

1. PREAMBLE

This Child Abuse Policy and Procedure (**“this Policy”**) aligns with the Children’s Act No. 38 of 2005, as amended (**“Children’s Act”**), the Protection from Harassment Act No. 17 of 2011, as amended, and other relevant South African legislation on child protection and school safety, aiming to protect students’ welfare, safety, and rights.

2. DEFINITIONS

In this Policy, unless the context indicates otherwise, the following words have been prescribed the following definitions:

- **“Alleged offender”** means the individual against whom a complaint has been laid. This could be, but is not limited to, a member of staff, a parent or a student;
- **“Best interests”** means the best interests of the child or student, i.e., prioritizing the child’s or student’s safety, welfare, and development in all decisions, in terms of section 28(2) of the Constitution of the Republic of South Africa;
- **“Child abuse”** means any action or inaction that is detrimental to the physical, emotional and developmental well-being of the child. It includes (but is not limited to) neglect, emotional abuse, physical abuse, sexual harassment and sexual abuse;
- **“Complainant”** means a student who has lodged a complaint of child abuse, stalking, intimidation or the breach of an interim or final protection order granted in terms of the Domestic Violence Act No. 116 of 1998, as amended.
- **“Documentation”** mean notes or letters from parents, medical certificates from medical practitioners, notes and letters from the student, drawings made by the observing employee or educator of injuries on the body of the student and any other form of information or evidence that could be used to verify the complaint;
- **“Emotional abuse”** means a pattern of degrading or humiliating conduct towards a Complainant which may include:
 - repeated insults, ridicule or name-calling;
 - repeated threats to cause emotional pain; or
 - repeated exhibition of obsessive possessiveness or jealousy which is such as to constitute a serious invasion of a Complainant’s privacy, liberty, integrity and/or security;
- **“Intimidation”** means uttering or conveying a verbal or non-verbal threat, or causing a Complainant to receive a threat, which induces fear. It includes threats to cause emotional pain

and exhibition of obsessive possessiveness or jealousy which is such as to constitute a serious invasion of a Complainant's privacy, liberty, integrity and/or security;

- **"Neglect"** means any act or omission by a parent or any other person entrusted to care for a student, which results in impaired physical functioning, physical development, or injury or harm to the student;
- **"Parent"** means the biological, adoptive, foster- or step-parent or the guardian or person legally entitled to custody of a student, including the student's primary caregiver (who may legally be deemed not to be the student's parent or guardian);
- **"Physical abuse"** means any act or threatened act of physical violence which may cause injury or death to a student;
- **"SAPS"** means the South African Police Services;
- **"Sexual abuse"** means, in relation to a child:
 - sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted;
 - encouraging, inducing or forcing a child to be used for the sexual gratification of another person;
 - using a child in or deliberately exposing a child to sexual activities or pornography; or
 - procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child; and
- **"Sexual harassment"** means unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual. Sexual attention becomes sexual harassment if the behaviour persists, although a single incident of harassment can constitute sexual harassment; and/or the recipient has made it clear that the behaviour is considered offensive; and/or the perpetrator should have known that the behaviour is regarded as unacceptable. Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, and is not limited to the examples listed below:
 - physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape;
 - verbal forms of sexual harassment include unwelcome innuendoes, suggestions, comments, advances and phone calls of a sexual nature; sex-related jokes and insults; unwelcome comments about a person's body made in a person's presence and directed towards that person; unwelcome and inappropriate enquiries about a person's

sex life; and unwelcome whistling or suggestive sounds directed at a person or group of persons;

- non-verbal forms of sexual harassment include unwelcome gestures and indecent exposure, the unwelcome display of sexually explicit objects or publications (pictures and printed text); and the sending of letters, faxes or electronic mail containing remarks with sexual connotations;
- *quid pro quo* sexual harassment (sexual blackmail) occurs when a member of staff or another student influences or attempts to influence a student's academic results, leadership position, standing at the school or sporting or cultural or achievements or involvements in exchange for sexual favours; and
- stalking refers to repeatedly following, pursuing, or accosting the Complainant.

3. AIM OF THIS POLICY

The aim of this Policy is to put measures and procedures in place to respect and protect the rights of students and to create an environment where pupils can maximise their opportunity to learn and develop to their full potential, free from abuse. All procedures provided for in this Policy have a clear educational focus, i.e., prevention, timely intervention, and support.

4. ACCOUNTABILITY AND RESPONSIBILITY

The Principal is ultimately accountable for implementing, managing and sustaining this Policy. All staff members are legally bound to report all matters of suspected child abuse as outlined in this Policy and failure to do so may result in consequences under the Children's Act.

