

# GUIDELINES

**FOR THE PREVENTION AND  
MANAGEMENT OF SEXUAL  
VIOLENCE & HARASSMENT  
IN PUBLIC SCHOOLS**



**education**

Department:  
Education  
**REPUBLIC OF SOUTH AFRICA**



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## **INTRODUCTION:**

There is a high level of sexual violence and harassment in South African schools. It is a barrier to learning that deprives learners of their inherent right to equality and dignity as enshrined in the Bill of Rights of the Constitution of the Republic of South Africa (1996). It can also prevent them from full participation in education.

Sexual violence and harassment can in some instances lead to serious acts of sexual assault and even rape, which may result in unwanted pregnancies, sexually transmitted infections and HIV infection. Victims can also suffer serious emotional consequences.

The Guidelines on the Prevention and Management of Sexual Violence and Harassment (guidelines) have been developed to support schools and school communities in responding to cases of sexual harassment and sexual violence that are perpetrated against learners. It responds to the need to set out the appropriate responses to allegations by learners of incidents of sexual violence and harassment, whether they are perpetrated by fellow learners, by educators or by any other person on school premises. The guidelines should be made available to all schools.

## **PURPOSE:**

The purpose of the guidelines is to assist public schools in maintaining minimum standard procedures when addressing allegations of sexual violence and harassment, and to specifically detail how public schools should treat victims of sexual violence and harassment and those who have, or are alleged to have committed such acts. They are also intended to assist victims of sexual violence and harassment with reporting procedures and in seeking intervention and support.

The guidelines seek to create a safe, caring and enabling environment for learning and teaching, both inside and outside of the classroom.

## **SCOPE OF APPLICATION:**

These guidelines are applicable to all public schools, including school management teams, educators, learners, and school governing bodies, support staff and any other individuals who transact business within public schools, with or without permission.

## **PREVENTION ACTIVITIES:**

1. The Department of Education, with the help of gender focal persons located at provincial and district offices will, wherever possible, provide ongoing training sessions for school-based educators and school governing body members and all other persons covered by these guidelines.
2. The content of these training sessions will include the scope and meaning of sexual violence and harassment, the means of preventing inappropriate behaviour, and appropriate action to be taken when sexual violence and harassment has occurred, as well as the different roles and responsibilities of all those involved in addressing this issue.
3. In order to strengthen the networks for referral purposes, any training sessions and support activities will be conducted in collaboration with representatives of relevant government departments, such as the South African Police Services, the Department of Social Development, the Department of Labour, the Department of Health, the Department of Justice and Constitutional Development as well as the National Prosecuting Authority.
4. School Codes of Conduct should clearly indicate that sexual violence and harassment is not to be tolerated and designated officials must respond appropriately when cases of sexual violence and harassment occur. All classrooms must display such codes of conduct.



5. The contents of these guidelines may also be used to develop education material that can be used towards the prevention of sexual violence and harassment in the classroom and through peer education campaigns.

### **CONFIDENTIALITY:**

6. All cases of alleged sexual violence and harassment should be treated as far as possible with confidentiality, to protect the privacy of the individuals involved and to ensure that the complainant and the accused are treated fairly.

### **NATURE AND FORMS OF SEXUAL VIOLENCE AND HARASSMENT:**

7. For the purposes of these guidelines:
  - 7.1 Sexual violence<sup>1</sup> is any sexual act or attempted sexual act using intimidation, threats or physical force. In schools this may include sexual harassment, assault, forced sex or rape, sexual abuse and sexualised touching of another's intimate parts or forcing any person to touch any person's intimate parts. Intimate parts include the mouth, primary genital area, groin, inner thighs, buttocks, breasts, as well as clothing covering these areas.
  - 7.2 Sexual violence can also cause emotional abuse in the form of threats of violence.
  - 7.3 Sexual violence constitutes a criminal offence and therefore needs to be immediately reported to the South African Police Service and the Social Workers of the Department of Social Development.

