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20090505-0080



Wes-Kaap Onderwysdepartement
Western Cape Education Department
ISEbe IeMfundo IeNtshona Koloni

ISETYHULA : 0023/2009
UMHLA WOKUPHELELWA : AWUKHO

IYA: KUBALAWULI ABAZIINTLOKO, KUBALAWULI, KUBAPHATHI BEZE-IMG, KUBAPHATHI BEEKOMITI ZEESEKETHE, KUBACEBISI NGEZE-IMG, KWIINQUNUNU, KUMABHUNGA OLAWULO EZIKOLO, KOOTITSHALA NAKUBAFUNDI BAZO ZONKE IZIKOLO ZIKARHULUMENTE EZIZIIPRAYIMARI NEZIZIISEKONDARI

ISISHWANKATHELO *Le Setyhula yazisa ngoFakelo lweziLungiso kuMthetho weZikolo waseMzantsi ESIFUTSHANE: Afrika, 1996, (UMthetho 84 ka-1996) (Amendments to the South African Schools Act, 1996) (obizwa emva koku ngolu hlobo 'SASA'), njengoko ubhengezwe kuMthetho oFakela iziLungiso kwiMithetho yeMfundo, 2007 (uMthetho 31 ka-2007) (Education Laws Amendment Act), 2007) (Act 31 of 2007), ongokusetshwa ngequbuliso kwabathile nokuhluthwa kwezinto nokuvavanyelwa iziyobisi ezikolweni, nophinde ucacise izixhobo emazikusetyenziswe ukuvavanyelwa iziyobisi neenkqubo amazandelwe ngokweSaziso 1140, seGazethi kaRhulumente No. 31417 ye-19 Septemba 2008 (Notice 1140, (Government Gazette) No. 31417 of 19 September 2008)*

ISIHLOKO: UKUSETSHWA NGEQUBULISO KWABATHILE NOKUHLUTHWA KWEZINTO NOKUVAVANYELWA IZIYOBISI EZIKOLWENI

1. NgokweSiquendu 8A (1) seSASA, akukho mntu makeze nezixhobo eziyingozi okanye iziyobisi ezingekho mthethweni kumasango esikolo okanye abe nezixhobo eziyingozi okanye iziyobisi kuye kumasango esikolo okanye ngethuba lokwenziwa kwawo nawuphi na umsebenzi wesikolo.
2. ISiquendu 8A (2) seSASA sinika inqununu okanye umntu othunywe yiyo, phantsi kwesiquendwana (3), umyalelo wokuba isetshe ngequbuliso naliphi na iqela labafundi okanye iprophathi yeqela labafundi, ikhangele nasiphi na isixhobo esiyingozi okanye isiyobisi esingekho mthethweni ukuba abafundi ngenxa yezizathu ezifanelekileyo nezivakalayo bayarhaneleka.
3. ISiquendu 1 seSASA siwacacisa la mabinzana-magama alandelayo ngolu hlobo:
 - **Izixhobo eziyingozi**, kubhekiselele kwinto okanye kwisixhobo esinokuqhushumba (*explosive material or device*); nawuphi na umpu (*firearm*) okanye isixhobo serhasi (*gas weapon*); nayiphi na into okanye isixhobo esinokusetyenziselwa ukwenzakalisa umntu okanye ukonakalisa iprophathi, okanye esinokubangela emntwini ukungasebenzi kwamalungu omzimba okwethutyana (*temporarily paralysed*) okanye ukumkelwa yingqondo (*unconscious*) okanye nayiphi na into ebhengezwe nguMphathiswa njengeyingozi kwiGazethi;
 - **Iziyobisi ezingekho mthethweni**, kubhekiselele kuyo nantoni na engekho mthethweni enokuba nefuthe elichaphazela ukusebenza kwengqondo nokusebenza komzimba (*psychological or physiological effect*); okanye nantoni na enokuba nelo futhe umfundi afunyenwe enayo ngokungekho mthethweni, yaye;
 - **Umsebenzi wesikolo**, kuthetha nawuphi na umsebenzi osemthethweni wezemfundo, wezenkcubeko, wokuphumza ingqondo okanye wolonwabo wesikolo ngaphakathi okanye ngaphandle kwamasango esikolo.

