

SANCTIONING POLICY: FOR THE CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS.

CONTENTS

DEFINITIONS	- 3 -
LEGAL FRAMEWORK	- 9 -
INTRODUCTION	- 11 -
PURPOSE OF SANCTIONING	- 12 -
SANCTIONING GUIDING PRINCIPLES	- 13 -
KEY FACTORS TO CONSIDER WHEN IMPOSING A SANCTION.....	- 15 -
SCHEDULE OF SANCTIONS OR OTHER CORRECTIVE MEASURES	- 20 -
SANCTIONING DECISION PROCESS FLOW CHART	19
SANCTIONING OF ETHICAL VIOLATIONS	240
REVIEW AND APPROVAL	34

1.DEFINITIONS

The following definitions shall apply to this Sanctioning Policy:

Assault - is an unlawful and intentional illegal act of causing physical harm, such as the infliction of corporal punishment, or unwanted physical contact to another person, or, in some legal definitions, the threat or attempt to do so. It is both a crime and a delict and may result in criminal prosecution, civil liability, or both.

Assault with intent to cause grievous bodily harm - this is another form of assault, however, committed with the intention to cause serious bodily injury to another person. This may be through a deliberate act or irresponsible actions that show a deliberate lack of respect for the victim's safety.

Best interests of the child - section 28(2) of the Constitution states that a child's best interests are of paramount importance in every matter concerning the child. The Children's Act gives specific content to this principle. Section 6(2) provides that all proceedings or decisions that concern a child must respect, protect, promote and fulfil the child's rights as enshrined in the Bill of Rights as well as the best interests of the child standard. Section 6(3) of the Children's Act also states that if it is in the best interests of the child, the child's family must be given an opportunity to express their views in any matter concerning the child. Section 10 of the Children's Act also states that every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child, has the right to participate in an appropriate way and views expressed by the child must be given due consideration.

Child - means a person under the age of 18 years.

Child Pornography - means any image, however created, or any description or presentation of a person, real or simulated, who is, or who is depicted, described, or presented as being, under the age of 18 years, of an explicit or sexual nature, whether such image or description or presentation is intended to stimulate erotic or aesthetic feelings or not, including any such image or description of such person:

- (a) engaged in an act that constitutes a sexual offence.
- (b) engaged in an act of sexual penetration
- (c) engaged in an act of sexual violation
- (d) engaged in an act of self-masturbation
- (e) displaying the genital organs of such a person in a state of arousal or stimulation
- (f) unduly displaying the genital organs or anus of such a person
- (g) displaying any form of stimulation of a sexual nature of such a person's breasts
- (h) engaged in sexually suggestive or lewd acts
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse.
- (k) showing or describing such a person:
 - (i) participating in, or assisting or facilitating another person to participate in or
 - (ii) being in the presence of another person who commits or in any other manner being involved in any act contemplated in paragraphs (a) to (j)
- (l) showing or describing the body, or parts of the body, of such person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any category of persons under 18 or is capable of being used to violate or offend the sexual integrity or dignity of that person, any person or group or categories of persons.

Complainant - means the alleged victim of a violation of his/her rights or any interested person, such as a parent or caregiver, acting on behalf of a victim.

Corporal Punishment – any deliberate act against a child that inflicts pain or physical discomfort, however light, to punish or contain the child, which includes, but is not limited to: (a) hitting, smacking, slapping, pinching or scratching with the hand or any object; (b) kicking, shaking, throwing, throwing objects at, burning, scalding, biting, pulling hair, boxing ears, pulling or pushing children. (c) forcing children to stay in uncomfortable positions, forced ingestion, washing children's mouths out with soap, denying meals, heat and shelter, forcing a child to do exercises which are not in accordance with the curriculum applicable to the learner or denying or restricting a child's use of the toilet; or

d) any act which seeks to belittle, humiliate, threaten, induce fear or ridicule the dignity and person of a learner.

Educator - means any person who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at any public OR private school, further education and training institution, departmental office or adult basic education centre and who is appointed in a post on any educator establishment under the Employment of Educators Act 76 of 1998 as amended.

Learner – means any person receiving education or obliged to receive education in terms of the South African Schools Act 84 of 1996.

Misconduct – is the improper conduct or behaviour that occurs when a SACE registered member or SACE unregistered educator violates the Code of Professional Ethics and/or the SACE Act 31 of 2000.

National Child Protection Register – The Children’s Act makes provision for the creation of a National Child Protection Register (“CPR”), which comprises Part A and Part B. While Part A contains information on children who have reportedly been abused or neglected and are in need of protection and care, as well as the particulars of individuals who have been convicted of abuse and neglect, Part B was created to record all persons who are unsuitable to work with children, with the aim of using this information to protect children in general against abuse from these persons. References to the CPR in this document refer specifically to Part B of the Register and are mentioned within the context of SACE’s obligation to report any educators unsuitable to work with children to the Department of Social Development (“DSD”) to be placed on Part B of the CPR.

