

## **EDUCATION LAW MCQ EXAM PACK**

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**According to Bray E 'The constitutional concept of co-operative government and its application in education' (2002) Journal for Contemporary Roman-Dutch Law, in the concurrent functional area of education ...**

(1) national government participates on a limitless basis in decision-making in provincial government.

**(2) national government is obliged to assist provincial government and under certain narrowly defined circumstances, national government may intervene in provincial government affairs.**

(3) national government may never delegate powers to provincial government to facilitate co-operation.

(4) the magistrates' courts have a determinant role to play in overseeing and enforcing cooperative government and cultivating a culture of co-operative government.

**Fill in the missing word or words: The ... is liable for any delictual or contractual damage or loss caused as a result of any act or omission in connection with any school activity conducted by a public school and for which such public school would have been liable but for the provisions of this section (i.e. section 60(1)(a) of the South African Schools Act 84 of 1996).**

**(1) state**

(2) provincial department of education

(3) Director-General: Basic Education

(4) Head of Education Departments Committee

**Fill in the missing words: In The Western Cape Minister of Education v The Governing Body of Mikro Primary School 2005 (10) BCLR 973 (SCA), the court alluded to the responsibility of the ... to provide public schools for the education of learners out of funds appropriated for this purpose by the provincial legislature.**

**(1) Member of the Executive Council (MEC)**

(2) Minister of Basic Education

(3) Head of Department (HoD)

(4) Council of Education Ministers

**According to sections 29(3) and (4) of the Constitution of the Republic of South Africa, 1996 ...**

(1) everyone has the right to establish and maintain, at their own expense, independent educational institutions that discriminate on the basis of race.

**(2) everyone has the right to establish and maintain, at their own expense, independent educational institutions that are registered with the state.**

(3) everyone has the right to establish and maintain, at their own expense, independent educational institutions that maintain standards that are inferior to standards at comparable public educational institutions.

(4) the right to establish and maintain independent educational institutions precludes state subsidies for independent educational institutions.

**Indicate which statement is NOT correct. According to the South African Schools Act 84 of 1996 ...**

(1) the governing body of a public school must support the principal, educators and other staff of the school in the performance of their professional functions.

(2) the Head of Department may suspend or terminate the membership of a governing body member for a breach of the code of conduct after due process.

**(3) before merging two or more public schools the Member of the Executive Council must give verbal notice to the schools in question of the intention to merge them.**

(4) the governing body of a public school must determine times of the school day consistent with any applicable conditions of employment of staff at the school.

**Fill in the missing word or words: In *Antonie v Governing Body, Settlers High School, and Others* 2002 (4) SA 738 (C), the applicant sought on review to set aside the first respondent's decision finding her guilty of serious misconduct and ... her for a period of five days.**

**(1) suspending**

(2) withdrawing her privileges

(3) expelling

(4) assigned extra work to

**Fill in the missing word: According to Joubert R & Bray E "Public school admission policy: theory and practice" (2007) Public school governance in South Africa language, language tests, school zoning and school fees are frequently used as discriminatory factors when determining and administering public school ... policy.**

(1) language

(2) disability

**(3) admission**

(4) anti-bullying

**In terms of the National Education Policy Act 27 of 1996 ...**

(1) subject to the Constitution, provincial policy shall prevail over the whole or a part of any national policy on education if there is a conflict between the national and provincial policies.

**(2) the objectives of the Act are to provide for – the determination of national education policy by the Minister in accordance with certain principles; the consultations to be undertaken prior to the determination of policy, and the establishment of certain bodies for the purpose of consultation; the publication and implementation of national education policy; and the monitoring and evaluation of education.**

(3) the Minister shall within 21 working days after determining policy in terms of section 3 – give notice of such determination in a national newspaper and indicate in such notice where the policy instrument issued with regard thereto may be obtained.

(4) the Minister shall direct that the standards of education provision, delivery and performance throughout the province of KwaZulu-Natal, be monitored and evaluated by the Department monthly or at other specified intervals, with the object of assessing progress in complying with the provisions of the Constitution and with national education policy.

**In *Seodin Primary School and Others v MEC, Northern Cape and Others* 2006 (4) BCLR 542 (NC), one relief sought by the applicants was that the first and second respondents acted ultra vires their powers and contrary to the provisions of section 6(2) of the South African Schools Act 84 of 1996 by unilaterally laying down ... for the applicant-schools.**

(1) an admission policy

(2) a uniform policy

(3) an attendance policy

**(4) a language policy**

**Indicate which statement is NOT correct. According to the Admission Policy for Ordinary Public Schools Notice 2432 of 1998 ...**

- (1) when a learner transfers from one public school to another, the principal must complete a transfer card and hand it to the parent, or forward it to the principal of the receiving school.
- (2) if a learner has been admitted to a public school at an age above the age norm for a grade, such learner must, as far as possible, be placed in a fast track facility, or with his or her peer group, unless it is not in the educational interest of the learner.

**(3) the Minister of Basic Education must inform all parents of learners admitted to a school of their rights and obligations in terms of the South African Schools Act, 1996, and any applicable provincial law.**

- (4) a parent must complete an application form for admission, which should be made available to him or her by the principal of the school together with the admission policy and the code of conduct for learners of the school.

**According to the South African Schools Act 84 of 1996 ...**

**(1) a recognised sign language has the status of an official language for purposes of learning at a public school.**

- (2) member of staff means any person receiving education or obliged to receive education in terms of this Act.
- (3) every educator must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of seven years until the last school day of the year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.
- (4) a governing body may suspend or extend the suspension of a learner for a period not longer than 30 days pending the decision by the Head of Department whether or not to expel such learner from the public school.

**Fill in the missing case name: In ... the defence argued that “the Afrikaner people, as a minority, have an unquestionable and inalienable right to self-determination. This includes the right freely to determine their political status and to pursue their economic, social and cultural development with due regard to their freedom and identity and in equal enjoyment of the common heritage of mankind. The State has a duty to ensure the exercise of their right to development.”**

- (1) Seodin Primary School and Others v MEC, Northern Cape and Others 2006 (4) BCLR 542 (NC)
- (2) Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another 2010 (2) SA 415 (CC)

**(3) Matukane and Others v Laerskool Potgietersrus 1996 (3) SA 223 (TPD)**

- (4) The Western Cape Minister of Education v The Governing Body of Mikro Primary School [2005] 3 All SA 436 (SCA)

**Fill in the missing word or words: The ... of a school refers inter alia to the determination of school policy.**

- (1) professional management
- (2) administration
- (3) micro management

**(4) governance**

**According to the National Policy on HIV/AIDS, for Learners and Educators in Public Schools, and Students and Educators in Further Education and Training Institutions ...**

- (1) within the context of sexual relations, the risk of contracting HIV/AIDS is insignificant.
- (2) learners, students, educators and other staff with HIV/AIDS should be treated in an unjust, inhumane and life-threatening way.
- (3) learners and students with HIV/AIDS must attend a special school or institution for learners and students with HIV/AIDS.

**(4) all educators should be trained to give guidance on HIV/AIDS.**

**Fill in the missing word or words: In Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another 2010 (2) SA 415 (CC) the school was an ... medium public school.**

(1) Afrikaans/siSwati

**(2) Afrikaans**

(3) English

(4) Afrikaans/English parallel

**Indicate which statement is NOT correct. According to the Norms and Standards regarding Language Policy published in terms of section 6(1) of the South African Schools Act 84 of 1996 ...**

(1) the parent exercises the minor learner's language rights on behalf of the minor learner.

**(2) where no school in a school district offers the desired language as a medium of learning and teaching, the learner may request the national education department to make provision for instruction in the chosen language.**

(3) where a school uses the language of learning and teaching chosen by the learner, and where there is place available in the relevant grade, the school must admit the learner.

(4) the learner must choose the language of teaching upon application for admission to a particular school.

**Fill in the missing word or words: A ... must contain provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.**

(1) contract

**(2) code of conduct**

(3) preamble

(4) mission statement

**In which one of the following cases did the court decide that the evidence showed that the nose-stud was not a mandatory tenet of the learner's religion or culture, but was a voluntary expression of South Indian/Tamil/Hindu culture?**

(1) Antonie v Governing Body, Settlers High School, and Others 2002 (4) SA 738 (C)

(2) Prince v President of the Law Society of Cape of Good Hope and Others 2000 (7) BCLR 823 (SCA)

**(3) MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC)**

(4) Wittman v Deutscher Schulverein 1998 (4) SA 423 (T)

**According to the South African Schools Act 84 of 1996 ...**

(1) a member of a governing body who is a minor may vote on resolutions of a governing body which impose liabilities on third parties or on the school.

(2) the Minister of Basic Education may, by notice in the Provincial Gazette, close a public school.

(3) a representative council of learners at the school must be established at every public school enrolling learners in the first grade or higher, and such council is the only recognised and legitimate representative learner body at the school.

**(4) a governing body of a public school must take all reasonable measures within its means to supplement the resources supplied by the State in order to improve the quality of education provided by the school to all learners at the school.**

**In which one of the following cases did the appellants rely on various verses in the Bible, which in their opinion required its community members to use corporal correction?**

(1) *S v A Juvenile* 1990 (4) SA 151 (ZS)

**(2) *Christian Education South Africa v Minister of Education* 2000 (10) BCLR 1051 (CC)**

(3) *Campbell and Cosans v United Kingdom* (1980) 3 E.H.R.R. 531

(4) *S v Williams and Others* 1995 (7) BCLR 861 (CC)

### TL201-1-2017

**The Constitution of the Republic of South Africa, 1996 makes provision for ...**

(1) parliamentary sovereignty.

**(2) the sharing of powers (concurrently) in certain functional areas.**

(3) uncooperative government.

(4) the role of “private administration” in delivering a public (education) service.

**In which ONE of the following cases did the court decide that the authority of the Head of Department (HoD) to revoke a function conferred by section 22(1) of the South African Schools Act 84 of 1996 was broad, in the sense that it related to any function of a governing body (including the determination of a language policy) conferred by the Schools Act or any provincial law.**

**(1) *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC)**

(2) *Mfolo v Minister of Education, Bophuthatswana* 1994 (1) BCLR 136 (B)

(3) *Jaftha v Schoeman and Others; Van Rooyen v Stoltz and Others* 2005 (2) SA 140 (CC)

(4) *Minister of Education v Harris* 2001 (11) BCLR 1157 (CC)

**Section 29 of the Constitution of the Republic of South Africa, 1996 ...**

**(1) makes provision for the right to a basic education.**

(2) refers to all universally accepted education rights.

