

Navrae  
Enquiries  
IMibuzo  
Telefoon  
Telephone  
IFoni  
Faks  
Fax  
IFeksi  
Verwysing  
Reference  
Isalathiso

LABOUR RELATIONS

(021) 467-2846

(021) 461-5629

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Wes-Kaap Onderwysdepartement

Western Cape Education Department

ISebe leMfundo leNtshona Koloni

CIRCULAR : 0095/2002  
EXPIRY DATE : NONE

TO : CHIEF DIRECTORS, DIRECTORS (HEAD OFFICE AND EMDCs),  
CURRICULUM ADVISORS, CIRCUIT MANAGERS AND HEADS  
OF EDUCATIONAL INSTITUTIONS

BRIEF SUMMARY : *DEPARTMENTAL POLICY ON CORPORAL PUNISHMENT AND  
THE PROCEDURE TO BE FOLLOWED WHEN ANY INCIDENT  
OF IT IS REPORTED*

SUBJECT : PROHIBITION OF CORPORAL PUNISHMENT

## INTRODUCTION

Complaints about the use of corporal punishment by educators in the employ of the WECD have increased lately. It has therefore become necessary to state clearly the Department's policy on the matter, and to direct heads of institutions to make this policy known to all employees who are entrusted with the responsibility of caring for learners.

South African society has been extensively transformed in all spheres, i.e. social, economic and political, since leaving isolation in 1994 and adopting a new, democratic and humane constitution that guarantees the right to dignity, equality, freedom and security for all its citizens. On the educational front, part of this transformation was the banning of corporal punishment in all our schools. This move is supported by research which indicates a link between corporal punishment and the types and levels of violence in society. This research has resulted in the banning of corporal punishment in Europe, North America, Australia, Japan and many other countries, and communities have increasingly seen its scrapping as an important step towards creating a more peaceful and tolerant society.

MEI.D ASSEBLIEF VERWYSINGSNOMMERS IN ALLE KORRESPONDENSIE / PLEASE QUOTE REFERENCE NUMBERS IN ALL CORRESPONDENCE /  
N'CEDA UBHALA E INOMBOLO ZESALATHISO KUYO YONKE IMBALA ETWANO

GRAND CENTRAL TOWERS, LAER-PARLEMENTSTRAAT, PRIVAATSAK X9114, KAAPSTAD 8000  
GRAND CENTRAL TOWERS, LOWER PARLIAMENT STREET, PRIVATE BAG X9114, CAPE TOWN 8000

WEB: <http://wced.wcape.gov.za>

## LEGISLATIVE FRAMEWORK

Various laws have been promulgated in South Africa to give effect to this. Below is a brief exposition of the origins of the current position:

- The United Nations "Convention on the Rights of the Child" required South Africa to promulgate laws on negligent treatment or exploitation, including sexual abuse, so as to protect the child from all forms of physical and mental violence, injury, abuse and neglect;
- The African Charter on the Rights and Welfare of the Child further requires South Africa to take steps that will ensure that a child "who is subjected to school or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child";
- Article 12 of the South African Constitution states that "everyone has the right not to be treated or punished in a cruel, inhuman or degrading way";
- The National Education Policy Act (1996) states that no person "shall administer corporal punishment or subject a student to psychological or physical abuse at any educational institution"; and
- The South African Schools Act (1996) states:
  - "1. No person may administer corporal punishment at a school to a learner; and
  2. Any person who contravenes Subsection 1 is guilty of an offence, and is liable on conviction to a sentence which could be imposed for assault".

## CORPORAL PUNISHMENT DEFINED

The WCED subscribes to the following definition of corporal punishment:

"Any deliberate act against a child that inflicts pain or physical discomfort to punish or contain him or her. This includes, but is not limited to, spanking, slapping, pinching, paddling, or hitting a child with a hand or with an object, denying or restricting a child's use of the toilet, denying meals, drink, heat and shelter, pushing or pulling a child with force, and forcing the child to do exercise." (See [www.childadvocate.com](http://www.childadvocate.com).)

From this it follows that punishment which includes any of the above is against the law and forbidden in institutions falling under the jurisdiction of the WCED. Any employee of the WCED (whether an educator or an administrative official) who uses physical or psychological means to discipline or punish a learner is hereby warned that the WCED will formally charge him or her with misconduct and at the same time consider referring the matter to the South African Police Services for possible criminal prosecution (in terms of existing legislation) of the individual concerned. (Employees are further warned that civil or criminal proceedings may be initiated by the parents or guardians of any learner against any individual who is alleged to have inflicted corporal punishment on their child. In such a case, the individual employee would be sued in his or her personal capacity.)

**SANCTIONS TO BE IMPOSED**

Where employees are found guilty of corporal punishment or a similar offence, the WCED hereby serves notice that, given the seriousness of such acts and the implications they may hold for the Department, it will call for the imposition of very severe sanctions, which could include dismissal.

Employees are reminded that corporal punishment is a criminal offence and that the WCED's policy on it will be one of zero tolerance.

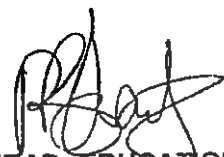
**WHAT TO DO WHEN AN INCIDENT OF CORPORAL PUNISHMENT IS REPORTED**

1. Get as much information as possible from the complainant about the allegation, in either a written statement or an affidavit. If this is not possible, write down your understanding of the incident in your own words.
2. Forward all the documents with a covering letter to the Directorate: Labour Relations at Head Office and mark them "Urgent".
3. Inform your circuit manager, both by telephone and in writing, about the allegations and confirm with him or her that the matter has been referred to Head Office.
4. Inform the learner's parents of the incident and explain that you have referred it to the WCED's Head Office for further attention. Advise them that an official from the Department will be contacting them shortly. (Always keep the parents abreast of what is going on in the matter.) ***N. B. Parents cannot prevent the school principal from referring the matter to the WCED for further investigation and action. School principals who fail to do so can be cited as co-accused in criminal or any other proceedings.***

***N. B. Heads of institutions and supervisory personnel are expected to comply strictly with the above procedure. The WCED will not hesitate to charge anyone who fails to adhere to this procedure, and who thereby compromises the Department's statutory obligation to protect the child.***

Heads of institutions and managers are required to point out the seriousness of this matter to all staff-members and to warn them of the possible consequences should they administer corporal punishment.

The contents of this circular must be brought to the attention of all personnel, who must sign to acknowledge that they understand it. The record of this acknowledgement must be kept on file at the school for future reference.

  
 HEAD: EDUCATION  
 DATE: 08/08/02