



SABJE POLICY FOR THE PREVENTION OF SEXUAL MISCONDUCT BY STAFF

August 2013

Research has indicated that a sound policy must include all of the following elements

1. A Statement of purpose and philosophy addressing the shared responsibility of the school board, school employees, volunteers, students, parents and others for the prevention and reporting of sexual misconduct and abuse;
2. Clear and reasonable rules governing communication — including electronic communication between students and school employees;
3. Clear and reasonable rules governing physical contact between students and school employees and volunteers;
4. Clear and reasonable rules governing social interactions and relationships between students and school employees and volunteers;
5. Requirement for training of school personnel and volunteers and the dissemination of sexual misconduct and abuse prevention policies to school employees, volunteers, students, and parents;
6. Procedures for the reporting of suspected sexual misconduct and abuse;
7. Consequences for school personnel and volunteers who violate sexual misconduct and abuse prevention policies; and
8. Procedures for one-on-one and confidential interactions between students and clinicians.

1. Statement of Purpose

It is the responsibility of the SABJE and all of its representatives and employees to ensure that the King David Schools are safe environments for students. Thus it is the joint responsibility and commitment of all to protect students from sexual misconduct and any form of sexual abuse. This commitment will be fulfilled through:

- The strict compliance to South African laws relevant to sexual misconduct as well as applying due screening of prospective employees in line with South African law.
- The development and implementation of effective policies to govern the interaction between students and SABJE employees or volunteers.
- The establishment of appropriate reporting channels in the case that sexual misconduct has taken place or is suspected.
- Due labour practice to deal with any matter reported.

It is crucial to state that these policies are intended to protect all parties and proper adherence by all staff to these policies will ensure a safe environment for students and also protect employees from false accusations as all misunderstandings will be avoided.

The fundamental rule is that there is to be no improper conduct or relationship between any member of the staff of the SABJE (whether teacher or otherwise) and any student. Improper conduct includes sexual misconduct and conduct otherwise regarded as improper in accordance with the Code of the South African Council of Educators and in accordance with the Employment of Educators Act. The policy articulated below is intended to give effect to this rule.

NOTE: Any staff to staff abuse or harassment will be dealt with in terms of the SABJE Employee Manual and applicable Labour Law. Student to student matters will be dealt with in terms of the school Code of Conduct, School Rules and the school Bullying Policy.

2. Communication between Employees and Students

Communication can take the form of in-person communication or electronic communication. The SABJE policy guidelines for these interactions are as follows:

2a. Policy for in-person communications with students

- Conversations with students should focus on matters related to instruction and school activities. School employees and volunteers should not initiate discussions about their private lives or the intimate details of the private lives of unrelated students.
- Conversation by employees and volunteers with students that could be interpreted as flirtatious, romantic or sexual is prohibited.

- The sharing of sexually explicit or obscene jokes and verbal “kidding” of a sexual nature between employees, volunteers and students is prohibited.
- Private, one-on-one conversations with students should take place within the potential view, but out of the earshot of other adults — such as in a classroom with the hallway door open.
- Employees may not conduct an on-going series of one-on-one meetings with a student without the knowledge of the principal and without written permission of a parent or guardian.
- Staff must keep a record of all one-on one meetings held with students
- Teachers may not drive students home and if required to do so a senior member of staff must be informed and the student must sit in the rear of the car and parents/guardians must be advised.
- No staff member can request a class to not share a conversation with parents or administrators nor instruct students to “keep secrets” from their parents.

2b. Policy for Electronic Communication with Students

- Under most circumstances, employees must restrict one-on-one communications with individual students to accounts, systems and platforms provided by or accessible to the school IT Department.
- Teachers and other employees may not use personal wireless communications devices to “text” students and are prohibited from interacting one-on-one with students through personal online social-networking sites. Employees must decline or disregard invitations from students to interact privately through texting and personal social-networking sites.
- Group communication may be used so as to disseminate information such as homework, itinerary times for practices or committees or any such similar needs.
- If, because of an urgent or emergency circumstance, an employee uses a personal communications device or account to contact an individual student, the date, time, and nature of the contact must be reported in writing to his or her supervisor on the next school day.
- The IT usage policy applies at all times and should there be any suspicion of any form of sexual misconduct the employees’ files and communication will all be checked by the SABJE or a delegated representative.

3. Rules Governing Physical Contact between Employees and Students

- Physical contact between employees and students should be public, nonsexual, and appropriate to the circumstances.
- Physical contact between an adult and student that is expected and appropriate in preschool and in the early primary school grades — such as a spontaneous hug between a teacher and a child at the end of the day — is not appropriate with older children. With older students any such form of contact may only be ‘shoulder to shoulder’ and may not be a frontal hug. Before any such gesture a staff member should think twice as to its risks.

