

LEGISLATIVE FRAMEWORK REGULATING SCHOOL FINANCES

LAW IN EDUCATION IS A COMPLEX FIELD

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DIE VERANDERING IN ONDERWYS
THE CHANGE IN EDUCATION

IGNORANCE IS NOT AN EXCUSE

Onkunde is 'n verskoning nie.

LEGAL FRAMEWORK

Background

- Legal framework goes back to the 1995 White Paper on Education and Training and the 3 principles it contained.
- Underpinned by the preamble of the Constitution.
- An entire new education system led to comprehensive legislation to regulate the new system.

PRINCIPLES

Access

Equality

Equity and Redress

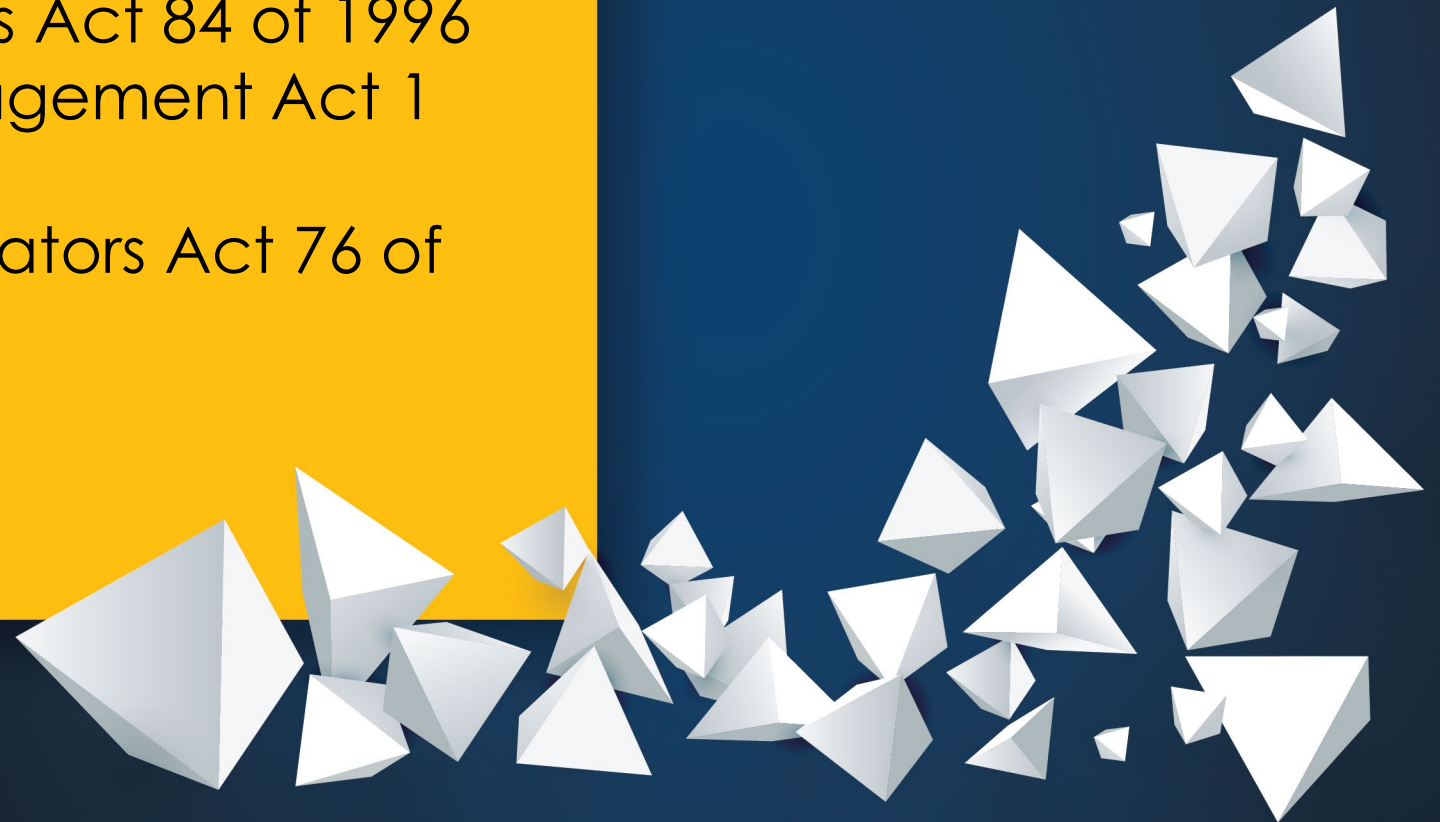
LEGISLATIVE FRAMEWORK

Legislative framework is a broad system of rules that governs and regulates decision making, agreements, laws etc

