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To: Deputy Directors-General, Chief Directors, Directors (Head Office and district offices), Deputy Directors, Circuit Managers, Heads: ISLES Coordination and Advice, District Officials, Principals and Chairpersons of governing bodies of all public schools

Short summary: *The purpose of this circular is to introduce the Protocol for managing and reporting sexual misconduct, 2023.*

Subject: Protocol for managing and reporting sexual misconduct

1. Introduction

- 1.1 Acts of sexual abuse and harassment targeting learners and employees deprive them of their inherent right to equality and dignity as well as access to a safe and healthy environment as enshrined in the Constitution of the Republic of South Africa, 1996.
- 1.2 The Western Cape Education Department (WCED) recognises that everyone in the education sector has a role to play in protecting both learners and employees in the workplace. For this reason, a single protocol document has been developed to assist principals/supervisors/managers to ensure an appropriate and timely response to all sexual abuse and harassment allegations within the workplace.
- 1.3 The protocol document is attached as Annexure A.

2. Purpose

The purpose of this circular is to highlight the pertinent points of the protocol for managing and reporting sexual misconduct, which in summary:

- (a) makes all WCED employees aware of the relevant national statutory prescripts and policy provisions, of what constitutes sexual abuse and harassment in the workplace as well as their responsibilities in preventing and managing such incidents;

- (b) provides guidance on the procedure for dealing with allegations of sexual abuse and harassment; and
- (c) endeavours to ensure that education institutions, be it schools or workplaces, are free from all forms of sexual abuse and harassment.

3. **Compulsory reporting and disclosure**

- 3.1 There is a corresponding duty and responsibility imposed on every person who becomes aware of sexual misconduct to immediately report the matter in terms of the *Abuse No More Protocol of the WCED, 2014*, and the South African Police Service as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as particularly amended by Act 13 of 2021.
- 3.2 Principals/supervisors/managers must protect the dignity of victims. All reports/disclosures must be handled with the utmost care, sensitivity and confidentiality to ensure that victims are protected from any further emotional trauma, victimisation and unnecessary probing in respect of the validity of the allegations.

4. **Obligation of the employer**

The WCED, as the employer, has a responsibility to take the necessary steps to eliminate sexual misconduct in the workplace as it can be held vicariously liable for the conduct of perpetrating employees in incidents of sexual abuse or harassment.

5. **Confidentiality**

In line with the prescripts of the Protection of Personal Information Act, 2013 (Act 4 of 2013), all complaints must be investigated and, where needed, disciplinary actions must be managed with the strictest confidentiality while still ensuring that the rights of the affected person(s) and/or complainant(s) are upheld.

6. **Psychosocial support**

Employees who experience or have recently experienced emotional, physical or psychological distress resultant from sexual harassment are encouraged to contact the Employee Health and Wellness Programme for support and assistance. At school level, a learner who is the victim of sexual misconduct will be supported by a social worker from the relevant district office.

7. **Vetting process**

Your attention is drawn to Circular 0001/2023, dated 03 March 2023, on the amended process of vetting of officials against the National Register for Sex Offenders, which is applicable to all officials of education institutions within the WCED who have contact with learners.

8. Non-compliance with the provisions of this protocol may lead to consequence management.
9. Principals/supervisors/managers are required to inform all employees of the contents of this circular.
10. All new employees must be made aware of this circular as soon they are appointed at any of the WCED's education institutions.

SIGNED: B WALTERS

HEAD: EDUCATION

DATE: 2023-04-06