- Physical contact meant to encourage or reassure students, such as a hand on the shoulder or a pat on the back, should be brief and unambiguous in meaning.
- Appropriate physical contact required in the case of first aid being applied or a nappy being changed is acceptable.
- At no time may a male coach be present when female students are changing, nor may a female coach be present when male students are changing. Care must be taken in any sport activities that no interactions take place as defined by this policy.
- On outings or Shabbatonim no employees or volunteers may be present in any public space where students are dressing or bathing unless, in the case of bathing, this is taking place with all participants being entitled to be present, and appropriate procedures are in place to avoid any inappropriate behaviour.

4. Social Interactions and Relationships between Employees and Students

- Employees and volunteers should avoid situations in which they are alone with a student and not observable by other adults or students.
- All off-site, school-related activities involving employees and students must be approved by an authorized administrator and be supervised by a least two unrelated adults.
- Written parental permission must be secured for all off-site, school-related activities.
- The giving of expensive gifts or gifts of a personal nature, such as jewellery and clothing, to students by employees is prohibited. School employees may not accept such gifts from individual students. Year-end or Yom Tov gifts of moderate value may be given by families to an employee but if of an excessive value or of a personal nature, must be declared to the employees' supervisor.
- Employees shall not grant special privileges, rewards, or opportunities to a specific child beyond those customarily provided as incentives to promote and recognise achievement.
- Employees are prohibited from hosting or participating in private social gatherings and parties with students, such gatherings would be even more problematic if accompanied by the consumption of alcohol and/or other drugs.
- Employees shall not share pornographic or sexually explicit materials with students.
- Romantic or sexual relationships between employees and students are prohibited, regardless of the age of the student or the proximity in age of the employee and student.
- One-on-one interactions between clinical professionals and students are guided by the professional code of ethics of such professionals.

5. Training and Dissemination of the Policy

- The SABJE and its delegated leadership will be responsible for providing training on the prevention of sexual misconduct and abuse policy.
- All employees in the employ of the SABJE will be trained and will be provided with a copy of this policy.

- All SABJE employees are required to attend a course once a year in order to revise the requirements of this policy.
- All students will be educated about their rights in terms of the policy as well as to the applicable mechanisms for them to report alleged sexual misconduct by any employee.

6. Reporting of suspected sexual misconduct and abuse

Suspected sexual misconduct could either be reported by employees or by students, these two policies will be addressed separately.

6a. Policies for the reporting of sexual misconduct and abuse by employees:

- The principal of each school shall ensure that all employees are aware of their legal obligation to report suspected abuse and that when reporting it will be done in a manner that complies with the law.
- The principal of each school shall ensure that all employees are aware of their obligation under the SABJE's policy on the prevention of sexual misconduct to report misconduct to the principal or his or her designee. Failure to report any misconduct will be seen as an act of serious misconduct in terms of the employment conditions of all employees and is thus an offense that could lead to dismissal subject to a hearing.
- Employees who observe or otherwise become aware of sexual misconduct by another employee must notify the principal or his or her designee promptly.
- It is the duty of the principal or his or her designee to follow due legal requirements when reporting on the alleged sexual misconduct and they are at all times required to bring such allegation to the attention of the General Director of the SABJE.
- If such employee is found guilty of sexual misconduct then all relevant authorities and offender lists will be immediately notified.