LEGISLATION is written law enacted by a body / person authorised to do so by the Constitution or other legislation

EXAMPLES OF LEGISLATION

- ✓ Constitution.
- ✓ South African Schools Act 84 of 1996
- ✓ Public Finance Management Act 1 of 1999.
- ✓ Employment of Educators Act 76 of 1998.
- ✓ Provincial legislation.

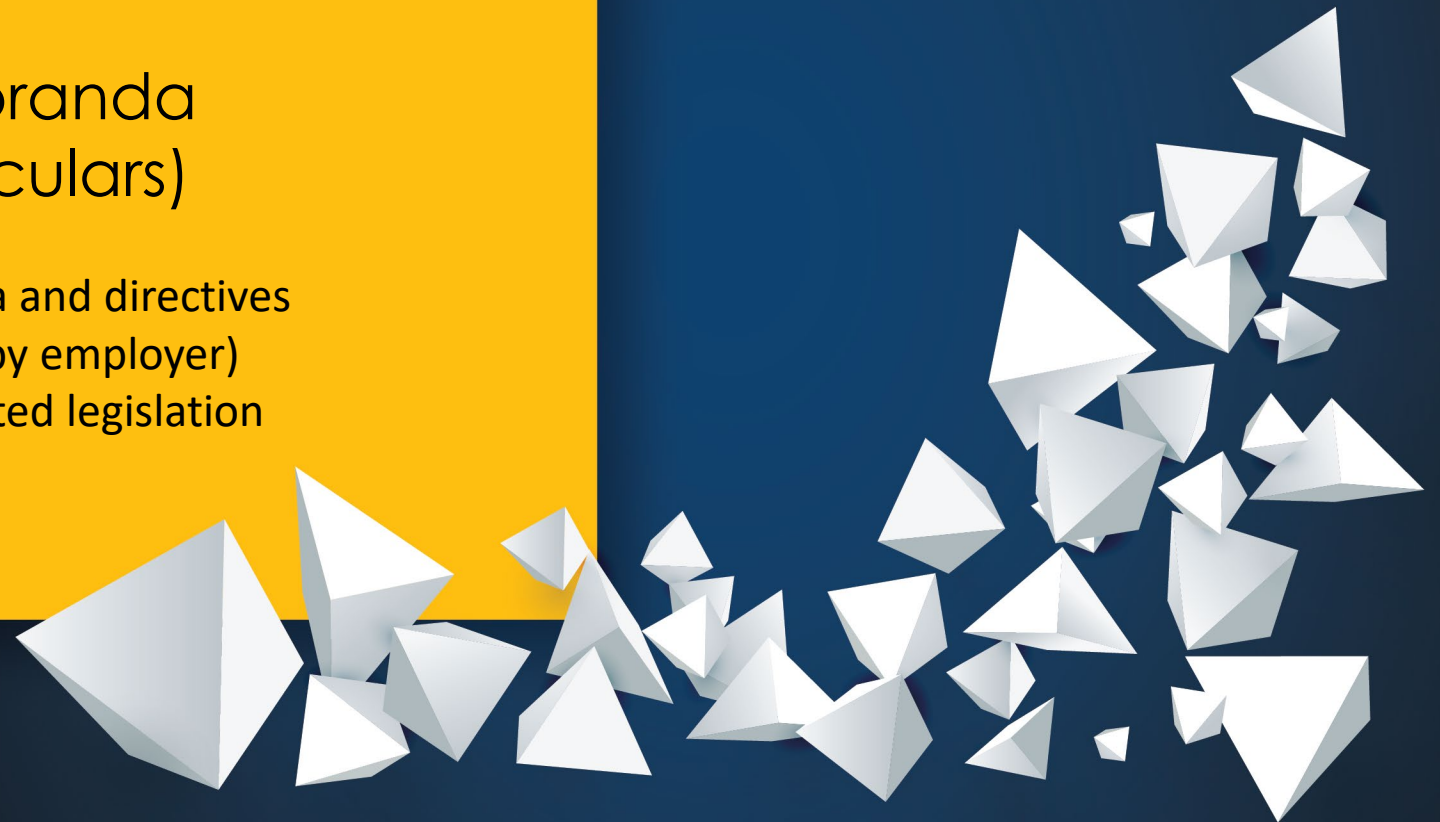


**LEGISLATION must be published
in an official
Government Gazette**

NOT LEGISLATION

- ✓ Green Papers
- ✓ White Papers
- ✓ Departmental memoranda
- ✓ Policy guidelines (Circulars)

Departmental memoranda and directives
(although enforceable by employer)
do not constitute delegated legislation



Precedence in legislation

- ✓ Constitution
- ✓ National legislation
- ✓ Provincial legislation
- ✓ Regulations
- ✓ Policy
- ✓ Circulars

LEGISLATION REGULATING SCHOOL FINANCES

Schedule 4 of the
Constitution –
all education (excluding
tertiary education) are
functional areas of
concurrent national and
provincial legislative
authority.

LEGISLATION, REGULATIONS & POLICIES REGULATING SCHOOL FINANCES

- ✓ Constitution
- ✓ South African Schools Act 84 of 1996
- ✓ Provincial legislation
- ✓ Norms and Standards for Funding
- ✓ School Financial Policy

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CONSTITUTION – supreme law

- Aim to establish a democratic, non-discriminatory and equitable (education system).
- Sec 1 of Constitution to ensure...
 - **Accountability**
 - Responsiveness
 - Openness

National legislation

- South-African Schools Act 84 of 1996
- Applies to all public schools in SA
- Preamble * to provide for uniform norms and standards for the education of learners.
 - * for the organisation, **governance** and **financing** of schools.

SASA (Chapter 4 sections 34 – 44)

- 34. Responsibility of State
- 35. Norms and standards for school funding
- 36. Responsibility of governing body