(3) makes provision for compulsory education.

(4) guarantees a right to free education.

**According to the South African Schools Act 84 of 1996 ...**

(1) every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of five years until the last school day of the year in which such learner reaches the age of eighteen years or the twelfth grade, whichever occurs first.

**(2) No learner may be refused admission to a public school on the grounds that his or her parent – (a) is unable to pay or has not paid the school fees determined by the governing body under section 39; (b) does not subscribe to the mission statement of the school; and (c) has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the learner.**

- (3) a learner may never be exempted entirely, partially or conditionally from compulsory school attendance.
- (4) any person may conduct or participate in any initiation practices against a learner at a school or in a hostel accommodating learners of a school.

**According to Joubert R & Bray E “Public school admission policy: theory and practice” (2007) *Public school governance in South Africa* ...**

- (1) admission tests must be used by all public schools to determine the academic competency of a learner.
- (2) school feeder zones are instituted to control learner behaviour at school and to co-ordinate parental preferences.

**(3) an admission policy cannot unfairly discriminate (directly or indirectly) against any learner on any ground listed in the equality clause (section 9) of the Bill of Rights.**

- (4) once school fees have been determined and parents become responsible for the payment of such fees, the principal may enforce such payment by legal means.

**Indicate which statement is NOT correct. According to Bray E “The constitutional concept of co-operative government and its application in education” (2002) *Journal for Contemporary Roman-Dutch Law* ...**

- (1) education is vitally important for meaningful human existence: it enables individuals to develop whole and mature personalities, and empowers them to fulfil roles that are self-enriching and beneficial to society.

**(2) education (excluding tertiary education) has been designated as a “concurrent” functional area, for which the national, provincial and local governments are responsible.**

- (3) education is characterised by a number of activities, but in essence it fulfils both a socialisation and qualification (accreditation) function.
- (4) education is without any doubt an integral part of the socio-economic, cultural and political character of the community it serves.

**Fill in the missing word or words: In *The Western Cape Minister of Education v The Governing Body of Mikro Primary School* [2005] 3 All SA 436 (SCA), the court stated by way of introduction that the ... has an obligation to promote democratic transformation of the education system in line with the constitutional imperatives.**

- (1) Member of the Executive Council (MEC)
- (2) principal

**(3) state**

- (4) Head of Department (HoD)

**One of the functions of the Council of Education Ministers is to ...**

**(1) share information and views on all aspects of education in the Republic.**

- (2) promote a provincial education policy which takes full account of the policies of the government, the education interests and needs of the provinces, and the respective competence of Parliament and the provincial legislatures in terms of section 146 of the South African Schools Act 84 of 1996.
- (3) co-ordinate action on matters of mutual interest to the national and local governments.
- (4) facilitate the development of a national education system in accordance with the objectives and principles provided for in the National Education Policy Act 27 of 1996 and share information and views on provincial education.

**Fill in the missing word: According to the South African Schools Act 84 of 1996, a ... object means “any explosive material or device; any firearm or gas weapon; or any**



article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious”.

- (1) harmless
- (2) safe
- (3) legal

**(4) dangerous**

In which ONE of the following cases did the court decide that section 29(2) of the Constitution of the Republic of South Africa, 1996 entrenches the right of a learner to receive education in an official language of choice at public educational institutions, regard being had to practicability?

(1) *Matukane and Others v Laerskool Potgietersrus* 1996 (3) SA 223 (TPD)

**(2) Seodin Primary School and Others v MEC, Northern Cape and Others 2006 (4) BCLR 542 (NC)**

(3) *Prinsloo v Van der Linde and Another* 1997 (6) BCLR 759 (CC)

(4) *Moletsane v The Premier of the Free State* 1996 (2) SA 95 (O)

Fill in the missing words: The ... provides that no one may be a judge in his or her own cause.

(1) *audi alteram partem* rule

**(2) *nemo iudex in sua causa* rule**

(3) South African Schools Act 84 of 1996

(4) National Education Policy Act 27 of 1996

Indicate which statement is NOT correct. In terms of section 2(1) of the regulations relating to serious misconduct of learners and published as Provincial Notice (PN) 372 of 1997 on 31 October 1997, a learner at a school who ... shall be guilty of serious misconduct.

- (1) has been repeatedly absent without leave from school and/or classes
- (2) is guilty of assault, theft or immoral conduct
- (3) used or had in his or her possession intoxicating liquor or other drugs on the school grounds or during a school activity

**(4) has been convicted by a court of a criminal offence and sentenced to imprisonment with the option of a fine**

According to the National Policy on HIV/AIDS, for Learners and Educators in Public Schools, and Students and Educators in Further Education and Training Institutions ...

(1) learners and students may receive education about HIV/AIDS and abstinence in the context of life-skills education on an infrequent basis.

(2) any person to whom any information about the medical condition of a learner, student or educator with HIV/AIDS has been divulged, must distribute the information to the entire school body for purposes of promoting a safe school environment.

**(3) no learner, student or educator may participate in contact sport with an open wound, sore, break in the skin, graze or open skin lesion.**

(4) all public schools must require an applicant for a job to undergo an HIV test before he or she is considered for employment.

In which ONE of the following cases did the court hold that “it would be perfectly correct for a school, through its code of conduct to set strict procedural requirements for exemptions”? “It would also be appropriate for the parents and, depending on their age,



**the learners to be required to explain in writing beforehand why they require an exemption” (at para 110).**

(1) *Antonie v Governing Body, Settlers High School, and Others* 2002 (4) SA 738 (C)

(2) *Prince v President of the Law Society of Cape of Good Hope and Others* 2000 (7) BCLR 823 (SCA)

**(3) MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC)**

(4) *Wittman v Deutscher Schulverein* 1998 (4) SA 423 (T)

**Fill in the missing word or words: ... refers to the position the law affords to a person or body (entity).**

(1) Administrative action

(2) Governance

(3) Education

**(4) Legal status**

**The Head of Department ...**

(1) must determine a process of registration for admission to public schools in order to enable the admission of learners to take place in an untimely and inefficient manner.

(2) and the Director-General: Basic Education should encourage parents to apply for the admission of their children before the end of the preceding school year.

(3) may never delegate the responsibility for the admission of learners to a school or to officials of the Department.

**(4) must co-ordinate the provision of schools and the administration of admissions of learners to ordinary public schools with governing bodies to ensure that all eligible learners are suitably accommodated in terms of the South African Schools Act 84 of 1996.**

**The principal must ...**

(1) attend and participate in selected meetings of the governing body.

(2) provide the Head of Department with a report about the professional management relating to the public school.

**(3) inform the governing body about policy and legislation.**

(4) assist the governing body in handling disciplinary matters pertaining to educators and support staff employed by the Head of Department.

**Indicate which statement is NOT correct. The South African Schools Act 84 of 1996 provides that the governing body of a public school ...**

**(1) must at the request of the Minister of Basic Education, allow the reasonable use under fair conditions determined by the Minister of Basic Education of the facilities of the school for educational programmes not conducted by the school.**

(2) must administer and control the school's property, and buildings and grounds occupied by the school, including school hostels.

(3) may apply to the Head of Department in writing to be allocated the function to maintain and improve the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable.

(4) may allow the reasonable use of the facilities of the school for community, social and school fund-raising purposes, subject to such reasonable and equitable conditions as the governing body may determine, which may include the charging of a fee or tariff which accrues to the school.

Fill in the missing word or words: The ... of a public school may determine the language policy of the school subject to the Constitution, the South African Schools Act 84 of 1996 and any applicable provincial law.

**(1) governing body**

- (2) educators
- (3) principal
- (4) learners

In which ONE of the following cases did a voluntary association representing independent schools seek an order declaring the provisions of section 10 of the South African Schools Act 84 of 1996 to be unconstitutional to the extent that those provisions apply to independent schools?

- (1) *S v Manamela and Another (Director-General of Justice Intervening)* 2000 (5) BCLR 491 (CC)
- (2) *S v Williams and Others* 1995 (7) BCLR 861 (CC)
- (3) *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC)

**(4) *Christian Education South Africa v Minister of Education* 2000 (10) BCLR 1051 (CC)**

### TL201-2-2016

**According to the South African Schools Act 84 of 1996 ...**

- (1) a parent may appeal to the Member of the Executive Council against a decision of a governing body regarding the exemption of such parent from payment of school fees.
- (2) a public school may attach the dwelling in which a parent resides to enforce the payment of school fees after it has ascertained that:
  - (a) the parent does not qualify for exemption from payment of school fees in terms of the Schools Act;
  - (b) no deductions have been made in terms of regulations contemplated in section 39(4), for a parent who qualifies for partial exemption; and
  - (c) the parent has completed and signed the form prescribed in the regulations contemplated in section 39(4).

**(3) the Minister must by notice in the *Government Gazette* annually determine the national quintiles for public schools or part of such quintiles which must be used by the Member of the Executive Council to identify schools that may not charge school fees.**

- (4) a learner may be deprived of his or her right to participate in all aspects of the programme of a public school for the non-payment of school fees by his or her parent and may also be victimised in any manner, including but not limited to the following conduct:
  - (a) suspension from classes;
  - (b) verbal or non-verbal abuse;
  - (c) denial of access to
    - (i) cultural, sporting or social activities of the school; or
    - (ii) the nutrition programme of the school for those learners who qualify in terms of the applicable policy; or
  - (d) denial of a school report or transfer certificate.

Indicate which statement is NOT correct. According to Bray E “The constitutional concept of co-operative government and its application in education” (2002) *Journal for Contemporary Roman-Dutch Law* 516, co-operative government is not working properly because ...

(1) people are used to doing things independently and without the interference (and frustration) of working together with others or in teams.

(2) government in South Africa has traditionally been centralised in a unitary system with distinct and rigid hierarchical lines reflecting “top-down” power.

**(3) it offers many opportunities for the sharing of expertise and improving government to deliver better education services.**

(4) “law” with its supporting enforcement mechanisms (esp. the courts of law) traditionally and inherently sets boundaries and sets parties up against each other.

