension and recommendations for expulsion.

For practical purposes PAJA can be divided into four areas of inquiry:

1. *Administrative action* is defined. From the examples in Activity 29 it can be observed that certain actions which appear to be administrative do not in fact fall within the scope of the Act. The cut-off point is what is crucial to anyone affected by administrative action.

2. The requirement of *fair procedures* is explored. In some of the examples in Activity 29 it is patently clear that procedural fairness is not being followed. What are the criteria governing fair administrative procedure? How do they differ when applied to individuals or the public in general?
3. The importance of *giving reasons* is explored. This is a relatively new aspect of South African law which was not taken sufficiently seriously in the past. The giving of reasons has many advantages both for administrators as well as for those giving effect to administrative protocols, and they also have educational implications.
4. Finally, the conditions under which someone may *seek a review* of an administrative action is explained.

Activity 29: Administrative law

Suggested time:

1 hour

Aim:

To engage with administrative law and develop an understanding of judicial review.

What you will do:

Individual activity

1. Consider what counts as *administrative actions* to decide what actions of a principal, teacher or SGB member fall within the ambit [reach] of administrative law. You need to read, reflect and write a brief comment on each of the examples that follow (Examples A–J).
2. Record your responses to each example in your Learning Journal in preparation for discussion with both your HEI and school-based CoPs.

Examples: Administrative law

Example A

Two novice teachers are given more extra-curricular duties than other older teachers. Some of the older teachers simply refuse to perform extra-curricular duties even though this is stipulated in the roles and responsibilities of all teachers. The novice teachers feel overwhelmed in starting their career in education and they don't have enough time to prepare for class and to mark all their assessments.

Example B

A newly appointed principal does not get along with the current deputy (who also applied for the position as principal). The principal decides to promote one of the HODs, with whom she

gets along very well, to an acting deputy principal position. Her justification is that there is too much work for one deputy principal and she has applied for the creation of the new post. The SGB approves the decision and the acting deputy principal is reimbursed for her extra duties by the SGB.

Example C

Although the Life Skills (Foundation Phase) and Life Orientation (Senior Phase) curriculum clearly states that Physical Education must be part of the subject delivery, there is no monitoring of whether this happens or not.

Example D

A Mathematics post for the Senior Phase is available at Rainbow Primary School. The principal's girlfriend is a Mathematics teacher at a neighbouring school. She is shortlisted for an interview for the available post at Rainbow.

Example E

Learners whose parents who have not yet paid their school fees for the year, are not going to be given their reports.

Example F

A teacher in a mainstream school will not allow a facilitator into his classroom to support a learner. The learner has been diagnosed with a form of autism. Although the learner is intellectually gifted he needs support in class. The teacher feels that this will be disruptive.

Example G

Although the SGB has approved and allocated funding for learners to visit places of interest, the principal uses the money to make photocopies of Learner Books as retrieval of Learner Books the previous year had not been conducted efficiently.

Example H

The principal informs all the parents of his primary school, that hair extensions, braids and dreadlocks will no longer be allowed. He explains that the different hair styles cause distraction, and he wants learners to focus on teaching and learning not on hair styles. He encourages parents to leave this aspect of hairstyling for the holidays and wants learners to embrace their authentic selves. In particular, he tells parents of learners in the Foundation Phase that if the braids and extensions are too heavy, they could affect learner concentration.

Example I

The principal decides, in consultation with the teachers, that the school will no longer offer Mathematical Literacy in the FET Phase. Mathematics will be the only option.

Example J

The SGB and principal decide not to nominate a teacher for the newly advertised Life Orientation and Arts and Culture post at their school. None of the candidates who were shortlisted and interviewed met the requirements specified in the advertisement.

Discussion of the activity

Most of the examples provide here, fall short of the PAJA requirements, therefore you need to identify which are valid and which are questionable. It is important to know that responsibility for most of the administrative actions in the school falls on the principal as the initiator of said actions.

Teachers are expected to comply with administrative decisions that are made by the PEDs or the DBE. The PAJA implicates administrators because they need to know whether their decisions meet with the requirements of the act and what scope the act allows them. Administrators need to know if their rights have been violated in any way. This is especially important where decisions taken by functionaries impact negatively on the rights of others, as mentioned before.

Much of administrative law relies on notions of reasoning and reasonableness which affect everyone in the work arena and not just those in education.

Activity 30: Specify administrative actions in the school context

Suggested time:

90 minutes

Aim:

To specify administrative actions and thereby create greater awareness of consequences related to such actions.

What you will do:

With your HEI CoP

Read the Fish Hoek Primary School case study and the newspaper report on the Cape Town girls' school caught in a transformation row below, and respond to the questions that follow:

Case study: Fish Hoek Primary School v GW: 2010 (2) SA 141 (SCA)

In *Fish Hoek Primary School v GW: 2010 (2) SA 141 (SCA)* the court was called upon to decide how the legislature chose to employ the word parent in section 40(1) of the South African Schools Act 84 of 1996. This case arose when the then plaintiff, Fish Hoek Primary School, sued the respondent, the biological father, for outstanding school fees in respect of one of its learners. For its entitlement to do so, the school relied upon section 40(1) of the Act, which provides: *A parent is liable to pay the school fees determined in terms of section 39 unless or to the extent that he or she has been exempted from payment in terms of this Act.*

The father, who had not been exempted, denied indebtedness to the school. He asserted that while he was the biological father of the learner he was not liable for payment of the school fees but that the custodian parent was. The only question for determination was thus whether the father was indeed a parent in terms of section 40(1).

(Source: Deacon, Colditz, Mellet & van der Merwe, 2018: 37)

Newspaper report: Top Cape Town girls' school caught in transformation row

The Western Cape Education Department (WCED) is monitoring allegations that a well-known Cape Town girls' school is slow to transform, following the reported resignation of a black teacher at the school, the department's spokesperson said.

"The WCED is aware of allegations of racism at the school," the WCED said in a statement.

This followed a report by the *Mail & Guardian* on Friday that the teacher, who was also a former pupil at Rustenburg Girls' Junior School, had resigned after a fraught period in which her abilities were questioned.

The Commission for Conciliation, Mediation and Arbitration was involved, the report said. The teacher said she did not experience racism, but had felt undermined and unsupported.

One child reportedly asked if the UCT teaching graduate was "a real teacher".

But some parents have reportedly also raised issues of transformation at the school and said they felt they were treated as adversaries when doing this.

In the statement, the department said it had engaged extensively with the school governing body, concerned parents, as well as the staff.

"The school has committed itself to ensure that the school transforms itself into one that embraces diversity. The WCED is engaging with the school to continue to enhance and embrace diversity," the department said.

It also said the governing body had hired the teacher and that she was not a department employee. Since a legal process was under way, it could not comment further.

The school's governing body, in a statement of its own, said the "future-focused" school was in a state of transition and was reviewing policies to identify barriers to transformation.

"We are supported and held accountable by an involved and passionate parent body and, while there are robust debates on issues, we are united when it comes to what is best for our daughters," it said.

"The only statement we will make as far as [the teacher] is concerned, is that we have taken the time to hear each other and better understand the intent behind the actions taken by both parties and we are at a point where there is a better understanding of each other's perspectives as we move forward."

(Source: Evans, 2018)

Questions

1. What specifically are *administrative actions*?
2. Which actions within your school context could be regarded as *administrative actions*?
3. Refer to examples of *administrative actions* that you know of that have been subjected to judicial review and on what grounds.
4. Refer to the Fish Hoek Primary School case study provided above, and discuss, from your experience, how schools manage school fee payment, and the administrative justice issues arising.
5. Based on the newspaper report about the Cape Town girls' school caught in a transformation row, are there grounds for judicial review? Give reasons for your answer.

Discussion of the activity

In PAJA Section 3, a distinction is drawn between actions affecting persons, and actions affecting the public. It is not necessary to memorise each of the steps that need taking (access a copy of the Act online for easy reference: <https://tinyurl.com/y2qfo2j9>). It is however useful to compare steps required for private persons, with those required for the public. In the case of *Premier Mpumalanga and Another v Executive Committee, Association of State-Aided Schools Eastern Transvaal*, the dispute was based on a decision by the provincial government to discontinue paying bursaries to ex Model C schools. The question however is not whether bursaries should have been paid or not, but whether the decision to terminate the arrangement was procedurally fair. Much of the discussion hinges on whether the Mpumalanga MEC gave interested parties prior notice as required by Section 3 of the Act.

Giving reasons is a requirement stated in the PAJA and built into the Constitution that states that anyone whose rights have been adversely affected by administrative action has the right to be given written reasons. A legal process of *judicial review* is available to those whose rights have been affected negatively by administrative decisions. Those seeking review take their case to the high court which reviews the decisions of the administrator, in the light of the grounds set out in Section 6 of PAJA. Section 33 of the Constitution provides the *three* grounds of review: the lawfulness of the actor; the reasonableness of the decisions; and whether the decisions were procedurally fair.

Lawful actions are those that have been authorised. Where an administrative decision is made, the person making it must be duly qualified and publicly appointed. The law is inclined to be cautious of discretion and to allow only what may be necessary for acting.

Reasonableness is arguably the most contentious criteria of judicial review because reasonableness raises questions about merits but PAJA assists by substituting for un-reasonableness a number of related terms such as *irrelevant considerations, bad faith, arbitrarily or capriciously, not rationally connected*.

The principle of fairness refers to the need for timeous notification and a reasonable opportunity to present the case. *Phenithi v Provincial Government of the Free State 2005, 18/05* is an example where a teacher objected to being dismissed because she was not given an opportunity to put forward her side of the story.

These brief explanations should help you to understand and assess the issues of *lawfulness, reasonableness* and *fairness*. The intention is not to make you a legal expert but help you understand and apply your informed knowledge to decisions that comply with the Constitution and legislative requirements critical to the functioning of your school. This will help to ensure effective and efficient leadership, management and governance as recognised in the SASP (DBE, 2015a: 12–15).

As a principal, you are advised to access support and professional legal advice with the support of your provincial, district or circuit office. This is critical particularly where you are unsure of the legal implications of any actions to develop and improve your school. It is important to take the legal lessons learned from the inclusion of case law and case studies into the strategic planning and development process of your identified school improvement priority, your WPP.

Activity 31: Know your rights in relation to the school context

Suggested time:

45 minutes

Aim:

To deepen your understanding of the Department of Education's obligation to provide appropriate school infrastructure aligned to the fundamental right to education.

What you will do:

Individual activity

1. Read the article below and make notes in your Learning Journal.

Newspaper report: Government could face class action lawsuit over inadequate schools

Lawyers for education advocacy group Equal Education say that if government does not comply with its legal requirement to provide safe and dignified schools for South African learners, the next step could be a class action lawsuit. This comes after a high court ruling on Thursday which does away with the government's excuses for not fixing school infrastructure.

The 'lifetime indemnity' previously afforded to Basic Education Minister Angie Motshekga, protecting her from the legal consequences of not providing adequate education infrastructure, has been removed.

In a scathing judgment delivered in the Bhisho High Court on Thursday (July 19), Acting Judge Nomawabo Msizi wrote that the government's current regulations on school infrastructure 'provide the respondent [Motshekga] with a lifetime indemnity against discharging the duty she owes'.

This is because up until now, the regulations have included a number of loopholes which allowed the government to avoid accountability for not fixing schools.

In terms of the wording of the regulations, the government could lawfully justify not providing a

school with basic facilities on the grounds that it could not secure the co-operation of 'other government agencies and entities responsible for school infrastructure'.

The regulations also allowed government not to upgrade schools made of mud, zinc or asbestos – as long as there was even a small portion of the school constructed from appropriate materials.

Government was required only to 'prioritise' attending to schools with no water, sanitation or electricity, with no specification of what this actually meant.

The case before the court this week was brought by education advocacy group Equal Education to tighten up the regulations and remove these excuses for inaction from the government's legal armoury.

Not only did the court rule entirely in favour of Equal Education – which means that the relevant regulations will have to change – but Judge Msizi was also unsparing in her criticism of Minister Motshekga's failure to ensure that South African learners have access to adequate schools.

'I cannot fathom a reason why, given the nature of the right in question, and the abundant crisis, the respondent cannot develop a plan and allocate resources in accordance with her obligations,' Judge Msizi wrote.

Daniel Linde, of the Equal Education Law Centre, explained the importance of the ruling to *Daily Maverick* as follows: 'The situation yesterday was that you had these infrastructure regulations, but if anyone tried to assert them, the state just had to say: "We've tried to make a plan for you; you're on a list." That has now changed', says Linde.

'If a school doesn't have water, it is now impossible to interpret the law as saying anything other than [government] has to provide water.'

Another important aspect of the ruling is that it compels the Department of Basic Education to make public each province's plans for upgrading school infrastructure. This was previously not the case, which made it difficult for schools to hold the government accountable. Judge Msizi described this aspect of the regulations as 'unconstitutional and invalid'.

Equal Education says it plans to now embark on a public awareness campaign to inform schools of their rights to demand that infrastructure be fixed as a matter of urgency.

In the event that government continues to drag its feet, however, Linde says that further legal action is on the cards – which could include a class action lawsuit on behalf of inadequately resourced schools.

'We're not trigger happy on litigation, but the tighter regulatory framework now opens up the

space for mechanisms like class action litigation,' says Linde.

Until now, approaching the courts has proved to be one of the only ways of compelling government to provide adequate educational facilities – and even then, success has been limited.

It was only after a court order that the Department of Basic Education published the regulations for norms and standards of school infrastructure in 2013. Those regulations included a deadline of 29 November 2016, by which time all schools should have been provided with water, sanitation and electricity and upgraded from building materials like mud and zinc.

The Department of Basic Education's own figures show that that deadline has not been met.

The department's defence has been that it is nonetheless making steady progress in addressing the infrastructure backlog. The number of schools without water, electricity and toilets has decreased – in some cases by a margin of over 2000.

Equal Education notes, however, that the number of schools classified as having an 'unreliable' supply of water and electricity has risen over the same period.

'This re-categorisation of schools from having no supply of water and electricity to having an unreliable supply suggests a number of possibilities: unreliable data, shifting definitions of what constitutes access to basic services, and incomplete or limited upgrades to basic services,' the advocacy group says.

The ability of individual schools to assert the rights granted to them by the infrastructure regulations has also been limited. Suing the government is not an option for many under-resourced schools, as Linde acknowledges, without the support of advocacy groups. A class action lawsuit could make this process more viable.

It's unclear at this stage whether the Department of Basic Education intends to appeal the court ruling. Department spokesperson Elijah Mhlanga told journalists outside the court that the department welcomed the ruling and would use it to 'fix their mistakes'.

A subsequent statement from the department struck a slightly less receptive tone, announcing that it had 'noted the judgment' and would share it with MECs 'to discuss a way forward'.

The statement also repeated the standard government defence: 'It is important to report that progress has been made in the provision of school infrastructure'.

It added that the department had been hamstrung by non-delivery of private companies awarded maintenance tenders, 'resulting in cancellation of contracts and reallocation of work to other companies'.

This excuse is officially no longer legally permissible. The battle for safe and dignified schools is far from over, warns Linde. 'The question is how seriously the state takes the law,' he says. 'But the fact remains that the legal tools to advance schools are now much sharper than they were yesterday. Hopefully that translates into schools fixed faster.'

(Source: Davis, 2018)

2. Consider how issues that relate to infrastructure might apply to your school context, and if so, what actions could you as a principal take in the light of the above judgment. Is the substance of the judgment discussed relevant to your WPP?

Discussion of the activity

The accountability of the Ministry of Basic Education and thereby the Minister of Education, for improving school infrastructure has relevance for you as a principal. The fact that the DBE was found lacking in its responses to the urgent calls of schools has implications for learners and teachers who are caught up in these challenges. There is no doubt that the quality of the learning environment within which learners find themselves can affect their educational outcomes.

In a conference paper Christina Amsterdam (2010) presented insights gathered from teachers' and learners' perceptions on how the quality of school infrastructure levels promote or inhibit learning, teaching and leadership. For most South African mainstream schools there are challenges with the provision of basic infrastructure such as classroom space, sanitation facilities and electricity. This affects learner achievement, compromises their safety and impacts heavily on discipline and the orderly provision of teaching and learning. It places stress on management having to deal with the resultant teachers' frustration, low levels of learner achievement and resulting parental dissatisfaction. The question this raises is how should school leadership deal with these types of infrastructural challenges in their schools from a legal perspective?

You could start to answer this question by having a discussion with your CoP on the impact that the lack of resources and infrastructure is having on successful delivery and sustainability of your WPP.

The preliminary findings gathered from Amsterdam's study (2010: 5) indicate that "clean, functional sanitation facilities and safe and inviting spaces for play or socialisation are high on the agenda of primary and secondary school learners in South Africa". Where would you start when it comes to your school and how would you go about improving your present situation?

Activity 32: Reflection on this unit

Suggested time:

30 minutes

Aim:

To reflect on the most important information you acquired while engaging with this unit.

What you will do:

Respond in your Learning Journal to the following questions:

1. What did you learn in this unit about managing legislative mandates in your school that you can now incorporate into your school-based practice?
2. Reflect on areas covered in this unit which you may still feel ill-equipped to manage, or even feel resistant to applying/confronting in your context. Think about what you can do to strengthen your understanding of these issues and about how you can overcome the resistance that you may be experiencing.
3. Write down your reflections on point 2 (above) in your Learning Journal.

Discussion of the activity

Check your learning against the key points listed on the next page.

Key points

Unit 2 focused on the following key points:

- The relevance and implementation of the *Policy on the South African Standard for Principals* (SASP) and the SACE Code of Ethics for the profession.
- The alignment of your professional conduct and professional obligations to policy and legislation in relation to all stakeholders in the school community.
- The development of leadership and management strategies that involve, empower, hold accountable and motivate stakeholders; and to ensure that decision making and implementation, in relation to policies and plans in your specific context, fall within a legal framework.
- The importance of administrative law, administrative actions and judicial review in relation to stakeholders' rights protected by the law.