- 37. School funds and assets of public schools.
- 38. Annual budget of public school
- 38A. Prohibition of payment of unauthorised remuneration or giving of financial benefit or benefit in kind to certain employees.
- 39. School fees at public schools.
- 40. Parent's liability for payment of school fees.
- 41. Enforcement of payment of school fees.
- 42. Financial records and statements of public school.
- 43. Audit or examination of financial records and statements.
- 44. Financial year of public school.

Provincial legislation

- Each province has its own provincial school education law. (E.g., Gauteng Schools Act 6 of 1995)
- Often there are differing provisions between the provincial law and SASA.
- There are differing provisions between the provinces.
- S 146(2) of the Constitution – to ensure that norms and standards and frameworks promulgated under SASA enjoy preference should there be any contradiction between SASA and provincial education legislation.

Regulations

- Are “subordinate legislation”
- Regulations are always subject to the empowering / authorizing legislation
- The validity of regulations determine:
 - whether to promulgation of the regulations was sanctioned or authorized
 - whether the regulations are limited to the issues that were sanctioned
 - Regulations that are contrary to the Constitution / national or provincial legislation are ultra vires

Policy

- The Minister of Basic Education may promulgate policies (SASA ; NEPA)
- Subject to the Constitution, national policy enjoys preference above the whole or any portion of any provincial policy on education (should any conflict arise between national and provincial policy)

Policy

- Policy provides broad guidelines that are not binding.
- Policy does not create rights.
- Policy does not impose obligations.
- Should a functionary require policy to become binding, it should be made binding by way of legislation.