**Fill in the missing case name: In ... it was bluntly asserted that education “is the very foundation of good citizenship”.**

(1) *Matukane v Laerskool Potgietersrus* 1996 (3) SA 223 (T)

**(2) *Brown v Board of Education* 347 US 483 (1954)**

(3) *Seodin Primary School and Others v MEC of Education Northern Cape and Others* 2006 (4) BCLR 542 (NC)

(4) *Mahe v Alberta* 1 SCR 342 (1990)

**Fill in the missing words: The ... must ensure that there are enough school places so that every child who lives in his or her province can attend school.**

(1) Minister of Basic Education

(2) Council of Education Ministers

(3) Head of Department (HoD)

**(4) Member of the Executive Council (MEC)**

**The right of everyone to education in the official language or languages of their choice in public educational institutions ...**

**(1) is subject to the condition that provision of education in the preferred language must be reasonably practicable.**

(2) applies to basic education alone.

(3) extends to all languages used in South Africa and not just the official languages.

(4) provides for an unqualified right to mother-tongue education.

**Fill in the missing word/words: In *Dhlamini v Minister of Education* 1984 (3) SA 255 (NDP), the application of the rules of ... was reaffirmed when dealing with student misconduct unless it is “expressly or by implication excluded by legislation or if circumstances are so exceptional as to justify a departure from the principle”.**

(1) administrative action

(2) equality

**(3) natural justice**

(4) human dignity

**Indicate which statement is NOT correct. The Constitution ...**

(1) is the supreme law of the Republic.

**(2) entrenches constitutional communism.**

(3) enshrines democratic values and norms.

(4) incorporates a justiciable Bill of Rights.

**Fill in the missing words: The governance of a public school is vested in ...**

(1) the school principal.

**(2) its governing body.**

- (3) the Head of Department.
- (4) its learners.

**When applying due process in practice, governing bodies will need to comply with the following basic elements of procedural fairness, which are found in common law and statute and protected by the 1996 Constitution:**

- (1) hearing and notice, partial tribunal, right to information, right to representation, reasons for the decision and right to appeal.
- (2) inadequate notice of the hearing, impartial tribunal, right to information, right to representation, reasons for the decision and no right to appeal.
- (3) hearing and notice, impartial tribunal, no right to information, right to representation, reasons for the decision and right to appeal.

**(4) hearing and notice, impartial tribunal, right to information, right to representation, reasons for the decision and right to appeal.**

**Fill in the missing words: In *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC), the Head of Department, acting under ss 22(1) and (3) and 25(1) of the South African Schools Act 84 of 1996, purported to revoke the power of the school's governing body to set the school's ..., and appointed a committee to attend to this function.**

**(1) language policy**

- (2) admission policy
- (3) uniform policy
- (4) attendance policy

**Indicate which statement is NOT correct. According to the South African Schools Act 84 of 1996 ...**

- (1) the principal or his or her delegate may at random administer a urine or other non-invasive test to any group of learners that is on fair and reasonable grounds suspected of using illegal drugs.

**(2) the principal or his or her delegate must within three working days, if practicable, inform the parent that a random test or search and seizure was done in respect of his or her child.**

- (3) the principal or his or her delegate must inform the learner and his or her parent of the result of the test immediately after it becomes available.
- (4) a learner may be subjected to disciplinary proceedings if a dangerous object or illegal drug is found in his or her possession; or his or her sample tested positive for an illegal drug.

**Independent schools ...**

- (1) may be registered by the Minister of Basic Education.
- (2) may be registered by the Minister if he or she is satisfied that the standards maintained in the independent school are inferior to those of comparable public schools.
- (3) can never be converted into public schools.

**(4) must be registered by the HoD if he or she is satisfied that their admission policy does not discriminate on the ground of race.**

**In which ONE of the following cases did the Court decide that the judicially ordered corporal punishment of juvenile offenders was in conflict with the Bill of Rights?**

- (1) *Christian Education SA v Minister of Education* 2000 (4) SA 757 (CC)

(2) *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC)

**(3) S v Williams 1995 (3) SA 632 (CC)**

(4) *Brink v Kitshoff* 1996 (6) BCLR 759 (CC)

**Indicate which statement is NOT correct. A juristic person ...**

(1) has perpetual succession and will continue to exist as an entity despite any change that may take place in its constituent parts.

**(2) like a public school, has the capacity to take part in legal actions on its own.**

(3) exists until it is dissolved or terminated in terms of the law.

(4) is a legal subject and has the capacity to be a bearer of rights and obligations.

**Who may suspend learners from a public school?**

**(1) the governing body of the school.**

(2) the principal of the school.

(3) the educators at the school.

(4) the Head of Department.

**Fill in the missing word/words: In *Matukane v Laerskool Potgietersrus* 1996 (3) SA 223 (T) the school was an ... medium school.**

(1) Afrikaans

(2) Afrikaans/Sepedi parallel

(3) English

**(4) Afrikaans/English parallel**

**According to the South African Schools Act 84 of 1996 ...**

(1) religious observances may be conducted at a public school under rules issued by the governing body if such observances are conducted on an equitable basis and attendance at them by learners and members of staff is compulsory.

**(2) the Member of the Executive Council may determine that the governance of two or more public schools must vest in a single governing body if it is in the best interests of education at the schools in question.**

(3) a member of a governing body need not withdraw from a meeting of the governing body for the duration of the discussion and decision-making on any issue in which the member has a personal interest.

(4) all members of a governing body must be remunerated for the performance of their duties and necessary expenses incurred by a member of a governing body in the performance of his or her duties may be reimbursed by the governing body.

**In which ONE of the following cases did the Court decide that education regulations that restricted the permanent appointment of teachers of South African citizens to the exclusion of foreigners permanently resident in South Africa were unconstitutional?**

(1) *Minister of Education v Harris* 2001 (11) BCLR 1157 (CC)

**(2) *Larbi-Odam v MEC for Education (North-West Province)* 1997 (12) BCLR 1655 (CC)**

(3) *Motala v University of Natal* 1995 (3) BCLR 374 (D)

(4) *Baloro v University of Bophuthatswana* 1995 (4) SA 197 (B)

**According to the National Education Policy Act 27 of 1996 ...**

**(1) subject to the Constitution, national policy shall prevail over the whole or a part of any provincial policy on education if there is a conflict between the national and provincial policies.**

(2) the Minister shall determine national education policy in accordance with the provisions of the South African Schools Act 84 of 1996.

(3) in determining national policy for education at education institutions, the Minister shall take into account the competence of the national assembly in terms of section 146 of the Constitution, and the relevant provisions of any national law relating to education.

(4) the Member of the Executive Council shall determine national policy for the planning, provision, financing, co-ordination, management, governance, programmes, monitoring, evaluation and well-being of the education system

**In *Seodin Primary School and Others v MEC of Education Northern Cape and Others* 2006 (4) BCLR 542 (NC) one of the norms and standards published by the Minister of Education in terms of section 6(1) of the South African Schools Act 84 of 1996 is that ...**

(1) the national department of education must keep a register of requests by learners for teaching in a language medium which cannot be accommodated by schools.

**(2) the provincial department must explore ways and means of sharing scarce human resources. It must also explore ways and means of providing alternative language maintenance programmes in schools and or school districts which cannot be provided with and or offer additional languages of teaching in the home language(s) of learners.**

(3) in the case of a new school, the Minister of Basic Education in consultation with the relevant provincial authority determines the language policy of the new school in accordance with the regulations promulgated in terms of section 6(1) of the South African Schools Act 84 of 1996.

(4) it is reasonably practicable to provide education in a particular language of learning and teaching if at least 35 learners in Grades 1 to 6 or 30 learners in Grades 7 to 12 in a particular grade request it in a particular school.

### EXAM MAY 2013

**Education management and governance is an area which is shared by ... and ... spheres of government responsible for education is South Africa.**

National, provincial

**Co-operative government ...**

Envisages co-operation, co-ordination and support among the spheres of government to promote and maintain effective government

**The principal of a public school is responsible for the ...**

Professional management of a public school which must be undertaken under the authority of the HOD

**The governing body of a public school does NOT**

Discourage parents, learners, educators and other staff at the school to render voluntary services to the school

**According to Squelch, in her article entitled “the right to administrative justice the implications for school governing bodies”, the basic elements of due process as per s33 Constitution and PAJA and SASA are:**

hearing and notice, impartial tribunal, rt to information, rt to representation, reasons for the decision and rt to appeal

**Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonable practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account equity, practicability and ...**

The need to redress the results of past racially discriminatory laws and practices.

**According to s239 Constitution, organ of state may be defined as ...**

Any department of state or administration in the national, provincial or local sphere of government

**In the case of ... and according to s692) of the ... the language policy if a school is determined by the sgb**

Mirko Primary, SASA

**Ito s10A SASA, initiation means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of a school, a group, intramural or extramural activities, inter-schools sports team of organization ....**

Subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the BOR

**In Antonie v Governing Body, the learner was suspended for wearing ...**

A headgear and growing dreadlocks

### **EXAM OCT 2013**

**Why must a public school comply with the provisions of s195 Const?**

It is an organ of state

**The principal or his delegate may at random, search any group of learners, or the property of a group of learners, for any dangerous object or illegal drug, if**

Fair and reasonable suspicion has been established

**S39(2)(a), (b) and (c) SASA does NOT require that the parents of the school by resolution decide on the following:**

A school budget that reflects the estimated cumulative effect of the unconstitutional exemptions granted to parents in terms of the regulations

**National education legislation will prevail over provincial education legislation if the national law ...**



Is necessary for the protection of the environment

**According to s5(3) SASA, no learner may be refused admission to a public school on the grounds that his parent ... (NOT correct statement)**

Refuses to pay the school fees determined by the governing body under s39

**National education policy shall be directed toward ...**

Enabling the education system to contribute to the full personal development of each learner, and to the moral, social, cultural, political and economic development of the nation at large, including the advancement of democracy human rights and the peaceful resolution of disputes

**A code of conduct for learners ...**

Must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process

**A learner ...**

According to SASA, refers to any person receiving education or who is obliged to receive education

**Independent educational institutions may only be established on grounds of ...**

Common culture, language and religion

**School feeder zones ...**

Were instituted to control learner numbers at school and to co-ordinate parental preferences, but need not be geographically adjacent to the school

### **EXAM OCT 2014**

**According to s15 SASA, every public school is ...**

A juristic person

**According to literature, policy may NOT be defined as ...**

The law relating to education

**Education (... tertiary education) has been designated as a concurrent functional area, for which both the ... and ... governments are responsible**

Excluding, national, provincial

**Ito s4(b) NAP, national education policy should be directed towards enabling the education system to contribute to the full personal development of each student and to the ...**

Moral, social, cultural, political and economic development of the nation at large, including the advancement of democracy, human rights and the peaceful resolution of disputes