Norms and standards – refer to the requirements and prescriptions which educators must adhere to in order to remain fit to practice as educators, which are set up by SACE.

Pornography - means any image, however created, or any description of a person, real or simulated, who is 18 years or older, of an explicit or sexual nature that is intended to stimulate erotic feelings, including any such image or description of such person-

- (a) engaged in an act that constitutes a sexual offence;
- (b) engaged in an act of sexual penetration;
- (c) engaged in an act of sexual violation;
- (d) engaged in an act of self-masturbation;
- (e) displaying the genital organs of such a person in a state of arousal or Stimulation;
- (f) unduly displaying the genital organs or anus of such a person;
- (g) displaying any form of stimulation of a sexual nature of the female breasts;
- (h) engaged in sexually suggestive or lewd acts;
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature;
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse;

or

(k) showing or describing the body, or parts of the body, of that person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any other person or is capable of being used for the purposes of violating or offending the sexual integrity or dignity of that person or any other person.

Rehabilitative and corrective sanctions - These are sanctions imposed by SACE to address causes of negative or inappropriate behaviour. These sanctions are aimed at ensuring that educators receive the assistance and support required to equip them with skills to function appropriately and professionally in the workplace and correct improper conduct. Such sanctions may include completion of anger management classes and/ or training on non-violent discipline techniques.

Sanction is a punitive, corrective, rehabilitative and / or a restorative action imposed by SACE after a guilty verdict arising from a fair disciplinary hearing where SACE's Code of Professional Ethics has been violated by an educator. A core principle that must inform the sanction imposed is the "best interests of the child principle", which is enshrined in section 28(2) of the Constitution.

Sanctions guidelines – are directions put in place to guide the issuing of sanctions in disciplinary proceedings conducted by SACE.

Serious misconduct – refers to an act of

- (a) Theft, bribery, fraud or an act of corruption regarding 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;
- (d) Seriously assaulting, with the intention to cause grievous bodily harm to, a learner, student or other employee;
- (e) Illegal possession of an intoxicating, illegal or stupefying substance; or
- (f) Causing a learner or a student to perform any of the acts contemplated in (a) to (e) above.

(g) Includes any other act that pertains to wilful and/or deliberate behaviour by an educator contravening the code of professional ethics in a way that poses serious risk or harm to a learner, colleague, parent, or member of the public emotionally, physically or in another manner, or to property of the employer or member of the public.

Sexual Act - means an act of sexual penetration or an act of sexual violation

Sexual Harassment - means any

- (a) unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
- (b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated;
- (c) implied or expressed promise of reward for complying with a sexually oriented request; or
- (d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.

Sexual Offence - means any offence in terms of Chapters 2, 3 and 4 and Section 55 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act and any offence referred to in Chapter 2 of the Prevention and Combating of Trafficking in Persons Act, 2013, which was committed for sexual purposes.

Sexual Penetration - includes any act which causes penetration to any extent whatsoever by:

- (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person;
- (b) any other part of the body of one person or, any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person; or
- (c) the genital organs of an animal, into or beyond the mouth of another person, and 'sexually penetrates' has a corresponding meaning.

Sexual Violation - includes any act which constitutes the following: -

- 1) Direct or indirect contact between the following-

a) genital organs or anus of one person or, in the case of a female, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal

b) mouth of one person and-

- i. the genital organs or anus of another person or, in the case of a female, her breasts;
- ii. the mouth of another person;
- iii. any other part of the body of another person, other than the genital organs or anus of that person or, in the case of a female, her breasts, which could-
 - (aa) be used in an act of sexual penetration
 - (bb) cause sexual arousal or stimulation; or
 - (cc) be sexually aroused or stimulated thereby; or
- iv. any object resembling the genital organs or anus of a person, and in the case of a female, her breasts, or an animal; or

c) mouth of the complainant and the genital organs or anus of an animal

2) the masturbation of one person by another person; or

3) the insertion of any object resembling or representing the genital organs of a person or animal, into or beyond the mouth of another person, but does not include an act of sexual penetration.

2. LEGAL FRAMEWORK

TITLE
<ul style="list-style-type: none">• The Abolition of Corporal Punishment Act, 1997 (Act no. 33 of 1997)• The Children’s Act, 2005 (Act no.38 of 2005)• The Constitution of the Republic of South Africa (1996).• The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no. 32 of 2007)• Employment of Educators Act, 1998 (Act no.76 of 1998)• National Qualifications Framework Act, 2008 (Act no.67 of 2008)• Prevention and Combating of Trafficking in Persons Act, 2013 (Act no.7 of 2013) <p>The Protection from Harassment Act, 2011 (Act no. 17 of 2011)</p> <ul style="list-style-type: none">• The SACE Code of Professional Ethics• The South African Council for Educators (SACE) Act, 2000 (Act no. 31 of 2000)• The South African Schools Act, 1996 (Act no. 84 of 1996, as amended by the Basic Education Laws Amendment Act 32 of 2024).