5. THE IDENTIFICATION OF SUSPECTED CHILD ABUSE

There are various reasons why children do not discuss child abuse. It is therefore the duty of the teacher to be mindful of the symptoms and characteristics of child abuse and to be able to identify them.

The following guidelines should be followed by staff members who suspect that a student has been/is being abused:

- start gathering information as soon as you suspect child abuse. Continue to do so consistently, and document all information gathered. Treat all this information as confidential;

- discuss your suspicions and the information that you have gathered with the Principal (unless he/she is possibly implicated);
- ensure confidentiality by opening a separate file for the particular student. This file must be kept in the strong-room or safe;
- remain objective at all times and do not allow personal matters, feelings or pre-conceptions to cloud your judgment;
- any information to do with child abuse is confidential and must be handled with great discretion;
- the reporting and investigation of child abuse must be done in such a way that the safety of the student is ensured; and
- justice must not be jeopardised, and the support needed by the student and his/her family must not be neglected.

6. PROCEDURE TO BE FOLLOWED IN CASES OF SUSPECTED CHILD ABUSE

Step 1 - All incidents of suspected child abuse should be reported to the Principal. Section 15 of the Child Care Amendment Act No. 96 of 1996, as amended, states that a physician, nurse, social worker, or educator must report child abuse or the suspicion of child abuse. Educators are legally protected if their actions are well-intentioned. Failure to report child abuse or the suspicion thereof will be prosecuted. It is imperative to ensure that strict confidentiality is maintained at all times.

Step 2 - The Principal and Management will discuss the observations or incident to determine whether there are reasonable grounds to suspect child abuse, and to advise on which external role-players to involve in the process, such as the local welfare organisation(s) or the local social worker of the Department of Welfare, the SAPS, the Child Protection Unit, and (if an employee is involved) Labour Relations.

Step 3 - If there are reasonable grounds for suspecting child abuse (as confirmed by, for example, an external role-player who is involved in the process), the Principal will discuss the matter with the parents or caregivers (unless the parent or caregiver is the suspected abuser) and report the case.

The best interests of the student are paramount. It is therefore important to manage any suspected abuse effectively in order to protect the student from additional and unnecessary trauma. The trust that the student will experience and develop in the individuals involved, as well as in the process (including the support provided) will largely determine whether he/she will be prepared to lodge a complaint or disclose information.

7. THE MANAGEMENT OF DISCLOSURE

Disclosure is a process that usually takes time, especially in cases of sexual abuse. It is therefore seldom done in an isolated event. Complainants often disclose only small amounts of information at a time over a period. Disclosure reaches a key stage when a student provides the staff member with specific information about the fact that he/she has been or is being abused or when the student lodges a complaint after being abused. Once a student has done this, he or she is referred to as the Complainant. The following guidelines should be used to manage the process of disclosure:

- be conscious of the fact that disclosure can be a very traumatic experience. Prevent further emotional harm to the Complainant;
- the details of the abuse should be related to as few people as possible. Display empathy, warmth and acceptance ;
- try to ensure the safety of the Complainant against further abuse ;
- clarify confidentiality, but explain that other professional persons will have to be informed;
- identify other pertinent role-players who are to be involved, as well as their roles and functions ;
- explain the potential consequences of the disclosure, (i.e., that the staff member is legally bound to report the case);
- cases of sexual abuse or rape must be reported as soon as possible. Under no circumstances should the incident of child abuse be discussed with the alleged offender.
- **DO NOT, under any circumstances:**
 - interrogate the Complainant in order to obtain information or to “investigate” the case;
 - insist on seeing the physical evidence of abuse;
 - examine the Complainant for signs of sexual abuse or rape by removing clothes and/or touching or examining the pupil;
 - take a statement from the Complainant, as the investigating officer of the SAPS will do this;
 - confront the parents or the caregivers if they are the suspected or alleged perpetrators; and
 - confront the alleged perpetrator.

When disclosure takes place, it is necessary to communicate the following to the Complainant:

- “I believe what you are telling me.”

- “I acknowledge that you feel uncomfortable about the incident. I appreciate your courage in speaking to me.”
- “I am sorry to hear what has happened to you.”
- “It is not your fault.”
- “In order to help you, I will have to speak to another person.”