NATIONAL NORMS AND STANDARDS FOR SCHOOL FUNDING

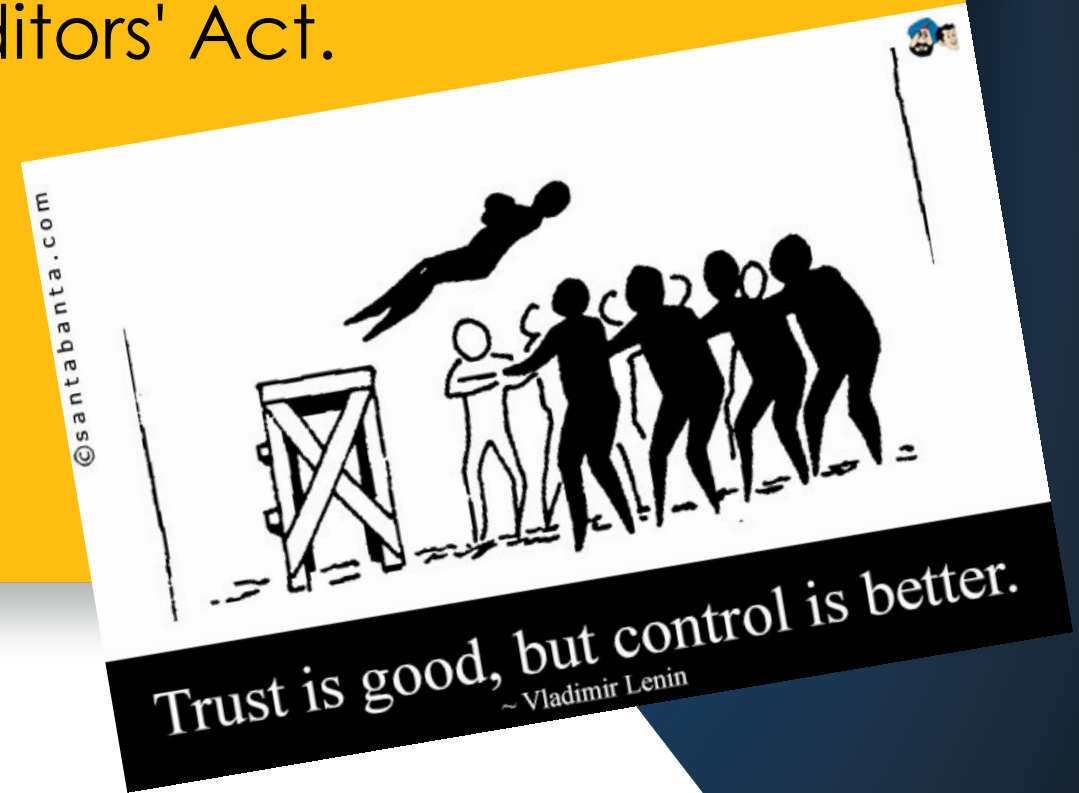
- NNSF
- Minister of Basic Education to establish norms and standards (N&S)
- N&S – provides guidelines to be applied by PED.
- NNSF are based on Constitution (sec 29) and SASA (sec 3,29,34,35,46,48).
- Exemption from payment (NNSF) Formula

SCHOOL'S FINANCE POLICY

- For a school to manage its finances effectively and efficiently a school finance policy must be developed, adopted by all the relevant stakeholders and implemented accordingly.
- The policy must comply with available legislation such as the Schools Act and it should set direction and give guidance.
- Schools and systems need policies, and the financial policy may eliminate or reduce the mismanagement of school funds.
- A policy identifies and articulates the values and the basic principles to be applied to specific needs in an organisation. In other words, it tells an educator or an administrator what is required, and it sets the broad objectives that should be achieved in managing the school's finances.

FINANCIAL CONTROL: EXTERNAL AUDIT

- Audit of school finances
- According to the Schools Act, the school's financial records and Annual Financial Statements must be audited by a registered public accountant and auditor in terms of the Public Accountants' and Auditors' Act.