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1 National Association of State Boards of Education (1998): Sexual Harassment in Schools: What it is, What to Do

#### 7.4 Sexual harassment<sup>2</sup> is:

- i. Unwanted conduct of a sexual nature.
  - ii. Sexual attention constitutes sexual harassment if:
    - a. The behaviour is persisted (although a single incident of harassment may constitute sexual harassment).
    - b. The recipient has made it clear that the behaviour is considered offensive, and or
    - c. The perpetrator knew or should have known that the behaviour is regarded as unacceptable.
  - iii. Sexual harassment may include unwelcome physical, verbal or non-verbal conduct.
  - v. It may include discrimination or offensive behaviour on the basis of the, gender or sexual orientation of a person.
  - vi. Sexual harassment is not limited to situations where an unequal power relationship exists between parties involved.
  - vii. Sexual harassment can be committed by and against a male or female person.
8. Protection against acts of sexual harassment extends to incidents occurring in school toilets, classrooms, corridors and playing fields. It also covers incidents occurring in hostel rooms and dormitories as well as those incidents that happen during school trips.
9. Protection may also be extended to dating relationships affecting learners, where behaviour can constitute sexual harassment or violence.

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2 From the Code of Good Practice on the Handling of Sexual Harassment Cases, Labour Relations Act, 1995. Although this was meant for the workplace, it is adapted here for use in the education environment.



## **EFFECTS OF SEXUAL VIOLENCE AND HARASSMENT**

Sexual violence and harassment is costly. It does not only affect the individual who has suffered violence or harassment, but it can also affect the environment at school for other learners, creating an atmosphere of fear and aggression. This has implications for the provision of psychosocial support to learners in an environment where the prevalence of sexual violence and harassment is high. The impact on the learner directly affected may include, but is not limited to: a drop in self-esteem and confidence, emotional withdrawal, absenteeism and may contribute to under-achievement through loss of interest in school-work.

## **PROCEDURE**

In dealing with reported incidents of sexual violence and harassment, the institution's manager holds ultimate accountability. Where there is no designated official, the institution managers, unless accused themselves, should be the ones to lead investigations. The following procedures are recommended:



## Complaints Procedure for a victim of sexual violence and harassment

TYPE OF OFFENCE	LEARNER
Sexual Harassment (The complainant initiates the reporting process).	<ol style="list-style-type: none"> <li>1. Where possible, the learner should ask the perpetrator to stop. In cases where a victim does not feel able to do so, the incident should still be followed up if reported.</li> <li>2. The incident must be reported to a trusted adult or to a designated educator. This can be done verbally or in writing or both.</li> </ol>
1 <sup>st</sup> Level Intervention	<ol style="list-style-type: none"> <li>3. The trusted adult who is not a designated official for handling sexual violence and harassment should: <ul style="list-style-type: none"> <li>• Inform the designated officer or principal within one day.</li> <li>• Not attempt to conduct an investigation.</li> <li>• Offer counselling or refer the learner immediately if the educator is not in a position to offer counselling.</li> <li>• The learner could also be advised to call the Childline toll free number at <b>0800 055 555</b> to speak to one of the counsellors should there not be counselling support within the school or nearby.</li> </ul> </li> <li>4. Disciplinary measures should be followed where possible, should the individual fail to observe the given procedures.</li> </ol>



<p>2<sup>nd</sup> Level Intervention</p>	<p>5. On receipt of the complaint, the designated official, who may be an adult member of the School Management Team (SMT), School-based Support Team (SBST), or School Governing Body (SGB), should write a letter to the complainant's parents or guardian as well as the alleged victim's parents or guardian.</p> <ul style="list-style-type: none"> <li>• Each case should be considered according to the nature of severity, using the guide provided below.</li> <li>• Two individuals nominated by the SMT or the SGB (not learners) should investigate the complaint without any delay, and as confidentially as possible.</li> <li>• The investigating team should provide feedback to both the victim and the alleged perpetrator about the outcome of the investigation within seven days.</li> <li>• A report of the incident and how it was handled should be filed and a report forwarded to the district office.</li> </ul>
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Sexual Violence	<ol style="list-style-type: none"><li>1. Caution should be exercised when dealing with sexual violence. Many forms of sexual violence, such as child abuse, sexual assault and rape constitute criminal offences.</li><li>2. In such instances, the principal should report the incident directly to the police and social workers.</li><li>3. No attempt should be made to investigate such cases.</li><li>4. Parents or guardians of both the victim and the alleged perpetrator must be contacted when dealing with all forms of sexual violence.</li></ol>
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<p>1<sup>st</sup> Level Intervention (Ensuring the learner's safety first).</p>	<ol style="list-style-type: none"> <li>5. Offer counselling or refer the learner immediately if the educator is not in a position to offer counselling.</li> <li>6. Information clarifying what needs to be done and the different role players should be provided to the learner.</li> <li>7. It is advisable that the learner should not drink or eat anything or wash his/her mouth, or shower, or take any medicine until the doctor has examined him/her, especially if he/she has been raped or forced to perform oral sex.</li> <li>8. The learner must undergo a medical examination from the nearest clinic, hospital or doctor immediately or within 72 hours, for medical evidence, and to be provided with medication to prevent pregnancy and Anti-Retroviral medication, to reduce the risk of HIV infection.</li> <li>9. The learner could also be advised to call the Childline toll free number at 0800 055 555 to speak to one of the counsellors.</li> </ol>
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## **Alleged Sexual Violence and Harassment by a Learner**