3.INTRODUCTION

1)As a professional self-regulatory body, the South African Council for Educators (SACE) has a responsibility to set, protect and maintain ethical standards in the teaching profession. In doing so, it ought to safeguard the interests and rights of learners in terms of section 28(2) of the Constitution as well as the welfare of the public.

2)Part of SACE's oversight function is to offer guidance to educators, panellists and practitioners about their methods, systems and processes for dealing with complaints against educators, to improve complaint handling and increase trust, credibility and confidence in the teaching profession.

3)This policy is therefore designed to provide information on the general purpose of sanctioning, general guiding principles, sanctions and related ethics violations, guidance and practicalities, mitigation and aggravation factors and decision-making tree in the process of sanctioning convicted educators. In the matter of Robertson v SACE,¹ the court ruled that sanctions imposed on educators for professional misconduct must fall within the ambit of reasonableness and fairness in terms of the Provision for Administrative Justice Act² in each given circumstance.

¹ Paragraph 24, Arnold Robertson v SACE and Others, 15547/2013

² Act 3 of 2000 ('PAJA')

4. PURPOSE OF SANCTIONING

1) The purpose of the Sanctioning Policy is (1) to provide guidelines on the norms and standards of behaviour or conduct expected from fit to practice educators in line with the SACE Code of Professional Ethics, (2) to outline penalties for educators found guilty of unprofessional conduct or professional misconduct and (3) provide guidelines on the application of sanctions if the conduct of a regulated member or educator and/or lecturer has been found to be, among other things, either unsatisfactory professional conduct or professional misconduct in contravention of the Code of Professional Ethics. This would include ensuring that the best interest of the child remains of paramount importance in all matters affecting children, as provided in section 28(2) of the Constitution, and that affected children and/ or their families are considered and can make submissions regarding recommended sanctions.

2) This document is designed to act as a guide to those tasked with the enforcement of SACE's disciplinary code and support the presiding officer/s, prosecutor/s, and ethics committee within SACE in the application of sanctions, where the conduct of educators or lecturers has been found to amount to either Unsatisfactory Professional Conduct or Professional Misconduct or their conduct is in contravention of the Code of Professional Ethics or any related legislation including, but not limited to, the SACE Act 31 of 2000, the Children's Act 38 of 2005; the South African Schools Act 84 of 1996; the Employment of Educators Act 76 of 1998; the Constitution of South Africa, 1996 and any other piece of legislation relevant to this policy.

3) The Sanctioning Policy seeks to provide sanctions guidance, to be followed by Presiding Officers, Prosecutors, the Ethics Committee, and the Council in administering the rules and regulations governing the enforcement of ethical standards in the teaching profession. While this policy may not provide an exhaustive list of factors or rules to be applied, the key principles and practicalities identified and accruing from it will inform present and future initiatives designed to uphold ethical standards in the teaching profession.

4) The Sanctioning Policy seeks to inform (a) the complainants, and (b) the educators complained of, about the range of potential sanctions that exist, and approaches that may be taken to enforce the Code of Professional Ethics among educators and lecturers.

5) This Policy aims to assist in promoting consistency and transparency in the application of sanctions in all disciplinary matters that appear before SACE. The creation and development of a clear sanctioning policy also aims to demonstrate to members of the public and the profession that they can be confident that SACE, as the regulatory body, undertakes to uphold proper standards of behaviour and conduct and imposes sanctions that are proportionate and fair in each case before it. Persons involved in disciplinary matters ought to know what may be expected when considering and disposing of cases whatever the gravity of a particular conduct may be – with no need for surprises.

6) The purpose of applying sanctions in disciplinary matters is two-fold; that is to protect the integrity of the teaching profession and ensure the protection of children under the care and control of educators. This also includes protection of the learners' right to human dignity (*section 10 of the Constitution*), the right to be free from all forms of violence from either public or private sources (*section 12(1)(c) of the Constitution*), the right not to be treated or punished in a cruel, inhuman or degrading way (*section 12(1)(e) of the Constitution*), the right to an environment that is not harmful to their health and wellbeing (*section 24 of the Constitution*), the right to be protected from maltreatment, neglect, abuse or degradation (*section 28(1)(d) of the Constitution*), respecting the best interests of the child principle (*section 28(2) of the Constitution*) and the right of children to participate in matters concerning them (*section 10 of the Children's Act*).