**It is s10A(3) SASSA, initiation means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of a school, a group, intramural or extramural activities, inter-schools sports team or organization ....**

Subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the BOR

**(Incorrect statement) The law ...**

May be obeyed by all members of society, including the state

**It is SASSA, who may exempt a learner from compulsory school attendance if it is in the best interests of the learner?**

HOD

**The professional management of a school must be undertaken by the ... under the authority of the HOD**

Principal

**(Incorrect statement) According to Malherbe R “the constitutional framework for pursuing equal opportunities in education”, further education ...**

Should not be interpreted to include higher education because it imposes an unbearable burden on the state and the state would be unable to fulfil its duty to provide further (or higher) education if it was included in s29(1)(b) of the Constitution

**The governing body of a public school must ...**

Support the principal, educators and the other staff of the school in the performance of their professional functions

**The court stated that “the fact that school attendance is statutorily compulsory for certain age groups of learners, read together with the entrenched right to basic education in the Constitution indicates the importance of the right to basic education for the transformation of our society”?**

Juma Masjid

**Section ... of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair ...**

S33(1)

**S146 Constitution makes special provision on how to deal with irreconcilable conflict between national and provincial legislation on concurrent matters. It stipulates that national legislation on a concurrent power that applies uniformly to the country as a whole, prevails over conflicting provincial legislation if such a national law ... (Incorrect statement)**

Deals with a matter that, to be dealt with requires uniformity across the nation, and the provincial legislation, provides that uniformity by establishing norms and standards, frameworks or provincial policies

**In MEC v Pillay, the learner was prohibited from wearing a ... to school**

Nose stud

**The ... may, on reasonable grounds and as a precautionary measure suspend a learner who is suspected of ... misconduct from attending the school, but may only enforce such suspension after the learner has been given a reasonable opportunity to make representations to it in relation to such suspension.**

Governing body, serious

**Due process includes both procedural due process, which refers to fair procedures that are used, and ... due process which refers to the appropriateness and fairness of rules**

Substantive

**In Mikro Primary, the court concluded that the public school is ... and in relation to its functions of determining its language and admission policy, is not subject to national or provincial executive control in so far as the performance of those functions is concerned, it is not part of any sphere of government**

An organ of state

**Following factors have been identified as discriminatory factors impacting on the proper administration of public school admission policy. Indicate which factor is NOT correct?**

The composition of the school governing body

**A code of conduct ...**

Must contain provisions of due-process safeguarding the interest of the learner and any other party involved in disciplinary proceedings

**In ... the court referred to a schedule issued as Notice 776 by the ME ito s8(3) SASA which focuses on positive discipline and the need to achieve a culture of reconciliation, teaching, learning and mutual respect and the establishment of a culture of tolerance and peace n all schools**

Antonie

## **EXAM MAY 2015**

### **1. The school's code of conduct**

(1) may contain provisions of due process safe-guarding the interests of the learner and any other party involved in disciplinary proceedings

(2) may be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process

(3) may also provide for support measures or structures for counselling a learner involved in disciplinary proceedings

**(4) In MEC for Education KwaZulu Natal and Others v Pillay 2008 (1) SA 474 (CC), coupled with the decision to refuse Sunali an exemption from the code, was discriminatory on the grounds of both religion and culture**

**2. In The Western Cape Minister of Education v The Governing Body of Mikro Primary School 2005 (10) BCLR 973 (SCA), the governing body refused to accede to a request by the Western Cape Education Department to change its**

**(1) language policy**

- (2) admission policy
- (3) mission statement
- (4) code of conduct

**3. ... envisages cooperation, coordination and support among the spheres of government (Le. national, provincial and local) to promote and maintain effective government.**

- (1) School governance
- (2) Concurrent power

**(3) Cooperative governance**

- (4) Administrative action

**4. Fill in the missing word: The Minister must, after consultation with the ... and by notice in the Government Gazette, determine dates by which the election of members of governing bodies at all public schools in a province must be finalised in terms of the South African Schools Act 84 of 1996.**

- (1) Head of Department

**(2) Member of the Executive Council**

- (3) Council of Education Ministers
- (4) President

**5. Indicate which statement is NOT correct According to the South African Schools Act 84 of 1996**

- (1) the Member of the Executive Council must, by notice in the Provincial Gazette, determine the grounds on which the registration of an independent school may be granted or Withdrawn by the Head of Department

**(2) a Head of Department must register an independent school If he or she is satisfied that the standards to be maintained by such school Will be inferior to the standards in comparable public schools**

- (3) no person may establish or maintain an independent school unless It IS registered by the Head of Department
- (4) a Head of Department must register an independent school If he or she IS satisfied that the admission policy of the school does not discriminate on the grounds of race, and the school complies with the grounds for registration

**6. Fill in the missing case name. in the central question in the matter was: when Parliament enacted a law prohibiting corporal punishment in schools, did it violate the rights of parents of children in independent schools who, in line with their religious convictions, had consented to its use?**

- (1) Brink v Krttshoff 1996 (6) BCLR 759 (CC)
- (2) Head of Department, Mpumalanga Department of Education and Another v Hoerskool Erma/o and Another 2010 (2) SA 415 (CC)
- (3) S v Williams 1995 (3) SA 632 (CC)

**(4) Christian Education SA v Minister of Education 2000 (4) SA 757 (CC)**

**7. In general, section 29 of the Constitution of the Republic of South Africa, 1996**

- (1) guarantees a right to free education
- (2) makes explicit provision for the right to freedom of choice regarding home education

**(3) recognises the right to choose between public and private education, as well as the right to be educated in a preferred language**

- (4) makes explicit provision for the right of parents to have their children educated according to their own religious and philosophical convictions

**8. The ... provides that anyone whose rights, freedoms or privileges are affected by the action of an administrator must be given an opportunity to be heard on the matter.**

- (1) audi alteram partem rule

**(2) nemo iudex in sua causa rule**

- (3) right to representation
- (4) right to an appeal

**9. In which ONE of the following cases did the Court state that “in addition to the right to basic education, section 3(1) of the South African Schools Act 84 of 1996 makes school attendance compulsory for learners from the age of seven to fifteen years or until the learner reaches the ninth grade, whichever occurs first”?**

- (1) Christian Education SA v Minister of Education 2000 (4) SA 757 (CC)
- (2) MEC for Education KwaZulu Natal and Others v Pillay 2008 (1) SA 474 (CC)
- (3) Matukane v Laerskool Potgietersrus 1996 (3) SA 223 (T)

**(4) Governing Body of the Juma Masjid**

**10 Indicate which statement is NOT correct. According to section 8A SASA**

**(1) if the police cannot collect the dangerous object or illegal drug (that was confiscated) from the school immediately, the principal or his delegate may keep the dangerous object or illegal drug locked up in the school safe for a maximum of 48 hours**

- (2) unless authorized by the principal for legitimate educational purposes, no person may bring a dangerous object or illegal drug onto school premises or have such object or drug in his or her possession on school premises or during any school activity
- (3) the principal or his or her delegate may, at random, search any group of learners, or the property of a group of learners, for any dangerous object or illegal drug, if a fair and reasonable suspicion has been established that a dangerous object or an illegal drug may be found on school premises or during a school activity
- (4) when conducting a search for dangerous objects or illegal drugs, the principal or his or her delegate must do so in a manner that is reasonable and proportional to the suspected illegal activity

**11. According to literature, a position or stance developed in response to a problem or issue of conflict, and directed towards a particular objective is referred to as**

- (1) goals
- (2) law

**(3) policy**

- (4) proposals

**12 Fill in the missing case name. In the Court laid down a general rule for the level of detail required for the furnishing of reasons to a person whose rights have been affected by an administrative action. In this regard, the Court stated that “the more drastic the action taken, the more detailed the reasons which are advanced should be”.**

- (1 ) Pretoria City Council v Walker 1998 (2) SA 363 (CC)  
 (2) Minister of Education v Harris 2001 (11) BCLR 1157 (CC)

**(3) Moletsane v Premier of the Free State 1996 (2) SA 95 (O)**

- (4) Wittman v Deutscher Schulverein, Pretoria 1998 (4) SA 423 (TPD)

**13. According to Joubert R and Bray E “Public school admission policy: theory and practice” Public school governance in South Africa (2007) 72**

- (1) the admission policy of a public school is determined by the governing body of the school, and such a policy must be consistent with the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000  
 (2) governing bodies are allowed to administer any tests for purposes of admitting or denying admission to public schools, or may direct or authorize the principal of the school or any other person to administer such test  
 (3) the admission policy of a public school and the administration of admissions by an education department may unfairly discriminate against an applicant

**(4) the HoD must determine a process of registration for admission to public schools to enable the admission of learners to take place in a timely and an efficient manner**

**14. In Antonie v Governing Body, Settlers High School, and Others 2002 (4) SA 738 (C)**

- (1) the applicant became interested in various religions at an early age and decided to embrace the principles of the Hindu faith

**(2) the court noted that freedom of expression is accorded special mention in section 4 5 1 of a schedule issued as Notice 776 of 1998 by the Ministry of Education**

- (3) the applicant was expelled by the governing body of Settler's High School for growing dreadlocks and wearing a cap  
 (4) the court found that the applicant's conduct constituted serious misconduct in terms of section 2(1) of the regulations relating to serious misconduct of learners and published as Provincial Notice (PM) 372 of 1997 on 31 October 1997

**15. Indicate which statement is NOT correct. According to sections 20 and 21 SASA, some of the functions of a governing body of a public school include to**

- (1) promote the best interests of the school and strive to ensure its development through the provision of quality learning for all learners at the school and to maintain and improve the school's property and buildings and grounds occupied by the school, including school hostels If applicable  
 (2) adopt a code of conduct for learners at the school, adopt a constitution and develop a mission statement for the school

**(3) support the principal, educators and other staff of the school in the performance of their professional functions and to determine the extra-mural curriculum of the school and the choice of subject options in terms of national curriculum policy**

- (4) purchase textbooks, educational materials or equipment for the school and recommend the appointment of educators

**16. In which ONE of the following cases did the Court conclude that “the clause in the respondent school's constitution to the effect that it serves the whole community and that a proposed pupil must be white, is contrary to sections 8 and 32 of the Interim Constitution and hence invalid”?**

**(1) Matukane and Others v Laerskool Potgretersrus 1996 (3) SA 223 (TPD)**

- (2) Seodin Primary School and Others v MEC of Education Northern Cape and Others  
 (3) The Western Cape Minister of Education v The Governing Body of Mikro Primary School