- i. The school must implement the Code of Conduct for Learners determined through section 8 (3) of the South African Schools Act (SASA), No. 84 of 1996. The SGB may suspend a learner from attending school for a week as a correctional measure. This period will also apply when the Head of Department's decision about whether or not a learner should be expelled is still pending. Expulsion can only take place after a fair hearing has been conducted.
- ii. The school may, depending on the seriousness of the offence, recommend that:
  - a. The learner receive counselling, or
  - b. Write a letter of apology to the victim, and
  - c. That the Head of Department make an alternative arrangement for the learner's placement at another public school as a temporary measure or that the learner is directed to an alternative supervised location, if the learner is still in the compulsory attendance age in terms of Section 3(1) of the South African Schools Act 1996). This is to provide a more conducive learning environment for the victim.
- iii. Once a learner has been accused of harassment and violence, the learner's parent(s) or guardian(s) must be informed. In the event that a learner comes from a child-headed household there might also be a need to involve social workers.
- iv. When a decision has been reached and communicated to both victim and perpetrator, a letter outlining the decision shall be placed in the learner's personal file.
- v. The following table may be used for guidance on the type of offence and the possible procedures or corrective measures to be applied:



<b>Level of Offence</b>	<b>Examples</b>	<b>Procedures or Corrective measures</b>
Level 1	<p>Making rude jokes.</p> <p>Graffiti of a sexual nature.</p>	<ul style="list-style-type: none"> <li>• Verbal or written warning by the educator or principal.</li> <li>• Supervised schoolwork that will contribute to the learner internalising values of respect.</li> <li>• Improvement of the school environment, provided that the parents are informed and the security of the learner is assured.</li> <li>• Performing tasks that would assist the offended person.</li> <li>• Replacement of damaged property.</li> <li>• Temporary suspension from some school activities, e.g. sport, cultural activities.</li> </ul>
Level 2	<p>Circulating offensive material.</p> <p>Threatening assault and intimidation of a fellow learner.</p>	<ul style="list-style-type: none"> <li>• Supervised schoolwork that will contribute to the learner internalising values of respect.</li> <li>• Verbal or written warning by the educator or principal.</li> <li>• Conflict resolution in a peer education group for a specified period.</li> </ul>
Level 3	<p>Pornography distribution at school.</p> <p>Improper suggestions of a sexual nature.</p> <p>Sexual harassment.</p>	<ul style="list-style-type: none"> <li>• Disciplinary hearing.</li> <li>• Detention with an assignment on values.</li> <li>• Detention with community service.</li> <li>• Detention and work with the leadership of a peer education group for a specified period.</li> </ul>

Level 4	<p>Persistent harassment despite previous corrective measures.</p> <p>Public indecency.</p> <p>Sexual assault and rape.</p>	<ul style="list-style-type: none"> <li>• Once a learner is being charged for sexual violence, the learner's parent(s) or guardian(s) must be informed that the child is being charged with sexual violence. Social Workers should be informed where the child is from a child-headed household.</li> <li>• A letter outlining the decision shall be placed in the learner's personal file.</li> <li>• All cases of sexual violence or rape must be reported to the South African Police Services within 72 hours of occurrence, for further handling in terms of the provisions of the Criminal Procedure Act, No. 51 of 1977;</li> <li>• The school governing body may recommend to the Head of Department that the learner be expelled from school for serious cases of misconduct like sexual assault or rape.</li> </ul>
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### **Alleged Sexual Violence and Harassment by an Educator**

- i. If an educator is alleged to have behaved in a disgraceful, improper or unbecoming manner, or while on duty, commits sexual or any other form of harassment, he or she may be charged with misconduct in terms of the Employment of Educators Act, No. 76 of 1998, which deals with all the procedures to be followed if an educator is charged



with misconduct. If the individual is in the employment of the SGB, the employer must be made aware of the offence so that it can be addressed in terms of the labour laws.