In Unit 2 the critical importance of the values outlined in the SASP and SACE Code of Ethics has been foregrounded. Unit 3 will focus on how, as a school leader, you are required to reach out into the community in which your school is located, and how best to communicate your school's values, vision and mission to ensure support and collaboration.

Unit 3: Develop and communicate school values, vision, mission, policies and plans

Introduction

This unit focuses on the development and communication of school values, vision and mission. You will consider how these concepts can be instilled, in a collaborative way, to secure the commitment of the school community. The unit will also help you to reflect on the core values of your school. You will explore how the values, vision and mission of your school are related and serve as the foundation underpinning all *school* policies and activities. Understanding this point is particularly important as you implement your Workplace Project (WPP) to ensure it is both legally compliant and in alignment with these key principles. This unit builds on the activities relating to these concepts in *Module 2: Leading and managing teaching and learning*, and *Module 4: Leading and managing people and change*.

Unit 3 learning outcomes

At the end of this unit you should be able to:

1. Reflect upon and demonstrate knowledge of the key concepts and theories that underpin values, vision and mission in the school context.
2. Develop and communicate school values, vision, mission, policies and plans collaboratively to ensure commitment to these.
3. Work with the school community to translate the vision and policies into operational plans designed to achieve sustained school improvement.

The unit addresses these outcomes by developing the core values and a vision and mission statement for the school; and in communicating and integrating the values, vision and mission into school leadership, management and governance.

Preparation for this unit

To prepare for this unit you should obtain a copy of your school's vision and mission statement and read through it carefully.

Activity 33: Understand the importance of values in leading a school

Suggested time:

2 hours

Aim:

To highlight how important it is to actively and consistently demonstrate values in your school leadership.

What you will do:

Individual activity

1. Think of a leader, either past or present, who you admire. You can know this person personally or not – it can be someone you have heard about.
2. In your Learning Journal record:
 - The qualities you admire in this leader and why these are important to you.
 - The qualities you see demonstrated in your school that you consider to be similar.

With your HEI CoP

1. Discuss your collective responses with your higher education institution community of practice (HEI CoP). Were the qualities you put forward similar or different to those of the other members in the CoP?
2. From this discussion compile a list of the qualities applicable to the school context.
3. Include any that you feel are important but were missing from the discussion.

With your school-based CoP

1. Do the same activity with your school-based CoP.
2. Reflect on the members that are working with you in your WPP in terms of these qualities. Do you think the team exhibits the leadership qualities that you have identified as being important?

Discussion of the activity

The list you compiled no doubt had names of leaders with strong principles and beliefs about social justice, leaders who consistently demonstrate their beliefs in their *words, actions* and *behaviour*.

Much discussion on the topic of personal and professional beliefs and values was provided in units 1 and 2 of *Module 4: Leading and managing people and change*. You will therefore be aware that leaders need to be mindful of their personal values and how these relate to the values of the society and contexts in which they live and work.

Your earlier engagement with the South African Council of Educators (SACE) Code of Professional Ethics and the South African Standard for School Principalship (SASP), would have alerted you to the fact that as a school leader, you need to constantly question how your personal values align with the educational and social values that you are required to uphold in your school.

The SASP states that “core values ... underpin everything that happens in a school and ... inform everything that the principal does in leading and managing the school” (DBE, 2015a: 5). The agreed school values should be displayed where everyone can see them and written in easy-to-understand language so that the school community fully understand their meaning, importance and relevance.

Activity 34: Identify the function of core values in a school context

Suggested time:

2 hours

Aim:

To identify core values and their function in your school context.

What you will do:

Individual activity

List examples of core values from the SASP (DBE, 2015a: 5) that you see in action in the leadership and aspiring leadership (including learners) of your school. You can access the SASP at: <https://tinyurl.com/y9tj9uo9>.

With your school-based CoP

1. Compare your responses. What values are clearly evident? What about those that may be there but are hidden?
2. Construct a diagram that shows these values in your school.

Discussion of the activity

Values are sometimes difficult to observe as they are not always overtly expressed, but rather, they underlie practice i.e. what people do. The *Iceberg Theory* is a useful analogy [comparison] for this. If you look at an iceberg, only about one tenth of its mass is seen above the water while nine tenths are unseen below the surface as can be seen in Figure 7.

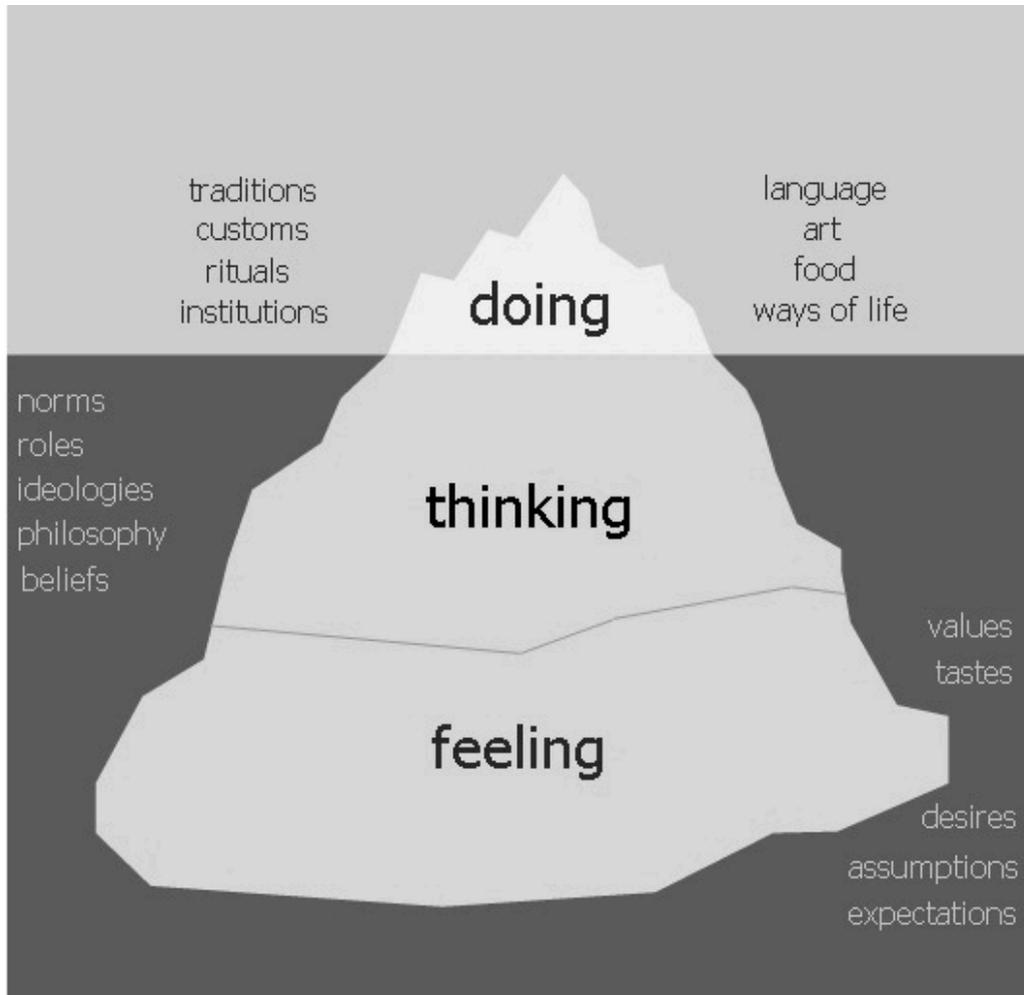


Figure 7: The Iceberg Theory

(Source: <https://tinyurl.com/ybjtoqh3>)

You may have identified the following underpinning or underlying values and principles in your examples:

- A focus on quality teaching and learning.
- Ensuring a positive working environment conducive to learning.
- A caring and supportive culture based on integrity, trust, encouragement and equal opportunities for everyone.
- Fairness, justice and collective moral values.
- Responsibility and accountability.
- Collaboration and inclusivity.

For school values to become embedded as part of school culture, values such as those above must be supported by the school community – and the school community needs to participate in the development or revisiting of these values, vision and mission. The importance of embedding school values in the community, is also explored in *Module 5: Working with and for the wider community*. The challenge for a principal is to also identify the values that are in place but hidden and to make them more apparent.

Activity 35: Evidence of values in your school context

Suggested time:

1 hour

Aim:

To identify and assess the evidence of core values in your school.

What you will do:

Individual activity

As part of your role as a researcher in this programme, use the following table (Table 4) to help you audit your school's values; and to establish whether these values are evident in the school's actions and practices. Do the following:

1. In Column A, rate from 1 to 5 how important the value is to your school, and in Column B, rate the current performance of the school in demonstrating this value. Use 1 for the lowest importance/performance and 5 for the highest importance/performance.

Table 4: Values and principles

A: Given importance in my school					Values and principles	B: Reflected in action in my school				
1	2	3	4	5	Everyone is treated fairly (Equity)	1	2	3	4	5
1	2	3	4	5	Everyone is treated with respect (Respect)	1	2	3	4	5
1	2	3	4	5	Everyone is encouraged (Individuality)	1	2	3	4	5
1	2	3	4	5	Teaching and learning is central to all school activities (Learning)	1	2	3	4	5
1	2	3	4	5	Opportunities to succeed are available to everyone (Equal opportunity)	1	2	3	4	5
1	2	3	4	5	Everyone gives praise more than blame (Support)	1	2	3	4	5
1	2	3	4	5	There is no <i>us</i> and <i>them</i> (Inclusion)	1	2	3	4	5
1	2	3	4	5	Everyone is approachable (Acceptance)	1	2	3	4	5
1	2	3	4	5	Everyone practices what they preach (Accountability)	1	2	3	4	5
1	2	3	4	5	Different opinions are encouraged (Diversity)	1	2	3	4	5
1	2	3	4	5	There is respect for authority (Respect)	1	2	3	4	5
1	2	3	4	5	Everyone acts immediately if there is a problem (Proactive)	1	2	3	4	5
1	2	3	4	5	Truth and justice are promoted (Honesty and Justice)	1	2	3	4	5
1	2	3	4	5	There is a high standard of moral behaviour (Morals)	1	2	3	4	5
1	2	3	4	5	Decision-making structures reflect a democratic style of leadership and management (Participation)	1	2	3	4	5

1	2	3	4	5	Everyone in the school community is considered to have rights (Human rights)	1	2	3	4	5
1	2	3	4	5	There is an expectation of a high standard of work from everyone (Quality)	1	2	3	4	5
1	2	3	4	5	Everyone’s problems are listened to (Compassion)	1	2	3	4	5
1	2	3	4	5	Everyone is open to change (Improvement)	1	2	3	4	5
1	2	3	4	5	Everyone is encouraged to work together (Collaboration)	1	2	3	4	5
					TOTAL SCORE					

(Source: DBE, 2008: 116)

2. Add your score for each column. A large gap between the two scores is indicative of the extent to which values and principles are *not* reflected in your school culture. If this is the case, analyse *why*. If the scores are more equal, discuss how your school is demonstrating its values through its actions and practices.
3. Prepare a presentation on your findings. You can make the presentation to either your school management team (SMT), school governing body (SGB) and/or your school-based CoP; or ask them to complete the instrument themselves. Discuss with them the current performance of the school in demonstrating core values and how to improve or build upon this performance.
4. Look up the Department of Education’s *Manifesto on Values, Education, and Democracy* of (2001). You can access it from: <https://tinyurl.com/y8x4gje4> . What does it say about the importance of values particularly in education?

Discussion of the activity

The discussion and decision-making that result from this activity are important because values, actualised in practice should underpin all that you do in your school. What you do and say (your behavior) is determined by what you think and value. A values audit should not be a once-off event as it is necessary to continually monitor and evaluate if the school’s practices reflect its stated values. This is also discussed in *Module 2: Leading and managing teaching and learning*, and *Module 4: Leading and managing people and change*.

Rooted in the Constitution, the *Manifesto on Values, Education, and Democracy* (DOE, 2001) lists democracy, social justice and equality, non-racism and non-sexism, Ubuntu (human dignity), an open society, accountability (responsibility), respect, the rule of law and reconciliation as significant values.

Davidoff (2002) states that norms and values are the cornerstones of all school cultures. These norms and values can be both *unwritten* (e.g. an annual celebration) and *written* (rules, codes of conduct) practices of an organisation. Davidoff (2002: 51) describes culture as all pervasive in that “it diffuses its particular qualities into every corner of school life”. The school culture is the way in which the values (norms, vision and mission) can be observed in your school community.

The following figure, originally discussed in *Module 3: Leading and managing extra-curricular and co-curricular activities*, is a useful reminder of the interactions that embody a school culture.



Figure 8: Culture, policies, rituals and values

The triangle in the centre represents the culture of the school and is held together and strengthened by the existence of the other three triangles. In the bottom left triangle are the relevant policies and legislation that can be the basis for ensuring accountability. In the bottom right triangle are the rituals (habits, customs, stories and language of the school) that relate to cultural presence. In the top triangle are the values of the school.

In *Module 1: Professional Portfolio and Workplace Project* you examined school culture and ways to change or enhance it. School culture is very important in managing your WPP: it can exert a positive or negative influence. You are reminded that:

- Culture is not stable. It is evolving and constantly adapting to changing contexts.
- Culture is not absolute. It is relative. Each culture is relative to other cultures, ways of perceiving the world and doing things.
- Leadership practices and follower expectations are influenced by culture.
- Culture is learned not inherited.
- Culture is a socially constructed, shared system of meaning which permeates all aspects of our thinking, doing and being.
- Beliefs (about race, group, sexual orientation, etc.) challenge the acceptance of difference in others. Recognition and exposure helps to eliminate prejudice.
- Developing the space and willingness to engage with others in ongoing practices of sharing, listening and collaboration results in a sense of belonging, acceptance and positive interaction.

All school cultures should be centred on quality teaching and learning, however, this is not always the case. Schools that have teachers who do not adhere to the SACE code of professional practice (e.g. teachers who are absent without leave, leave learners unsupervised, violate the law in relation to corporal punishment, etc.) generate a negative culture. This results in a set of values and principles that work against quality teaching and learning (Bloch, 2008; Faulkner, 2015; Maringe & Moletsane, 2015).

As discussed in Unit 1 of this module, the South African Constitution sets out transformational values for the new democracy, but their application is challenged by many socio-economic factors, such as, high levels of

poverty, the breakdown of the family unit, social and health issues, high unemployment, crime and the lack of fundamental resources and services in many areas of the country. The school can be thought of as microcosm [a miniature version] of the country as a whole, with many of the challenges found in society, also being found within the school community.

Elmore (2008) relates the culture of a school to its sense of *internal* accountability; i.e. the “degree of coherence in the organisation around norms, values, expectations and processes for getting work done” and he goes on to say that “we speak of organisations with high internal accountability as those with high agreement around values and an organisational scheme that makes that agreement evident in practice” (Elmore, 2008: 43).

To try to address the socio-cultural challenges faced by many mainstream schools, it is necessary for school leaders to strive to achieve Elmore’s “high agreement around values and an organisational scheme that makes that agreement evident in practice”. In other words, school culture needs to be forged and shaped by a set of common values that underpin what happens within the school and which become integral to how things should be done. With agreement on school processes and practices a strong base is formed from which to prioritise and address various social and other challenges.

Activity 36: Establish and sustain values in your school context

Suggested time:

45 minutes

Aim:

To deepen your understanding of the need for school values to be embedded in the school and shared with the wider school community.

What you will do:

With your school-based CoP

Address these questions:

1. What values will facilitate the achievement of the school vision?
2. What needs to be done to *realise* the vision (i.e. the mission)?
3. In what ways can leaders contribute to developing a values-based culture?

Discussion of the activity

An agreed set of values by all stakeholders will provide the school with a sense of direction (vision) and a guide for all its actions and activities (mission). *Lived* values empower, motivate and set a standard against which to measure performance, and they have transformational power. As a leader, your role is to promote, action and sustain the values that the collective agreed on and which underpin the organisation. This means highlighting and foregrounding them consistently in your school context.

Activity 37: Explore the value of a school vision statement

Suggested time:

1 hour

Aim:

- a. To deepen your awareness and understanding of the importance of the school's vision being explicitly stated.
- b. To understand the school vision as part of the process towards improving teaching and learning.

What you will do:

With your school-based CoP

1. As already highlighted school-based policy is developed down from the values derived from the Constitution through national policies such as the South African Schools Act (1996) (SASA) – ensuring the alignment and links is important, so this should be kept in mind as you work through this activity.
2. Examine the two school vision statements presented below.

Examples: School vision statements

*The staff, learners and community of **Green Mountain Primary School** wish to see the school acknowledged as a leading primary school offering holistic education of the highest quality.*

***Hillview Primary School** is committed to upholding the vision of a community serving humanity.*

(Source: Adapted from Wylie, 2016: 30)

3. Critique the statements. What do you think has merit and what is omitted?
4. Examine your school vision. How does it compare with these examples?
5. Would you write your vision differently or not? Explain why.

Discussion of the activity

The school vision and mission statement is often the first thing a visitor sees on entering the school premises. It may also be found on the school website, as well as in a printed material given to prospective parents. It can be seen as a way of promoting, or even marketing the school. More importantly, the school vision is a public declaration that schools use to describe their high-level goals for the future. It is a statement about what they hope to achieve if they successfully fulfill their organisational purpose or mission.

There is no prescribed way to describe a school's vision as every school and context differs in its opportunities and challenges. It is, however, important that every school has a clear vision based on its values and that these are agreed, shared, communicated and demonstrated in the community it serves.

In the same way that the South African Constitution is the benchmark [standard] by which all laws and policies are applied and judged in South African society, your school's core values on which your school vision and mission statements are based, are the benchmark against which everything that happens in your schools should be measured.

The three concepts of *values*, *vision* and *mission* can be considered as your school's constitution.

Consider first how Davidoff defines and describes *vision*:

...the particular way in which it [the school] envisages itself contributing meaningfully to society...the vision is a picture of the school in its ideal form; a picture towards which all the role players in the school, the teachers, the parents, the students, the broader community, the department of education – can aspire and with which they can identify.

(Davidoff, 2002: 55).