7) The Sanctioning Policy is set to assist with the application of sanctions in accordance with the SACE Act and related legislation, the Code of Professional Ethics and to ensure that complainants who have lodged complaints with SACE receive relief against educators who are found to have conducted themselves in an unacceptable manner and have been found guilty of such. The policy is further aimed at ensuring that SACE's findings and the sanctions imposed on educators are properly communicated to the complainants, and where complainants are children, to their parents or caregivers.

5. SANCTIONING GUIDING PRINCIPLES

The general principles governing SACE's Sanctioning Policy are as follows:

- 5.1. Safeguarding and preserving the reputation and credibility of the teaching profession by prescribing norms and standards of conduct expected from fit to practice educators.
- 5.2. Protecting the learners through the promotion of the best interests of the child principle and the constitutionally protected rights of learners; protecting fellow educators, the broader school community and where relevant, the general public, from unethical conduct or unsatisfactory professional conduct or professional misconduct in the teaching profession by educators.
- 5.3. Promoting a child-centred approach throughout disciplinary proceedings, which requires that children who are victims of an educator's misconduct or unprofessional behaviour, and/or their parents/ caregivers, be consulted on appropriate sanctions and be afforded a meaningful opportunity to make representations on an appropriate sanction.
- 5.4. Maintaining, improving and promoting proper professional standards and conduct for members of the profession by corrective action or imposing appropriate penalties against unethical conduct or unsatisfactory professional conduct or professional misconduct in the teaching profession.
- 5.5. Achieving a credible deterrence goal to encourage educators to both avoid unethical or unsatisfactory professional conduct or professional misconduct in the teaching profession and uphold the acceptable or prescribed norms and standards of fit to practice educators.
- 5.6. Promoting rehabilitative sanctions aimed at correcting unsatisfactory professional conduct.
- 5.7. Maximising proportionality, clarity, consistency, impartiality & transparency in the application of penalties on educators found guilty of unethical or unsatisfactory professional conduct or professional misconduct in the teaching profession.

- 5.8. Ensuring decision makers ultimately retain discretion (with compelling reasons) and reasonableness in administration of penalties in cases of unethical or unsatisfactory professional conduct or professional misconduct by educators.
- 5.9. Applying appropriate penalties, which may include rehabilitative and/ or corrective sanctions, in each individual case against educators found guilty of unethical or unsatisfactory professional conduct or professional misconduct.

6. KEY FACTORS TO CONSIDER WHEN IMPOSING A SANCTION

- 6.1. When imposing a sanction on an educator a Presiding Officer and Ethics Committee must consider the findings from the disciplinary enquiry.
- 6.2. While the general purpose of sanctioning is to protect the learners, other educators, the broader school community and where relevant, the general public, in ensuring that professional standards and the reputation of the teaching profession is preserved, the disciplinary panel may take the following factors into account when imposing a sanction on an educator, including but not limited to proportionality, consistency, credible deterrence, mitigation and aggravation, the views of the complainants, the best interest of the child, and the state of mind which are outlined as follows:

6.2.1. **Proportionality.** In making the decision of what sanctions to impose the Council will apply the principle of proportionality, balancing the maintenance of ethical standards of professional conduct of educators, the best interest of the child and the interests of the public against those of the registered educator.

6.2.2. **Rationality.** The principle of rationality in a disciplinary hearing refers to the requirement that the proceedings and decisions in the hearing must be logical, fair, and based on sound reasoning. This principle ensures that the process is conducted in a just and objective manner, while considering all relevant evidence and following established rules and procedures. The disciplinary body or tribunal must make decisions that are well-founded and can be justified, considering the facts and circumstances presented during the hearing. This

principle helps to safeguard the rights of the individuals involved and maintain transparency and accountability in the disciplinary process.

6.2.3. **Consistency.** In deciding on a sanction, the Council will ensure that similar offences, or acts of misconduct, should be treated alike, and different cases treated differently. This means if two educators are guilty of the same act of misconduct, they should, in theory, receive the same sanction.

6.2.4. **Deterrence.** In deciding the appropriate sanction, the Presiding Officer and Ethics Committee may consider the conduct of the educator to prevent recurrence. Deterrence is to also ensure other educators would be deterred from committing similar offences.

6.2.5. **Possibility of rehabilitation.** In determining the appropriate sanction, the Presiding Officer and Ethics Committee may consider whether an educator found guilty of violating SACE's Code of Professional Ethics would benefit from rehabilitative or corrective measures that would assist in improving an educator's conduct and skills in the workplace.

6.2.6. **Precedence with discretion.** In consideration of the decision to sanction an educator who has been found guilty, the Presiding Officer and Ethics Committee may consider treating similar offences the same way thus applying the same standard to all similar offences or measuring all by the same standard. This does not necessarily mean that the same sanction must be applied in every instance of the same act of misconduct, but that the same procedure must be applied in addressing similar instances of the same act of misconduct.