- ii. The educator may be disciplined in terms of the Code of Good Conduct of the South African Council for Educators No 31 of 2000 which may include deregistration from the SACE if found guilty.
- iii. The Employment of Educators Act, Act 76 of 1998, was amended in 2000. Section 17 of the Education Laws Amendment Act, No 53 of 2000 provides that an educator must be dismissed if he or she is found guilty of among other things:
  - a. Committing an act of sexual assault on a learner, student or other employee.
  - b. Having a sexual relationship with a learner of the school where he or she is employed, or
  - c. Seriously assaulting, with the intention to cause grievous bodily harm to a learner, student or another employee.



When an incident of sexual harassment or violence has been reported, the following procedures should be followed:

<b>Offence</b>	<b>Procedures or Corrective measures</b>
Minor incidents of Sexual Harassment.	<ul style="list-style-type: none"> <li>• Educator is informed in writing of the reported alleged offence.</li> <li>• The incident is confidentially investigated by two designated officers.</li> <li>• Feedback is given to the complainant and parents or guardians.</li> <li>• A written warning is issued.</li> <li>• The incident is recorded.</li> <li>• Counselling may be recommended.</li> </ul>
Serious incidents of Sexual violence and harassment.	<ul style="list-style-type: none"> <li>• Educator is informed in writing of the reported alleged offence.</li> <li>• The appropriate authority should facilitate the educator being temporarily removed from the school to report at the local district office.</li> <li>• The district office should provide the school with a substitute educator where practically possible.</li> <li>• Once the educator has been removed, there should be investigations following Labour Law and SACE procedures, then a hearing.</li> <li>• When a decision has been reached and communicated to the victim and perpetrator, a copy of the letter outlining the decision is placed in the educator's file.</li> <li>• Dismissal may ensue for continued minor instances of sexual harassment after warnings, as well as for serious instances for sexual violence and harassment.</li> </ul>



## **Alleged sexual violence and harassment by any other adult who is not an Educator**

- i. If the adult so charged is a non-educator, but is employed as a public servant, the matter may be dealt with in terms of the Disciplinary Code and Procedure for Public Service (Resolution 2/99). Existing legislation will be used where the alleged offender is a member of the public.
- ii. There are other adults who may be found in the school who may include members of the community, those employed by the SGB, as well as people from local organisations that provide essential services to schools. The relevant legislation will apply should any of them become a victim of, or perpetrate sexual violence and harassment.

## **SUPPORT FOR VICTIMS WHO HAVE EXPERIENCED SEXUAL VIOLENCE AND HARASSMENT**

The school should have a well-established School-Based Support Team (SBST) comprising of representatives from the school management team (SMT), educators, representative council of learners and school governing body. It is recommended that the SBST should, where possible, include representatives from community-based organisations, local community leaders and representatives from any of the Departments of Education, Health, Justice and Constitutional Development as well as the National Prosecution Authority, Correctional Services, Safety and Security and Social Development.

The SBST is in place to ensure that cases of sexual violence and harassment are reported, dealt with and referred accordingly, within reasonable time frames. While recognising that learners are often involved

in the reporting of sexual violence and harassment cases as well as the informal support structures to the victim, no learner should be involved in managing the investigation of a sexual harassment or violence case or disciplinary action in such a case.

The primary responsibility for investigating cases of sexual harassment and violence and managing disciplinary proceedings rests with the SMT:

- a. Investigations by the SMT, Department of Education, and South African Council for Educators should run concurrently with police investigations. The school should not await a court ruling before dealing with cases under its jurisdiction.
- b. The SBST should provide victims with counselling or refer victims to professional counsellors. Refer to ANNEXURE C of these guidelines for further information.

