



## GAUTENG PROVINCE

EDUCATION  
REPUBLIC OF SOUTH AFRICA

### **Circular 04/2014**

**Date: 26 September 2014**

**As amended on 26 September 2014**

#### **Topic**

**Prohibition of Corporal Punishment in Public Schools**

#### **Enclosures**

**None**

#### **Distribution**

- ✓ All Officials at Head Office and District Offices
- ✓ Principals of all Public Schools
- ✓ Members of School Governing Bodies
- ✓ Staff members in Public Schools
- ✓ Teacher Organisations and Unions

#### **Enquiries**

Relevant District Offices

On request, this circular will be made available in Afrikaans, isiZulu or Sepedi within 21 days  
Also available on the GDE website at: [www.education.gg.gov.za](http://www.education.gg.gov.za)

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# **Prohibition of Corporal Punishment in Public Schools**

## **1. INTRODUCTION**

Although a large number of educators in Gauteng continue to consider corporal punishment as a necessary tool to maintain discipline in the classroom, the South African Schools Act, 1996 bans corporal punishment from schools.

The Department has recorded a high rate of corporal punishment for the period 2011/2012, 2012/2013 and 2013/2014. As a result, strict disciplinary action will be taken against those employees who administer corporal punishment and/or assaults learners. Corporal punishment undermines the right to dignity.

In view hereof, the following information and guidelines are provided.

## **2. PURPOSE**

The purpose of the Circular is to:

- a) promote an understanding of the terms corporal punishments and assault;
- b) ensure that corporal punishment is not used as a method of disciplining;  
and
- c) emphasise the use of positive discipline in schools.

## **3. LEGISLATIVE FRAMEWORK**

- 3.1 Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), as amended.
- 3.2 South African Schools Act, 1996 (Act No.84 of 1996), as amended.
- 3.3 Employment of Educators, 1998 (Act No. 76 of 1998), as amended.
- 3.4 South African Council for Educators Act, 2000(Act No 31 of 2000), as amended.
- 3.5 Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended.
- 3.6 Gauteng Schools Education Act, 1995 (Act No.6 of 1995), as amended

## 4. DEFINITIONS

The definitions provided below clearly indicate how easy it is for a person to be accused of committing corporal punishment and/or assault and are useful to keep in mind.

### 4.1 Corporal punishment

Corporal punishment is defined as any deliberate act against a child that inflicts pain or physical discomfort to punish or contain him/her. This includes, but is not limited to, spanking, slapping, pinching, padding or hitting a child with a hand, any other object, denying or restricting a child's use of the toilet, denying meals, drink, heat and shelter, pushing or pulling a child with force, forcing the child to do exercise. It is, therefore, not just about caning but also refers to an assault on a person in any manner whatsoever.

### 4.2 Assault

Assault is the unlawful and intentional application of force to the body of another person or threat of immediate personal force to another person in circumstances where the threatened person believes that the person who is threatening him has the intention and power to carry out the threat. Therefore even a threat of assaulting a person, is regarded as assault in terms of the law.

Assault, in terms of the labour law, is defined as the unlawful and intentional application of force to a person, or a threat that such force will be applied. It is an unlawful attack, or the threat thereof, upon the person of another through blows, physical mishandling or use of weapons or objects. Actual application of force is not required *Abrahams v Pick 'n Pay Supermarkets OFS (1993) 14 ILJ 729 (IC)*.

#### 4.2.1 Corporal punishment vs. Assault

As indicated in the definitions above it is evident that all forms of corporal punishment shall, by implication be regarded as an act of assault. It is a common cause that the Department prosecute acts of corporal punishment as an act of assault during disciplinary hearings.

## 5. FORMS OF ASSAULT

The following are examples of forms of corporal punishment (assault) that are punishable:

- Any physical act which may cause discomfort or pain to the learner
- Using a stick/belt/cane or any object designed to threaten learners
- Intention to inflict bodily harm
- Threatening a learner
- Shaking a learner

- Any forms of torture
- Kicking
- Pinching
- Pulling of ears
- Poking at someone with a finger
- Pulling of ears
- Any verbal onslaught, use of vulgar language, swearing, name-calling
- Insulting a learner with racial and/or sexual undertones

Note that premeditation makes the offence more serious and that self-defence and provocation may only influence the sanction, and not the guilty finding in a case

## **6. PROHIBITION OF CORPORAL PUNISHMENT**

No person may administer corporal punishment as defined above, at a school to a learner. Any person who administers any form of corporal punishment is guilty of an offence and liable on conviction to a sentence which could be imposed for assault. A person may not conduct or participate in any initiation practices against a learner at a school or in a hostel accommodating learners of a school. Any person who is guilty of any of the practices, corporal punishment and/or assault, will have disciplinary actions instituted against him or her.