6.2.7. **Mitigation.** In considering the facts of the case, the Presiding Officer and/or Disciplinary Panel and Ethics Committee may consider the evidence presented to it by way of mitigation on behalf of the educator in question. Mitigation may consider:

- a) Character evidence and/or references;
- b) Time elapsed since the incident/s occurred;
- c) Any apologies to the complainant/person in question (remorse shown);
- d) Disability;
- e) Illness;

- f) Inexperience/vulnerability/duress/provocation;
- g) Surrounding circumstances including those leading up to the incident/s under consideration;
- h) Effort was made by the educator and/ or the employer to avoid recurrence of such behaviour;
- i) When considering character evidence or references submitted in mitigation by the registered educator, it is incumbent upon the Panel to give regard to how recent they are, the nature of the providers of the references, whether the providers were aware of the allegation(s) against the teacher and provided the reference or testimonial knowing that it would be used within the context of disciplinary proceedings.
- j) The extent to which mitigation should influence the Panel and Council's decision, is dependent on the individual circumstances of the case at hand and is at the discretion of the Panel and Council.

6.2.8. Aggravation. The Presiding Officer and/or the Disciplinary Panel and Ethics Committee may consider any aggravating factors, which have the effect of increasing the convicted educator's moral blameworthiness or his or her guilt. The Panel may also consider any aggravating factors in respect of the conduct of the registered educator such as:

- 6.2.8.1. The nature of the misconduct;
- 6.2.8.2. The severity of the educator's conduct;
- 6.2.8.3. The impact that the conduct of an educator had on an affected learner and/ or their family, another educator or member of the public, such as the extent of physical, emotional, financial or psychological harm suffered.
- 6.2.8.4. The vulnerability of those harmed, which would include, for example, personal circumstances such as age, disability, illness and poverty of a learner, other educator or member of the public;
- 6.2.8.5. Number of learners or colleagues that have been harmed by the educator in the incidence under investigation;
- 6.2.8.6. The seriousness of the matters at issue in the finding of professional misconduct;
- 6.2.8.7. Whether there has been an abuse of a position of trust and/or harm caused to a learner/colleague or other person;

- 6.2.8.8. Whether there is an indication of a pattern of behaviour (habitual) as opposed to an isolated event;
- 6.2.8.9. The extent to which the behaviour or act was deliberate and intended;
- 6.2.8.10. The character and previous history of the registered educator;
- 6.2.8.11. Preceding and/ subsequent conduct of the educator including bribery, intimidation, bullying, and further victimization of the learner

6.2.9. Consideration of the submissions of the victim and or complainant on the recommended sanction to be imposed

In all disciplinary procedures in which an educator is found guilty of misconduct which directly concern learner/s, the affected learner and / or their parents/ caregivers must be consulted on an appropriate sanction and be provided with a meaningful opportunity to make representations on an appropriate sanction. The views of the learner and / or their parents/ caregivers must therefore be taken into consideration before a sanction has been determined.

6.2.10 State of mind (Intent) In considering a sanction to impose on an educator found guilty of professional misconduct, the Panel and Council may consider the legal blameworthiness or the reprehensible state of mind or conduct of someone who has acted wrongfully in the sense of the educator's attitude or disposition in committing the professional misconduct.

- a) **Unintentional (accidental)** The educator could not foresee, and did not intend, the harm which is caused to a learner, colleague and any other person. The panel must consider the circumstances of each case to determine if the professional misconduct was unintended or a result of negligence. However, the educator guilty of professional misconduct ought to show that s/he attempted, albeit unsuccessfully, to comply with a duty in the Code of Professional Ethics and his or her attempt coincided with what the reasonable educator would have done, his or her unprofessional conduct is not accompanied by unreasonable negligent conduct and the damage or harm could not reasonably have been prevented, hence the educator may not be liable.
- b) **Negligent (careless)** The Panel or Council in reaching a sanctioning decision may consider whether the professional misconduct for which the

educator has been convicted was an unreasonable omission, commission, or violation of the Code of Professional Ethics or the Constitution. The conduct was wrongful according to the Code of Professional Ethics or the Constitution given that a legal duty or professional ethical duty rested on the educator to act positively to prevent the harm or injury and therefore neglected to comply with such duty.

- c) **Reckless (clearly should have known).** In deciding on a sanction, the Panel or Council may consider the degree of negligence if proof of the facts would go to show that the educator found guilty of professional misconduct foresaw the consequence of his or her conduct, but recklessly carried on with such conduct, regardless of the outcome, though it could have been avoided. A reasonable educator who is expected to uphold ethical standards and is in the register of fit to practice educators placed in the same circumstances ought to have acted differently.
- d) **Intentional (deliberate).** The Panel or Council, in deciding the sanction to impose on a convicted educator, may consider that his or her professional misconduct is a case of wilful violation of the Code of Professional Ethics or the Constitution. The educator foresaw that his or her conduct could possibly lead to the consequence – professional misconduct and foresaw that the consequences in the circumstances would possibly be wrongful and reconciled him or herself with these possibilities and still proceeded to commit the misconduct with the intention to cause foreseeable harm.

