



## **Die leier in skoolbeheer en -bestuur**

The leader in school governance and management





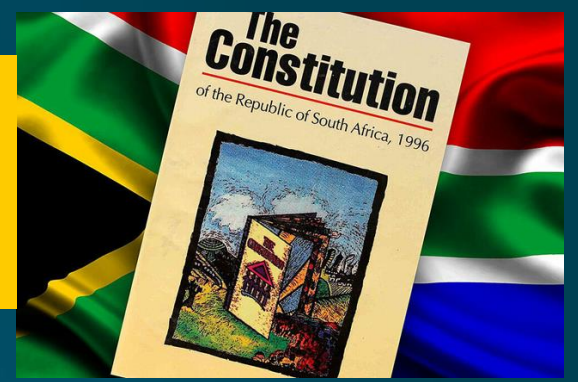
in collaboration with



# Managing diversity: What issues can land a school in murky waters? LGBTQI+



# Constitutional perspectives on diversity



## Founding Provisions of the Constitution:

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

(a) **Human dignity**, the achievement of **equality**, and the advancement of human rights and **freedoms**.

Section 7(2) of the Constitution provides that: “**[t]he state must respect, protect, promote and fulfill the rights in the Bill of Rights.**”







## Schools still turning away immigrant children

GroundUp Tariro Washinyira

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Published: July 10, 2017 5.23pm SAST



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NATIONAL

## Durban teenager studied

Staff Reporter 19 Jul 2005



CAPEARGUS NEWS

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# Watershed judgment clarifies limits of religion in South Africa's public schools



## Students speak out against 'unladylike' ban on afro hair

Students at prestigious Pretoria school where ban on 'untidy' and 'un-ladylike' hair



# The primary purpose of a school and its governing body



- **Section 5(1)** of the Schools Act makes it clear that a public school must admit learners **and serve their educational requirements** without **unfairly discriminating** in any way.
- **Section 21:** “(1) Subject to this Act, the governing body of a public school must- (a) promote the best interests of the school and strive to ensure its development through the **provision of quality education** for all learners at the school;”





# Environment and structure in schools – Quality education & Celebration of Diversity

- Framing of effective and lawful policies.
  - Code of conduct: Sec 8(2).
- Consultation.
- Promote the aims of the school / Constitution.
- Review regularly.

## SCHOOLS ACT:

*8(2): A code of conduct referred to in subsection (1) must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process.*



# My rights are restricted by the code of conduct

- Religion, culture, expression, gender identity, sexual orientation, etc...
- Pillay case:
  - Exemptions: Significance of the practice to the particular right?
  - Unreasonable burden / Reasonable accommodation.
- LGBTQI+: Bathroom / Clothing / Extra-curricular
- Learner & Parent

## Constitution: 36 Limitation of rights

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is **reasonable and justifiable** in an open and democratic society based on **human dignity, equality and freedom**, taking into account all relevant factors .....

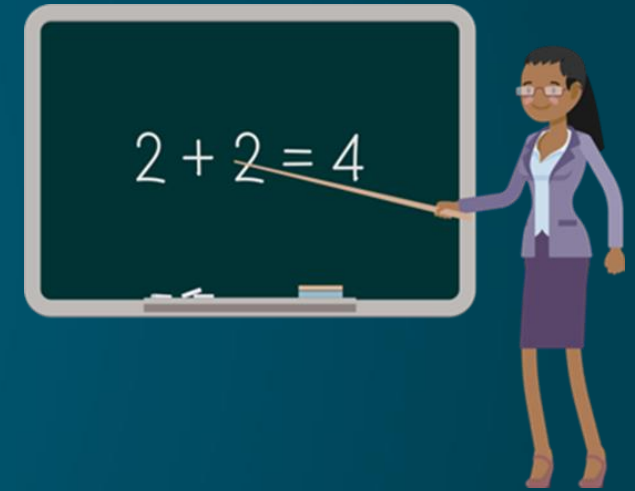
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# Environment and structure in schools that celebrate diversity

- Values driven vs Rules driven.
- Role of learners.
- Composition of SGB and staff.
- School curriculum.



In **Pillay**, the Constitutional Court held that expression of religion and culture by learners in public schools: “*is something to be **celebrated**, not feared. As a general rule, the more learners will **feel free to express their religions and cultures** in schools, the closer we will come to the society envisaged by the Constitution. The display of religion and culture in public is not a ‘parade of horrors’ but a **pageant of diversity** which will **enrich our schools** and in turn our country*”





# DIVERSITY AND DIFFERENCE

IN SOUTH AFRICAN SCHOOLS

*An Education Law Perspective*



**ANNAMAGRIET DE WET (ED)**

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## Further info



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