Compare his definition with that provided in the online *Glossary of Education Reform* for *mission* and *vision*:

A mission statement, or simply a mission, is a public declaration that schools or other educational organizations use to describe their founding purpose and major organizational commitments—i.e., what they do and why they do it. ... A vision statement, or simply a vision, is a public declaration that schools or other educational organizations use to describe their high-level goals for the future—what they hope to achieve if they successfully fulfill their organizational purpose or mission.

Generally speaking, a vision statement expresses a hoped-for future reality, while a mission statement declares the practical commitments and actions that a school believes are needed to achieve its vision.

(Source: <https://tinyurl.com/ycbwebju>)

Activity 38: Examine the purpose of the school mission statement

Suggested time:

90 minutes

Aim:

To understand how the school mission statement sets out how the school will achieve its vision

What you will do:

With your HEI CoP

1. Share your school vision statements.
2. Discuss the mission statement below from each of the two schools referred to in the previous activity.

Examples: School mission statements

*At **Green Mountain Primary School**, we are committed to striving for academic excellence and the cultivation of individual strengths and talents by encouraging all concerned to be responsible caring citizens that successfully meet the challenges of the changing world.*

*At **Hillview Primary** the values of truth, justice and tolerance are instilled in a loving, caring and sharing atmosphere whilst striving towards the academic, cultural and social excellence of every learner.*

3. Select one of the vision statements that have been shared in your CoP and confirm the values that underpin it.
4. *Without referring to the actual mission of the school*, discuss what the mission statement could be. Write a mission statement for the school (3–4 lines). Think of criteria you may use to help you, such as alignment between mission, vision and values, and ability to transform the vision into action.
5. Now look at the actual mission of that school and compare it with your version. What did you learn?
6. Relook at the mission statement of your own school. Do you think it needs to be reviewed or changed? Why or why not?
7. Refer to the SASA section 20 (1)(c) <https://tinyurl.com/yae4pqzx> with respect to the duty of the SGB to adopt a mission statement for the school to ensure you are familiar with it.

Discussion of the activity

The purpose of the school's *mission statement* is to broadly set out *how* the school will work to achieve its *vision* and uphold its *values*. When you reviewed your own school's mission statement, did you find that it

fulfilled this purpose, or did you think your school mission statement may need to be revised and strengthened? If this is the case, you may want to look at some examples of other mission statements and see how your school mission statement could be revised.

This activity should have helped you decide how well your school mission is described, if it captures the values and vision of your school, and if it communicates this properly to all stakeholders. The development or review of the values, vision and mission provides opportunities for your school's stakeholders to share inputs, express concerns and highlight issues that are important to them. This type of interaction encourages a sense of belonging and promotes ownership of the vision and mission statement. It is also a chance to build relationships that open discussions on what the community expects from your school as well as what you expect from the community. These processes and issues are discussed more fully in *Module 5: Working with and for the wider school community*.

Your school mission statement should be apparent in your WPP as it serves to sign post the processes that are necessary to bring about improvements, especially in relation to the teaching and learning provision at the school.

Activity 39: Vision and values driven leadership and management practices

Suggested time:

1 hour

Aim:

To determine how your school values, vision and mission can be integrated into leadership and management practices in your school.

What you will do:

With your school-based CoP

1. Write your school vision and mission statements, as well as your core values, into Table 5.
2. Discuss and complete the other sections in the table with respect to *how* and *when* you propose this should be done in your school.

Table 5: Communicating and integrating values, vision and mission

VISION (What)

How will you integrate your school vision into your leadership and management practices?

When?

MISSION (What)

How will you integrate your school mission into your leadership and management practices?

When?

VALUES (What)

How will you integrate your school's core values into your leadership and management practices?

When?

3. Meet with the SMT to discuss how often the vision and mission need to be refreshed to keep it relevant and alive for all stakeholders.

Discussion of the activity

In this activity, you were required to engage with your school's vision, mission and values and to think about how these could be integrated into your leadership and management practices. This process forms part of collaborative school development planning (which is examined in more detail in Unit 5 of this module) and the on-going review and update of organisational structures and policies.

Activity 40: Align your school’s values, vision and mission to your Workplace Project

Suggested time:

1 hour

Aim:

To ascertain how your WPP reflects your school vision, mission and values.

What you will do:

With your school-based CoP

1. Discuss and complete the table below outlining the vision, mission and values for your school and your WPP.

Table 6: Aligning the school vision and mission to your WPP

School vision and mission	Workplace Project
<p>Vision:</p>	<p>Vision:</p>

School vision and mission	Workplace Project
<p>Mission</p>	<p>Mission:</p>
<p>Values:</p>	<p>Values:</p>

2. Compare the information to determine how the WPP aligns with your school vision, mission and values.
3. If there is a discrepancy, what steps would need to be put in place to ensure your WPP reflects the vision, mission and values of your school?
4. Reflect on how difficult or easy this analysis process was and explain why.

Discussion of the activity

When you have completed your analysis, look at how this process of adjusting and improving your WPP could be applied in other areas of the school. The Whole School Evaluation instrument (Unit 1 of *Module 1: Professional Portfolio and Workplace Project*) can help you as it contains national criteria for a detailed analysis of your school. Use any evidence you collect for your Professional Portfolio (PP).

This activity should have enabled you to assess your own vision, mission and values as a starting point for improving the quality of teaching and learning the key objective that should underpin your WPP. Your response will depend upon what your analysis revealed. Remember that small changes can make a big difference and can help to motivate and encourage staff to *buy in* to what is proposed. Also, the learners' best interests should always be the priority in any school.

Moving your school from where it is to where it wants to be is not something that is achieved overnight. This is a long-term process that requires planning, commitment and monitoring. It is also not something that you can achieve by yourself. You will need the full support of the school community to move forward and you may have to work very hard at motivating and inspiring staff (and other school community partners) to secure their commitment, Figure 9 illustrates this process:

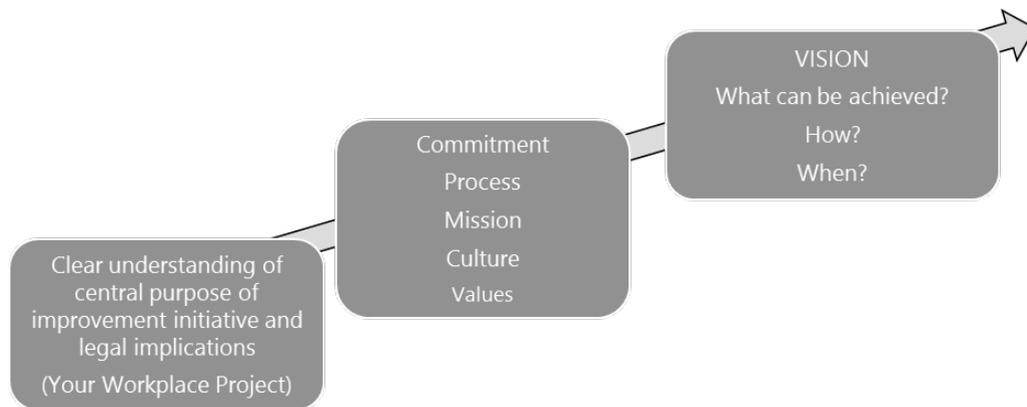


Figure 9: Strategic development powered by vision and underpinned by values

(Source: Knight, 1997)

You could consider a similar visual presentation to the one in Figure 9 when you make a presentation to your school-based CoP, staff or SGB.

Activity 41: Evaluate your school policy process

Suggested time:

1 hour

Aim:

- a. To evaluate your school policy development process.
- b. To determine how your school values, vision and mission can be communicated and translated into a leadership and management cycle and practice in your school.

What you will do:

With your school-based CoP

1. Examine the procedure that is followed in your school to develop policy. Select a policy that the CoP members have been involved in reviewing or introducing in your school and draw up a summary of:
 - Purpose and intention;
 - Level of participation and contestation;
 - Development;
 - Text (length, use of language, etc.);
 - Plan;
 - Implementation;
 - Monitoring;
 - Evaluation.
2. List what you believe to be the successes, challenges and lessons of experience from this process.
3. Discuss how the design and implementation of your WPP can benefit from the insights you collectively shared in your CoP.
4. Recommend to your SMT that they consider adopting a similar way of engaging with existing school policies to ensure their relevance and effectiveness.

Discussion of the activity

Not all your CoP members will necessarily have been involved in the review of a policy or the development of a new policy but they will benefit from hearing the experiences of those who have been party to the processes involved. This activity alerts you to the fact that new members and novice teachers require an orientation into the policies that are in place in a school. It also provides a means of actively thinking about and noticing aspects of policy implementation which tend to be ignored, especially with policies that have been in place for some time.

Activity 42: Assess the status of school policy in action

Suggested time:

2 hours

Aim:

To review policies currently implemented in your school.

What you will do:

With your school-based CoP

1. List the school policies currently implemented in your school.
2. Outline:
 - How they are being implemented.
 - Recommendations for improvement (if any).
 - A realistic timeline for submission of suggested revisions to the SMT.
3. Look at the policies relevant to your WPP and discuss how you can promote and align them to your project.

Discussion of the activity

In examining the implementation status of policies in your school, your recommendations need to enhance the positive as well as addressing the negative aspects of implementation. There needs to be emphasis on what works well and why; and not only a focus on what is wrong and must be *fixed*.

Activity 43: Reflect on the values in the Constitution relevant to education

Suggested time:

1 hour

Aim:

- a. To reflect on the values in the Constitution relevant to education.
- b. To evaluate the integration of these values into practice in your school context.

What you will do:

With your school-based CoP

1. Remind yourself of the education-related values in the Constitution which can be accessed at: <https://tinyurl.com/yaqrgzww>.
2. How well you do think your school has done in integrating these values into the life of the school?

Discussion of the activity

In the Manifesto on Values, Human Rights and Democracy (2001) the Department of Education referred to the Constitution as a vision of a different society based on equity, justice and freedom for all in which all South Africans seek to build a just and free society. It identified and promoted ten values for teaching in schools, all underpinned by and aligned with the values of the Constitution, namely: democracy social justice and equity, equality, non-racialism and non-sexism, Ubuntu (human dignity) an open society, accountability, the rule of law, respect and reconciliation. Check against these values to ensure that you have covered all of them in your discussion. The intention of the Manifesto is that you do not impose, but enable your learners to develop into good citizens in line with the Constitution.

Activity 44: Reflection on this unit

Suggested time:

30 minutes

Aim:

To reflect on the most important information you acquired while engaging with this unit.

What you will do:

Respond in your Learning Journal to the following questions:

1. What did you learn in this unit that will equip you to develop and communicate school values, vision, mission, policies and plans in a collaborative way?
2. How will your knowledge assist you in securing the commitment of your school community to the school values, vision, mission and policies?
3. Assess yourself against the key learning points for the unit listed below.

Discussion of activity

In this unit, you have explored ways of encouraging your school community to commit to developing the school's values, vision and mission; and to working together to create a strong and positive school culture. The role and value of professional development, collaborative decision making and the establishment of CoPs in achieving this have also been highlighted in this unit. You were required to consider the importance of leaders not only *articulating* the vision, mission and values, but *acting* on them. All of this should have prepared you to be able to analyse your context to ensure that your identified school improvements and your WPP align with the values, vision and mission of your school.

The next unit builds on this unit by looking at how you develop and sustain relationships with your school community.

Key points

Unit 3 focused on the following key points:

- The establishment of links and alignment between values, vision, mission, policy, and planning to the role and practices of school leadership.
- A holistic understanding of school policy formulation, processes and evaluation within a legal and policy context.
- The necessity of having a consultative, participatory and shared decision-making approach with all stakeholders in relation to policy.

This unit stresses that school values, vision, mission, policy and planning need to underpin all practices in the school. Unit 4 will focus on the development and maintenance of positive working relationships with your school community.

Unit 4: Cooperative governance: Building positive working relationships with all stakeholders

Introduction

The focus of this unit is on cooperative governance and on building positive working relationships with the school governing body (SGB), the school community and the provincial department of education (PED). The unit commences with a discussion on how the school management team (SMT) can implement, develop, lead and manage legal and policy requirements cooperatively in conjunction with the School Governing Body (SGB). The legal role of the SGB is discussed, including the specific roles and functions of the SGB in relation to their governance role. The central role of the school principal in establishing and maintaining sound working relationships not only with the SGB but also with parents, learners, the wider community and the department, is also emphasised. The South African Schools Act (SASA) characterises the responsibility for governing schools as one which must be shared by *all* parties involved.

Take note

In this module, reference to, *the department*, is generally used to refer to the provincial education department (PED) and its district and circuit offices.

All schools are required by law to elect a SGB. It is a statutory body comprising parents, educators, non-teaching staff and learners (from Grade 8 or higher). The main purpose of the SGB is to work together (cooperatively) with the school leadership to promote the well-being and effectiveness of the school community and thereby enhance learning and teaching.

There are over 25 000 public schools in South Africa and every school should have a SGB that is democratically elected. SGB elections are the third largest elections that take place in South Africa, after national and local government elections. This is an interesting fact as it indicates how important an SGB body is. SGB elections are held every three years (except for learners who are elected for one year). The prescribed composition of the SGB is critical to the effective functioning of the school. Office bearers, namely the chairperson, treasurer and secretary, are elected or re-elected every year. The core functions of the SGB are set out in Section 20 of the South African Schools Act (1996) (SASA); allocated functions are outlined in Section 21; and financial functions in Chapter 4. SGBs must comply with all these basic requirements of SASA. This includes, adopting a constitution which sets out how the SGB will operate; developing a mission statement for the school; assisting in drawing up of a code of conduct for learners, including disciplinary procedures; and deciding on school policy which should include amongst others admissions, language and finance policies (DoE, 2004: 104). In short, the SGB is tasked with promoting the best interests of the school.

Other modules in the AdvDip (SLM) that also discuss leadership, management and governance are *Module 3: Leading and managing extra- and co-curricular activities*, *Module 5: Working with and for the wider community* and *Module 6: Leading and managing the school as an organisation*.

Unit 4 learning outcomes

By the end of this unit you should be able to:

1. Demonstrate an understanding of national and provincial education policies and their impact upon schools and the wider community in the management of change.
2. Develop and maintain sound working relationships with the school governing body as well as parents, learners, the community and the departments.
3. Demonstrate the skills and personal attributes to understand and manage the differing needs of these stakeholders through effective communication.
4. Understand, and be able to apply, relevant content knowledge in leading and managing policy, planning, school development and governance.

This unit addresses these outcomes by examining governance and management, the legalities of SGBs and the role of learner representation in school governance.

Preparation for this unit

To prepare for this unit you should:

1. Watch: Equal Education. 2010. *School governing bodies* video. Accessed from: <https://tinyurl.com/y7yjlo9g>. (Duration: 6: 09 minutes).
2. Watch: Kallaghan, K. *The role of school governing bodies in developing functional schools* video. Accessed from: <https://tinyurl.com/ycbcsrpe> . (Duration: 19: 32 minutes).
3. Understand the distinction between school management and school governance (see Figure 11).
4. Read sections of the South African Schools Act (SASA) (84/1996) pertaining to school governance. Accessed from: <https://tinyurl.com/yae4pqzx> .

Activity 45: Build positive working relationships with your school community

Suggested time:

1 hour

Aim:

- a. To assess the nature of your working relationship with the school community.
- b. To determine areas of improvement within this relationship.

What you will do:

With your school-based CoP

To determine a baseline for relationship and communication improvement strategies, assess the nature (pros and cons) of your working relationships with the:

- SGB (and co-opted members if any)
- SGB sub-committees (if any)
- SMT
- Teachers
- Support staff
- Learners
- Parents
- Community
- District.

Individual activity

1. Reflect on and assess the personal qualities you possess that enhance or inhibit these relationships.
2. How would you strengthen your perceived *weaker areas* in relationship-building by the strategic deployment of staff and by the development of a personal, professional and operational development plan (PPODP)?

Discussion of the activity

In assessing the nature of your working relationships with your school community you should now be aware of areas needing attention. Valuing relationships is the first step to improving them. As a leader, you can make use of other people who may be better placed to initiate and develop relationships with certain parties. If you implemented the Belbin self-perception inventory with your CoP (*Module 1: Professional Portfolio and Workplace Project, Part 2, Unit 3*) you will be aware of members who fall into the category of *people* which means you can harness their expertise in improving and sustaining relationships. If not, this may be a good opportunity to do so.

Activity 46a: Communication with parents in your school community

Suggested time:

30 minutes

Aim:

- a. To initiate, build and sustain relationships with the parents in your school community.
- b. To improve channels of communication that will assist and support staff and learners.

What you will do:

With your school-based CoP

1. Discuss how best to establish reliable contact and communication channels with the parent body.
2. Discuss the strategies which are in place to introduce new parents to the school. Or, if you do not have a particular approach used to introduce new parents, think about what you could do to change this?
3. What is missing? Devise ways to improve contact and communication that accommodate the realities of parents' lives, such as being unable to come to school during work hours. Make use of technology (such as WhatsApp groups, SMSs, etc.) where applicable.
4. Discuss what expectations you (your school) has of parents.
5. Think about how best to communicate these expectations to the parents.
6. Write down the decisions and strategies that you have agreed on in your Learning Journal.

Discussion of the activity

Parents are responsible for, making sure their children attend school every day of every term; supporting staff and working with them to improve their children's education; helping the governing body develop policies and fee structures; paying school fees unless specifically exempted. They are also encouraged to contribute voluntary services to the school and to help raise school funds. Clear communication is the first step in ensuring these responsibilities are met.

For a healthy relationship, communication needs to be regular. Schools need to keep in touch with parents about the affairs of the school and not only communicate when an issue arises. This regular communication can be in the form of information sessions, a newsletter, messages in learners' diaries, etc. The critical concern is that to support the school, the parents must feel as much part of it as their children do. A common complaint in mainstream schools is that parents are not actively involved in the education of their children as a result of difficult circumstances.

According to the *Review of the Financing, Resourcing and Costs of Education in Public Schools*, it is the role of the school to try to overcome the challenges to effective school governance (Republic of South Africa, 2004: viii).