6.2.11 Previous sanctions. Having heard all the evidence presented at the enquiry and after the compilation of the report containing the findings by the Panel, the Panel must request to be informed about previous findings in relation to the convicted educator to reach a suitable sanctioning decision. The Panel may seek legal advice from an assessor to consider the weight to be attached to previous findings or sanctions.

6.2.12 The best interest of the child. The best interests of both the learners that have been harmed by an educator, as well as those in the care of an educator (as protected in section 28(2) of the Constitution) must be taken into consideration when determining an appropriate sanction.

7. SCHEDULE OF SANCTIONS OR OTHER CORRECTIVE MEASURES

The sanctions that Council may impose on an educator found guilty are as follows:

7.1 Official reprimand or censure

The Panel or Council may impose an official reprimand or censure/advisory letter where the professional misconduct for which the educator was found guilty is of a minor nature and there appears to be no continuing risk to the learners, other educators, the broader school community and where relevant, the public in general. Specific considerations for imposing this sanction include:

- a) The educator demonstrates willingness to comply with directions and advice provided by Council
- b) Failure or conduct in question is the result of unavoidable accident
- c) Conduct was not in deliberate disregard of professional obligations in terms of the Code of Professional Ethics
- d) The period over which misconduct took place was short and it was stopped as soon as possible.
- e) There has been early and genuine remorse directed towards the misconduct that had been committed
- f) There has been no or very little adverse consequence – it has not caused material distress, inconvenience or loss
- g) There has been an early admission and acceptance of guilt by the educator.
- h) There has been a consequence management process conducted by the employer such that the outcome is satisfactory to Council.
 - i) Council may recommend, where applicable, that the educator/s found guilty be subjected to a remedial or corrective SACE endorsed programme at his/her own cost.

7.2 Fine

The Panel may recommend, and Council may impose, a fine of not more than one month's salary where:

- a) It is the only means available if:
 - i. Deterrence cannot be effectively achieved by issuing another sanction such as reprimand or severe reprimand alone
 - ii. The educator has derived any financial gain or benefit

- iii. The educator could have avoided loss as a result of unprofessional conduct
 - iv. Whether the educator caused or encouraged other individuals to commit reprehensible conduct.
- b) A fine may be imposed on an educator as a stand-alone sanction or can be made in conjunction with all other available and appropriate sanctions, including suspended removal having regard to the nature and circumstances of each case.
 - c) The conduct for which this sanction is imposed is no longer a threat to learners and a fine is a reasonable sanction in this context.

7.3 Removal from the register of educators i.e. (Suspended Removal; Removal for a Period and Removal Indefinitely)

7.3.1. The Presiding Officer and/or Disciplinary Panel may recommend, and Council may take the decision of, removal of an educator from the register where it is appropriate, namely where:

- a) It is the only means available of protecting the public, in particular learners and teachers, and of maintaining public confidence in the teaching profession The finding or findings indicate a serious violation of
- b) the Code of Professional Ethics and are fundamentally incompatible with what is required of a registered educator There was evidence of harmful deep-seated personality or attitudinal problems. The continuing presence
- c) of the educator potentially presents a threat to the schooling community, and particularly the learners in that community.
- d)

7.3.2. Once a registered educator's name is removed from the register, he or she may not be eligible to apply to be readmitted on the register before the expiration of a specified period, as determined by the Council.

7.3.3. Whether removal is appropriate will depend on the particular facts of each case.

The Panel should consider this guidance, including the factors outlined in clause 6 above when deciding whether it is sufficient to remove a teacher from the register.

7.3.4. Council may recommend that the educator found guilty be subjected to a remedial or corrective SACE endorsed professional development programme at his/her own cost.

7.4. Rehabilitative and / or Corrective Sanctions

7.4.1 The Panel may recommend, and the Council may take the decision, that a corrective and/ or rehabilitative sanction should be imposed on an educator found guilty of professional misconduct.

7.4.2 This sanction is aimed at improving and adjusting the educator's current behaviour or attitude by equipping the educator with the necessary tools and knowledge to prevent misconduct in the future. This may include educator training on, for example, anger management, training on SACE's Code of Professional Ethics, training on sexual harassment and/ or non-violent forms of discipline.

7.4.3 This sanction may be imposed together with any of the sanctions listed above, except where an educator is permanently removed from the roll, and is appropriate where:

- a) There is a risk that an educator's misconduct may be repeated; An educator's
- b) misconduct can be rectified and prevented through technique or behavioural changes; and There is a reasonable view that the personal development
- c) programme is an appropriate corrective measure, and the educator is unlikely to threaten the well-being of learners at the school.

