

**PREVENTION OF AND TREATMENT FOR SUBSTANCE ABUSE
BILL [B12-2008]**

Introduction

EDUCATION

This Bill focuses primarily on the social impact of substance abuse and provides appropriate intervention structures, including interventions on the part of the Department of Social Development.

The education departments (one national and nine provincial departments) are the primary bodies that are involved in dealing with the problem of substance abuse at schools and educational institutions. Legal and policy frameworks have been developed to structure the approach in education when dealing with the matter.

Policy and laws dealing with substance abuse at schools

The first policy promulgated in education in relation to the matter was the National Policy on the Management of Drug Abuse by Learners in Public and Independent Schools and Further Education and Training Institutions. This policy aimed to create a safe and disciplined learning environment and to recognise how drug abuse in education institutions undermined the successful delivery of quality education. The guiding principles of the policy, which differentiated between habitual abuse of drugs and drug dealing, were the following:

“GUIDING PRINCIPLES

13. The possession, use or distribution of illegal drugs, and the inappropriate possession, use or distribution of legal drugs, including alcohol and tobacco, is prohibited in South African Schools and this message should be delivered clearly and consistently within our school communities.
14. It is the Ministry’s intention that all South African schools should become tobacco, alcohol and illicit drug-free zones.
15. All learning institutions should have clear policies on both prevention and intervention, underpinned by a restorative supportive orientation. These policies and procedures should be clearly communicated and disseminated to the school community in a culturally appropriate and inclusive way and should give priority to:
 - a) Developing safe and supportive school environments that value human dignity and celebrate innocence;
 - b) Educating the entire school community regarding drugs and the abuse thereof;
 - c) Developing a range of responses, for managing drug related incidents within the school, taking into account confidentiality, the nature of the incident, the circumstances of the learners involved, and the needs and safety of the school community;
 - d) Building capacity by giving educators, particularly those working with drug related incidents, access to professional development opportunities, provided by Provincial Departments of Education, other government departments or private providers;
 - e) Regular monitoring and evaluation of policies and procedures for managing drug related incidents in schools.”

This policy prohibited drug testing and search and seizure procedures – a position that was amended by the Regulations for Safety Measures at Public Schools and the amendments thereto, and by recent amendments to the South African Schools Act, 1996.

The original policy required a strategy of education and prevention, and provided as follows:

“EDUCATION AND PREVENTION

Learners

22. The objective of preventive education is to negate, counteract or delay the likelihood experimentation with drugs by providing information about the dangers of their use and misuse, as well as to encourage those who are experiencing problems to get the help they need.
23. Drug education, included in the Learning Area of Life Orientation in the Revised National Curriculum Statement for Grades R to 9 and the National Curriculum for FET, will ensure that learners and students acquire age-and context-appropriate knowledge and skills, in order for them to adopt and maintain life skills and behaviour that will protect them from drug use, misuse and dependency.
24. Schools and institutions should, as far as possible, involve outside organizations specialising in drug education and intervention and other associated programmes to augment the education provided by the school-based educators.

Parents/Guardians

25. Education and information on drug use, misuse and dependency as well as the policy of the school or institution concerning drug abuse should be made available to all parents/guardians of learners, as well as learners themselves, upon first registration at a school. Schools need to regularly interact with parents/guardians on drug abuse through workshops and information sharing sessions.

Educators

26. Training should be provided for all educators on drug use, misuse and dependency management, and support provided where appropriate.
27. Appropriate course content should be developed for the pre-service and in-service training of educators to cope with drug related incidents within the schools.

Intervention

28. Each case will be considered on its individual merits taking into account:
- The nature of the incident
 - The learner/student’s school and family history
 - Cultural background
 - Mental Health and intellectual ability
 - Any other relevant information
29. The Ministry of Education will support learners who want or need help, through an approach that is both restorative and supportive.