These challenges include:

- Levels of education in families – large numbers of parents are either functionally illiterate or have minimal levels of education.
- Poverty and unemployment of large numbers of parents (the majority of parents in some provinces).
- Large numbers of rural parents, beyond the reach of government and business support.
- The marginalisation of black parents on school governing bodies in racially-mixed schools and the general lack of integration of such structures.
- The differential capacity of *largely black and poor* parents and *largely white and wealthy* parents to support their schools in terms of fund-raising and other support.

The *Review* referred to previously, further lists the following specific difficulties that school governors are confronted with:

- Insufficient capacity concerning key dimensions of the work of school governance such as managing accounts, appointing teachers, developing policies and the fee structure of the school.
- Difficult relationships between the largely educated teachers on the school governing structures and a largely under-educated parent community.
- Conflicts between parents and teachers around the meanings of governance and management.
- The weakness of communication channels between SGBs and the provincial departments of education.

The points listed above indicate the need to inform and engage with your school community as the basis to sound relationship building, knowledge generation and collaboration. This engagement will greatly assist in addressing issues of school governance. SASA (DoE, 1996) says that parents need to take responsibility for the education of their children in partnership with government. A partnership speaks to a positive relationship that needs to be initiated and continuously developed by the school.

Take note

It is recommended that you access the DBE website to view and access the National Education Collaboration Trust 2016 *Practical Guidelines: How parents can contribute meaningfully to the success of their children's schools*. Pretoria. Department of Basic Education. Accessed at: <https://tinyurl.com/ycm7k3v2>

This publication offers important information on how to foster successful parent involvement in education. Amongst many other useful topics, it also includes a section on communication.

Activity 46b: Communication with the education department

Suggested time:

1 hour

Aim:

To examine the effectiveness of your communication with the provincial education department.

What you will do:

With your school-based CoP

1. Discuss and assess the effectiveness of your communication with the department in relation to governance.
2. Illustrate with an example, any recent issues that the school has experienced that required input from the department. Describe the channels followed and the resolution, if any.
3. Discuss ways in which your school can positively develop the relationship with your circuit manager to ensure a supportive presence in your school.
4. Write down the decisions and strategies that you have agreed on in your Learning Journal.

Discussion of the activity

Conflicts may arise between SGBs and the provincial departments of education concerning issues such as teacher appointments, the management of the Section 21 status of schools and the management of learner discipline (Republic of South Africa, 2004: viii). The school, as part of a district and circuit, is required, in the first instance to deal with the circuit manager on all issues pertaining to school governance.

In Module 1: Professional Portfolio and Workplace Project Part 2, Unit 4, Wylie and Silbert (2018, 110) write about the “structural loneliness” of school principals in governance matters. This emphasises the importance of principals getting together to reflect on and challenge their customary practice of being mere recipients and conduits of information from the department. The old saying “two heads are better than one” applies here, it is worthwhile for principals from the same circuit/district to collaborate on both solving possible conflicts, as well as on strategising around how best to engage the circuit and district managers in conflictual matters.

Activity 46c: Communication with the wider school community

Suggested time:

90 minutes

Aim:

To discuss ways of communicating with the wider school community.

What you will do:

With your school-based CoP

1. Clarify who is included in your understanding of the wider school community (in- and out-of-area) and determine the status of their relationship with the school.
2. Discuss why relationships with the wider school community are important and how you have, or will seek to, develop them.
3. Consider in what ways the school can offer support to the community and vice versa.
4. Outline a proposal for your SMT on what persons, groups, forums, etc. in the community need to be targeted and why.
5. Keep a record of your proposal in your Learning Journal.

Discussion of the activity

It is important to look at the relationship with your wider community as a two-way street. The school should communicate with community groups about the services the school can offer in terms of physical resources (e.g. a meeting place) and educational support (e.g. reading groups provision of afterschool care, school vegetable gardens etc.) The community also has services it can offer the school. A principal from a township school reported to his CoP that, as he lived in another suburb, the neighbours of the school kept the keys for the security guards and they supported the safety and security of the school by forming a neighbourhood watch that ensured learners got home safely. In turn, the school opened over weekends for community activities and religious gatherings. Safety of staff and learners is a concern and it is through engagements with groups such a community forums and the local police station, that incidents can be reduced.

The wider community can also be engaged after a needs analysis has determined the ways in which the school can assist and vice versa. Initiatives often do not involve finance but are a giving *in kind*.

The wider community is often targeted for donations to raise funds. While this is important, the target area should be broader. Donors, especially if they are corporate, are often located out-of-area and must be kept informed through evidence in reports, photographs and even videos, etc. of the value of their contributions.

Take note

It is recommended that you access the DBE website to view the National Education Collaboration Trust. 2016. *School-Parent-Community Framework*. Pretoria: Department of Basic Education which can be accessed at: <https://tinyurl.com/ycm7k3v2>. This publication offers important information on how to create an enabling environment for community involvement as well as a number of useful tools and resources.

Activity 47: Reflect on what is meant by governance

Suggested time:

45 minutes

Aim:

To deepen your awareness and understanding of what is meant by governance in relation to your school.

What you will do:**Individual activity**

Respond to the following questions while being aware that contributing to the system sometimes means being constructively critical of it. It also sometimes means being self-critical with respect to your level of knowledge to contribute appropriately.

1. Without looking up the term in a dictionary or online, briefly write what you understand by the term *governance*.
2. What role does the SGB fulfill?
3. What contribution does your SGB makes to the governance of your school?

Discussion of the activity

Though the literature on governance proposes several definitions, most definitions have the following in common: authority, decision-making and accountability. A working definition of governance therefore needs to include:

- Who has power;
- Who makes decisions;
- How others make their voices heard;
- How accountability is guaranteed.

What is governance?

The Institute on Governance's website has useful information on the subject and can be accessed at: <https://tinyurl.com/y7xskq97>. The Latin word for governance is *steering* which is helpful when you consider that SASA (DoE, 1996) stipulates that your SGB must play an active role in helping to frame the direction, vision and mission of your school. It also useful to remember that rules of governance can be used in solving conflict as well as reaching consensus when making decisions. Defining the principles of good governance remains difficult and controversial. The United Nations Development Programme (UNDP) outlines a set of principles that are to some extent universally recognised due to their prominence in international literature. However, these principles often overlap or conflict in actual social contexts. This means that applying such principles is complex as they are not only about the results of power but are also about how well it is exercised.

Extract: The UNDP principles and related UNDP text on which they are based

1. Legitimacy and voice

Participation – all men and women should have a voice in decision-making either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Consensus orientation – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and where possible on policies and procedures.

2. Direction

Strategic vision – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

3. Performance

- **Responsiveness** – institutions and processes try to serve all stakeholders.
- **Effectiveness and efficiency** – processes and institutions produce results that meet needs while making the best use of resources.

4. Accountability

- **Accountability** – decision-makers in government, the private sector and civil society organisations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external.
- **Transparency** – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.

5. Fairness

- **Equity** – all men and women have opportunities to improve or maintain their well-being.
- **Rule of Law** – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

(Source: Graham, Amos & Plumptre, 2003: 3)

In South Africa, the practice of school governance was extended through SASA (1996) which obliged schools and parents to create a partnership that provided an opportunity for parents to play a more active role in the school life of their children. There have been changes and developments in school governance practice since 1996 following reviews and amendments to SASA. Further amendments are proposed in 2018 and with the likely hood of further amendments in the future. You need to keep abreast of these developments from a historical and current perspective to understand the changing nature and roles of the SGB, and their impact on school governance and management issues. For example, the Basic Education Laws Amendment Bill (the Draft Amendment Bill, asking for comments, was published in 2017) could reduce the powers of the SGBs in important decision making at schools. This is regarded as unacceptable by the Federation of Governing Bodies of South African Schools.

Lewis and Naidoo (2004) contend that (parent) participation has not been broadened in an authentic way but reinforces existing patterns of power and privilege which influence decision-making. Conversely, the *Review of the Financing, Resourcing and Costs of Education in Public School* (Republic of South Africa, 2004) found that:

Relationships within School Governing Bodies (SGBs) are generally harmonious. ... The assessment that one has to make about the school governance terrain is that it is a remarkably successful one. ... Given the enormous challenges and differences of interests of the players involved within the arena, it is important to acknowledge how much of a unifying force for the school the SGB has become. The country has a model that it can call its own, a model that has come to be owned by its people.

(Republic of South Africa, 2004: 82)

In a series of decisions, the Constitutional Court has been required to resolve a number of disputes between provincial education authorities and governing bodies of public schools by striking a balance between their respective powers and duties. In resolving these disputes, it was confirmed (Roos & Wilter, 2018: 146) that:

- Governing bodies of public schools have significant powers to determine policy at school level but these powers are not unlimited.
- Policies determined by governing bodies of public schools are not immune from intervention and must be applied flexibly and not in a rigid manner that binds other stakeholders in all circumstances.
- Governing bodies of public schools and provincial education authorities need to exercise the powers allocated to them according to applicable law and in the interests of all learners concerned.
- Governing bodies of public schools and provincial education authorities need to resolve disputes by engaging with each other in good faith, according to the principles of cooperative governance and with a view to avoiding unnecessary litigation.

Numerous important cases that have come before the Constitutional Court, some of which you will deal with in the next unit, have followed the approach set out in the Figure 10.

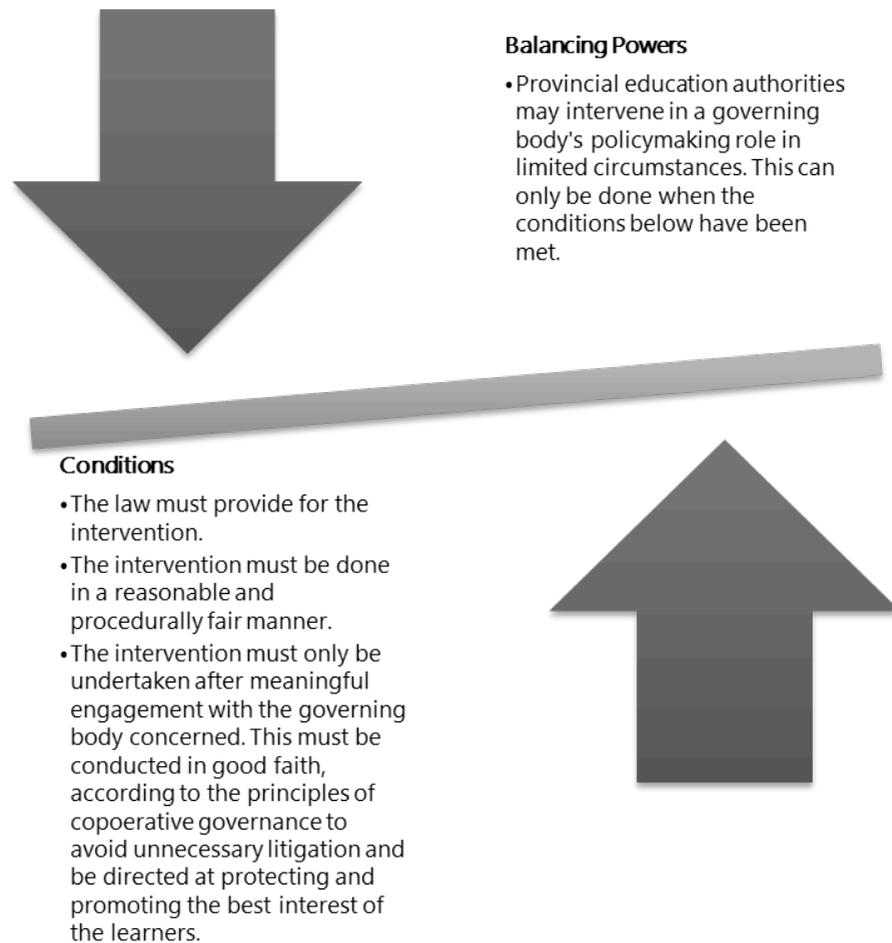


Figure 10: Balancing the powers and duties of SGBs and provincial education departments

(Source: Roos & Wilter, 2018: 146)

It is recommended that you read additional resources for a more informed view on governance. One such article is: Heystek, J. 2010. Governing body's responsibility and power for quality education. *Journal of Education*. 48: 99–117. Accessed from: <https://tinyurl.com/ychy7uwu>.

Stop and think

To fulfil the school leadership role of becoming a reflective practitioner, researcher and scholar, it is essential that you read widely so that you can discuss, agree or contest arguments that are put forward. Reasoned arguments, based on sound evidence are necessary. Stating an unsupported opinion is not sufficient.

Watch the following video before moving on to the next activity: Corruption Watch. 2018. *Why is school governance important?* Accessed from: <https://tinyurl.com/y94utr3r> . (Duration: 1:20 minutes).

Activity 48: The distinction between school management and governance

Suggested time:
90 minutes

Aim:

- a. To understand the distinction between school management and governance.
- b. To use this understanding to reflect on your own context.

What you will do:

Individual activity

1. Recap your understanding of the requirements of SASA (DoE, 1996) as they currently stand regarding school management and school governance.
2. Decide if the statements in Table 7 refer to a school management or school governance function.
3. In your Learning Journal, record where there is conflict between these functions in your school and how, with a more informed collective knowledge, this could be avoided.

Table 7: Management or governance function?

Individual		Statement	Group	
SGB	SMT		SGB	SMT
		Adopting a constitution for the school		
		Designing the assessment policy		
		Reprimanding educators for late coming		
		Controlling finances		
		Day-to-day management of finances		
		Recommending appointments of staff members		
		Establishing SGB sub-committees		
		The formulation of the language and admission policy		
		Creating internal staff structures		
		Deciding on disciplinary measures for learners		
		Development of the School Improvement Plan		
		Progressive discipline of staff members		
		Fundraising		
		Deciding on the extra-curriculum programme of the school		
		Reporting educator absenteeism to the department		
		Maintenance and improvement of school property		

Individual		Statement	Group	
SGB	SMT		SGB	SMT
		Recommending expulsion of learners to the department		
		Professional management of the school		
		Enforcing the payment of school fees		
		Decisions on the hire of school facilities		

With your school-based CoP

1. Discuss your responses to the individual activity and reach agreement on the correct responses with your colleagues.
2. Find an article to share with your colleagues on the differences, overlaps and confusion that exist between governance and management in South African schooling policies.
3. Through your discussion reach agreement so that you are collectively clear on the distinction between the two roles and functions.

Discussion of the activity

School management and governance should perform complementary, supportive roles that are in the best interest of the school. However, SASA differentiates between governance and professional management of public schools in Section 16 as follows:

1. *Subject to this Act, the governance of every public school is vested in its governing body.*
2. *A governing body stands in a position of trust towards the school.*
3. *Subject to this Act and any applicable provincial law, the professional management of a public school must be undertaken by the principal under the authority of the Head of Department. (DoE, 1996: B11)*

Simply put, the leadership and management of staff in the school must ensure quality curriculum delivery to the learners with the principal as the officer accountable for this. In contrast, school governance, relates to the participation and involvement of parents in supporting the school in this function.

To assist you further in this distinction, the roles and responsibilities of SMTs and SGBs are outlined in the Figure 11.

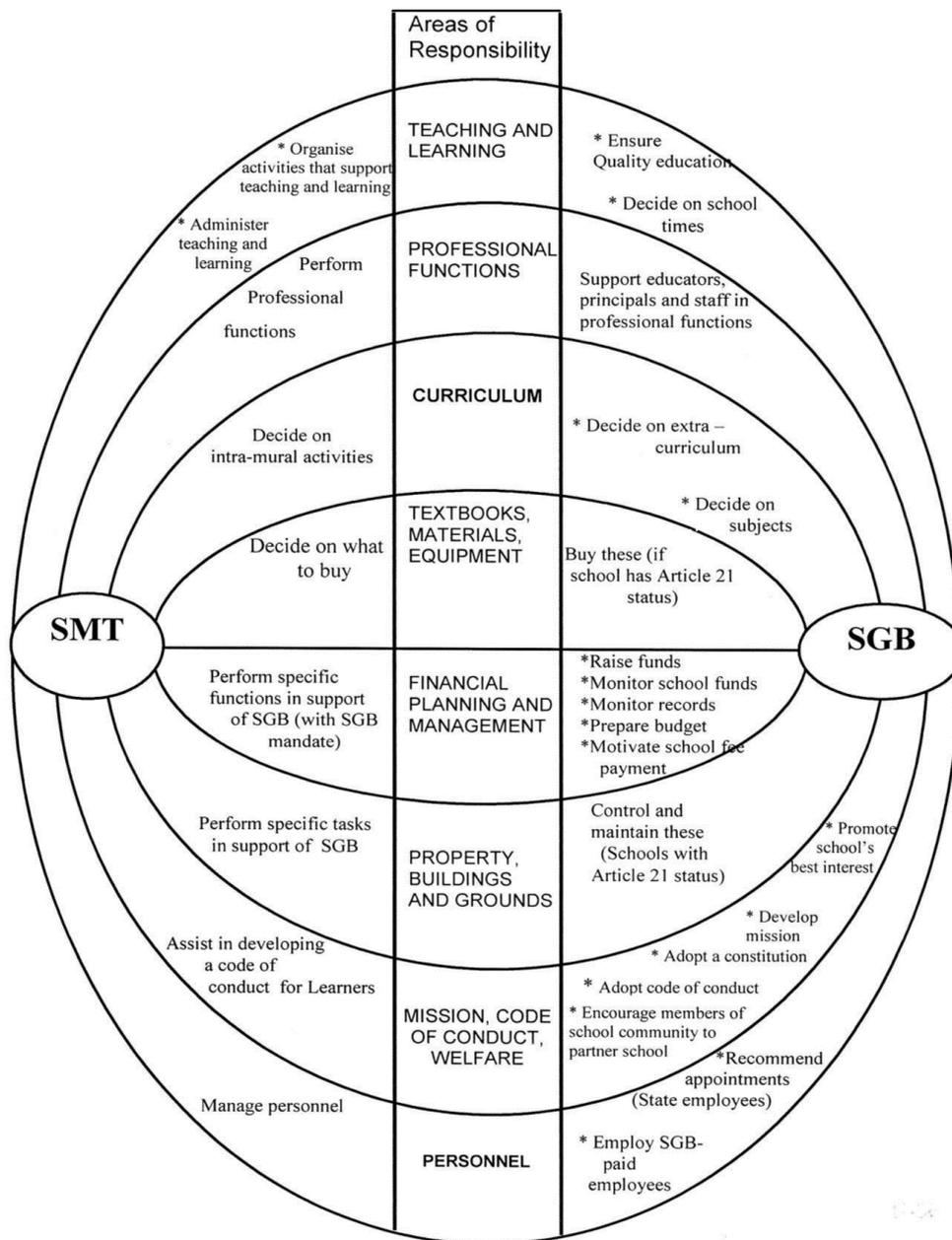


Figure 11: Roles and responsibilities of SMTs and SGBs as defined in SASA

(Source: DoE, 2008b: 85)

What is important to know is that management and governance, through their separate but linked functions, are essential to the efficient organisation and accountability of South African schools. Therefore it is in the best interests of the school and its wider community that the SGB is fully functioning and representative of the community it serves. As indicated, Section 16a of SASA (DoE, 1996) states that a governing body stands in a position of trust. This means they are responsible for fundraising activities, being party to developing vision and mission statements, adopting a code of conduct for learners and promoting the best interest of the school.