(4) Head of Department, Mpumalanga Department of Education and Another v Hoerskool Ermelo and Another 2010 (2) SA 415 (CC)

**17. Fill in the missing word: The Constitution of the Republic of South Africa, 1996 compels ... to make every reasonable effort to use appropriate mechanisms and procedures to resolve their intergovernmental disputes and to exhaust all other remedies before they turn to the court to resolve the dispute.**

(1) juristic persons

**(2) organs of state**

(3) legal objects

(4) natural persons

**18. In which ONE of the following cases was an exemplary Indian student refused admission to medical school in favour of a less meritorious African student in terms of an admission policy which limited the number of Indian students in order to make room for more African students?**

(1) Larbi-Odam v Member of the Executive Council for Education (North-West Province) 1997

(12) BCLR 1655 (CC)

(2) Minister of Education v Harris 2001 (11) BCLR 1157 (CC)

(3) Mfolo v Minister of Education, Bophuthatswana 1994 (1) BCLR 136 (B)

**(4) Motala v University of Natal 1995 (3) BCLR 374 (D)**

**19. A governing body of a public school**

(1) may keep records of funds received and spent by the public school and of its assets, liabilities and financial transactions

(2) may collect any money or contributions from parents to Circumvent or manipulate the payment of compulsory school fees and may use such money or contributions to establish or fund a trust

(3) may enter into any loan or overdraft agreement so as to supplement the school fund, Without the written approval of the Member of the Executive Council

**(4) must take all reasonable measures Within its means to supplement the resources supplied by the State in order to improve the quality of education provided by the school to all learners at the school**

**20. In Head of Department, Mpumalanga Department of Education and Another v Hoerskool Ermelo and Another 2010 (2) SA 415 (CC) the Court held that**

**(1) the HoD had the power to Withdraw (on reasonable grounds) any function of a governing body conferred by the South African Schools Act 84 of 1996 or any provincial law**

(2) the HoD acted lawfully when he appointed an interim committee to decide the school's language policy under section 25 of the South African Schools Act 84 of 1996

(3) the right to receive education in an official language or a language of one's choice, imposes a duty on the relevant school to ensure effective access to the right to be taught in the language of one's choice

(4) once a function is properly Withdrawn from a governing body in terms of section 22(1) of the South African Schools Act 84 of 1996, the principal of the school must exercise the Withdrawn function, but only for as long as, and in a manner that is necessary, to achieve the remedial purpose



## **EXAM OCT 2015**

### **1. According to the South African Schools Act 84 of 1996 ...**

- (1) a parent may appeal to the Member of the Executive Council against a decision of a governing body regarding the exemption of such parent from payment of school fees.
- (2) a public school may attach the dwelling in which a parent resides to enforce the payment of school fees after it has ascertained that:
  - (a) the parent does not qualify for exemption from payment of school fees in terms of the Schools Act;
  - (b) no deductions have been made in terms of regulations contemplated in section 39(4), for a parent who qualifies for partial exemption; and
  - (c) the parent has completed and signed the form prescribed in the regulations contemplated in section 39(4).

**(3) the Minister must by notice in the *Government Gazette* annually determine the national quintiles for public schools or part of such quintiles which must be used by the Member of the Executive Council to identify schools that may not charge school fees.**

- (4) a learner may be deprived of his or her right to participate in all aspects of the programme of a public school for the non-payment of school fees by his or her parent and may also be victimised in any manner, including but not limited to the following conduct:
  - (a) suspension from classes;
  - (b) verbal or non-verbal abuse;
  - (c) denial of access to
    - (i) cultural, sporting or social activities of the school; or
    - (ii) the nutrition programme of the school for those learners who qualify in terms of the applicable policy; or
  - (d) denial of a school report or transfer certificate.

### **2. Indicate which statement is NOT correct. According to Bray E “The constitutional concept of co-operative government and its application in education” (2002) *Journal for Contemporary Roman-Dutch Law* 516, co-operative government is not working properly because ...**

- (1) people are used to doing things independently and without the interference (and frustration) of working together with others or in teams.
- (2) government in South Africa has traditionally been centralised in a unitary system with distinct and rigid hierarchical lines reflecting “top-down” power.

**(3) it offers many opportunities for the sharing of expertise and improving government to deliver better education services.**

- (4) “law” with its supporting enforcement mechanisms (esp. the courts of law) traditionally and inherently sets boundaries and sets parties up against each other.

### **3. Fill in the missing case name: In ... it was bluntly asserted that education “is the very foundation of good citizenship”.**

- (1) *Matukane v Laerskool Potgietersrus* 1996 (3) SA 223 (T)

**(2) *Brown v Board of Education* 347 US 483 (1954)**

- (3) *Seodin Primary School and Others v MEC of Education Northern Cape and Others* 2006 (4) BCLR 542 (NC)
- (4) *Mahe v Alberta* 1 SCR 342 (1990)

**4. Fill in the missing words: The ... must ensure that there are enough school places so that every child who lives in his or her province can attend school.**

- (1) Minister of Basic Education
- (2) Council of Education Ministers
- (3) Head of Department (HoD)

**(4) Member of the Executive Council (MEC)**

**5. The right of everyone to education in the official language or languages of their choice in public educational institutions ...**

**(1) is subject to the condition that provision of education in the preferred language must be reasonably practicable.**

- (2) applies to basic education alone.
- (3) extends to all languages used in South Africa and not just the official languages.
- (4) provides for an unqualified right to mother-tongue education.

**6. Fill in the missing word/words: In *Dhlamini v Minister of Education* 1984 (3) SA 255 (NDP), the application of the rules of ... was reaffirmed when dealing with student misconduct unless it is “expressly or by implication excluded by legislation or if circumstances are so exceptional as to justify a departure from the principle”.**

- (1) administrative action
- (2) equality

**(3) natural justice**

- (4) human dignity

**7. Indicate which statement is NOT correct. The Constitution ...**

- (1) is the supreme law of the Republic.

**(2) entrenches constitutional communism.**

- (3) enshrines democratic values and norms.
- (4) incorporates a justiciable Bill of Rights.

**8. Fill in the missing words: The governance of a public school is vested in ...**

- (1) the school principal.

**(2) its governing body.**

- (3) the Head of Department.
- (4) its learners.

**9. When applying due process in practice, governing bodies will need to comply with the following basic elements of procedural fairness, which are found in common law and statute and protected by the 1996 Constitution:**

- (1) hearing and notice, partial tribunal, right to information, right to representation, reasons for the decision and right to appeal.
- (2) inadequate notice of the hearing, impartial tribunal, right to information, right to representation, reasons for the decision and no right to appeal.
- (3) hearing and notice, impartial tribunal, no right to information, right to representation, reasons for the decision and right to appeal.

**(4) hearing and notice, impartial tribunal, right to information, right to representation, reasons for the decision and right to appeal.**

**10. Fill in the missing words: In *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC), the Head of Department, acting under ss 22(1) and (3) and 25(1) of the South African Schools Act 84 of 1996, purported to revoke the power of the school's governing body to set the school's ..., and appointed a committee to attend to this function.**

**(1) language policy**

- (2) admission policy
- (3) uniform policy
- (4) attendance policy

**11. Indicate which statement is NOT correct. According to the South African Schools Act 84 of 1996 ...**

(1) the principal or his or her delegate may at random administer a urine or other non-invasive test to any group of learners that is on fair and reasonable grounds suspected of using illegal drugs.

**(2) the principal or his or her delegate must within three working days, if practicable, inform the parent that a random test or search and seizure was done in respect of his or her child.**

(3) the principal or his or her delegate must inform the learner and his or her parent of the result of the test immediately after it becomes available.

(4) a learner may be subjected to disciplinary proceedings if a dangerous object or illegal drug is found in his or her possession; or his or her sample tested positive for an illegal drug.

**12. Independent schools ...**

(1) may be registered by the Minister of Basic Education.

(2) may be registered by the Minister if he or she is satisfied that the standards maintained in the independent school are inferior to those of comparable public schools.

(3) can never be converted into public schools.

**(4) must be registered by the HoD if he or she is satisfied that their admission policy does not discriminate on the ground of race.**

**13. In which ONE of the following cases did the Court decide that the judicially ordered corporal punishment of juvenile offenders was in conflict with the Bill of Rights?**

(1) *Christian Education SA v Minister of Education* 2000 (4) SA 757 (CC)

(2) *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC)

**(3) *S v Williams* 1995 (3) SA 632 (CC)**

(4) *Brink v Kitshoff* 1996 (6) BCLR 759 (CC)

**14. Indicate which statement is NOT correct. A juristic person ...**

(1) has perpetual succession and will continue to exist as an entity despite any change that may take place in its constituent parts.

**(2) like a public school, has the capacity to take part in legal actions on its own.**

(3) exists until it is dissolved or terminated in terms of the law.

(4) is a legal subject and has the capacity to be a bearer of rights and obligations.

**15. Who may suspend learners from a public school?**

**(1) the governing body of the school.**

(2) the principal of the school.

- (3) the educators at the school.
- (4) the Head of Department.

**16. Fill in the missing word/words: In *Matukane v Laerskool Potgietersrus* 1996 (3) SA 223 (T) the school was an ... medium school.**

- (1) Afrikaans
- (2) Afrikaans/Sepedi parallel
- (3) English

**(4) Afrikaans/English parallel**

**17. According to the South African Schools Act 84 of 1996 ...**

(1) religious observances may be conducted at a public school under rules issued by the governing body if such observances are conducted on an equitable basis and attendance at them by learners and members of staff is compulsory.

**(2) the Member of the Executive Council may determine that the governance of two or more public schools must vest in a single governing body if it is in the best interests of education at the schools in question.**

(3) a member of a governing body need not withdraw from a meeting of the governing body for the duration of the discussion and decision-making on any issue in which the member has a personal interest.

(4) all members of a governing body must be remunerated for the performance of their duties and necessary expenses incurred by a member of a governing body in the performance of his or her duties may be reimbursed by the governing body.