The prohibition of corporal punishment is not intended to encourage ill-discipline or disorder in schools, but is intended to encourage a culture of non-violence; of resolving conflict through dialogue and discussion and inculcating a sense of responsibility and self-discipline amongst all stakeholders in the school.

## **7. CONSEQUENCES OF ADMINISTERING CORPORAL PUNISHMENT OR ASSAULT**

The South African Schools Act, 1996 prohibits corporal punishment and provides for any person who contravenes it to be guilty of an offence and liable on conviction to a sentence which could be imposed for assault. Employees must therefore take note that the institution of disciplinary proceedings against them in terms of the Employment of Educators Act, 1998 and the Public Service Act, 1994 does not prevent the Department from instituting criminal proceedings against them as required by law.

## **8. POSITIVE DISCIPLINE**

- 8.1 Discipline rather than punishment should be used proactively and constructively. Learners should experience an educative corrective approach in which they learn to exercise self-control, respect for others and accept the consequences of their actions. Discipline should facilitate constructive learning. Educators should focus on

rewarding learners for effort as well as good behaviour and discuss all rules and regulations beforehand with the learners, be respectful towards the learners and be non-violent in their behaviour.

8.2 Time-out may be used in an open-ended manner whereby the learner will determine his/her own readiness to gain self-control. Educators must be empathetic and understanding of the learners' individual's needs abilities, circumstances and developmental stages. Educators should recognise that children have an innate sense of self-discipline and can be self-directed. Reflection on an incident may also be used through give-and take discussions and mistakes are an opportunity to learn. Learners must be given an opportunity to express healthy remorse. Focus on the behaviour and not the child and do not criticise the child.

8.3 All Governing Bodies must:

a) adopt a Code of Conduct for Learners as provided for in Section 8 of the South African schools Act, 1996, if a Code of Conduct is not in place as yet. The Department has developed an Exemplar Learner Code of Conduct to support Governing Bodies in ensuring that their schools adopt a Code of Conduct.

b) mediate the Code of Conduct for Learners to all stakeholders to ensure a common understanding and facilitate implementation.

8.4 The Department of Basic Education has provided all schools with guidelines related to the alternatives to corporal punishment. Should schools not be in possession of the guideline, it may be accessed from the Department of Basic Education's website by using the following link:

<http://www.education.gov.za/LinkClick.aspx?fileticket=ydtLZSALi3E%3d&tabid=92&mid=495>.

All Governing Bodies and employees are encouraged to proactively deal with learner discipline as set out above.

## **9. SUGGESTED PROCEDURES TO BE FOLLOWED WHEN AN INCIDENT OF CORPORAL PUNISHMENT IS REPORTED**

9.1 All cases of corporal punishment must be reported to the Head of an Institution if he/she is not the perpetrator. In cases where the Head of an Institution is the perpetrator the report from the victim must be filed through the Circuit Manager of the school with the District Director.

9.2 The person to whom the incident has been reported to must follow the procedures as set out below:

- Get as much information as possible from the complainant (learner) about the allegation, through a written statement.
- Forward all the relevant documents together with a report by the Head of the Institution to the Directorate: Dispute Management at Head Office and mark them “Urgent”.
- Inform the Governing Body and the school Circuit Manager about the allegations and confirm with him/her that the matter has been referred to Head Office.
- Also inform the learner’s parents of the incident and that it has been referred to Head Office for further handling and that they will be contacted in due course by an official of the Department.
- The Dispute Management unit at the District Office and/or Head Office will investigate the matter and forward a report with recommendations for the Head of Department’s approval. Where an educator is found guilty, disciplinary action will be instituted and the matter will be reported to SACE.

9.3 Under no circumstances should cases of corporal punishment be dealt with in terms of the informal disciplinary hearing procedure. All cases should be heard in a formal disciplinary hearing. Any sanction, e.g. warnings, issued at institutional level, will be null and void and the process will be redone through a formal disciplinary hearing.

## 10. CONCLUSION

Corporal punishment no longer has a place in our schools. It does not serve to teach lessons to learners about discipline but destroys their experience of school, which becomes a place of violence and undermines the learners’ sense of safety and security. Corporal punishment and assault become associated with the fear of power rather than a respect for authority.

Principals and Governing Bodies are requested to bring the content of this Circular to the attention of the staff and mobilise all stakeholders to play a meaningful role in the abolition of corporal punishment in schools.

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**SIGNED: BOY NGOBENI**  
**HEAD OF DEPARTMENT**  
**DATE: 26.09.2014**