6b. Policies for the reporting of sexual misconduct and abuse by students

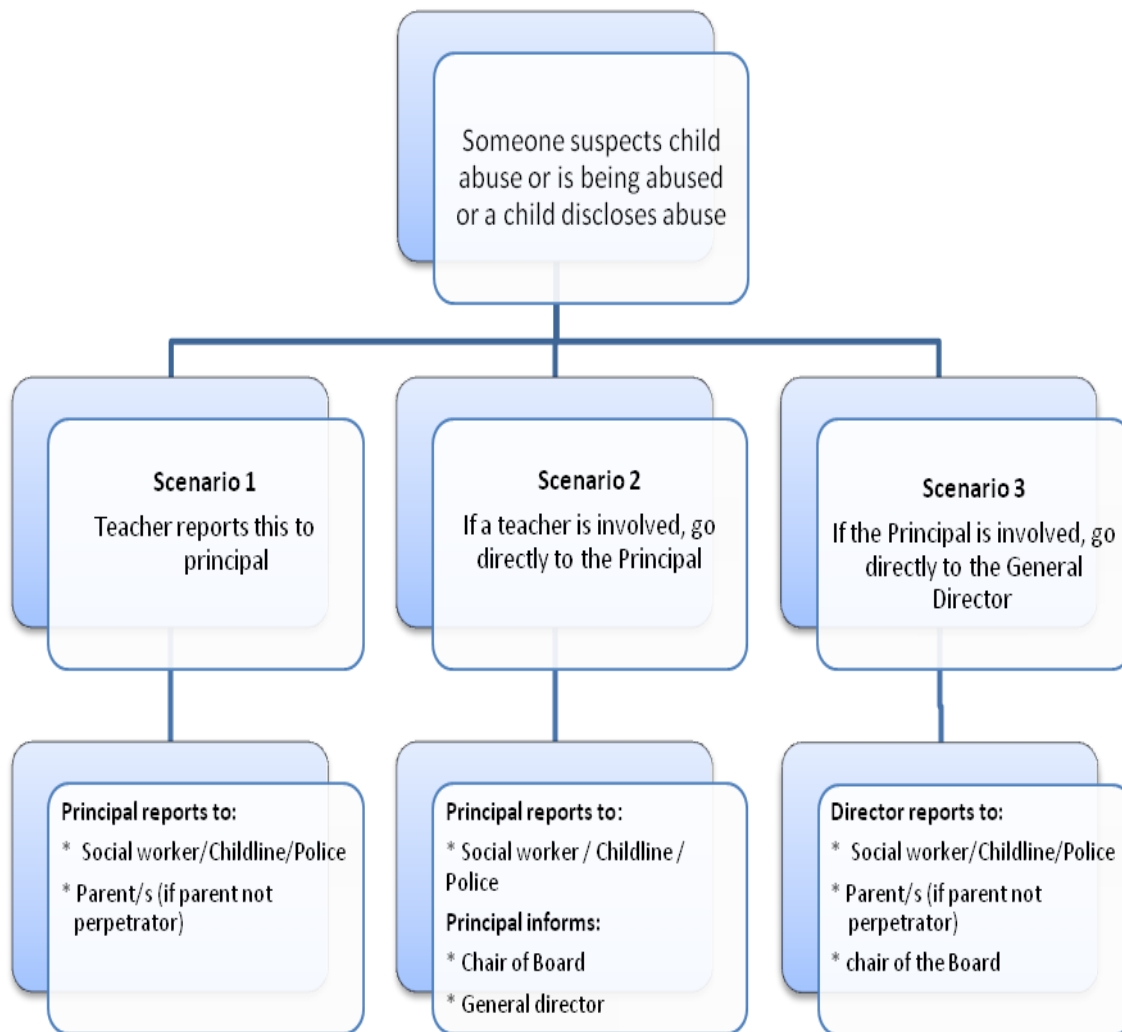
- All students will be educated to understand their rights so as to be fully aware of what sexual misconduct and abuse is.
- Disclosure can be a traumatic experience and all effort will be made to prevent further emotional harm to the complainant.
- Staff will display empathy, warmth and acceptance and will relate the information to as few people as possible so as to protect the students dignity yet ensure that the appropriate people are informed to fully deal with the matter.
- The safety of the student must be protected at all times and they must understand the potential consequences of their disclosure.
- It cannot be stipulated who the student must disclose to due to the sensitive nature of the disclosure and the relationships that the student has with different staff and thus all staff should be trained in how to deal with an allegation that is brought to them. In this regard once such information is brought to a staff member, such staff member may only tell the designated person in the school (monitor) who is required to have training on how to handle any reported case in lines with SA legal requirements.

- The students can report an allegation confidentially to the SABJE offices on 011-480 4725 or can email such an allegation to reportabuse@sabje.co.za
- Students are encouraged to report directly to a social worker or to the head of school.

6c. Policies for the reporting of inappropriate behaviour of a student

- Should an employee observe inappropriate behaviour of a student towards an employee, such staff member is obliged to report such behaviour to a social worker or to the head of the school
- This would include any such behaviour deemed to be sexually provocative in nature be it behaviour through actions or verbal statements or gestures.
- Due action will then be taken by such designated person to clarify the nature of the behaviour and assist in managing the response of the employee and the future behaviours of such a student.

The referral procedure to follow when there is suspected sexual misconduct or abuse or when a child discloses abuse is as follows:



7. Consequences for employees who violate sexual misconduct and abuse prevention policies

- Violations involving sexual relations with a student, regardless of the age of the student or the proximity in age of the student and employee; sexual abuse of a student; or communication with a student of a sexual or romantic nature; shall result in dismissal, prompt notification of law enforcement and social services if required by law, and the notification of SACE.
- The response to violations involving wilful conduct, or conduct or communication of a sexual or romantic nature not involving actual sexual relations or abuse, may include a formal reprimand, suspension, dismissal or other personnel action deemed necessary to prevent sexual abuse and protect

the health, welfare, discipline or morale of students, and if warranted the reporting of such incident to SACE.