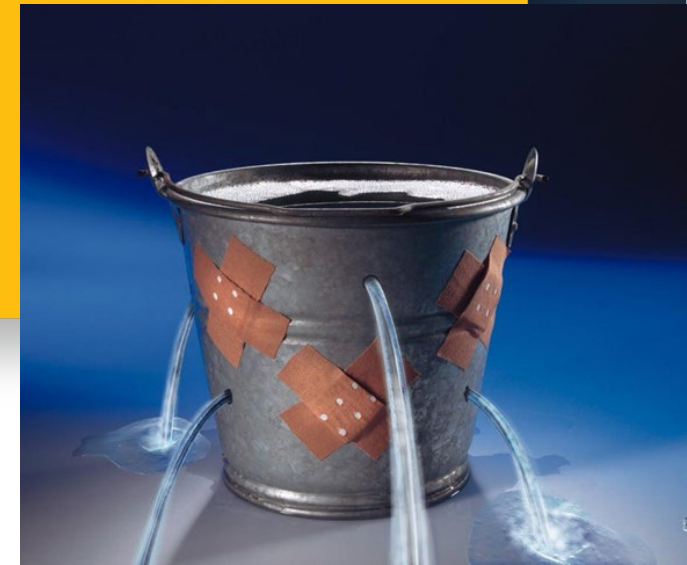
FINANCIAL CONTROL: INTERNAL AUDIT

- Although the SASA makes no provision for internal auditing, it is vital that the school governing body has an internal auditing mechanism in place.
- Appoint a team from the SGB or appoint someone from the community to do regular checks of the school's finances, for e.g. once a month.
- The treasurer or a designated person/s may also conduct internal audits during the year.
- **King IV** guidelines.

<https://www.iodsa.co.za/news/389613/Understanding-King-IV-and-what-it-is-intended-to-achieve.htm>

INTERNAL CONTROL

- **King IV** is principle- and outcomes-based rather than rules-based. Corporate governance should be concerned with ethical leadership, attitude, mindset and behaviour. The focus is on transparency and targeted, well-considered disclosures.
- Because it is not trying to be a law, and because it recognises that ethical behaviour is ultimately a matter of choice, King is a *voluntary* code. King IV's "apply and explain" approach reflects this ethos and prompts the governing body to apply its mind to achieving the principles, rather than simply following a set of rules blindly.



SCHOOL'S FINANCE POLICY: Finance committee

- Financial Management is governed by the SGB & administrated by the Financial Committee with the assistance of the School Management Team which is accountable to the SGB.
- Finance Committee must be transparent, must report to SGB, parents, Donors, Community, PED, & all other who are involved or contribute financially to the school.
- Financial responsibility = Proper recordkeeping of all income & expenditure, accounts are paid in time in accordance to approved budget.
- Sound administrative procedures must be followed.



SCHOOL'S FINANCE POLICY

- Principal represents HOD in the SGB (SASA sec 23, 24, 16A)
- Sec 16A Principal must assist the SGB with management of school's funds
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SCHOOL'S FINANCE POLICY: SGB

- SASA determines that SGB has the ultimate responsibility for the financial management.
- Principal is a member of SGB – shares responsibility for financial management. Principal is responsible for the proper implementation of the finance policy.



GOVERNANCE & PROFESSIONAL MANAGEMENT

SGB

- Start and administer school fund.
- Open and maintain 1 banking account.
- Keep financial records.
- Prepare annual budget to present to parents for approval.
- Draw up and submit audited financial statements to PED.
- Buy LTSM.
- Supplements funds supplied by PED.
- Collect school fees.
- Decide on applications for exemption from school fees

PRINCIPAL

- Assist SGB with functions.
- Support and guide expenditure in consultation with SGB.
- Assist SGB in recordkeeping.
- Administer process of budgeting.
- Manage the drawing up and finalization of annual statements
- Advise on LTSM.
- Support SGB with their functions.
- Ensure controls are in place and operating for cash collection.
- Monitor compliance and act on non-compliance

DUTIES OF TREASURER

- Oversee all financial matters of the school as directed by the SGB which include;
 - Serve as member / chairperson of the finance committee.
 - Advise SGB on financial matters. (SGB can co-op an expert).
 - Monitor on a monthly basis
 - all funds received
 - all payments authorised
 - all petty cash transactions / reconciliations
 - all donations received
 - Provide a financial report to SGB on a quarterly basis.
 - Monitor actual income and expenditure against approved budget.
 - Treasurer should not be the person responsible for the daily handling of money matters.

Circulars

- Circulars = official letters
- Provincial education departments often issue circulars relating to a plethora of matters
- Circulars cannot create rights or impose obligations.
- Circulars often contain policy declarations issued by authority, explaining the applications of legislative provisions or ways to handle certain situations.