As discussed in *Module 4: Leading and managing people and change* and *Module 6: Leading and managing the school as an organisation*, school leaders must work with the SGB specifically on all matters of staffing,

finance and the accountability required for each. It is essential that both parties work in conjunction, in a positive manner, to ensure the smooth running of the school.

In preparation for this unit, you watched the video of Kathy Kallaghan on the role of school governing bodies. Before you begin work on the next activity, go back and watch it again for more information on the roles and function of the SGB: Kallaghan, K. *The role of school governing bodies in developing functional schools*. Accessed from: <https://tinyurl.com/ycbcsrpe> . (Duration: 19: 32 minutes).

Activity 49: Understand the legalities of school governing bodies

Suggested time:

30 minutes

Aim:

To consider if your SGB is a functional and legally constituted body.

What you will do:

With your school-based CoP

1. Read the information below:

Functions of an SGB

To have a legally functioning SGB means that the SGB representatives should be properly elected and your SGB members should represent all the various components of your school. Ensure that it:

- *Has the correct office bearers, i.e. chairperson, treasurer and secretary, the SGB office bearers carry out their functions properly.*
- *Has the necessary sub-committees.*
- *Holds its required meetings and keeps the required minutes.*
- *Has a Constitution.*
- *Has helped the school to develop and/or revise its mission statement.*
- *Has helped the school to develop a Code of Conduct for learners.*
- *Undertakes any of the other functions required of it in terms of Section 20 of SASA, if applicable.*
- *Undertakes the functions required of it in terms of Section 21 of SASA and undertakes the monitoring of school finances as required in Chapter 4 of SASA.*

2. Assess whether or not *your school has a functional and legally constituted SGB* by checking on each of the functions listed in the text box above.
3. Discuss the implications of this assessment for your school.

Discussion of the activity

This activity was intended as an *informal* assessment based on your knowledge of the working of the SGB in your school. This would not stand up to interrogation as *formal* research as there is no evidence to substantiate your claims. In the next activity, you address this topic in a deeper way.

Activity 50: Assess the role and function of your SGB

Suggested time:

2 hours

Aim:

To gather evidence on the role and function of your SGB and its effectiveness so as to assist your school and your WPP development.

What you will do:

Individual activity

1. Relook at the question: *Does your school have a functional and legally constituted SGB?* If you are not the principal, then you will need to ask permission to collect accurate information to address this question.
2. If it is possible, request that the principal and the chairperson of the SGB respond to the questions in Table 8. This will enable you to *compare and collate* their responses. You will have up-to-date accurate information on the functionality of the SGB and will be able to see the differences between the views of the principal and the SGB chairperson.
3. If you would like a broader sample, you can interview the other members of the SGB.

Table 8: The functionality of your school's SGB

SGB status	
Election process	<ul style="list-style-type: none"> • What process was followed in your last SGB election? • What were the challenges to this process? • What could be done to improve on this next time round?
Composition of SGB	<ul style="list-style-type: none"> • What is the stakeholder representation of your SGB? • Is there representation in terms of number, ethnicity and gender of the members of your SGB that reflects the learner component? • Who has been co-opted onto your SGB and why?
Skills audit	<ul style="list-style-type: none"> • What skills and knowledge does each SGB member bring to the school? • Are any relevant skills lacking and does this impact on SGB functionality?
Leadership	<ul style="list-style-type: none"> • As a (SGB or school) leader in what way does your SGB enable or constrain your role?
SGB development	<ul style="list-style-type: none"> • In what ways can the school community assist to improve the functionality of the SGB?

4. Use the headings from the Table 8 to write a report on the status of your SGB after collecting data and interpreting it to help inform your work in the school and with the SGB.
5. Place this report, which is an evaluation of the functionality of the school's SGB, in your PP.

Discussion of the activity

The purpose of writing this report was to provide a "snapshot" of the functionality of your SGB. However, it is recommended that for a more in depth evaluation, you access the *DBE School Governing Body Functionality Tool* (DBE) see details in the next text box. What you do with the resulting information is dependent on the nature of the working relationship between your SGB and your SMT. At best, you may be able to present your findings, as well as a plan to build on the strengths and respond to the challenges. This would be especially useful at the beginning of a new three-year term of office for the SGB. However, this may not be possible, in which case you may provide your report to the principal or even the SMT for their consideration.

The SGB is tasked with providing oversight related to various functions including financial, such as signing contracts, on behalf of the school. Their behaviour therefore should be exemplary and they require the requisite knowledge and ability to ensure due process.

Take note

It is recommended that you access the DBE website to view the following resource: Department of Basic Education. *School Governing Body Functionality Tool*. Pretoria: DBE (undated) which can be accessed at: <https://tinyurl.com/ycm7k3v2>

This publication offers a comprehensive functionality tool including descriptions of applicable standards, rating scores and competence descriptors.

Activity 51: Strengthen school community knowledge of school governance

Suggested time:

1 hour

Aim:

To develop strategies to inform the school community of the requirements of a member of the SGB.

What you will do:**With your school-based CoP**

1. Outline the challenges, if any, that your school faces in getting competent representation from your school community (including staff and learners).
2. Put forward ideas for an advocacy [support] campaign that will provide the school community with the necessary knowledge to elect appropriately 'qualified' SGB members.
3. Discuss the viability of putting your proposed ideas into action with your SMT.

Discussion of the activity

It is imperative that parents know what is required of members elected to the SGB. This will ensure that they elect members who will represent them competently and discharge their duties honourably. This process needs an organised advocacy campaign on the part of the school. This type of campaign involves working through the following steps:



Figure 12: The advocacy process

(Source: Cockburn, 2002: 47)

Each of the steps involves collecting and analysing information, monitoring progress and evaluating if the objectives have been achieved. The steps you followed in the implementation of your WPP will also assist you as this process requires a very similar skills set (see *Module 1: Professional Portfolio and Workplace Project Part 2 Unit 3*).

Activity 52: Involve learners in the co-operative governance of the school

Suggested time:
1 hour

Aim:
To ascertain the involvement of learners in the cooperative governance of your school.

What you will do:

With your school-based CoP

1. Discuss the different ways in which learners have a *voice* in the decision-making of your school.
2. What are the possible implications for the school leadership and the functioning of the SGB, if learners are not given a voice?
3. Look at the diagram below and brainstorm the ways in which opportunities can be created to incorporate learner voice.

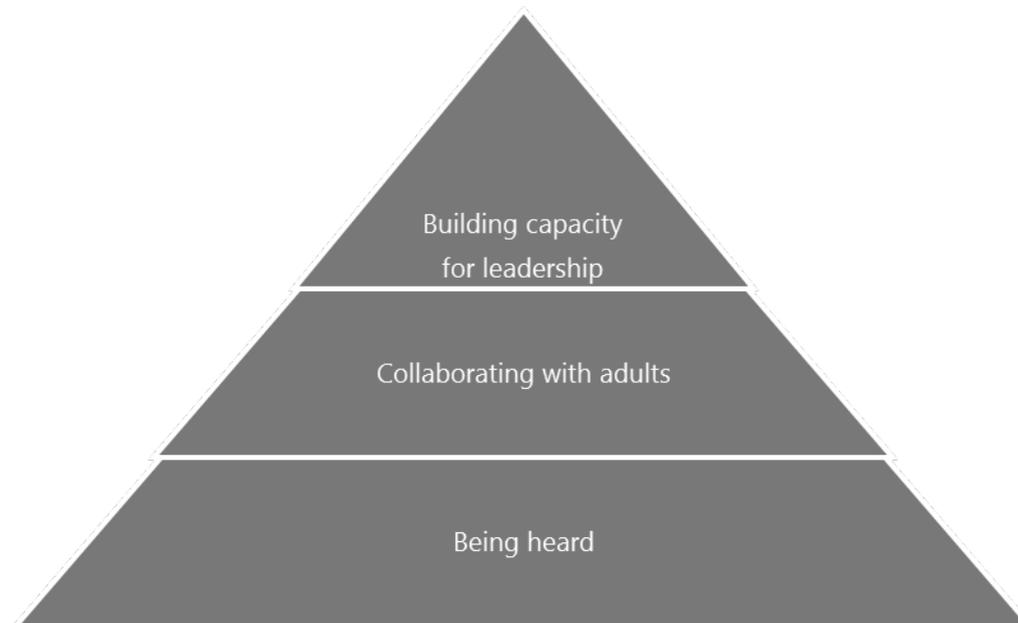


Figure 13: Pyramid of Learner Voice

(Source: Mitra & Gross, 2009 in Grant, 2015: 97)

Discussion of the activity

Studies of interventions in South African and Namibian schools were guided by Mitra and Gross's (2009 in Grant, 2015: 97) *Pyramid of Learner Voice*. Both studies focused on learners being heard and allowed to contribute on what mattered to *them* within their school contexts. It is even more important given the current trends in education (see *Module 1: Professional Portfolio and Workplace Project*) that school leadership gives serious consideration to the implications of this study of learners' rights and voices. You will also find it helpful to read the article by Mncube and Harber (2013) on democratic learner representative involvement in SGBs. Access the article online at: <https://tinyurl.com/y9mkbjnp>.

Effective learner representation

The establishment of a forum for learners to participate meaningfully in matters concerning their own schooling needs to be rooted in the South African Schools Act, 1996 (Act No. 84 of 1996), as amended to ensure that such learner bodies would be afforded the status to represent their peers.

The South African Schools Act, 1996 (Act No. 84 of 1996), as amended, stipulates that all South African public schools with learners from Grade 8 upwards are required to establish Representative Councils of Learners (RCLs). These are the only legitimate, legal learner-leadership structures in schools. The RCLs provide a forum in which the voice and recommendations of youth in matters of school organisation can be expressed. The RCL should also provide support to the whole school programme through positive leadership that is required to bring about educational transformation.

A useful article for background knowledge on learner representation but which also poses questions about the practice is:

Hunt, F. 2014. Learner councils in South African schools: adult involvement and learners' rights. *Journal of Education, Citizenship and Social Justice*, 9(3): 268–285. Accessed from: <https://tinyurl.com/yhc4fs9>.

The article alerts one to the need for school leadership and to the importance of ensuring that learners' representation *effectively* represents learners as "there is a need for schools to think more constructively about how learner voices could be utilised in school development processes" (DoE, 2004: 90).

In order to assist provinces with the establishment of RCLs, a set of guidelines was published by the National Department of Education (DoE) in 1999. The DoE guidelines include a module on the roles and responsibilities of RCLs and notes that RCLs as representative bodies have a definite function because they should have a greater say in fundamental policy matters.

Activity 53: The value of learner representation – a mini research project

Suggested time:

4 hours

Aim:

To promote the role of learner representation in your school.

What you will do:

With your school-based CoP

- Section 11 of SASA (Act no. 84 of 1996, amended 1997 & 2001), reads as follows: *A representative council of learners at the school must be established at every public school enrolling learners in the eighth grade or higher, and such council is the only recognised and legitimate representative learners' body at the school. This does not imply there should be a lack of preparation and development about learner representation in primary schools.* (DoE, 1996: 10)
 - If you are at a secondary school**, what is the present status of your RCL?
 - If you are at a primary school**, how are you developing awareness of learner representation and allowing for learners' voices to be heard?
- Identify a number of learners and conduct a focus group interview [a group of people assembled to participate in a discussion, or to provide feedback on a particular issue], at your school to obtain learner views on representation at the school.
- If you are at a secondary school**, complete Tabe 9 that sets out the rights of the RCL. Decide how learners can use these rights to add value to the teaching and learning which takes place in your school.
- If you are at a primary school**, draw up a table suitable for younger learners that outlines their duties.

Table 9: The rights of Representative Councils of Learners

Rights of RCLs	Rights in action (the way the RCL supports the school)
A right to represent learners at all levels within the mandate of the RCL	
A right to have access to information on matters pertaining to the school	
A right to use the school facilities provided that proper consultation is followed	
A right to have an office where possible	
A right to acquire and administer funds	
A right to participate in the activities of the SGB	
A right to convene meetings among themselves, and with other learners, teachers, parents and stakeholders	
A right to question/challenge the status quo	
A right, in consultation with other stakeholders, to organise activities aimed at developing learners academically	
A right to have access to education authorities outside the school, should the need arise	

(Source: Adapted from Ralephata, 2004: 24)

5. Compile a report that:

- Provides an overview of the process of learner representation and an indication of their level of performance (photos and videos can be provided to support your text).
- Includes a list of recommendations based on a literature search on learner representation, as well as from information and observation taken from your context. The list should outline what can be done to build upon, or improve, the performance of learner representation in the future.
- Gives examples of learner representation activities, whether positive or negative, in terms of their actions and attitudes.
- Develops a plan of action that includes how your recommendations can be implemented.
- Explains how this important aspect of school governance will impact on your WPP.

6. Place this report in your PP as a key part of your evidence.

Discussion of the activity

Learner leadership and representation needs to be developed at all levels of the school system and should follow a fair and democratic process, aiming to prepare learners as responsible citizens of the country.

Activity 54: Effective teacher support

Suggested time:

1 hour

Aim:

To assess the role and function of teacher support to learners' representation in your school.

What you will do:

With your school-based CoP

In secondary schools, it is required that a teacher be nominated by the other teachers to liaise between the staff and learners. In primary schools, a teacher may be allocated responsibility for learner appointment, for example, appointment of Grade 7 monitors.

1. What is the situation regarding support for learner representation in your school?
2. What qualities are necessary for this role and why?
3. Complete the table below regarding the responsibilities of the designated teacher liaison officer (TLO). If you are working in a primary school, only complete the items marked with an asterisk.

Table 10: Responsibilities of a teacher liaison officer

	Responsibility	Yes/No
*	Co-ordinate the establishment of a RCL and its annual election	
	Serve as the election officer for the elections of the RCL and its executive	
	Ensure that there is a formal, well-organised transfer of all documentation and financial records by the outgoing executive to the newly-elected executive	
*	Provide capacity-building for the newly-elected executive so that the members can undertake their functions in the new year	
*	Ensure that the RCL is supported by the SMT and the SGB	
*	Ensure that the RCL supports the vision and mission of the school	
	Ensure that the RCL remains functional and fulfills all of the requirements of this notice and its own constitution	
*	Ensure that opportunities are taken to include learners in the school's decision making processes	
*	Ensure that members of the RCL are recognised and accredited for their task	
*	Ensure that the school's extra-mural programme enables the RCL to hold regular meetings	
*	Ensure that the school community accepts the activities of the RCL	

(Source: DoE, 2008b: 97)

Discussion of the activity

Having a support system in place for learner representation is an essential first step towards having effective learner representation. In secondary schools the district manager appoints the TLO to act as the electoral officer for all the electoral procedures relating to the RCL. The role and attributes can also be applicable to primary schools as the person appointed to the task must create a sincere and trusting relationship with the learners. Spontaneous communication must be promoted between the TLO, the principal, staff and the learner representation. At the same time, a sense of leadership in the members must be encouraged. To be successful in this role, the TLO should be committed to diligently assisting learners develop their voice in the operational functions of the school.

Activity 55: Deal with conflict in school governance

Suggested time:

90 minutes

Aim:

To think about problems that arise in school governance and how you would resolve them.

What you will do:**With your HEI CoP**

1. Draw up a table listing the positive and negative contribution your SGB makes to the governance of your school.
2. Figure 14 depicts a range of problems that some SGB members say they face in schools (Morrison, 2009: 14). Suggest how they may be resolved.