## HOW MEMBERS OF THE SCHOOL COMMUNITY SHOULD RESPOND TO SEXUAL VIOLENCE AND HARASSMENT

Designated Role	Responsibility towards the Victim
Principal	<ul style="list-style-type: none"> <li>• Maintain confidentiality and impartiality.</li> <li>• Take immediate action to remedy the situation e.g. delegate to the investigating team, receive progress report and give feedback about the progress to the complainant.</li> <li>• Understand that it is a criminal offence not to report allegations of sexual violence and the accounting officer could be prosecuted (Child Care Act, as amended).</li> <li>• Initiate the development of clear school policies on sexual violence and harassment as a prevention mechanism.</li> </ul>



SMT/ SGB/ SBST	<ul style="list-style-type: none"> <li>• Maintain confidentiality.</li> <li>• Every adult member could be delegated to investigate, therefore all must be familiar with the procedures to be followed and knowledgeable about sexual violence and harassment.</li> <li>• Provide the necessary support e.g. counselling and referral to other institutions that may offer help.</li> <li>• Maintain reports about incidents and forward to relevant authorities.</li> <li>• Keep a register of local resource centres that can help victims.</li> </ul>
Educator	<ul style="list-style-type: none"> <li>• Maintain confidentiality.</li> <li>• Observe any changes in the learner's behaviour after the reported incident and provide the necessary support or refer to the SBST.</li> <li>• Utilise the curriculum to educate against sexual violence and harassment.</li> <li>• Make the guidelines and procedures for reporting part of the curriculum.</li> <li>• Involve learners to develop a classroom code of conduct that includes preventing and dealing with issues of sexual violence and harassment.</li> </ul>
Learners	<ul style="list-style-type: none"> <li>• Maintain confidentiality.</li> <li>• Report any incidents of sexual violence and harassment to the designated educators.</li> <li>• Provide support to fellow learners who have been victims of sexual violence and harassment.</li> <li>• Be informed and knowledgeable about what to do when your safety is threatened.</li> <li>• Join support groups and clubs that speak out against sexual violence and harassment in schools.</li> </ul>

## REPORTING AND MONITORING

School principals should review the reported cases of girls and boys who have been victims of sexual violence and harassment in public schools on a quarterly basis and officially report to the district or regional office. The Questionnaire provided as Annexure B of these guidelines may be used for this purpose.

Districts and regional offices should forward the information concerned to the provincial offices who will in turn forward the information to the national office. This information is vital for tracking the effectiveness of the guidelines.

Of the abused learners, determine:

- a. The number of girls and boys who are still interacting with or have to face their alleged perpetrators daily, and
- b. The number that have dropped-out of school because of the pressure, including pressure from the alleged perpetrators or others in the school.