- The response to violations determined to have been inadvertent, and/or not involving conduct or communication of an abusive, sexual or romantic nature, may include counselling and training, and in cases involving multiple violations, a formal reprimand or other action deemed warranted to prevent future violations of school policy.

ANNEXURE A

In order for schools to be able to employ the most suitable staff to work with children, there are various National Registers of people who have been found unsuitable to work or be near children. An employer can ask a potential employee for a clearance certificate or apply for one themselves. If the potential employee provides one the employer must check its validity in case it is forged.

1. South African Council of Educators (SACE) Phone SACE to check on every single person employed to work at the school. Report serious issues (such as cases of abuse) to SACE.

Chief Executive Officer, South African Council for Educators (SACE), Private Bag X 127, Centurion 0046 .

The letter may also be hand delivered to Chief Executive Officer, South African Council for Educators (SACE), 261 West Street, Centurion 0046

or it may be emailed to ethics@sace.org.za

2. National Register for Sex Offenders (Department of Justice) (Criminal Law (Sexual Offences and Related Matters) Amendment Act No 32 of 2007) Section 42. A register is kept of every person convicted of a sex-crime. Check this before employing anyone to work at the school. An employer will face prosecution if he/she fails to check whether a current employee or possible employee is on the register.

3. National Child Protection Register (Department of Social Development) A record is kept of every case of child abuse. This register has 2 sections:

PART A: Details of all reports of abuse or deliberate neglect of a child; all convictions of all persons on charges involving the abuse or deliberate neglect of a child and all findings by a children's court that a child is in need of care and protection because of the abuse and deliberate neglect of the child (See: Section 114 of the Children's Act 38 of 2005).

All children who have been abused and form part of an investigation relating to any form of child abuse which is physical, emotional, sexual or deliberate neglect must be entered onto Part A of the National Child Protection Register.

PART B: Details of people unsuitable to work with children (Section 118 of the Children's Act 38 of 2005) The school should check this register regularly, and especially before employing anyone at the school.

Applications for checking can be made to the Department of Social Development

Tel No: 0800 6010 011

ANNEXURE B

The above policy is informed by various legal requirements in South Africa and employees should familiarise themselves with the relevant legislation, these include:

1. The SACE (South African council of educators) code of professional ethics
www.sace.org.za

Section 3: Conduct of the educator and the learner

3. An educator:

- 3.1 respects the dignity, beliefs and constitutional rights of learners and in particular children, which includes the right to privacy and confidentiality;
- 3.2 acknowledges the uniqueness, individuality, and specific needs of each learner, guiding and encouraging each to realise his or her potentialities;
- 3.3 strives to enable learners to develop a set of values consistent with the fundamental rights contained in the Constitution of South Africa;
- 3.4 exercises authority with compassion;
- 3.5 avoids any form of humiliation, and refrains from any form of abuse, physical or psychological;
- 3.6 refrains from improper physical contact with learners;
- 3.7 promotes gender equality;
- 3.8 refrains from any form of sexual harassment (physical or otherwise) of learners;
- 3.9 refrains from any form of sexual relationship with learners at a school;
- 3.10 uses appropriate language and behaviour in his or her interaction with learners, and acts in such a way as to elicit respect from the learners;
- 3.11 takes reasonable steps to ensure the safety of the learner;
- 3.12 does not abuse the position he or she holds for financial, political or personal gain;
- 3.13 is not negligent or indolent in the performance of his or her professional duties;
- 3.14 recognises, where appropriate, learners as partners in education.

2. The Employment of Educators Act (76 of 1998)

www.polity.org.za

Misconduct

17. (1) An educator shall be guilty of misconduct if the educator—

(g) behaves in a disgraceful, improper or unbecoming manner, or, while on duty,

is discourteous to any person, or commits sexual or any other form of

harassment;

Serious misconduct

17. (1) An educator must be dismissed if he or she is found guilty of –

(a) theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports;

(b) committing an act of sexual assault on a learner, student or other employee;

(c) having a sexual relationship with a learner of the school where he or she is employed;

3. ISASA policy manual

As members of ISASA the SABJE schools take cognisance of the direction provided in the ISASA manual which stipulates:

Sexual Offences



The *Criminal Law (Sexual Offenders and Related Matters) Amendment Act 32 of 2007* stipulates that a person who has knowledge that a sexual offence has been committed against a child or a person who is mentally disabled must report such knowledge immediately to a police official.

An employee must without delay disclose a conviction in terms of this legislation to his or her employer, whether or not such offence was committed during the course of his or her employment.

An employer must also immediately terminate the employment of an employee who fails to disclose a conviction of a sexual offence against a child or a person who is mentally disabled.

In the case of a teacher or student accused of sexual misconduct, the school should immediately suspend such a teacher or student pending the outcome of the investigation. In the case of a teacher, he/she would be suspended with pay