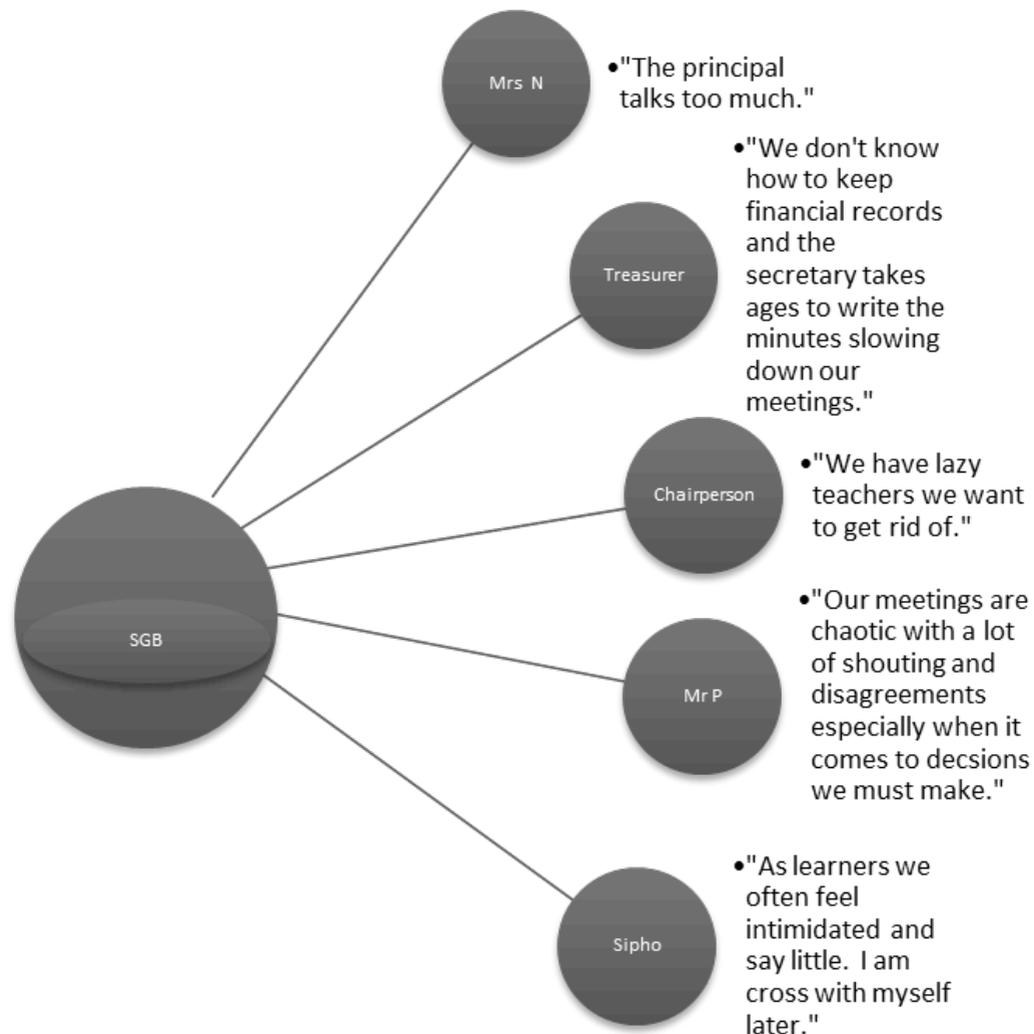


Figure 14: Problems encountered by SGB members

(Source: Morrison, 2009: 14)

3. Discuss any problem situations that may have arisen in SGBs in each of the CoP member's schools. Share information on how these problems were resolved.
4. Make notes in your Learning Journal on the procedures that were followed to resolve the conflictual situations.

Individual activity

5. In your Learning Journal reflect on your own reaction to conflict. This awareness is important as either avoiding conflict or provoking conflict can lead to an exacerbation of the problem.

Discussion of the activity

Most of the problems reflected in Figure 14, and possibly also those discussed in in your HEI CoP would not have occurred if all SGB members had received adequate training on how to conduct meetings, write action minutes, etc. Often, staff at the Circuit Office are in a position to offer such training. It is the principal's responsibility to sort out staff problems, while financial concerns may require the help of an accountant. SGBs have a responsibility to ensure school funds are managed honestly, fairly and in line with the National Norms and Standards for School Funding which were amended in 2006 (DoE, 2006).

Ensuring that SGBs can deliver on their mandate to promote the best interests of the school and the provision of quality education for learners (SASA Section 20.1) requires specialised knowledge in school governance. The HoD in each province is required to provide introductory and continuing training to SGBs to help them perform their duties (Joubert & Prinsloo, 2009: 101).

It also useful to remember that rules of governance can be used in solving conflict as well as in reaching consensus when making decisions. Conflicts are inevitable in the organisational life of the SGB. However, the SGB is still considered the best means of enabling parents to play a role in the schooling system (Republic of South Africa, 2004: 82). As a school leader, it is incumbent on you to make sure you are aware of the channels of support that are available to you in the Department when conflict or unethical practices occur in your SGB. (Remember that conflict and dispute resolution involving staff, falls under the Labour Relations Act of 1995). There are often ways to find the time, the willpower and the diligence to work through SGB problems before you need to approach the Department. There are many ways to manage conflict but these five steps may help you to start the process (DoE, 1997: 25):

1. Acknowledge the conflict – admit you have a problem.
2. Define the conflict – reflect collectively on what the problem is and what is causing it.
3. Plan how to deal with the conflict.
4. Discuss the problems in an ethical and transparent manner.
5. Work from the premise that there is a way of sorting out the problem.

Conflict sometimes arises from the abuse of power by SGBs. Døssing, Mokeki and Weideman warned that “The lack of parental involvement poses a risk of corruption, as parents are not sufficiently involved to be able to monitor or support the activities of SGBs” (Døssing et al., 2011: 31).

The SGB should be a positive force that enables the school to work towards the improvement of the quality of teaching and learning.

Take note

The following resource, available on the DBE website, deals with key questions related to the role of the SGB members in supporting a school to offer effective teaching and learning and provides useful information related to SGB capacity building. Department of Basic Education. 2018. *Guidelines for Capacity Building of School Governing Body Members*. Pretoria: DBE. It can be accessed at: <https://tinyurl.com/ycm7k3v2>

Activity 56: Develop, consolidate and sustain community cohesion

Suggested time:

45 minutes

Aim:

To brainstorm ways of developing and sustaining community cohesion to support the vision of the school.

What you will do:

With your school-based CoP

1. In your CoP, strategise around ways in which your SMT and SGB can bring all stakeholders together to support the vision of your school as a cohesive community with a collective identity. This might be done through various activities that help to build a unified sense of purpose such as, assemblies, stakeholder gatherings, special celebratory events, school clubs, support for sports teams, symbolic songs, badges, banners, posters etc.
2. How are forums/events organised that give all parties a voice and exposure to each other?

Discussion of the activity

School governance is primarily about the distribution of authority and voice (Joubert & Prinsloo, 2009: 105). SGB members are volunteers who have been elected by the community to govern the school and are in a position of trust with regard to the school. This unit has focused on your understanding of the role of the SGB and the school community to work together, with the school, to ensure good management and governance practices and accountability. You explored some of the key areas to enable you to demonstrate the personal qualities of leadership and management, as set out in SASP (DBE, 2015a). You examined the need for developing and maintaining sound working relationships with the SGB, learner representation, the parents and the wider school community as well as the Department. It is crucial to encourage all stakeholders to work together in the best interests of the learners both within the school and in the wider community. Stakeholders should work towards this irrespective of the difficulties and challenges that the context presents for the management and governance of the school.

Activity 57: Reflection on this unit**Suggested time:**

30 minutes

Aim:

To reflect on the most important information you acquired while engaging with this unit.

What you will do:

Respond in your Learning Journal to the following questions:

1. What did you learn in this unit that will equip you to develop and maintain sound working relationships with the SGB and the school community?
2. What area/s do you feel hamper or keep from you from doing this as well as you would want to?
3. How do you plan to address this challenge?

Discussion of activity

A sound working relationship with your SGB is critical to the effective running of your school. Like all relationships this requires time and effort to develop and maintain. As a leader, ongoing reflective practice is important. You need to reflect on your strengths and shortcomings in relation to your role and responsibility connected to your SGB. If for example, you realise that you struggle to manage conflict, you may need to get support to help to mediate a situation that you find hard to manage. However, a clear understanding of the roles and responsibilities of the SGB by the relevant parties, will go a long way to avoiding conflict situations. To achieve this understanding among all SGB members requires a positive relationship with the SGB members as well as ensuring that all members are properly inducted, trained and supported.

Key points

Unit 4 focused on the following key points:

- The application of co-operative governance that is legally constituted and fully functional.
- Strategies to enhance the positive involvement of all stakeholders that make up the school community, including the importance of learners' participation.
- Overcoming challenges relating to conflict over policy.

The purpose of this unit was to provide you with the necessary knowledge and insight to build relationships within the school community that will benefit your learners. Unit 5 emphasises the importance of reflection on school improvement and whole school evaluation. It explores how you apply relevant content knowledge from the programme to develop your school as a learning organisation.

Unit 5: Lead and manage policy, planning, school development and governance

Introduction

In Unit 5 you will be required to evaluate the areas you have identified for improvement in your school in relation to the vision, mission and values statement, as well as the national evaluation criteria. Whole school evaluation and whole school development within a South African policy context will be examined in relation to national and international trends in this field. Whole school improvement and development initiatives in your school, which are focused on improving the quality of teaching and learning (such as your Workplace Project), will be examined with respect to implementation strategies, sustainability and enhancement.

Unit 5 learning outcomes

By the end of this unit you should be able to:

1. Reflect upon and demonstrate knowledge of the key concepts and theories underpinning school evaluation, and strategic and development planning.
2. Demonstrate knowledge and understanding of the principles of law and policy for school development planning and evaluation.
3. Reflect upon and demonstrate participatory and cooperative approaches to decision making, communication and the role of consultation in school development planning.

Preparation for this unit

To prepare for this unit you should revisit:

- The National Whole School Evaluation Policy as discussed in Unit 3, Section 2 of *Module 2: Leading and managing teaching and learning*
- The school self-evaluation template in *Module 1: Professional Portfolio and Workplace Project*, Part 1, Template 3.
- The discussion on the Integrated Quality Management System (IQMS) in Unit 3, Section 2 of *Module 4: Leading and managing people and change*.

Activity 58: Understand strategy and strategic thinking

Suggested time:

1 hour

Aim:

To understand what strategy and strategic thinking means in relation to the operational management of your school.

What you will do:

Individual activity

1. What do you understand by *strategy* and being a *strategic thinker*?
2. What do these terms mean to you?
3. Record your responses in your Learning Journal.

With your school-based CoP

1. Compare and contrast your understanding of these terms (*strategy* and *strategic thinker*).
2. Check the definitions in a dictionary or online to ensure you are all in agreement before moving forward.
3. Discuss why it is critical for school leaders to think strategically.

Discussion of the activity

It is interesting to note that the words *strategy* and *strategic thinking* have their origins in the military world where talk about *strategy* is related to planning, preparing for and engaging in a war. This kind of planning and preparation is about meeting an objective – that of winning. In a similar way, *strategic thinking* involves those in management positions who plan and execute the steps necessary to achieve a desired outcome.

In a school context, planning is important because it is a process for determining the goals you want to achieve; the manner in which you will make your plans happen; and the time and resources necessary to do so. It is also important to understand your context, as it may help or hinder the achievement of your goals, planning needs to factor in and accommodate contextual considerations as well. In brief, planning involves the *what, why, how, who, where* and *when* of any planned intervention or strategy.

School strategic planning undertaken by the school management team (SMT) in collaboration with the school governing body (SGB) has as its focus, the future operations of the school. No principal can lead the school community without a strategic plan. These plans need to outline the vision of the school and the long-term outcomes the school wants to achieve. There is also shorter term planning in a school, such as, quarterly, monthly, weekly and daily planning. These types of planning flow from the strategic plan and are known as *functional* and *operational* planning.

Functional and operational plans

Functional plans focus on medium-term outcomes and outline how the different functions or operations within the school will contribute to the achievement of the strategic plan. These plans are usually drawn up by subject heads or the heads of the different phases.

Operational plans are short-term and outline what must be done; how it must be done; and who will be responsible for the various daily, weekly or monthly activities, in and out of the school. This planning is just as important as strategic planning as it helps to ensure the smooth running of the school's on-going operations, such as teaching and learning, extra- and co-curricular activities, staff meetings and the other activities in the life of a highly functioning and well-performing school.

Activity 59: Reflect on the effectiveness of your school's current operational plans

Suggested time:

1 hour

Aim:

- a. To reflect on the effectiveness of your school's current operational plans.
- b. To assess the relevance and feasibility of your Workplace Project (WPP) within the context of your school's operational plan.

What you will do:

With your school-based CoP

1. What plans are in operation in your school currently?
2. What, if any, plans are *not* in operation that should be?
3. What plans still need to be designed that will improve the running of your school?
4. What school community voices are incorporated into planning?
5. How does the school community support the implementation of the plans?
6. In what ways can school-community engagement be increased?
7. How does school planning affect your WPP?
8. Repeat this exercise with your SMT.
9. Compare the responses of your community of practice (CoP) and SMT and keep a record in your Learning Journal.

Discussion of the activity

If you had different responses from the two groups, ask yourself what you will do with that information? You need to think of ways of allowing all voices in the school community to be heard and incorporated into your planning.

Each year plans must be drawn up for the following year, such as, procurement of textbooks, preparation of the school time table, extra-and co-curricular activities, staffing and funding. All with one end result in mind,

i.e. improving learner performance. The first actions towards improving the management of your school require you to acknowledge what *is* being done and what *is not* being done. In other words, to *evaluate* the status of current implementation. It is important to acknowledge that plans are not always perfectly executed and that there is always room for improvement.

It is also important to emphasise that the principles and processes of planning are simple and apply equally to *strategic, operational or school development* planning. While it is the responsibility of the principal to initiate planning, and to quality assure the implementation of the plans, support must come from the SGB, staff, parents and learners. If leaders are not seen to actively support and implement school plans, the school community are unlikely to do so.

You may have heard the saying “things did not go according to plan” and you may have said this yourself. If things don’t go as planned it may impact on the implementation of your WPP. It is therefore necessary to have a contingency [emergency] plan in place. Re-adjustment or re-planning must be undertaken depending on the reasons for failure.

Failure of a plan may be caused by not adhering to the SMART (specific, measurable, achievable, relevant, time-bound) approach originally discussed in *Module 1: Professional Portfolio and Workplace Project, Unit 3*. As a school leader, you are required to check and monitor a number of issues related to the operational planning and process including whether:

- The planning process is SMART?
- Sufficient funding has being allocated? and
- Whether the school community has been included? Has attention been paid to the buy-in process?

Apart from applying strategic thinking in the *planning* process, school leaders need to also employ strategic thinking in relation to:

- Identifying and solving problems.
- Anticipating potential problems and events which may arise and in preparing to deal with these effectively.

School principals need to react swiftly when circumstances in the school suddenly change. This is called *crisis management* and requires specific skills. Immediate problem solving involves identifying that a problem has arisen or is going to arise; creating options to solve it; selecting the best option; and implementing the decision. No matter how thoroughly you plan, there will always be situations that you have not foreseen. These will require you to *think on your feet*, that is, to be creative, proactive and decisive in dealing with the unexpected situations.

Activity 60: Planning for the unexpected in your school

Suggested time:

45 minutes

Aim:

- a. To develop an understanding of scenario planning as a method of preparing for the unexpected (crisis management).
- b. To consider how this may affect your school and/or your WPP.

What you will do:

You need to think about possible crises or unexpected situations that may arise in your school and consider contingency [emergency] plans to deal with them.

Individual activity

Think about and prepare a written description of *three* situations that you had to deal with unexpectedly in your school context. Also record how you managed these three unexpected situations or issues.

With your school-based CoP

1. Discuss the three examples that you identified and explain what you did and whether or not there was anything more that *could have been done* to manage these situations better.
2. Discuss what you would do in the following situations:
 - The fire alarm goes off and the school is evacuated after an explosion during a science lesson.
 - An angry parent arrives at the school complaining that a teacher has humiliated her child and violated her child's rights. A shouting match ensues in the school office.
 - A teacher is involved in a car accident and subsequently booked off for three months to recuperate.
3. Check relevant policy and legislation to see if your responses are correct.

Discussion of the activity

In the previous activity, you dealt with possible challenges related to your current operational plans in your school. It is clear that you need to be flexible and able to adapt to unexpected, unpredictable situations. However, your knowledge of legislation is critical in order to make the correct decisions. It is therefore important that you are able to identify the legislation that is applicable to the three situations identified in this activity.

To confirm the legal correctness of your solutions to the three situations described in this activity, refer to the following pieces of legislation:

- Department of Basic Education. 2016. *National School Safety Framework*. Pretoria: DBE
- Republic of South Africa. 2005. *The Children's Act no. 38*. Pretoria: Government Printer
- Republic of South Africa. 1997. *The Basic Conditions of Employment Act 75* as amended by *The Basic*

Conditions of Employment Amendment Act 11 of 2002. Pretoria Department of Labour.

- The Education Labour Relations Council (ELRC). 1998. *Employment of Educators Act 76* as amended by the Education Laws Amendment Acts of 1999, 2000, 2001 and 2002 and the South African Council for Educators Act, No.31 of 2000.

Activity 61: Assess what was put into practice from your last whole school evaluation

Suggested time:

3 hours

Aim:

To reflect on and assess the implementation of recommendations made from your last whole school evaluation.

What you will do:

With your school-based CoP

1. Access and review documentation relevant to your school's last whole school evaluation process.
2. List the recommendations that were implemented following your last whole school evaluation.
3. Assess whether or not significant change has resulted.
4. Reflect on the reasons for this.
5. Based on your experience of whole school development, do you have any recommendations on the process?

Discussion of the activity

School evaluation and school development form part of the broader goal of school reform and transformation that are explored in the other modules – particularly the discussion on school improvement in *Module 4: Leading and managing people and change*. In this module, it was highlighted that school improvement is all about *change* and as stressed, that effecting change is not a quick or easy thing to achieve.

Combined with internal whole school evaluation, school development can improve the quality of teaching and learning in a school. To do this however, school evaluation and development need to be supported by appropriate systems and structures. Establishing these systems and structures involves careful planning and monitoring as well as the *buy-in* of the school community.

There is no perfect, or ideal school. All schools have their challenges, no matter what their context is. Your aim needs to be to make your school the *best* it can be, with the best interests of the learners as a priority. To do this there needs to be an understanding of the context of South African schools. Poverty, HIV/AIDS, child-headed households, unemployment, crime and other social issues all impact on school communities and the quality of the teaching and learning (Bloch, 2009; Christie, 2008; 2010; Fleisch, 2007; Maringe & Moletsane, 2015).

Schools are highly complex organisations, and implementing reforms to improve standards and performance is equally complex. Christie *et al*, writing about key characteristics of *schools that work* across a range of contexts in South Africa, cites research that has shown that to make a positive difference in schools the following are necessary: high quality leadership and management; a shared vision and goals (buy-in from all school stakeholders); teachers that are on time and on task; monitoring and support of all school activities; and buy-in from the community - positive home-school partnership. (Christie *et al*, 2007: 18). Full report accessible at: <https://tinyurl.com/y4kmw3uz>

Activity 62: Strategies to make your school more effective

Suggested time:

1 hour

Aim:

To determine what improvement strategies would make your school more effective.