**18. In which ONE of the following cases did the Court decide that education regulations that restricted the permanent appointment of teachers of South African citizens to the exclusion of foreigners permanently resident in South Africa were unconstitutional?**

(1) *Minister of Education v Harris* 2001 (11) BCLR 1157 (CC)

**(2) *Larbi-Odam v MEC for Education (North-West Province)* 1997 (12) BCLR 1655 (CC)**

(3) *Motala v University of Natal* 1995 (3) BCLR 374 (D)

(4) *Baloro v University of Bophuthatswana* 1995 (4) SA 197 (B)

**19. According to the National Education Policy Act 27 of 1996 ...**

**(1) subject to the Constitution, national policy shall prevail over the whole or a part of any provincial policy on education if there is a conflict between the national and provincial policies.**

(2) the Minister shall determine national education policy in accordance with the provisions of the South African Schools Act 84 of 1996.

(3) in determining national policy for education at education institutions, the Minister shall take into account the competence of the national assembly in terms of section 146 of the Constitution, and the relevant provisions of any national law relating to education.

(4) the Member of the Executive Council shall determine national policy for the planning, provision, financing, co-ordination, management, governance, programmes, monitoring, evaluation and well-being of the education system

**20. In *Seodin Primary School and Others v MEC of Education Northern Cape and Others* 2006 (4) BCLR 542 (NC) one of the norms and standards published by the Minister of Education in terms of section 6(1) of the South African Schools Act 84 of 1996 is that ...**

(1) the national department of education must keep a register of requests by learners for teaching in a language medium which cannot be accommodated by schools.

**(2) the provincial department must explore ways and means of sharing scarce human resources. It must also explore ways and means of providing alternative language maintenance programmes in schools and or school districts which cannot be provided with and or offer additional languages of teaching in the home language(s) of learners.**

(3) in the case of a new school, the Minister of Basic Education in consultation with the relevant provincial authority determines the language policy of the new school in accordance with the regulations promulgated in terms of section 6(1) of the South African Schools Act 84 of 1996.

(4) it is reasonably practicable to provide education in a particular language of learning and teaching if at least 35 learners in Grades 1 to 6 or 30 learners in Grades 7 to 12 in a particular grade request it in a particular school.

### **EXAM MAY 2016**

1. **The Constitution of the Republic of South Africa, 1996 makes provision for ...**

(1) parliamentary sovereignty.

**(2) the sharing of powers (concurrently) in certain functional areas.**

(3) uncooperative government.

(4) the role of "private administration" in delivering a public (education) service.

2. In which **ONE** of the following cases did the court decide that the authority of the Head of Department (HoD) to revoke a function conferred by section 22(1) of the South African Schools Act 84 of 1996 was broad, in the sense that it related to any function of a governing body (including the determination of a language policy) conferred by the Schools Act or any provincial law.

**(1) Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another 2010 (2) SA 415 (CC)**

(2) *Mfolo v Minister of Education, Bophuthatswana* 1994 (1) BCLR 136 (B)

(3) *Jaftha v Schoeman and Others; Van Rooyen v Stoltz and Others* 2005 (2) SA 140 (CC)

(4) *Minister of Education v Harris* 2001 (11) BCLR 1157 (CC)

3. **Section 29 of the Constitution of the Republic of South Africa, 1996 ...**

**(1) makes provision for the right to a basic education.**

(2) refers to all universally accepted education rights.

(3) makes provision for compulsory education.

(4) guarantees a right to free education.

4. **According to the South African Schools Act 84 of 1996 ...**

(1) every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of five years until the last school day of the year in which such learner reaches the age of eighteen years or the twelfth grade, whichever occurs first.

**(2) No learner may be refused admission to a public school on the grounds that his or her parent – (a) is unable to pay or has not paid the school fees determined by the governing body under section 39; (b) does not subscribe to the mission statement of the school; and (c) has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the learner.**

- (3) a learner may never be exempted entirely, partially or conditionally from compulsory school attendance.
- (4) any person may conduct or participate in any initiation practices against a learner at a school or in a hostel accommodating learners of a school.
5. **According to Joubert R & Bray E “Public school admission policy: theory and practice” (2007) *Public school governance in South Africa* ...**
- (1) admission tests must be used by all public schools to determine the academic competency of a learner.
- (2) school feeder zones are instituted to control learner behaviour at school and to co-ordinate parental preferences.
- (3) an admission policy cannot unfairly discriminate (directly or indirectly) against any learner on any ground listed in the equality clause (section 9) of the Bill of Rights.**
- (4) once school fees have been determined and parents become responsible for the payment of such fees, the principal may enforce such payment by legal means.
6. **Indicate which statement is NOT correct. According to Bray E “The constitutional concept of co-operative government and its application in education” (2002) *Journal for Contemporary Roman-Dutch Law* ...**
- (1) education is vitally important for meaningful human existence: it enables individuals to develop whole and mature personalities, and empowers them to fulfil roles that are self-enriching and beneficial to society.
- (2) education (excluding tertiary education) has been designated as a “concurrent” functional area, for which the national, provincial and local governments are responsible.**
- (3) education is characterised by a number of activities, but in essence it fulfils both a socialisation and qualification (accreditation) function.
- (4) education is without any doubt an integral part of the socio-economic, cultural and political character of the community it serves.
7. **Fill in the missing word or words: In *The Western Cape Minister of Education v The Governing Body of Mikro Primary School* [2005] 3 All SA 436 (SCA), the court stated by way of introduction that the ... has an obligation to promote democratic transformation of the education system in line with the constitutional imperatives.**
- (1) Minister of the Executive Council (MEC)
- (2) principal
- (3) state**
- (4) Head of Department (HoD)
8. **One of the functions of the Council of Education Ministers is to ...**
- (1) share information and views on all aspects of education in the Republic.**
- (2) promote a provincial education policy which takes full account of the policies of the government, the education interests and needs of the provinces, and the respective competence of Parliament and the provincial legislatures in terms of section 146 of the South African Schools Act 84 of 1996.
- (3) co-ordinate action on matters of mutual interest to the national and local governments.



- (4) facilitate the development of a national education system in accordance with the objectives and principles provided for in the National Education Policy Act 27 of 1996 and share information and views on provincial education.
9. Fill in the missing word: According to the South African Schools Act 84 of 1996, a ... object means "any explosive material or device; any firearm or gas weapon; or any article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious".
- (1) harmless  
(2) safe  
(3) legal  
(4) **dangerous**
10. In which ONE of the following cases did the court decide that section 29(2) of the Constitution of the Republic of South Africa, 1996 entrenches the right of a learner to receive education in an official language of choice at public educational institutions, regard being had to practicability?
- (1) *Matukane and Others v Laerskool Potgietersrus* 1996 (3) SA 223 (TPD)  
(2) ***Seodin Primary School and Others v MEC, Northern Cape and Others* 2006 (4) BCLR 542 (NC)**  
(3) *Prinsloo v Van der Linde and Another* 1997 (6) BCLR 759 (CC)  
(4) *Moletsane v The Premier of the Free State* 1996 (2) SA 95 (O)
11. Fill in the missing words: The ... provides that no one may be a judge in his or her own cause.
- (1) *audi alteram partem* rule  
(2) ***nemo iudex in sua causa* rule**  
(3) South African Schools Act 84 of 1996  
(4) National Education Policy Act 27 of 1996
12. Indicate which statement is NOT correct. In terms of section 2(1) of the regulations relating to serious misconduct of learners and published as Provincial Notice (PN) 372 of 1997 on 31 October 1997, a learner at a school who ... shall be guilty of serious misconduct.
- (1) has been repeatedly absent without leave from school and/or classes  
(2) is guilty of assault, theft or immoral conduct  
(3) used or had in his or her possession intoxicating liquor or other drugs on the school grounds or during a school activity  
(4) **has been convicted by a court of a criminal offence and sentenced to imprisonment with the option of a fine**
13. According to the National Policy on HIV/AIDS, for Learners and Educators in Public Schools, and Students and Educators in Further Education and Training Institutions ...
- (1) learners and students may receive education about HIV/AIDS and abstinence in the context of life-skills education on an infrequent basis.  
(2) any person to whom any information about the medical condition of a learner, student or educator with HIV/AIDS has been divulged, must distribute the



information to the entire school body for purposes of promoting a safe school environment.

**(3) no learner, student or educator may participate in contact sport with an open wound, sore, break in the skin, graze or open skin lesion.**

(4) all public schools must require an applicant for a job to undergo an HIV test before he or she is considered for employment.

14. In which **ONE** of the following cases did the court hold that “it would be perfectly correct for a school, through its code of conduct to set strict procedural requirements for exemptions”? “It would also be appropriate for the parents and, depending on their age, the learners to be required to explain in writing beforehand why they require an exemption” (at para 110).

(1) *Antonie v Governing Body, Settlers High School, and Others* 2002 (4) SA 738 (C)

(2) *Prince v President of the Law Society of Cape of Good Hope and Others* 2000 (7) BCLR 823 (SCA)

**(3) MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC)**

(4) *Wittman v Deutscher Schulverein* 1998 (4) SA 423 (T)

15. Fill in the missing word or words: ... refers to the position the law affords to a person or body (entity).

(1) Administrative action

(2) Governance

(3) Education

**(4) Legal status**

16. The Head of Department ...

(1) must determine a process of registration for admission to public schools in order to enable the admission of learners to take place in an untimely and inefficient manner.

(2) and the Director-General: Basic Education should encourage parents to apply for the admission of their children before the end of the preceding school year.

(3) may never delegate the responsibility for the admission of learners to a school or to officials of the Department.

**(4) must co-ordinate the provision of schools and the administration of admissions of learners to ordinary public schools with governing bodies to ensure that all eligible learners are suitably accommodated in terms of the South African Schools Act 84 of 1996.**

17. The principal must ...

(1) attend and participate in selected meetings of the governing body.

(2) provide the Head of Department with a report about the professional management relating to the public school.

**(3) inform the governing body about policy and legislation.**

(4) assist the governing body in handling disciplinary matters pertaining to educators and support staff employed by the Head of Department.

18. Indicate which statement is **NOT** correct. The South African Schools Act 84 of 1996 provides that the governing body of a public school ...

**(1) must at the request of the Minister of Basic Education, allow the reasonable use under fair conditions determined by the Minister of Basic Education of**

**the facilities of the school for educational programmes not conducted by the school.**

- (2) must administer and control the school's property, and buildings and grounds occupied by the school, including school hostels.
- (3) may apply to the Head of Department in writing to be allocated the function to maintain and improve the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable.
- (4) may allow the reasonable use of the facilities of the school for community, social and school fund-raising purposes, subject to such reasonable and equitable conditions as the governing body may determine, which may include the charging of a fee or tariff which accrues to the school.