7.5 RESTORATIVE JUSTICE INTERVENTIONS

7.5.1 Owing to the breakdown in the trust relationship between the educator, learner and family, as well as the need to restore the faith of the learner and community in the teaching profession, educators must engage in restorative justice interventions. This can be done in person or in writing, where the educator can apologise for their conduct.

8. MANDATORY REFERRAL OF AN EDUCATOR TO THE DEPARTMENT OF SOCIAL DEVELOPMENT TO BE PLACED ON THE CHILD PROTECTION REGISTER

- 8.1. In accordance with section 120(1)(c) of the Children's Act, when an educator is found by SACE to be unsuitable to work with children, SACE must immediately refer such an educator to the Department of Social Development to be placed on Part B of the Child Protection Register (CPR).

SANCTIONING DECISION PROCESS FLOW CHART

9. SANCTIONING OF ETHICAL VIOLATIONS

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS		SANCTIONING
CONTRAVENTIONS RELATED TO SEXUAL ACTIVITIES	Proposing love and/or attempting to and/or Soliciting a Love Relationship, to a learner	Removal of an educator's name from the register of educators as held by SACE, with the educator suspended for a period of 15 (Fifteen) years and a fine of a monthly salary payable within a period of twelve (12) months.
	Malicious Communication; Cyberbullying on Denotes media towards the learners, other educators, as held and administered by SACE for a minimum of 20 (Twenty) years of the broader school community and where relevant, which the educator can reapply for readmission and his admission shall the general public depend on the documents of evidence of rehabilitation and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c). Council reserves the right to admit such an educator after serving the period of removal.	
	Sexual Relationship with a learner/s.	Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c).

		<p><i>Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i></p>
	<p>Sexual harassment of the learners, other educators, the broader school community and where relevant, the general public.</p>	<p><i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c).</i></p> <p><i>Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i></p>
	<p>Sexual assault on the learners, other educators, the broader school community and where relevant, the general public.</p>	<p><i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c).</i></p> <p><i>Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i></p>

	<p>Indecent assault of the learners, other educators the broader school community and where relevant the general public.</p>	<p><i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(d). Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i></p>
	<p>Sexual Intercourse with a learner/s.</p>	<p><i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(d). Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i></p>
	<p>Statutory Rape.</p>	<p><i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c). Council may open a criminal case against the educator on establishing the alleged abuse during the investigation phase as per the Criminal Law</i></p>

		(Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).
	Rape of the learners, other educators, the broader school community and where relevant, the general public.	<i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c)) and (2)(c). Council may open a criminal case against the educator on establishing theallegedabuse duringthe investigation phaseasper the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i>
	Displaying/showing pornography to the learners, other educators, the broader school community and where relevant, the general public.	<i>Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120(1)(c) and (2)(c). Council may open a criminal case against the educator on establishing theallegedabuse duringthe investigation phaseasper the Criminal Law (Sexual Offence and Related Matters) Amendment Act 32 of 2007, Sec. 54(1)(a).</i>

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS		SANCTIONING
CONTRAVENTIONS RELATED TO ASSAULT (INCLUDING THE ADMINISTERING OF CORPORAL PUNISHMENT)	Attempts and/or Threatening to Assault the learners, other educators, the broader school community and where relevant, the general public	Removal of an educator's name from the register of educators as held by SACE , which Removal is suspended for a period of ten (10) years , with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of R15000.00 payable within a period of twelve (12) months . * Rehabilitative and/ or corrective sanctions such as anger management, training on non-violent discipline techniques, or any other SACE endorsed remedial professional development programme are to be imposed where recurrence of unprofessional behaviour is established
	Common Assault on to the learners, other educators, the broader school community and where relevant, the general public	Removal of an educator's name from the register of educators as held by SACE , which Removal is suspended for a period of Fifteen (15) years , after the successful completion of rehabilitative and or corrective sanctions such as anger management, training on non-violent discipline techniques, or any other SACE endorsed remedial professional development programme, if the educator is not found guilty of a similar contravention and a fine of a monthly salary payable within a minimum period of twelve (12) months .
	Assault with intent to do Grievously Bodily Harm on the learners, other educators, the	Removal of an educator's name from the register of educators as held and administered by SACE indefinitely without an option of reapplying for readmission and the name be submitted to the Department of Social Development as per the Children's Act 38 of 2005, Sec. 120 (1)(c) and (2)(c)

	broader school community and where relevant, the general public.	
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CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS		SANCTIONING
CONTRAVENTIONS RELATED TO DISHONESTY	Withholding relevant information	<i>Removal of an educator's name from the register of educators as held by SACE</i> , which Removal is suspended for <i>ten (10) years</i> with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of <i>R15 000.00</i> payable within <i>twelve (12) months</i> .
	Failure to comply ; disclose and cooperate with the council and/or authority which Removal is suspended for <i>ten (10) years</i> with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of <i>R15 000.00</i> payable within <i>twelve (12) months</i> .	<i>Removal of an educator's name from the register of educators as held by SACE</i> , with which Removal is suspended for <i>ten (10) years</i> with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of <i>R15 000.00</i> payable within <i>twelve (12) months</i> .
	Disclosure of important and sensitive information	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely without an option of readmission.</i>