What you will do:

Individual activity

1. Read the short text below:

Transformation in schools

In the mid-1990s a shift occurred in the school education landscape from a focus on school effectiveness (what an effective school looks like) to school improvement (how to achieve effectiveness).

This provided the frame for transformation to receive serious consideration (Barber, cited in Hargreaves & Fullan, 2008: 71). As noted in most theories of social change, transformation starts with the individual but needs to move into schools in a sustainable way (Sayed, Kanjee & Nkomo, 2013: 153). As Fullan comments, "any strategy of change must simultaneously focus on changing *individuals* and the *culture or system* within which they work" (Fullan, 2006: 7).

2. Given the ongoing nature of school improvement within a transformative agenda, is it possible for a school to achieve effectiveness?

With your HEI CoP

1. In preparation for this aspect of the activity, refer to the following resource, *Summary of: What makes Schools Effective? Report of South Africa’s National School Effectiveness Study* (Taylor et al: 2012) available at: <https://tinyurl.com/y5b3lj42>
2. Then reflect on the question above and use Table 11 to make a list of the five most important criteria that you think make a school effective (left hand column). In the right hand column, detail the steps that would need to be taken to achieve effectiveness

Table 11: Criteria and steps to making your school more effective

A school is effective when it...	A school will achieve this by...

3. Discuss the competences that must be demonstrated by school leadership to transform a school into a more effective school?

Individual activity

1. Relate what you have discussed to *your school context* and reflect on how you can make your school more *effective* through school *improvement*. Think about your WPP and other strategies.
2. Share this information with your school-based CoP.

Discussion of the activity

In the literature on *school effectiveness*, school leadership and management together with a focus on teaching and learning, are the key elements that make a school effective. However, the school effectiveness movement has been criticised for its narrow focus on academic performance, its lack of an in-depth analysis of the factors that make a school effective and its focus on external accountability.

By contrast, *school improvement* focuses on improving schools from within and internal accountability. The school is seen to be the site of change and the emphasis is on school leadership with the school community taking ownership of school transformation and change. Central to school improvement is the identification and implementation of improvement strategies that have two assumptions:

1. Schools have the capacity to change themselves.
2. School improvement involves a shift in the school culture that can only be achieved by working in each school with a community that desire change.

The main criticism of school improvement research and reform has been its focus on the school as the site of change as opposed to systemic change.

It is useful for a principal to have knowledge of both school effectiveness and school improvement research so that they can combine them in a logical way: "School effectiveness research identifies the features that make a school effective and school improvement identifies a process of how to achieve this" (Fidler, 2001: 47). Simply put, effectiveness is about the *what* that has to be in place, while improvement is about *how* to achieve these features.

To revise your understanding of school improvement concepts and initiatives refer to *Module 1: Professional Portfolio and Workplace Project Part 2, Unit 3, Module 2: Leading and managing teaching and learning in the school* and *Module 4: Leading and managing people and change*.

By initiating a change strategy, such as your WPP, consideration needs to be given to factors such as the school's readiness to change – you need to think about what it is that needs to be done to prepare the school for change. Importantly, as emphasised before all proposed interventions have to align with the school's values and vision, the school's capacity to sustain change and with policy requirements.

Hopkins (1996: 33) defines both school improvement and school development as "a process through which schools adapt external changes to internal purpose". High performing schools can focus most of their school improvement initiatives at classroom level. However, schools in more challenging circumstances need to focus on both organisational and classroom change.

In your role as a researcher, you need to access and interrogate the literature that focusses on these two areas. The issue is particularly relevant as the South African education system considers the ways in which decolonisation of the curriculum should take place.

The challenge for principals is to identify some of the individual and relational challenges to school development and to try to address these in whole school development planning and implementation. As discussed in Units 3 and 4, this needs to be done in collaboration with the SGB, the SMT and the school community and requires ongoing encouragement and monitoring of progress.

Take note

For additional reading on systemic school improvement interventions in South Africa access the following resource online: JET. 2013. *Systemic School Improvement Interventions in South Africa: Some Practical Lessons from Development Practitioners* Khosa, G. (Ed). Johannesburg: JET Education Services. <https://tinyurl.com/y4qmemw9>

IQMS and QMS

The Integrated Quality Management System (IQMS) is currently in place across all nine provinces in the national education system. However, there is agreement in principle for the implementation of the Quality Management System (QMS) which is the amended (strengthened) version of the IQMS. It is scheduled for implemented as soon as the unions sign the ELRC amended documents.

You will note that in this module both formulations, IQMS and QMS are used.

Activity 63: Accountability in your school

Suggested time:

45 minutes

Aim:

- a. To reflect on the level of accountability in your school context.
- b. To determine the measures school leadership needs to put in place to ensure accountability.

What you will do:**With your school-based CoP**

1. Read the following quotation from the *National Policy on Whole School Evaluation* (DBE:2001):

"The National Policy on Whole-School Evaluation has been designed to ensure that school evaluation is carried out according to an agreed national model. It sets out the legal basis for school evaluation, its purposes, what is to be evaluated and who can carry out evaluations" (DoE, 2001b: 7).

2. Discuss how school evaluation happens in your school and its advantages and disadvantages.
3. Outline the measures that leadership has put in place (or should put in place) to ensure transparency and accountability.
4. Refer to the *National Policy on Whole School Evaluation* (DBE:2001) accessible at: <https://tinyurl.com/yygwesgm> and discuss the steps that need to be taken if the system currently implemented in your school is not considered fair. Determine what the role of leadership in this is.

Discussion of the activity

In South Africa, the National Whole School Evaluation Policy (2001b) guides the school development process through self and external evaluation – together with accountability indicators and measures. The policy (DoE, 2001b: 10):

- Evaluates externally the results of self-evaluation carried out by the schools;
- Evaluates the effectiveness of a school in terms of the national goals using national criteria;
- Increases the level of accountability within the education system;
- Strengthens the support given to schools by district professional support services;
- Provides feedback to all stakeholders as a means of achieving continuous school improvement.

The QMS was initially introduced to school-based teachers by the Department of Education (DoE) and the Education Labour Relations Council (ELRC) in Collective Agreement 8 of 2003 to integrate the programmes on quality management in education in response to issues relating to them. The dual purposes of the QMS are to identify the needs of teachers, schools and districts for support and development, and to promote accountability and institutional effectiveness through the evaluation of both individual teachers and the whole school (De Clercq, 2010; 2013). As such, the QMS incorporates:

- The Developmental Appraisal System (DAS) (Resolution 4 of 1998);
- The Performance Measurement System (Resolution 1 of 2003);
- The National Whole School Evaluation Policy.

The QMS integrates the aims of these three systems into one document “to ensure optimal effectiveness and co-ordination of the various programmes” (DoE, 2001b: 10). Firstly, DAS evaluates individual teachers in a transparent manner to determine areas of strength and weakness and puts forward recommendations for individual development. Secondly, the Performance Measurement System evaluates individual teachers for salary progression, grade progression, confirmation of appointments and rewards and incentives. Thirdly, the Whole School Evaluation evaluates the overall effectiveness of a school, particularly as to the quality of its teaching and learning.

To ensure quality at school level, accountability procedures must be in place alongside support and development at a district and school level. The National Whole School Evaluation Policy is discussed in *Module 2: Leading and managing teaching and learning in the school* and the QMS in *Module 4: Leading and managing people and change*. These will impact on the development and implementation of your WPP. Whole school evaluation works on both an internal and external cycle whereby schools are expected to develop school improvement plans (SIPs) and to reflect on and update these on an annual basis. This evidence is taken into account in the external evaluation conducted by the Department.

The nine focus areas of the whole school evaluation, as well as a template for you to use, are available in *Module 1: Professional Portfolio and Workplace Project Part 1, Template 3*.

Activity 64: Your leadership and management of evaluation systems

Suggested time:

45 minutes

Aim:

To help you assess your ability to lead and manage the quality assurance process that is currently in operation in your school.

What you will do:

Individual activity

Consider yourself as a resource to ensure the evaluation systems in your school are being implemented properly.

1. Outline your strengths and weaknesses and reflect on what implications they have for your school and your WPP.
2. Record your responses in your Learning Journal and think about where your development can fit into your PPODP.

Discussion of the activity

In the last few activities you have explored the ways in which whole school evaluation and development is being implemented and promoted in your school community.

If you, or those you lead and manage (in your subject or phase), do not see the benefits of the process for the whole school, then this will impact on performance and will inhibit your ability to work towards your vision. Time needs to be allocated to engagement with school evaluation and its subsequent planning process. As Macbeath (1999) states:

It is an index of a nation's educational health when its schools communities have a high level of intelligence and know how to use the tools of self-evaluation and self-improvement. In healthy systems there is sharing and networking of good practices within and among schools on a collegial basis. (MacBeath, 1999: 1)

To achieve real success however, accountability must be made explicit and belong to the whole system. Elmore (2008: 60) sees this as a collective, not an individual, effort.

"For an accountability system to produce performance as a public good it needs to be accompanied by a system of social relationships that take knowledge out of the private domain to make it public – within classrooms in schools, among schools and among a system of schools within a larger polity" (Elmore, 2008: 60).

As stated in *Module 4: Leading and managing people and change* school leaders can use both external and internal sets of evaluations to establish what their school is doing and to assess where successes and problems are located at both an organisational and individual level. It is important to view evaluations as a positive opportunity to reflect on what has happened on an annual basis, to develop a school improvement plan and integrate related expenditure into the budget for the following year (this point is also elaborated in *Module 6: Leading and managing the school as an organisation*).

Stop and think

The principal's key role in leading and managing school evaluations is to link the external and internal aspects of the evaluations to the school's strategic plan and to ensure alignment with the school's underpinning values, vision and mission statements.

Activity 65: Lead and manage school development

Suggested time:

2 hours

Aim:

To reflect on how school development is undertaken in your school.

What you will do:

Consider the key areas for managing school development which were introduced to in *Module 1: Professional Portfolio and Workplace Project*. Central to the success of any school development process is project management. School leaders cannot undertake all the school improvement projects identified by a school on their own. They need to manage the projects and encourage school community participation and collaboration, but without delegating or abrogating the overall responsibility.

Individual activity

1. Audit the projects in operation in your school.
2. Reflect on the ways in which development is currently managed in your school and outline this in a diagram.

With your school-based CoP

1. Present and discuss your diagram with your CoP and ask the members for their input.
2. Incorporate the input and update the diagram to reflect the present status of school development in your school.

3. Examine ways in which this could be improved and generate a second diagram to represent a future scenario.
4. Prepare and present this to your SMT for possible incorporation into school planning.

Discussion of the activity

If school improvement is to succeed, then time needs to be allocated and structures need to be put in place for all the personnel who are to be involved in this development process. As explained in *Module 1: Professional Portfolio and Workplace Project*, you will need to make sure that these processes are sustained throughout the development process. This needs to be done through careful analysis of priorities and project planning, report writing, project budgets and recording of expenditure, amongst other project demands. All information gathered and reports written need to be filed carefully, preferably electronically, for school records. Each project should also keep and manage their own up-to-date filing system.

Activity 66: Sustain evaluation and development processes

Suggested time:

45 minutes

Aim:

To consider and assess the ways in which evaluation and development initiatives can be sustained in your school context.

What you will do:

With you school-based CoP:

1. Start by each individually making a list of what needs to be in place to ensure the success and sustainability of a school evaluation and development processes.
2. Do all your responses agree? If not, discuss them until you have consensus. Compile one agreed list.
3. How dependent on school context might these be? Explain your answers here.

Discussion of the activity

Each of the programme's modules emphasise that *sustainability* of any school initiative is essential for a positive outcome. You need to remember that for school development to succeed there needs to be careful monitoring and management of the process; and a high level of follow-on and follow-up which will maintain momentum as the school develops and improves.

The leadership, management and monitoring of a school development project can only take place if regular project meetings are held and reports and reviews are prepared.. To help you manage a project you can use various tools and processes including a situational analysis and/or a SWOT analysis (to identify strengths, weaknesses, opportunities and threats) to assist you to recognise factors that will help or hinder the project.

In conclusion, this unit has provided you with opportunities to discuss and explore the areas of your school

which can be developed in relation to your vision, mission and values statements. Discussion of self and whole school evaluation and how it can inform the process of strategic and development planning which underpins everything that happens in your school, has also been covered.

Whatever aspect of the school's improvement and development you have chosen as a focus, improvement must always be done with due regard to legislation and law. Finally, you need to remember that all school developments, including your WPP, must have as the overriding intention the improvement of the quality of teaching and learning in your school, and be in the best interests of the learners.

Key points

Unit 5 focused on the following key points:

- The planning necessary for school development in terms of relevant legislation.
- The critical importance of school self-evaluation to school development and improvement.
- The supportive nature of participatory practices in school development and improvement.

To sum up, the purpose of this unit is to encourage a reflection on school improvement and whole school evaluation.

Reflective Commentary Report on Module 7

The Reflective Commentary Report is used to record your reflections, thoughts and ideas related to your own learning and professional development journey as you work through this module (and later, the other modules of the AdvDip (SLM) programme). As discussed in *Module 1: Professional Portfolio and Workplace Project*, Unit 4, this information will also be useful when you prepare your Personal Professional and Organisational Development Plan (PPODP).

Take note

The reflective commentary that you prepare for this module is important as it has to be included in your Professional Portfolio which will be submitted for summative assessment.

Suggested time:

90 minutes

What you will do:

Step 1: If you have made any notes in your Learning Journal about Module 7, refer back to these notes now.

Step 2: Reflect on your experience of working through Module 7. Make brief notes on what you think are the most important learning points.

Step 3: Read the guidelines below, to assist you to structure the writing of your Reflective Commentary Report.

Guidelines for writing a Reflective Commentary Report

1. Write a short introduction which explains *what* the focus of the reflection is.
2. Write the *story of your learning*. Put differently, explain what you have learnt from studying this module.
3. The application of your learnings to your school context: Explain *how you have applied* what you have learnt in this module to your own school.
4. The result of your attempts to use new learnings from this module in your context: Write up positive outcomes achieved as a result of you applying your new skills and knowledge related to *working within and for the school system*.

5. Prepare and write up the conclusions that you can draw about these learnings and their application.
6. End your reflection by stating what you believe you *still need to learn* about *working within and for the school system*.

Step 4: Write your Reflective Commentary Report, make sure you have addressed each of the points above.

Step 5: Read aloud what you have written, and make revisions as necessary. **Step 6:** Share your Reflective Commentary Report with your HEI CoP partner.

Ask your partner to give you constructive feedback. Carefully consider the input received from your HEI CoP partner and incorporate relevant feedback that you have received into your report.

Step 7: Ensure that you include your Module 7 Reflective Commentary Report in your PP.

Cap stone activity: Map programme activities to the exit level outcomes**Suggested time:**

45 minutes

Aim:

To map your activities to the exit level outcomes (ELOs) of the AdvDip (SLM) programme as a way of checking that you have achieved all the ELOs.

What you will do:**Individual activity**

1. Reflect on the work you have covered on legislation and policy and assess if the activities in the module link to the exit level outcomes of the programme.
2. Confirm for yourself that you are able to supply evidence of this from the work you have covered that relates to your school context.

Discussion of the activity

This is the final module that contributes to the ELOs of the programme. The overall programme ELOs are clearly outlined in *Module 1: Professional Portfolio and Workplace Project Part 2, Unit 2* with relevant assessment templates supplied. The Module-specific ELOs are also listed at the beginning of each Module. As you reach the end of the Ad Dip (SLM) Programme, it is a good point at which to stop and review your progress and determine what you *have* covered and what you may still need to do to complete the programme.

