**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION 3692**

**DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 10/11/2017**

**INTERNAL QUESTION PAPER: 42/2017**

**3692. Ms H S Boshoff (DA) to ask the Minister of Basic Education:**

With reference to her reply to question 2503 on 19 September 2017, what are the details of cases in which the physical abuse of learners is not considered a criminal offence? NW4123E

**REPLY**

It is acknowledged that under common law physical abuse is classified as a criminal offence. This means that the listing of an educator’s name on the Register depends on the gravity of the sanction imposed against the educator for an offence he/she committed against a child. If an educator has physically abused a child, which abuse resulted in the child receiving medical attention/treatment, such an educator will be charged with a criminal offence by the South African Police and if found guilty by the court of law and convicted, then that person’s name will automatically be listed in the Register. In that case, the employer cannot overrule the decision of the court of law and therefore will also find the educator guilty of the alleged offence and dismissal is the only sanction for such an offence. In that case where an educator was found guilty of physical abuse against a child and dismissed, such educator’s name submitted by the employer to the Department of Social Development for listing on the National Child Protection Register.

However, in a case where an educator was found guilty of physical abuse by the employer or SACE during the disciplinary hearing, and the sanction imposed was not dismissal, (depending on the severity of the abuse) that person’s name is not listed in the Register. E.g. in a case where an educator used an open hand on the child’s back leaving the child with no finger marks or any mark related to the abuse, the educator may be given a final written warning as a sanction.