	Falsifying information and/or statements and/or documents	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely without an option of readmission.</i>
	Corruption with regard to examination or promotional reports	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely without an option of readmission.</i>
	Bribery and/or Soliciting of Bribe	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely without an option of readmission.</i>

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS		SANCTIONING
CONTRAVENTIONS RELATED TO PROFESSIONALISM	Insubordination (defiance, disobeying lawful and reasonable instructions, undermining the authority of the school principal and/or employer's authority) guilty of a similar contravention	<i>Removal of an educator's name from the register of educators as held by SACE, which Removal is suspended for ten (10) years with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of R10 000.00 payable within twelve (12) months.</i>
	Insolence (disrespect, rudeness, abusive language, cheekiness) towards the learners, educators, the broader school community and where relevant, the general public.	<i>Removal of an educator's name from the register of educators as held by SACE, which Removal is suspended for ten (10) years with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of R10 000.00 payable within twelve (12) months.</i>

	Intimidation/Harassment/Humiliation/ Removal of an educator's name from the register of educators as held by SACE, Threats of the learners, other educators, the which Removal is suspended for ten (10) years with a view that the educator is not found broader school community and where guilty of a similar contravention and a fine of a minimum of R25 000.00 or a Month Salary relevant, the general public. payable within twelve (12) months .	<i>*Rehabilitative and/ or corrective sanctions such as anger management, training on non-violent discipline techniques, or any other SACE endorsed remedial professional development programme are to be imposed where recurrence of unprofessional behaviour is established</i>
	Employment of Unregistered and/or unqualified Educators or Persons to which Removal is suspended for ten (10) years with a view that the educator is not found execute the responsibilities of an Educator guilty of a similar contravention and a fine of a minimum of R25 000.00 or a Month Salary as per the PAM Document. payable within twelve (12) months .	
	Poor performance (other than incapacity)	<i>*Removal of an educator's name from the register of educators indefinitely</i>

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS	SANCTIONING
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CONTRAVENTIONS RELATED TO ALCOHOL AND DRUG ABUSE	Reporting for duty whilst under the influence of alcohol	<i>Removal of an educator's name from the register of educators as held by SACE</i> , which removal is suspended for enT (10) years with a view that the educator is not found guilty of a similar contravention and a fine of a minimum of <i>R10000.00</i> payable within <i>twelve (12) months</i> .
	Consumption of alcohol with learners, other educators, the broader school community and where relevant, the general public on the school premises and/or whilst on duty.	<i>Removal of an educator's name from the register of educators as held by SACE</i> for a <i>minimum of ten (10) years</i> of which the educator may reapply for readmission. The Council reserves the right to admit such an educator.
	Intake of illegal drug/s with the learners, other educators, the broader school community and where relevant, the general public in the school premises and/or whilst on duty	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely.</i>
	Severe alcohol/drug abuse	<i>Removal of an educator's name from the register of educators indefinitely</i>

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS	SANCTIONING
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CONTRAVENTIONS RELATED TO DANGEROUS WEAPONS	Carrying any dangerous weapons other than a firearm	<i>Removal of an educator's name from the register of educators as held by SACE for a minimum of ten (10) years of which the educator can reapply for readmission. The Council reserves the right to admit such an educator.</i>
	Carrying and/or displaying a firearm without authorisation	<i>Removal of an educator's name from the register of educators as held by SACE indefinitely, without an option of readmission.</i>

CONTRAVENTIONS OF THE CODE OF PROFESSIONAL ETHICS		SANCTIONING
CONTRAVENTIONS RELATED TO DISCRIMINATION	Unfair and/or Unjust Discrimination actions towards the learners, other educators, the broader school community and where relevant, the general public. in terms of age; nationality; pregnancy; religion and equal pay; race, gender, ethnic or social origin, colour, sexual orientation, disability, etc	<i>Removal of an educator's name from the register of educators as held by SACE for a period of ten (10) years but suspended with a fine ranging from R10 000.00 to R30 000.00 and/or a Removal of an educator's name from the register of educators as held by SACE for a period. The council reserves the right to admit such an educator.</i>

10 REVIEW AND APPROVAL

10.1 This policy must be reviewed and approved after two years, or as and when the need arises.

10.2 This Policy must be approved by the Council.

RANK	NAME	SIGNATURE	DATE
CEO: SACE	Ms ME Mokgalane		17 September 2024
COUNCIL CHAIRPERSON	Mr. LGM Cele		17 September 2024