**19. Fill in the missing word or words: The ... of a public school may determine the language policy of the school subject to the Constitution, the South African Schools Act 84 of 1996 and any applicable provincial law.**

**(1) governing body**

- (2) educators
- (3) principal
- (4) learners

**20. In which ONE of the following cases did a voluntary association representing independent schools seek an order declaring the provisions of section 10 of the South African Schools Act 84 of 1996 to be unconstitutional to the extent that those provisions apply to independent schools?**

- (1) *S v Manamela and Another (Director-General of Justice Intervening)* 2000 (5) BCLR 491 (CC)
- (2) *S v Williams and Others* 1995 (7) BCLR 861 (CC)
- (3) *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC)

**(4) *Christian Education South Africa v Minister of Education* 2000 (10) BCLR 1051 (CC)**

### **EXAM OCT 2016**

**1. According to Bray E 'The constitutional concept of co-operative government and its application in education' (2002) *Journal for Contemporary Roman-Dutch Law*, in the concurrent functional area of education ...**

- (1) national government participates on a limitless basis in decision-making in provincial government.

**(2) national government is obliged to assist provincial government and under certain narrowly defined circumstances, national government may intervene in provincial government affairs.**

- (3) national government may never delegate powers to provincial government to facilitate co-operation.
- (4) the magistrates' courts have a determinant role to play in overseeing and enforcing co-operative government and cultivating a culture of co-operative government.

**2. Fill in the missing word or words: The ... is liable for any delictual or contractual damage or loss caused as a result of any act or omission in connection with any school activity conducted by a public school and for which such public school**

would have been liable but for the provisions of this section (i.e. section 60(1)(a) of the South African Schools Act 84 of 1996).

**(1) state**

- (2) provincial department of education
- (3) Director-General: Basic Education
- (4) Head of Education Departments Committee

3. Fill in the missing words: In *The Western Cape Minister of Education v The Governing Body of Mikro Primary School* 2005 (10) BCLR 973 (SCA), the court alluded to the responsibility of the ... to provide public schools for the education of learners out of funds appropriated for this purpose by the provincial legislature.

**(1) Member of the Executive Council (MEC)**

- (2) Minister of Basic Education
- (3) Head of Department (HoD)
- (4) Council of Education Ministers

4. According to sections 29(3) and (4) of the Constitution of the Republic of South Africa, 1996 ...

- (1) everyone has the right to establish and maintain, at their own expense, independent educational institutions that discriminate on the basis of race.

**(2) everyone has the right to establish and maintain, at their own expense, independent educational institutions that are registered with the state.**

- (3) everyone has the right to establish and maintain, at their own expense, independent educational institutions that maintain standards that are inferior to standards at comparable public educational institutions.
- (4) the right to establish and maintain independent educational institutions precludes state subsidies for independent educational institutions.

5. Indicate which statement is **NOT** correct. According to the South African Schools Act 84 of 1996 ...

- (1) the governing body of a public school must support the principal, educators and other staff of the school in the performance of their professional functions.
- (2) the Head of Department may suspend or terminate the membership of a governing body member for a breach of the code of conduct after due process.

**(3) before merging two or more public schools the Member of the Executive Council must give verbal notice to the schools in question of the intention to merge them.**

- (4) the governing body of a public school must determine times of the school day consistent with any applicable conditions of employment of staff at the school.

6. Fill in the missing word or words: In *Antonie v Governing Body, Settlers High School, and Others* 2002 (4) SA 738 (C), the applicant sought on review to set aside the first respondent's decision finding her guilty of serious misconduct and ... her for a period of five days.

**(1) suspending**

- (2) withdrawing her privileges
- (3) expelling
- (4) assigned extra work to

7. Fill in the missing word: According to Joubert R & Bray E "Public school admission policy: theory and practice" (2007) *Public school governance in South Africa*

language, language tests, school zoning and school fees are frequently used as discriminatory factors when determining and administering public school ... policy.

- (1) language
- (2) disability

**(3) admission**

- (4) anti-bullying

**8. In terms of the National Education Policy Act 27 of 1996 ...**

- (1) subject to the Constitution, provincial policy shall prevail over the whole or a part of any national policy on education if there is a conflict between the national and provincial policies.

**(2) the objectives of the Act are to provide for – the determination of national education policy by the Minister in accordance with certain principles; the consultations to be undertaken prior to the determination of policy, and the establishment of certain bodies for the purpose of consultation; the publication and implementation of national education policy; and the monitoring and evaluation of education.**

- (3) the Minister shall within 21 working days after determining policy in terms of section 3 – give notice of such determination in a national newspaper and indicate in such notice where the policy instrument issued with regard thereto may be obtained.
- (4) the Minister shall direct that the standards of education provision, delivery and performance throughout the province of KwaZulu-Natal, be monitored and evaluated by the Department monthly or at other specified intervals, with the object of assessing progress in complying with the provisions of the Constitution and with national education policy.

**9. In *Seodin Primary School and Others v MEC, Northern Cape and Others* 2006 (4) BCLR 542 (NC), one relief sought by the applicants was that the first and second respondents acted *ultra vires* their powers and contrary to the provisions of section 6(2) of the South African Schools Act 84 of 1996 by unilaterally laying down ... for the applicant-schools.**

- (1) an admission policy
- (2) a uniform policy
- (3) an attendance policy

**(4) a language policy**

**10. Indicate which statement is NOT correct. According to the Admission Policy for Ordinary Public Schools Notice 2432 of 1998 ...**

- (1) when a learner transfers from one public school to another, the principal must complete a transfer card and hand it to the parent, or forward it to the principal of the receiving school.
- (2) if a learner has been admitted to a public school at an age above the age norm for a grade, such learner must, as far as possible, be placed in a fast track facility, or with his or her peer group, unless it is not in the educational interest of the learner.

**(3) the Minister of Basic Education must inform all parents of learners admitted to a school of their rights and obligations in terms of the South African Schools Act, 1996, and any applicable provincial law.**

- (4) a parent must complete an application form for admission, which should be made available to him or her by the principal of the school together with the admission policy and the code of conduct for learners of the school.

**11. According to the South African Schools Act 84 of 1996 ...**

**(1) a recognised sign language has the status of an official language for purposes of learning at a public school.**

- (2) member of staff means any person receiving education or obliged to receive education in terms of this Act.
- (3) every educator must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of seven years until the last school day of the year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.
- (4) a governing body may suspend or extend the suspension of a learner for a period not longer than 30 days pending the decision by the Head of Department whether or not to expel such learner from the public school.

**12. Fill in the missing case name: In ... the defence argued that “the Afrikaner people, as a minority, have an unquestionable and inalienable right to self-determination. This includes the right freely to determine their political status and to pursue their economic, social and cultural development with due regard to their freedom and identity and in equal enjoyment of the common heritage of mankind. The State has a duty to ensure the exercise of their right to development.”**

- (1) *Seodin Primary School and Others v MEC, Northern Cape and Others* 2006 (4) BCLR 542 (NC)
- (2) *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC)

**(3) *Matukane and Others v Laerskool Potgietersrus* 1996 (3) SA 223 (TPD)**

- (4) *The Western Cape Minister of Education v The Governing Body of Mikro Primary School* [2005] 3 All SA 436 (SCA)

**13. Fill in the missing word or words: The ... of a school refers *inter alia* to the determination of school policy.**

- (1) professional management
- (2) administration
- (3) micro management

**(4) governance**

**14. According to the National Policy on HIV/AIDS, for Learners and Educators in Public Schools, and Students and Educators in Further Education and Training Institutions ...**

- (1) within the context of sexual relations, the risk of contracting HIV/AIDS is insignificant.
- (2) learners, students, educators and other staff with HIV/AIDS should be treated in an unjust, inhumane and life-threatening way.
- (3) learners and students with HIV/AIDS must attend a special school or institution for learners and students with HIV/AIDS.

**(4) all educators should be trained to give guidance on HIV/AIDS.**

**15. Fill in the missing word or words: In *Head of Department, Mpumalanga Department of Education and Another v Hoërskool Ermelo and Another* 2010 (2) SA 415 (CC) the school was an ... medium public school.**

- (1) Afrikaans/siSwati

**(2) Afrikaans**

- (3) English

(4) Afrikaans/English parallel

16. Indicate which statement is **NOT** correct. According to the Norms and Standards regarding Language Policy published in terms of section 6(1) of the South African Schools Act 84 of 1996 ...

- (1) the parent exercises the minor learner's language rights on behalf of the minor learner.
- (2) where no school in a school district offers the desired language as a medium of learning and teaching, the learner may request the national education department to make provision for instruction in the chosen language.
- (3) where a school uses the language of learning and teaching chosen by the learner, and where there is place available in the relevant grade, the school must admit the learner.

**(4) the learner must choose the language of teaching upon application for admission to a particular school.**

17. Fill in the missing word or words: A ... must contain provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.

(1) contract

**(2) code of conduct**

(3) preamble

(4) mission statement

18. In which one of the following cases did the court decide that the evidence showed that the nose-stud was not a mandatory tenet of the learner's religion or culture, but was a voluntary expression of South Indian/Tamil/Hindu culture?

(1) *Antonie v Governing Body, Settlers High School, and Others* 2002 (4) SA 738 (C)

(2) *Prince v President of the Law Society of Cape of Good Hope and Others* 2000 (7) BCLR 823 (SCA)

**(3) MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC)**

(4) *Wittman v Deutscher Schulverein* 1998 (4) SA 423 (T)

19. According to the South African Schools Act 84 of 1996 ...

(1) a member of a governing body who is a minor may vote on resolutions of a governing body which impose liabilities on third parties or on the school.

(2) the Minister of Basic Education may, by notice in the *Provincial Gazette*, close a public school.

(3) a representative council of learners at the school must be established at every public school enrolling learners in the first grade or higher, and such council is the only recognised and legitimate representative learner body at the school.

**(4) a governing body of a public school must take all reasonable measures within its means to supplement the resources supplied by the State in order to improve the quality of education provided by the school to all learners at the school.**

20. In which one of the following cases did the appellants rely on various verses in the Bible, which in their opinion required its community members to use corporal correction?