In managing the process, keep the following in mind:

- whatever may happen to the alleged offender is not your fault;
- the Complainant may be unwilling to lay a charge against the alleged offender because of intimidation;
- the Complainant may feel powerless and may have been sworn to secrecy by the alleged offender;
- the Complainant may be related to the alleged offender and may want to protect the family;
- the Complainant may feel that he/she lacks support because no one will believe him/her;
- often the mother has divided loyalties and protects the father (or boyfriend, uncle, brother, grandfather, etc.) because of ; dependency;
- the Complainant may love the alleged offender and just want the abuse to stop; and/or
- the Complainant may be afraid of being removed from the family.

Disclosure by a pupil may be traumatic for you. You can therefore also seek personal professional assistance from the school.

8. GUIDELINES FOR COUNSELLORS ON DOCUMENTATION OF CASES OF SUSPECTED CHILD ABUSE

Documenting all the information gathered from the Complainant helps you to develop a profile of him/her and of the possible abuse that is taking place. It will also help you when the SAPS take a sworn statement, should a criminal case be made. The 8-point list which follows should be used by the Counsellor as a guideline to ensure that appropriate information is documented. You must, however, ensure that the information is obtained as objectively as possible. Do not use the list as a question-and-answer session. The Complainant must be given the opportunity to speak spontaneously. All documentation must be kept in a folder, securely in compliance with the provisions of the Protection of Personal Information Act No. 4 of 2013, as amended, and accessible only by legally authorized personnel.



With respect to this folder, the following guidelines should be followed:

- Do not put a name on the folder.
- The Principal must give the case a number, put this number on the folder, and record it in a confidential register that reflects the name and number of every case.
- So as not to reveal the identity of the Complainant, both the folder and the confidential register must at all times be kept in a locked cabinet or safe to which only the Principal has access.

The following information should be documented in this folder:

1 The Complainant's personal details:

- Name in full;
- Age;
- Sex;
- Present grade;
- Home address and telephone number; and
- Details of parents or caregiver.

2 The nature of the incident.

What did the alleged offender say to the Complainant? What action did the alleged offender take against the Complainant? Where did the alleged offender touch the Complainant? Did the alleged offender threaten the Complainant? What did the Complainant say or do during the incident?

3 The details of the incident:

The date(s) when the incident(s) occurred; the time(s) when the incident(s) occurred; the place(s) where the incident(s) occurred.

4 The circumstances of the incident:

Were there any other people present at the time of the incident? Were there any other people who were in the surrounding area who might have witnessed the incident? If there were witnesses, get their full particulars for each, i.e.:

- Full name;
- Home address and telephone number;
- Age, sex and present grade;
- If the Complainant does not know these details, ask her or him the following:



- What were the physical attributes of the witness?
- Sex and approximate age and height of the witness?

5 How did the Complainant experience the incident?

How did the Complainant feel at the time of the incident? Record the Complainant's feelings in his/her own words. How is he/she feeling now? Is he/she experiencing any physical or psychological symptoms, and if so, what are these symptoms? Write down the words that the Complainant uses to describe the incident.

6 Details of the first disclosure:

Has the Complainant related the details of the incident to anyone? If so, obtain the following details:

- Full name;
- Home address and telephone number;
- Age and sex;
- Nature of the person's relationship to the Complainant;
- Has the Complainant reported the incident to the South African Police Services? If so, obtain the following details:
 - The case number;
 - The name of the police station and the investigating officer;
 - The date on which the incident was reported;
 - Details of any witnesses who have made statements to the SAPS.

7 Details of any material evidence.

Has the Complainant been to a hospital, general practitioner, district surgeon, social worker, clinic, psychologist or psychiatrist? If so, obtain the following details:

- The reference number, if any;
- Information if there is a J88;
- The name of the hospital or clinic;
- The name and telephone number of the general practitioner, nurse, social worker, district surgeon, psychologist or psychiatrist;



- The dates on which the Complainant attended one or more of these services.

If the Complainant has not seen a doctor, offer to arrange a referral to the school doctor or any other medical practitioner elected by the Complainant.

Obtain the originals or copies of any relevant documents in the Complainant's possession, including any letters or notes received from the alleged offender.

Are there any clothes with stains or any other evidence of the incident? If so, obtain the originals or copies thereof, place them in a bag, and if the matter is reported to the SAPS, hand them over for forensic testing.

8 Details of the alleged offender.

- The full name of the alleged offender;
- Her or his position at the institution;
- If the Complainant does not know these details, ask:
 - What were the physical attributes of the alleged offender?
 - What were her or his sex and approximate age and height?
 - Did she or he have any distinguishing features?