Public Finance Management Act 1 of 1999

- **PFMA**
- Neither the PFMA nor any guidelines, instructions or regulations relating to asset management (or any other matter) issued in terms thereof, are applicable to public schools, be they Section 21 schools or Non-Section 21 schools.
- SASA and the various provincial acts and regulations contain sample provision for control by the Provincial Departments of Education regarding the keeping of records and maintenance of the movable assets of public schools
- Circular M1 of 2019 | Legal opinion on PFMA – PFMA does not apply to school funds. Manage funds as indicated in SASA

TEKKIE OP DIE TEERPAD

- Adhere to legislation.
- Update finance policy
- Adhere to policy (School)
- Stick to the budget
- PAPER TRAIL



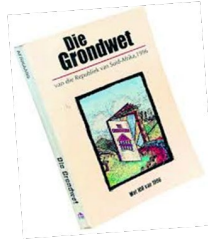
TEKKIE OP DIE TEERPAD

- Travel and accommodation cost – official school business (tours)
 - Reasonable, justifiable, accountable
- Prioritizing – Need to...vs Want to...: Best interest of ALL the LEARNERS
- Signatures – SGB decide. Minimum 3 signatories. Two must sign. Recommendation - one to be a SMT member.
- The school fund, and all proceeds thereof and any other assets of the public school must be used only for-
 - educational purposes, at or in connection with such school or in connection with another public school. (By agreement with such other public school and with the consent of the HoD).
 - the performance of the functions of the government body or another educational purpose agreed between the SGB and HoD.

Unsure ?

Use your resources

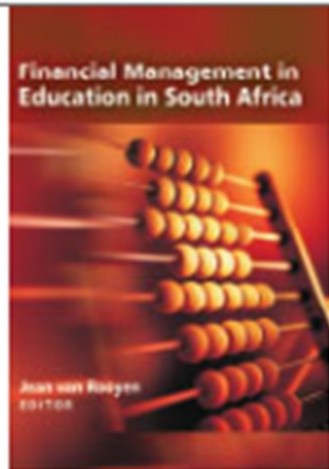




Accounting Manual for Public Schools 2017



- PHONE A FRIEND
- !!!ASK !!!