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Appendix 1: List of education legislation

Acts

1. The Constitution of the Republic of South Africa 1996. Pretoria: Government Printer
2. The South African Schools Act (No 84 of 1996). Pretoria: Government Printer as amended by:
 - Education Laws Amendment Act 100 of 1997
 - Education Laws Amendment Act 48 of 1999
 - Education Laws Amendment Act 53 of 2000
 - Education Laws Amendment Act 57 of 2001
 - Education Laws Amendment Act 50 of 2002
 - Education Laws Amendment Act 1 of 2004
 - Education Laws Amendment Act 24 of 2005
 - Education Laws Amendment Act 31 of 2007
 - Basic Education Laws Amendment Act 15 of 2011
3. The National Education Policy Act (No 27 of 1996) Pretoria: Government Printer as amended by:
 - Education Laws Amendment Act 100 of 1997
 - Education Laws Amendment Act 48 of 1999
 - Education Laws Amendment Act 31 of 2007
 - Basic Education Laws Amendment Act 15 of 2011
4. The Basic Conditions of Employment Act (No 75 of 1997). Pretoria: Government Printer
5. Employment Equity Act (No. 55 of 1998). Pretoria: Government Printer
6. The Employment of Educators Act (No. 76 of 1998). Pretoria: Government Printer
 - Personnel Administration Measures published under Government Notice published in (Government Gazette 39864) dated 12 February 2016 (PAM – contained in the Employment of Educators Act)
7. Promotion of Access to Information Act (No. 2 of 2000). Pretoria: Government Printer
8. Promotion of Administrative Justice Act (No. 3 of 2000). Pretoria: Government Printer
9. Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000). Pretoria: Government Printer
10. South African Council for Educators Act (No. 31 of 2000). Pretoria: Government Printer. Amended by:
 - Education Laws Amendment Act 31 of 2007
 - Basic Education Laws Amendment Act 15 of 2011
11. Report on Sexual Abuse in Schools 2002. Pretoria: Government Printer
12. The Public Finance Management Act 2005. Pretoria: Government Printer
13. The Children's Act (No. 38 of 2005). Pretoria: Government Printer
14. Child Justice Act (No. 75 of 2008). Pretoria: Government Printer
15. Protection from Harassment Act (No. 17 of 2011). Pretoria: Government Printer
16. South African Council of Educators (SACE). 1998. *Code of Conduct*. Centurion: SACE
17. The Child Care Act (No 74 of 1983). Pretoria: Government Printer

Policies

1. Admission policy for ordinary public schools (Government Gazette GG 19377) of 19 October 1998
2. National policy on HIV, STIs and TB for learners, educators, school support staff and officials in all

primary and secondary schools in the basic education sector (National Department of Education. Pretoria 2017)

3. Policy on the registration for learners for home education (National Department of Education. Pretoria 6 November 2018)
4. National policy on the management of drug abuse by learners in public and independent schools and further education training institutions (Government Gazette 24172) of 13 December 2002
5. National policy: Religion and Education (National Department of Education. Pretoria 4 August 2003)
6. National policy framework for teacher education and development in South Africa (National Department of Education. Pretoria 2006)
7. Policy on standard for principalship (Government Gazette 39827) of 18 March 2016
8. National policy on learner attendance. Published under General Notice 361 (Government Gazette 33150 of 4 May 2010)
9. National policy for an equitable provision of an enabling physical teaching and learning environment (Government Gazette 33283) of 11 June 2010
10. Norms and standards for language policy in public schools (Government Gazette 18546) of 19 December 1997 corrected by GG 18887 of 15 May 1998)
11. Provincial legislation (contained in the Appendices section) of SASA – Regulations for the constitution and election of governing bodies in public schools - different for respective provinces

Regulations and guidelines

1. Norms and standards for the language policy in public schools (Government Gazette 18546) of 19 December 1997 as corrected by Government Notice 655 in Government Gazette 1887) of 15 May 1998
2. Exemption of parents from the payment of school fees (Government Gazette 29311) of 18 October 2006 as amended by (Government Gazette 29392) of 17 November 2006
3. Regulations for safety measures at public schools (Government Gazette 22754) of 12 October 2001, amended by Government Gazette 29376 of 10 November 2006
4. Regulations to prohibit initiation practices in schools (Government Gazette 23315) of 10 April 2002
5. National guidelines on school uniforms (Government Gazette 28538) of 23 February 2006
6. Devices to be used and procedure to be followed for drugs testing (Government Gazette 31417) of 19 September 2006
7. Guidelines for the consideration of governing bodies in adopting a Code of Conduct for learners (Government Gazette 18900) of 15 May 1998
8. Regulations relating to the prohibition on the payment of unauthorized remuneration or the giving of financial benefit or benefit in kind to certain state employees (Government Gazette 34840) of 15 December 2011
9. Regulations relating to minimum uniform norms and standards for public school infrastructure (Government Gazette 37081) of 29 November 2013

Case law

1. *Head of Department Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (The implication of the judgment on public school policy making – Language policy).
2. *MEC for Education, Gauteng Province and Others v Governing Body Rivonia Primary School and Others* 2013 (6) SA 582. (The implications of the judgment on admission policies).
3. *MEC for Education, KZN and others v Pillay* 2008 (1) SA 474 (CC) (The nose-stud case – The implications for school codes of conduct).
4. *HoD, DE, Free State Province v Welkom High School and Another* 2014 (2) SA 228 (CC) – *The Welkom HS*

- matter (The implications of the judgment on pregnancy policies in public schools).
5. *Organisation for Religion-education and Democracy v Randhart PS* 2017 JDR 1104 (GJ) (The implications of the judgment on religion policies in public schools).
 6. *Minister of Education and another v Wynkwardt* 2004 (3) SA 577 (C) (The principles of the duty of care).
 7. *Antonie v Governing Body, Settlers High School and others* 2002 (4) SA 738 (CC) (The reasonableness of disciplinary measures and suspension of learners).
 8. *Schoombie and others v MEC for Education, Mpumalanga and Another* 2002 (4) SA 877 (T) (How SGBs must carry out their functions and what the limits of their powers are).
 9. *Bel Porto School Governing Body and others v Premier, Western Cape and Another* 2002 (3) SA265 (CC) (The power of courts to review administrative actions).
 10. *Western Cape Resident's Association obo Williams v Parow High School* 2006 (3) SA 542 (C) (The right of a school to bar attending the school matric ball did not infringe the learner's right to equality, dignity and freedom of expression).
 11. *Jacobs v Chairman of the Governing Body of Rhodes High School, the Principal and the MEC: Case No 7953/2004* (Damages claim by teacher for medical costs, loss of income and trauma against the SGB, principal and the MEC).
 12. *Kimberley Junior School v The Head of the Northern Cape Education Department (278/08) [2009] ZASCA* (Appointment of principal – Unlawful administrative action by HOD – HOD not authorised by the empowering provision to make an appointment – Decision taken by the HOD set aside).
 13. *The Governing Body of Point High School and another v The Head of the Western Cape Education Department and others (584/07) 2008 ZAHHA 48; 2008 5 SA 18 (HHA); 2008 3 All SA 35 (HHA)* (Appointment of principal and deputy-principal – Unlawful administrative action by HOD – Decision taken by the HOD was set aside).
 14. *Fish Hoek Primary School v G W (642/2008) [2009] ZASCA 144; 2010 (2) SA 141 (SCA); 2010 (4) BCLR 331 (SCA) ; [2010] 2 All SA 124 (SCA) (26 November 2009)* (Liability of non-custodian parent for child's school fees – A non-custodian or non-guardian parent is not excluded from the meaning of the word "parent" – It is in the best interests of a child that a non-custodian parent should be held liable for payment of school fees – The appeal succeeds).
 15. *J van Zyl v Van Kervel Skool (6366/13) WCHC 10 September 2013* (Liability for injury caused during inter-provincial athletics meeting – The meeting does not qualify as educational activity in terms of sec 60(1) of SASA – Sec 60(1) does not apply).
 16. *Pro Tempo v Van der Merwe (20853/2014) [2016] ZASCA 39 (24 March 2016)* (Delict – Erection by school of steel rods on playground to support recently planted saplings school catering for learners who struggle with learning disabilities – Child impaled on steel rod after leaning or sitting on it – Appellant negligent – Considerations of public and legal policy do not dictate exclusion of liability).
 17. *Duffield v Lillyfontein School and Others (3327/2006) [2011] ZAECGHC 3 (27 January 2011)* (Written indemnity – Indemnity provided by the plaintiff is conditional upon it being established that the defendants did all things reasonably necessary to ensure that stringent safety measures were put in place during the activity).
 18. *Le Roux and Others v Dey (CCT 45/10) [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC); BCLR 446 (CC) (8 March 2011)* (Defamation of educator – The mere fact that a statement raised a laugh does not mean that it is not defamatory – Defamation claim prevailed).
 19. *MEC for Education, Western Cape Province v Strauss (640/06) [2007] ZASCA 155; [2007] SCA 155 (RSA); [2008] 1 All SA 440 (SCA); 2008 (2) SA 366 (SCA) (28 November 2007)*. (Compensation for Occupational Injury – Educator doing part-time discus training injured – Appeal is upheld – Plaintiff's claim based on s 60 of the South African Schools Act 84 of 1996 is dismissed).
 20. *Roux v Hattingh (636/11) [2012] ZASCA 132; 2012 (6) SA 428 (SCA) (27September 2012)* (Delict – Plaintiff injured during a game of rugby - Intentional infliction of injury by defendant on plaintiff established – Such

conduct wrongful – The appeal is dismissed).

21. *Nare Phillemon Mphela and others, The South African Human Rights Commission v Kgabo Francis Manamela & Limpopo Provincial Department of Education* (Discrimination against a transgender learner – The South African human Rights Commission instituted proceedings in the Limpopo Equality Court on behalf of a transgendered learner – The case arises from allegations of humiliation and harassment based on the gender identity of the learner that created a hostile and intimidating environment – The equality court ordered the Limpopo education department to pay Nare Mphela, a transgender woman, R60 000 in compensation for discrimination and harassment she endured while at school).

Appendix 2: Constitution of the Republic of South Africa, 1996 – Chapter 1

For the full Constitution see <https://www.gov.za/documents/constitution-republic-south-africa-1996>

Chapter 1: Founding principles

1. Republic of South Africa

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.
- (c) Supremacy of the constitution and the rule of law.
- (d) Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

2. Supremacy of Constitution

This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.

3. Citizenship

1. There is a common South African citizenship.
2. All citizens are —
 - (a) equally entitled to the rights, privileges and benefits of citizenship; and
 - (b) equally subject to the duties and responsibilities of citizenship.
3. National legislation must provide for the acquisition, loss and restoration of citizenship.

4. National anthem

The national anthem of the Republic is determined by the President by proclamation.

5. National flag

The national flag of the Republic is black, gold, green, white, red and blue, as described and sketched in Schedule 1.

6. Languages

1. The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.
2. Recognising the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages.
3. (a) Municipalities must take into account the language usage and preferences of their residents.
(b) The national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned; but the national government and each provincial government must use at least two official languages.
4. The national government and provincial governments, by legislative and other measures, must regulate and monitor their use of official languages. Without detracting from the provisions of subsection (2), all official languages must enjoy parity of esteem and must be treated equitably.
5. A Pan South African Language Board established by national legislation must —
 - (a) promote, and create conditions for, the development and use of — all official languages; the Khoi, Nama and San languages; and sign language; and
 - (b) promote and ensure respect for — all languages commonly used by communities in South Africa, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu and Urdu; and Arabic, Hebrew, Sanskrit and other languages used for religious purposes in South Africa.

Appendix 3: Constitution of the Republic of South Africa, 1996 – Chapter 2

For full chapter see: <https://www.gov.za/documents/constitution/chapter-2-bill-rights>

Extract: Chapter 2 – Bill of Rights, clauses 7–29

7. Rights

1. This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.
2. The state must respect, protect, promote and fulfil the rights in the Bill of Rights.
3. The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36 or elsewhere in the Bill.

8. Application

1. The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.
2. A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.
3. When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court –
 - in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and
 - may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).
4. A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.

9. Equality

1. Everyone is equal before the law and has the right to equal protection and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that

the discrimination is fair.

10. Human dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

11. Life

Everyone has the right to life.

12. Freedom and security of the person

1. Everyone has the right to freedom and security of the person, which includes the right –
 - not to be deprived of freedom arbitrarily or without just cause;
 - not to be detained without trial;
 - to be free from all forms of violence from either public or private sources;
 - not to be tortured in any way; and
 - not to be treated or punished in a cruel, inhuman or degrading way.
2. Everyone has the right to bodily and psychological integrity, which includes the right –
 - to make decisions concerning reproduction;
 - to security in and control over their body; and
 - not to be subjected to medical or scientific experiments without their informed consent.

13. Slavery, servitude and forced labour

No one may be subjected to slavery, servitude or forced labour.

14. Privacy

Everyone has the right to privacy, which includes the right not to have – - their person or home searched; - their property searched; - their possessions seized; or - the privacy of their communications infringed.

15. Freedom of religion, belief and opinion

1. Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
2. Religious observances may be conducted at state or state-aided institutions, provided that –
 - those observances follow rules made by the appropriate public authorities;
 - they are conducted on an equitable basis; and
 - attendance at them is free and voluntary.
3. (a) This section does not prevent legislation recognising marriages concluded under any tradition, or a system of religious, personal or family law; or systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.
 (b) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

16. Freedom of expression

1. Everyone has the right to freedom of expression, which includes –
 - freedom of the press and other media;
 - freedom to receive or impart information or ideas;
 - freedom of artistic creativity; and
 - academic freedom and freedom of scientific research.
2. The right in subsection (1) does not extend to –
 - propaganda for war;
 - incitement of imminent violence; or
 - advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

17. Assembly, demonstration, picket and petition

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

18. Freedom of association

Everyone has the right to freedom of association.

19. Political rights

1. Every citizen is free to make political choices, which includes the right –
 - to form a political party;
 - to participate in the activities of, or recruit members for, a political party; and
 - to campaign for a political party or cause.
2. Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
3. Every adult citizen has the right –
 - to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
 - to stand for public office and, if elected, to hold office.

20. Citizenship

No citizen may be deprived of citizenship.

21. Freedom of movement and residence

1. Everyone has the right to freedom of movement.
2. Everyone has the right to leave the Republic.
3. Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
4. Every citizen has the right to a passport.

22. Freedom of trade, occupation and profession

Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

23. Labour relations

1. Everyone has the right to fair labour practices.
2. Every worker has the right –
 - to form and join a trade union;
 - to participate in the activities and programmes of a trade union; and
 - to strike.
3. Every employer has the right –
 - to form and join an employers' organisation; and
 - to participate in the activities and programmes of an employers' organisation.
4. Every trade union and every employers' organisation has the right –
 - to determine its own administration, programmes and activities;
 - to organise; and
 - to form and join a federation.
5. Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
6. National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

24. Environment

Everyone has the right –

1. to an environment that is not harmful to their health or well-being; and
2. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - prevent pollution and ecological degradation;
 - promote conservation; and
 - secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

25. Property

1. No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
2. Property may be expropriated only in terms of law of general application –
 - for a public purpose or in the public interest; and
 - subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
3. The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having

regard to all relevant circumstances, including –

- the current use of the property;
 - the history of the acquisition and use of the property;
 - the market value of the property;
 - the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
 - the purpose of the expropriation.
4. For the purposes of this section –
 - the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources; and
 - property is not limited to land.
 5. The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
 6. A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.
 7. A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.
 8. No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
 9. Parliament must enact the legislation referred to in subsection (6).

26. Housing

1. Everyone has the right to have access to adequate housing.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
3. No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

27. Health care, food, water and social security

1. Everyone has the right to have access to –
 - health care services, including reproductive health care;
 - sufficient food and water; and
 - social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
3. No one may be refused emergency medical treatment.

28. Children

1. Every child has the right –
 - to a name and a nationality from birth;
 - to family care or parental care, or to appropriate alternative care when removed from the family environment;
 - to basic nutrition, shelter, basic health care services and social services;
 - to be protected from maltreatment, neglect, abuse or degradation;
 - to be protected from exploitative labour practices;
 - not to be required or permitted to perform work or provide services that are inappropriate for a person of that child's age; or place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
 - not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be kept separately from detained persons over the age of 18 years; and treated in a manner, and kept in conditions, that take account of the child's age;
 - to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and not to be used directly in armed conflict, and to be protected in times of armed conflict.
2. A child's best interests are of paramount importance in every matter concerning the child.
3. In this section "child" means a person under the age of 18 years.

29. Education

1. Everyone has the right –
 - to a basic education, including adult basic education; and
 - to further education, which the state, through reasonable measures, must make progressively available and accessible.
2. Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account –
 - equity;
 - practicability; and
 - the need to redress the results of past racially discriminatory laws and practices.
3. Everyone has the right to establish and maintain, at their own expense, independent educational institutions that –
 - do not discriminate on the basis of race;
 - are registered with the state; and
 - maintain standards that are not inferior to standards at comparable public educational institutions. (4)
 Subsection (3) does not preclude state subsidies for independent educational institutions.

Appendix 4: Summary of key policies discussed per module

Module 2: Leading and managing teaching and learning in the school

Department of Basic Education. 2011. Curriculum and Assessment Policy Statement (CAPS) documents.

Department of Education. 2001. National Policy on Whole-School Evaluation.

Module 3: Leading and managing extra- and co-curricular activities

Department of Basic Education. 2011. Draft school sport policy for public schools in South Africa.

Department of Basic Education. 2011. *Values in Action. A manual in constitutional values and school governance for School Governing Bodies and Representative Councils of Learner in South African Public Schools.*

Department of Basic Education. 2016. Personnel Administrative Measure (revised).

Module 4: Leading and managing people and change

Department of Basic Education. 2012. *Correction Notice: Governing Body Amendment Regulations for Public Schools.* Pretoria: DBE.

Department of Basic Education. 2012. *Schools Education Act 6/1995. Correction Notice: Governing Body Amendment Regulations for Public Schools, 2012.* Pretoria: DBE.

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Department of Basic Education. 2015. *National Framework on induction of newly appointed principals.* Pretoria: DBE.

Department of Basic Education. 2015. *Revised Five-Year Strategic Plan 2015/16-2019/20.*

Department of Basic Education. 2017. Gender Mainstreaming. *Department of Basic Education briefing to the Portfolio Committee on Women in the Presidency.* Cape Town: Parliament.

Department of Basic Education. 2017. *Report on education and gender.* Pretoria: DBE.

Department of Basic Education. 2018. Strategic Vision and Mission.

Department of Basic Education. n.d. *New Teacher Induction: Guidelines for the Orientation Programme.*

Department of Education. 1996. *Changing management to manage change in education*. Report of the Task Team on Education Management Development. Pretoria: Department of Education.

Department of Education. 2000. *Manifesto of Values*.

Department of Education. 2003. Correction Notice: Governing Body Amendment Regulations for Public Schools 2012. *National Policy on Religion and Education, 2003*. Pretoria: DoE.

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Department of Education. 2003. *National Policy on Religion and Education*. Pretoria: DoE.

Department of Education. 2006. Amended national norms and standards for school funding. *Government Gazette*. No. 29279. 31 August. Pretoria: Government Printers.

Department of Education. 2006. *Regulations for Safety Measures at Public Schools – Amendment (2006)*. Pretoria: DoE.

Module 5: Working with and for the wider community

Department of Basic Education. 2013. *South African Schools Act, Act No. 84 of 1996. Regulation Relating to Minimum Uniform Standards for School Infrastructure 2013*.

Department of Basic Education. 2017. National Policy on HIV, STIs and TB for Learners, Educators, School Support Staff and Officials in Primary and Secondary Schools in South Africa.

Department of Education. 1996. *South African Schools Act, Act No. 84 of 1996*.

Department of Education. 1998. *Employment of Educators Act, Act No. 76 of 1998*.

Department of Education. 1998. *National Norms and Standards for School Funding*.

Department of Education. 2005. Education Laws Amendment Act, Act No. 24 of 2005.

Module 6: Leading and managing the school as an organisation

Department of Education. 2004. *Report to the Minister of Education – Review of School Governance in South African Public Schools*.

APPENDIX 4: SUMMARY OF KEY POLICIES DISCUSSED PER MODULE