4. ISASA iqulethe iinkqubo ezineenkukacha ezininzi kwiSiqendu 8A, isiqendwana (1) ukuya ku-(14) nezimisela iimeko nemiqathango (*circumstances and conditions*) ekungathi phantsi kwazo kusetshwe ngequbuliso abathile, kuhluthwe izinto yaye kuvavanyelwe iziyobisi ezikolweni. Kugxininiswa le migqalisela ibaluleke gqitha ilandelayo:
- Inqununu okanye umntu othunywe yiyo makasetshe umfundi izinto ezisemzimbeni (*body search*), kodwa makabe ngowesini esifana nesomfundi. Inqununu okanye umntu othunywe yiyo angathi ngequbuliso, enze uvavanyo lomchamo okanye ezinye iimvavanyo ezingangeneleli kangako kwizinto eziyimfihlo yakhe buqu (*non-invasive test*) loo mfundi. Ezi zinto zenziwayo mazenziwe ngokususela kwizizathu ezifanelekileyo nezivakalayo zokurhanela ukuba kungafunyanwa izinto eziyingozi kunye/okanye iziyobisi ezingekho mthethweni kumasango esikolo okanye ngethuba lokwenziwa komsebenzi wesikolo.
 - Apho kuhluthwe nasiphi na isixhobo esiyingozi okanye isiyobisi esingekho mthethweni esilolu hlobo yinqununu okanye ngumthunywa wayo, masiphawulwe ngokuchanekileyo yaye kubhalwe iinkukacha ezipheleleyo zomfundi kwaye nasiphi na isixhobo okanye isiyobisi esingekho mthethweni esihluthiweyo, masigqithiselwe emapoliseni, naya kuthi ke wona anike inqununu okanye umntu othunywe yiyo irisithi esemthethweni.
 - Umfundi ochaphazekayo unokujongana neengxoxo zetyala loluleko (*disciplinary proceedings*) ukuba kukho nasiphi na isixhobo okanye isiyobisi esingekho mthethweni esihluthwe kuye okanye ukuba ufunyenwe esebenzisa isiyobisi esingekho mthethweni.
 - Nakuba kunjalo, akukho simangalo setyala lolwaphulo-mthetho sinokufakwa enkundleni **sisikolo simangalela umfundi** ngenxa yokuba efunyenwe enesixhobo esiyingozi okanye enesiyobisi esingekho mthethweni okanye kufunyaniswe ukuba usebenzisa iziyobisi ezingekho mthethweni.
5. Ezinye izikhokelo zokusetsha ngequbuliso abathile zokuhlutha izinto nokuvavanyelwa iziyobisi, zicaciswe [kwisiHlomelo B](#) seSaziso sikaRhulumente 1140 sika-2008 (*Government Notice 1140 of 2008*), kwaye zibandakanya oku kulandelayo
- Isikhokelo ngokubanzi;
 - Inkqubo yokusetsha kuze kuhluthwe izinto;
 - Amanathelo asetyenziswa xa kusetshwa kuze kuhluthwe izinto;
 - Ukulawulwa kophazamiseko olunokwenzeka ngethuba kusetshwa
 - Ixesha lokusetsha;
 - Ukudluliselwa kwamagunya kwimeko apho ingekhoyo inqununu;
 - Indlela yokuhlangabezana nomfundi ongavumiyo ukusetshwa;
 - Ukujongana nemeko engxamisekileyo echaphazela iimeko ezingabonelelwanga kwicandelo 8A lalo Mthetho;
 - Inkqubo yokuhlutha izinto;
 - Isikhokelo sokuhlutha izinto;
 - Inkqubo yokuvavanyelwa iziyobisi;
6. NgokweSiqendu 8A (11) seSASA, uMphathiswa unikwe umyalelo wokucacisa uluhlu lwezixhobo neenkqubo emazilandelwe ukuvavanyelwa iziyobisi, nokuba kupapashwe ingcaciso efanelekileyo elolu hlobo kwiGazethi. Oku kulandelayo luhlu lwezixhobo eziqatshelwe nguMphathiswa, kwaye izikolo mazisebenzise isixhobo sibe sinye kwezi:
- I-Drug detective wipe detection system for surfaces;
 - I-One-step home cocaine test strip;
 - I-Multi-drug test;
 - I-Quicktox drug screen dipcard test;
 - I-Monitect drug screen cassette test;
 - I-Toxcup drug screen cup test;
 - I-Multipanel drug testing device;
 - I-Smart check drug screen test;
 - I-Drug smart cup;
 - I-Avitar oral screen 4 or drugometer;