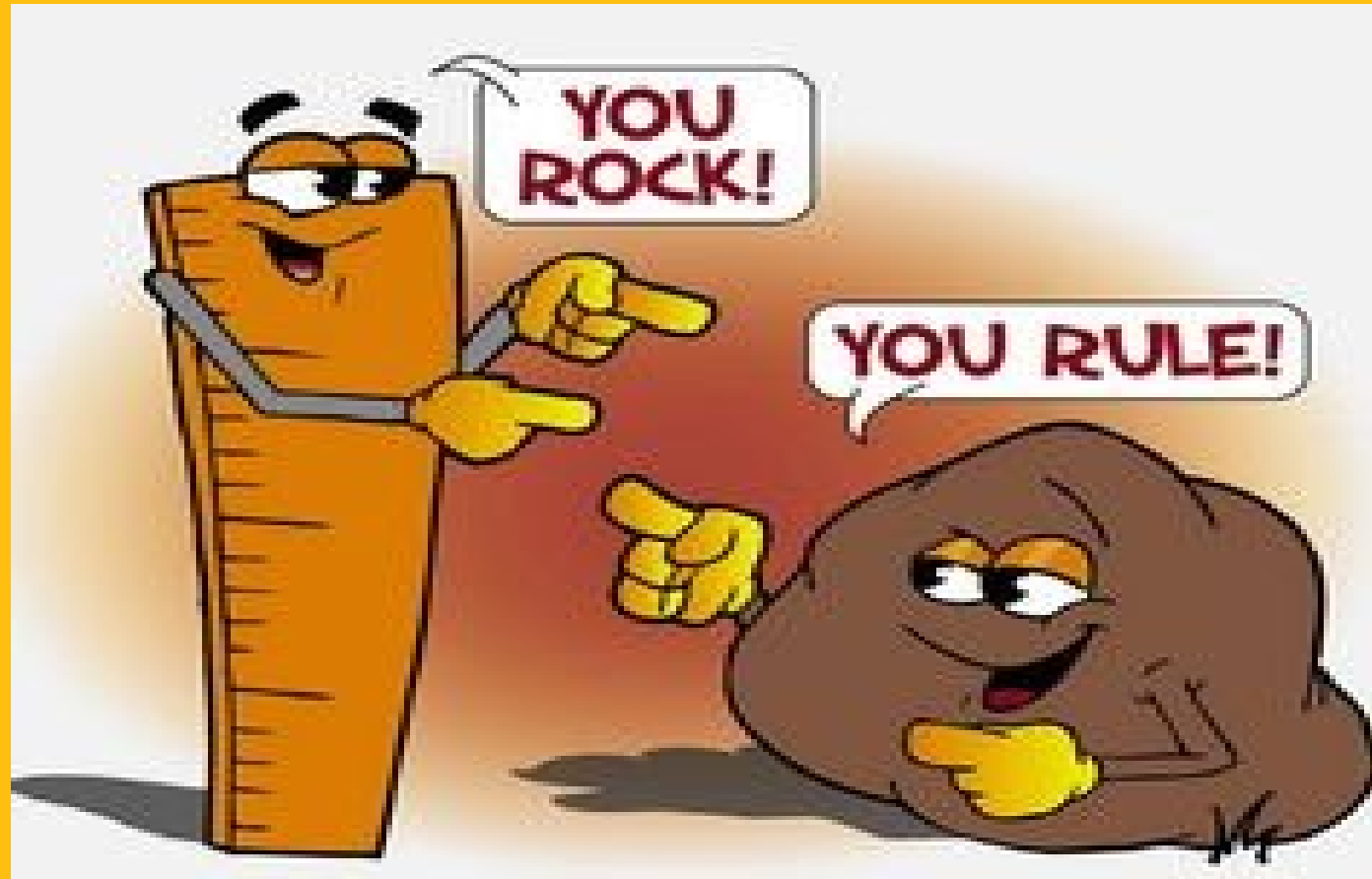


Handleiding vir Skoolbestuur
MSM

RESOURCES



Sterkte met die groot taak



SΔOU



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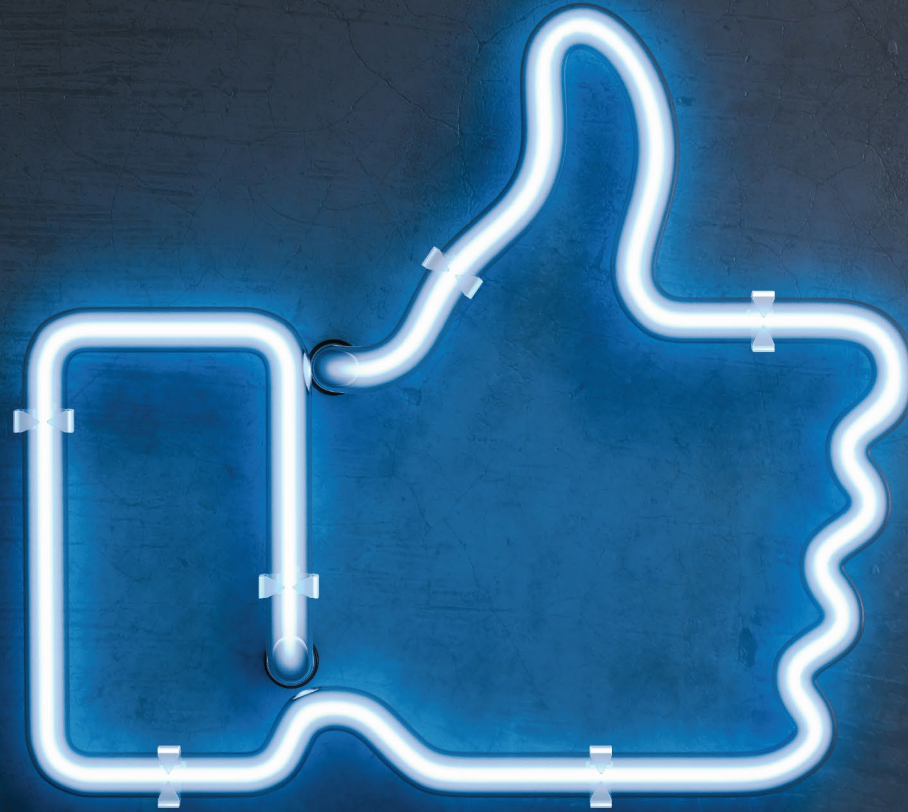
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- ✓ <http://www.fedsas.org.za/Home/> Beheer in openbare skole
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- ✓ <https://www.iodsa.co.za/news/389613/Understanding-King-IV-and-what-it-is-intended-to-achieve.htm>
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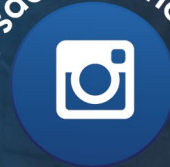
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