9. GUIDELINES FOR COUNSELLORS ON THE MANAGEMENT OF CASES OF SUSPECTED CHILD ABUSE

The following procedure should be followed by the Principal / School Counsellor managing any case of suspected child abuse:

STEP 1: Ensure the safety of the Complainant. In collaboration with the SAPS, ensure that the Complainant will not have direct contact with the alleged offender. It is important to ensure that the SAPS becomes involved as soon as possible.

STEP 2: Clarify confidentiality, but explain to the Complainant the potential consequences of the disclosure, i.e., that in order to help him/her, you are legally obliged to report the case to other role-players such as the social worker and/or the SAPS. Explain the roles they will play. Explain also the procedures that will be followed (Steps 3 – 9 below).

STEP 3: Inform the Principal (unless he/she is implicated) and the Business Manager. No detailed information about the abuse needs to be disclosed at this stage.



STEP 4: The Principal should contact the relevant role-players in order to decide on the process of intervention. Once a complaint has been lodged with the Principal, he/she must refer the matter to the relevant role-players within 3 (three) days. These role players will include:

- the Department of Welfare;
- the local welfare organisation;
- the Child Protection Unit;
- the SAPS in the residential area of the Complainant;
- Labour Relations, when employees are the alleged offenders;
- the Complainant's parent(s) / guardian (s) (with the consent of the Complainant, if he/she is over 14 (fourteen)), provided that they are not the alleged offenders;
- the Child Protection Centre; and
- the Department of Health, school nurse and school doctor.

STEP 5: The Principal should compile a confidential report that will be used by the social worker and the SAPS. To protect its confidentiality, this report must be kept locked in the strong-room or safe with all the relevant documentation on the case. If the alleged offender is an employee, the report should be forwarded as confidential to the school's Business Manager.

STEP 6: The Principal will meet with the relevant role-players (mentioned in Step 4 above) to draw up a plan of action setting out the responsibility of each participant in the intervention process.

STEP 7: The Principal follows up with all participants on the progress of the intervention. All information is documented and reported to the Principal and all others who will be supporting the Complainant.

STEP 8: Keep the Complainant and his /her parent(s) / guardian(s) informed of the steps taken by the role-players and the outcome of the investigation.

STEP 9: The Principal / Counsellor / Class Tutor will monitor the Complainant's emotional, mental and physical health, discuss it with his/her parents, and refer it for further professional help if necessary.

10. ADDITIONAL PROCEDURES TO BE FOLLOWED IF THE ALLEGED OFFENDER IS A BAY ACADEMY STUDENT

Young, alleged offenders need to be supported by the system. This should be seen as an attempt to prevent them from committing further abuse. The nine steps described in the



previous section serve as guidelines for managing the alleged offender. In addition, the following should be implemented:

- The alleged offender's parent(s) / guardian (s) should be contacted and informed of the incident(s). The plan of action for support and intervention should be discussed with them.
- The alleged offender should be referred to an appropriate person for emotional support and therapy.
- Depending on the seriousness of the offence, temporary suspension of the alleged offender can be arranged, but only if it is in the best interests of other students and the school.
- , If the alleged offence was serious enough to merit suspension or expulsion,, the Principal may commence the disciplinary process as laid out in the TBA Disciplinary Policy.

11. ADDITIONAL PROCEDURES TO BE FOLLOWED THE ALLEGED OFFENDER IS A BAY ACADEMY EMPLOYEE

If the alleged offender is a Bay Academy employee, the Principal should inform the school's Business Manager. The Business Manager and the Principal will jointly determine an appropriate plan of action. In formulating an appropriate response, the Principal and Business Manger should consider the following:

- The Employment of Educators Act No.76 of 1998, as amended ("Employment of Educators Act"), and the Education Laws Amendment Act No. 31 of 2007, as amended ("Education Laws Amendment Act") and, in particular, the section dealing with Serious Misconduct, which states that:

An educator must be dismissed if he/she is guilty of:

- (1) committing an act of sexual assault on a student or other employee;
- (2) having a sexual relationship with a student from the school where he/she is employed; and
- (3) seriously assaulting, with the intention to cause grievous bodily harm, to a student or other employee.

It is the responsibility of the Business Manager to:

- investigate all complaints (ensuring that the Complainant's safety, privacy and confidentiality are maintained at all times);
- in consultation with the Principal, suspend an employee immediately as a precautionary measure when there is substantial evidence;



CHILD ABUSE POLICY AND PROCEDURES

- serve charges on the employee;
- proceed with a disciplinary inquiry in a manner which protects the interests and the special needs of the child witness(es); and
- take a final decision on termination or continuation of service in terms of the Employment of Educators Act and the Education Laws Amendment Act.

Reviewed by: Trevor McLean-Anderson

Signature:

Policy reviewed on