(1) *S v A Juvenile* 1990 (4) SA 151 (ZS)

**(2) Christian Education South Africa v Minister of Education 2000 (10) BCLR 1051 (CC)**

(3) *Campbell and Cosans v United Kingdom* (1980) 3 E.H.R.R. 531

(4) *S v Williams and Others* 1995 (7) BCLR 861 (CC)



## EXAM MAY 2017

**1. Fill in the missing word or words: ONE of the characteristics of the law is that it must be obeyed by all members of ... including the state, and, when it is disobeyed, the state should restore the (legal) balance.**

(1) staff

**(2) society**

(3) the governing body

(4) the organized teaching profession

**2. Who is responsible for determining the norms and standards for language policy in public schools?**

**(1) Minister of Basic Education**

(2) Head of Department

(3) Member of the Executive Council (MEC)

(4) The school governing body

**3. Indicate which statement is NOT correct: According to SASA**

(1) a public school may be- (i) an ordinary public school, (ii) a public school for learners with special education needs, or (iii) a public school that provides education with a specialized focus on talent, including Sport, performing arts or creative arts

(2) the Head of Department may close a public school temporarily in the case of an emergency if he or she believes on reasonable grounds that the lives of learners and staff are endangered or that there is a real danger of bodily injury to them or of damage to property

(3) subject to section 20(1)(k), a public school which occupies immovable property owned by the State has the right, for the duration of the school's existence, to occupy and use the immovable property for the benefit of the school for educational purposes at or in connection with the school

**(4) the Council of Education Ministers must, where reasonably practicable, provide education for learners with special education needs at ordinary public schools and provide relevant educational support services for such learners**

**4. In The Western Cape Minister of Education v The Governing Body of Mikro Primary School 2005 (10) BCLR 973 (SCA), the Court concluded that**

(1) the public school is an organ of state and, in relation to its functions of determining its language and admission policy, is subject to national and provincial executive control

(2) the right to receive education in the Official language of choice where it is reasonably practicable means that the right extends to each and every public educational institution

**(3) the school's language policy and admission policy were not contrary to any provisions of the Constitution of the Republic of South Africa, 1996, the South African Schools Act 84 of 1996, the Western Cape Provincial School Education Act 12 of 1997 or the Norms and Standards for Language Policy in Public Schools**

(4) the Member of the Executive Council (MEC) may Withdraw on reasonable grounds a function which the governing body has failed or ceased to perform This power of Withdrawal extends to functions allocated in both section 16 and 16A of the South African Schools Act 84 of 1996



**5 Fill in the missing word or words' According to section 41(3) of the Constitution of the Republic of South Africa, 1996 ... involved in an intergovernmental dispute must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose, and must exhaust all other remedies before it approaches a court to resolve the dispute**

- (1) a natural person
- (2) an agent of the state
- (3) a juristic person

**(4) an organ of state**

**6. National education policy shall be directed toward**

**(1) achieving equitable education opportunities and the redress of past inequality in education provision, including the promotion of gender equality and the advancement of the status of women**

- (2) the advancement and protection of the fundamental rights of every person guaranteed in terms of Chapter 5 of the Constitution, and in terms of international conventions ratified by Parliament
- (3) achieving a divided approach to education and training Within a national qualifications framework
- (4) promoting a culture of disrespect for teaching and learning in education institutions, and encouraging dependent and uncritical thought

**7 According to Squelch J "The right to administrative justice: the implications for school governing bodies" (2000) A critical chronicle of the South African Education Law and Policy Association (Edited by Johan Beckmann SAELPA)**

- (1) an organ that has a personal interest in a matter in which it must exercise a discretion is regarded as impartial
- (2) where an administrative body makes a decision that affects the rights of the person concerned, it IS required to provide the person concerned with written reasons for its decision. Reasons must be unfair, unjust and based on irrelevant information Reasons that are clear, appropriate and substantial are likely to be challenged and set aside
- (3) at common law, the nemo iudex in sua cause rule requires that all relevant information be communicated to the person who may be affected by an administrative decision

**(4) due process includes both procedural due process, which refers to fair procedures that are used, and substantive due process, which refers to the appropriateness and fairness of rules**

**8. According to the South African Schools Act 84 of 1996**

- (1) any learner or parent of a learner who has been refused admission to a public school may appeal against the decision to the school governing body
- (2) the curriculum and the process for the assessment of learner achievement must be applicable to public schools only

**(3) a representative council of learners at the school must be established at every public school enrolling learners in the eighth grade or higher, and such council is the only recognized and legitimate representative learner body at the school**

- (4) a learner may be subjected to disciplinary proceedings if- (a) a dangerous object or illegal drug is found in his or her possession, or (b) his or her sample tested negative for an illegal drug

**9. Fill in the missing words: According to the Admission Policy for Ordinary Public Schools Notice 2432 of 1998, a parent must complete an application form for admission,**

which should be made available to him or her by the principal of the school together with the admission policy and the ... for learners of the school.

- (1) school fees
- (2) mission statement

**(3) code of conduct**

- (4) language policy

**10. in *Antonie v Governing Body, Settlers High School and Others* 2002 (4) SA 738 (C)**

- (1) the applicant deeded to embrace the principles of the Hindu/Tamil religion

**(2) the applicant's suspension was set aside**

- (3) the Court noted that the school 's code of conduct made specific mention to dreadlocks under the heading of 'hair'
- (4) the Court referred to the Guidelines for a Code of Conduct for Learners Notice 776 of 1998, and stated that according to paragraph 4 5 1, "freedom of expression" has a restricted meaning and IS limited to freedom of speech alone

**11. Who is responsible for establishing a school fund and administering it in accordance with directions issued by the Head of Department?**

- (1) The parents of learners at a public school

**(2) The school governing body**

- (3) The educators at a public school
- (4) The school principal

**12. ONE of the premises on which the National Policy on HIV/AIDS, for Learners and Educators in Public Schools, and Students and Educators to Further Education and Training Institutions IS based is:**

- (1) Intravenous drug abusers not a source of HIV transmission among learners and students
- (2) Testing for HIV/AIDS for employment or attendance at schools is permitted
- (3) Compulsory disclosure of a learner's, student's or educator's HIV/AIDS status to school or Institution authorities IS always advocated

**4) Because of the increasing prevalence of HIV/AIDS in schools, it is imperative that each school must have a planned strategy to cope with the epidemic**

**13. Fill In the missing word: According to Bray E "The constitutional concept of co-Operative government and its application in education" (2002) Journal for Contemporary Roman-Dutch Law ... is vitally important for meaningful human existence it enables individuals to develop whole and mature personalities, and empowers them to fulfil roles that are self-enriching and beneficial to society-**

- (1) money

**(2) education**

- (3) food
- (4) oxygen

**14. in which ONE of the following cases was the following argument presented to the Court by a school defending itself for refusing to admit black learners? "The Afrikaner people constitute a minority By Virtue, for instance, of the United Nations' Charter on Human and Peoples' Rights (articles 20 and 22) the Afrikaner people, as a minority have an unquestionable and inalienable right to self-determination**

- (1) Seodin Primary School and Others v MEC, Northern Cape and Others 2006 (4) BCLR 542 (NC)

(2) Head of Department, Mpumalanga Department of Education and Another v Hoerskool Ermelo and Another 2010 (2) SA 415 (CC)

(3) The Western Cape Minister of Education v The Governing Body of Mikro Primary School 2005 (10) BCLR 973 (SCA)

**(4) Matukane and Others v Laerskool Potgietersrus 1996 (3) SA 223 (T)**

**15 Indicate which statement is NOT correct: The Language in Education Policy in terms of section 3(4)(m) of the National Education Policy Act 27 of 1996**

(1) aims to pursue the language policy most supportive of general conceptual growth amongst learners, and hence to establish additive multilingualism as an approach to language in education

(2) aims to support the teaching and learning of all other languages required by learners or used by communities in South Africa, including languages used for religious purposes, languages which are important for international trade and communication, and South African Sign Language, as well as Alternative and Augmentative Communication

**(3) provides that the language(s) of learning and teaching in a public school does not necessarily have to be (an) official language**

(4) provides that all language subjects shall receive equitable time and resource allocation

**16 The governing body of a public school**

**(1) may have any of their functions Withdrawn by the Head of Department (HOD), on reasonable grounds, and provided the correct procedures have been followed**

(2) comprises representatives of all stakeholders (i.e. parents, educators, staff and learners) and although the number of governors will vary, educators must comprise the majority vote

(3) elects its own office bearers (chair, treasurer and secretary) and the chairperson must be a parent employed at the school

(4) may never establish committees to assist them in their work and may never co-opt persons who are not on the governing body

**17. Indicate which statement is NOT correct In MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC) the Court held that**

**(1) the evidence showed that the nose stud was a mandatory tenet of Sunali's religion or culture and an involuntary expression of South Indian/Tamil/Hindu culture, a culture that was intimately intertwined with Hindu religion, and that Sunali regarded it as such**

(2) under the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (i.e. the Equality Act), failure to take steps to reasonably accommodate the needs of people on the basis of race, gender or disability amounted to discrimination

(3) it would be perfectly correct for a school, through its code of conduct, to set strict procedural requirements for exemption. It would also be appropriate for the parents and, depending on their age, the learners, to be required to explain in writing beforehand why they require an exemption

(4) the discrimination had a serious impact on Sunali and, although the evidence showed that uniforms serve an important purpose, it does not show that the purpose is significantly furthered by refusing Sunali her exemption. Allowing the nose stud would not have imposed an undue burden on the school.

**18. Fill in the missing words: According to Joubert R & Bray E "Public school admission policy. theory and practice" (2007) Public school governance in South Africa ... zones are instituted to control learner numbers at school and to co-ordinate parental preferences.**

(1) school detention

**(2) school feeder**

- (3) primary
- (4) secondary

**19. In which ONE of the following cases did the Director General of the Department of Education aver (on behalf of the Minister of Education) that “corporal punishment is inherently violent, and involves a degrading assault upon the physical, emotional and psychological integrity of the person to whom it is administered? South Africans have suffered, and continue to suffer, a surfeit of Violence. The state has an obligation to ensure that the learner’s constitutional rights are protected. It has an interest in ensuring that education in all schools is conducted in accordance With the spirit, content and values of the Constitution”**

- (1) S v Williams and Others 1995 (7) BCLR 861 (CC)
- (2) S v A Juvenile 1990 (4) SA 151 (28)
- (3) Ex Parte Attorney-General, Namibia in re Corporal Punishment by Organs of State 1991 (3) SA 76 (NmS)

**(4) Christian Education South Africa v Minister of Education 2000 (10) BC LR 1051 (CC)**

**20. Fill in the missing section number' Section ... of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to further education, which the state, through reasonable measures, must make progressively available and accessible.**

- (1) 29(1)(a)
- (2) 29(2)(a)

**(3) 29(1)(b)**

- (4) 29(3)(b)