30. Learners and students who have experienced or are experiencing problems as a result of alcohol and drug use, misuse or dependency and accept treatment, will be entitled to appropriate assistance, and should not be denied the opportunity to receive an education or the right to reintegration into the same school community. However if such reintegration is deemed by the SGB and school management to be detrimental to the safety and discipline of the school the learner should be assisted in finding an alternative school.
-
31. In cases where the learner does not wish to make use of such help offered to him or her, or is found guilty of dealing in drugs the Provincial Departments of Education will have no choice but to take the necessary disciplinary action, which may include suspension or expulsion, as determined by relevant legislation. These measures should be integrated into a structured intervention involving the learner and the parents/guardian to encourage compliance, allowing the learner to be suspended pending enrollment in an appropriate rehabilitation or relapse prevention programme.”

Each school must have a management plan to combat drug abuses.

The South African Schools Act provides that the principal of a school may perform random search and seizure and may at random administer a drug test to learners who are reasonably suspected of using drugs or being in possession of drugs. This provision lists the procedures that must be followed and the criteria for performing the procedures. It provides that the search and seizure may take place only on reasonable suspicion that a group of learners is in possession of drugs. Random drug testing may be performed on a group of learners that is reasonably suspected of using drugs. This test must be a urine test or other non-invasive test prescribed by the Minister for the purpose. The procedures prescribed by the Act will ultimately be linked to the Code of Conduct for learners, which may involve disciplinary sanctions or treatment through counselling.

In 2001 and 2006, the Minister of Education promulgated Regulations for Safety Measures at Public Schools (Regulations 22754 of 12 October 2001 and 29376 of 10 November 2006). These Regulations, which were copied and published for independent schools as well, declare all schools to be drug-free, alcohol-free and dangerous-object-free zones. They prohibit the possession of illegal drugs on school premises, and they prohibit persons under the influence of an illegal drug or of alcohol from entering the school. They further provide that police officers may search any school without a warrant if there is a reasonable suspicion that drugs may be present at the school. The Regulations further provide for the searching of a person on the school premises and for the seizure of any drugs.

Comments on the Bill

The Bill is supported, as it complements the policy and legislative frameworks of education. It strives to ensure a drug-free society and to achieve its goals through intended intervention on the part of all government departments and key stakeholders. The Objects of the Act, as contained in Clause 2, are fully supported. The creation and implementation of a National Drug Master Plan is especially welcomed.

Clause 3 deals with substance abuse. The development of programmes according to the principles of prevention, treatment, aftercare and reintegration is supported. However, the references to accreditation in subclauses (3) and (4) are confusing and seem to be misplaced. It is not clear whether these programme will be qualifications or practical intervention programmes to provide the skills necessary for handling the situation of stage of treatment. The South African Qualifications Authority deals with qualifications or parts of qualifications that are

registered on the National Qualifications Framework. Currently, the functions of setting standards for qualifications and quality assuring qualifications as regulated under that Act. (This Act is in the process of being repealed and replaced by the National Qualifications Framework Act (a Bill of 2008)). It is recommended that subclauses (3) and (4) be deleted.

Clause 5 is supported.

Clause 6(a) should recognise the educational needs of, especially, children, and the word “educational,” should be inserted in line 24 before “school”. It is further recommended that a new paragraph (f) should be inserted to read as follows:

“(f) coordinate the educational needs of children with the relevant education department.”

Clauses 7 to 10 are supported.

Clauses 11 to 24

These clauses are supported in principle, but the requirement for registration of the treatment centre and halfway house must have a condition that children must be cared for separately from adults in such facility. It is further noted that the list of occupations mentioned in clause 18 seems to be very prescriptive without providing reasons why only those listed can be managers.

Clause 19 needs to be reconsidered, as a programme contemplated in section 3 (clause 3) does not prescribe powers and functions. Legislation

should bring clarity on the content of power and functions and not a programme.

Clauses 25 to 27 are supported.

Clauses 28 to 46 are supported.

Clauses 47 and 48

Supported; however, they should clearly state that discipline cannot include corporal punishment.

Clause 49

The reference to a person "seconded" by the various departments is confusing. Secondment has a full-time utilisation by another employer. It is not certain why the member cannot represent a departmental member to the provision in paragraph 2(q) and (r).

Clauses 50 to 52 are supported.

Clause 53

Subclause (2) should be a "must" provision. Paragraph (2)(a) should refer to "relevant" instead of "various" government departments.

Clauses 54 to 63 are supported.