7. ISiqendu 8A sisebenza njengesithintela amalungelo oMgaqo-siseko athweswe uMqulu waMalungelo oLuntu (*Bill of Human Rights*) aqulethwe nakhuselwa nguMgaqo-siseko waseMzantsi Afrika ka-1996) (uMthetho 108 ka1996) (*Constitution of the Republic of South Africa, 1996*) (*Act 108 of 1996*), kwaye ke ngoko masiphunyezwe kuhlonitshwe isidima somntu, izinto eziyimfihlo yakhe buqu (*privacy*) nelungelo lokuba nezinto (*right to property*) kwabafundi abachaphazelekayo.
8. [IsiHlomelo A](#) seShedyuli yeSaziso sikaRhulumente (*Schedule to Government Notice*) 1140 sika-2008 sicacisa uluhlu lweempawu ezintama usetyenziso lweziyobisi olunokubakho (ezithathwe Kwi - *South African Council on Alcoholism and Dependence (SANCA)*), nekuxoxwa ngazo phantsi kwezi zihlokwana zilandelayo
 - limpawu ngokwasemzimbeni (*physical indicators*);
 - limpawu ngokokuziphatha (*behavioural indicators*);
 - limpawu ngokweemvakalelo (*emotional indicators*);
 - limpawu ngokwasentlalweni (*social indicators*)
9. UMthetho oFakela iziLungiso kwiMithetho yeMfundo, 2007 (uMthetho 31 ka-2007) ([Education Laws Amendment Act, 2007 \(Act 31 of 2007\)](#)), ungafunyanwa kwiGazethi kaRhulumente ye-4 Meyi 2007 (*Government Gazette, 4 May 2007*), nakwiSaziso sikaRhulumente ([Government Notice](#)) 1140 yaye ungafumaneka kwakhona nalapha www.education.gov.za.
10. Kucelwa wazise okubhalwe kule Setyhula bonke ootitshala, abazali, abafundi kunye nabo bonke abachaphazelekayo ukuze bakuthathele ingqalelo.

ISAYINWE: NGU-RB SWARTZ
INTLOKO: YESEBE LEMFUNDO
UMHLA: 2009:06:30

Grand Central Towers, Lower Parliament Street, Private Bag X9114, Cape Town 8000
 Nceda ubhale iimombolo zesalathisa kuyo yonke imbalelwano
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[isiHlomelo A: "Other relevant information to be considered before the drug testing device may be used"](#)
 (ubukhulu: 181 KB)
[isiHlomelo B: "Guidelines for random search and seizure and drug testing at schools"](#)
 (ubukhulu: 519 KB)

["Education Laws Amendment Act, 2007: General Explanatory Note"](#) (ubukhulu: 450 KB)
["Notice 1140 of 2008"](#) (ubukhulu: 404 KB)

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