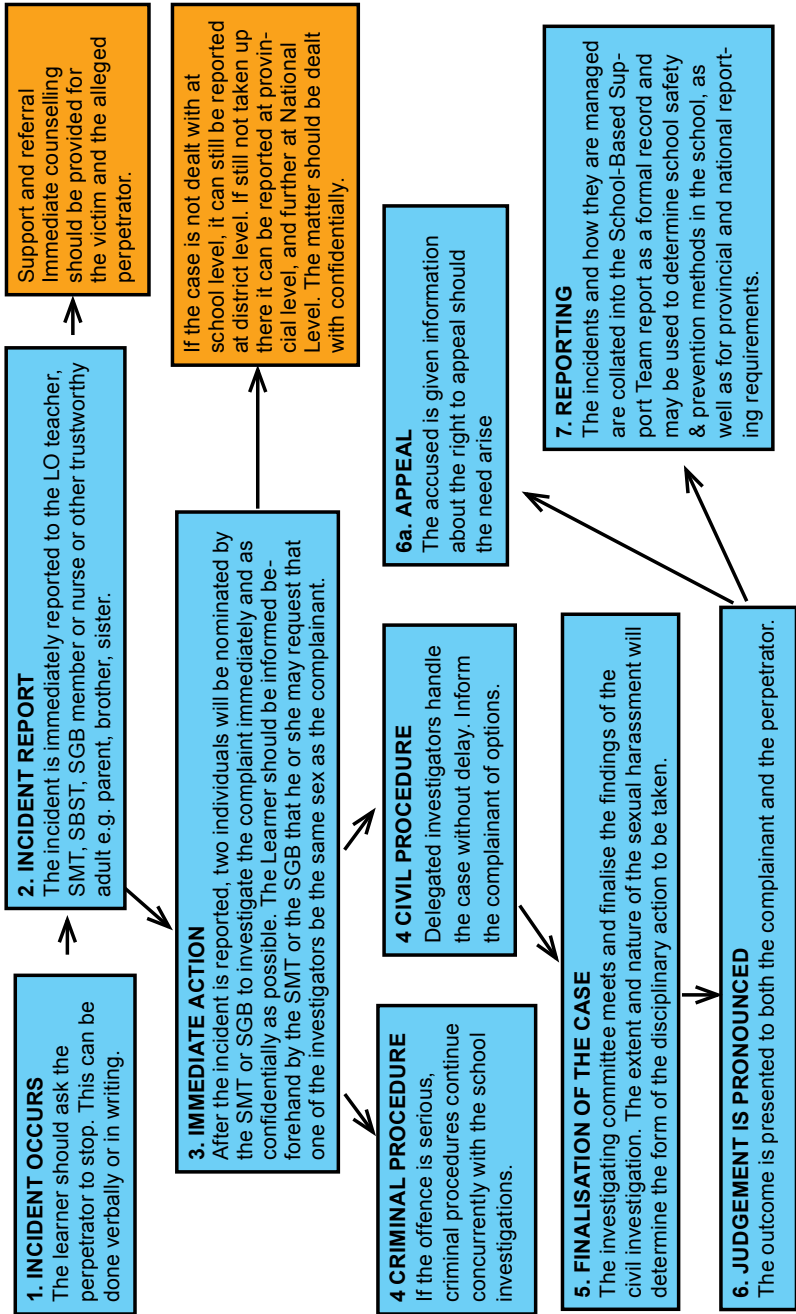
Principals should also determine:

- a. The number of reported cases.
- b. The number of reported cases withdrawn by the victim, and
- c. The rate of successful convictions and/or disciplinary actions taken against perpetrators.

Reports should also state existing interventions, including referrals, if any, in the school to assist victims, if counselling services do not exist.



**ANNEXURE A: STEPS TO TAKE IF A LEARNER HAS BEEN SEXUALLY HARASSED**



## ANNEXURE B: QUESTIONNAIRE

Kindly complete the following questionnaire on a monthly basis, and submit the completed form to the Life Skills Officer at the district office, who in turn should submit to the Gender Officer / Special Programme Officer at the provincial education department head office.

Type of violence	Age & Sex of victim/survivor	Age & Sex of perpetrator	Date of incident & relationship, e.g., learner – learner	Reported to whom & Date of reporting	Action taken
Sexual harassment					
Rape					
Sodomy					
Bullying					
Sexual abuse					
Sexual violence					
Other					



**ANNEXURE C: CONTACT DETAILS FOR REPORTING CASES OF SEXUAL HARASSMENT AND RELATED OFFENCES**

<b>DEPARTMENT OF EDUCATION</b>		
<b>OFFICE</b>	<b>ADDRESS</b>	<b>CONTACT DETAILS</b>
National	123 Schoeman Street, Pretoria	012 312 5420 / 5413 / 5428
<b>NATIONAL ORGANISATIONS</b>		
<b>ORGANISATION</b>	<b>CONTACT DETAILS</b>	
Child line	0800 05 55 55	
Life line	011 781 2337 / 0861 322 322	
Child Protection Unit (CPU)	012 393 2359 / 2362 / 2363	
National Network of Violence Against Women	012 321 4959 / 4047 / 0075	
Nipilar	012 328 5901	
Nicro	012 322 7419	
Rape Crisis	012 342 2222	
South African National Council for child & Family Care	011 492 2950	
Stop Women Abuse Help line	0800 150 150	
SAPS Crime Stop	08 600 10 111	
SAPS Emergency Number	10111	
The Family Association of South Africa	011 845 1804	
Women Abuse Help line	0800 150 150	
Department of Social Development	012 312 7883	
National Prosecuting Authority (NPA) Sexual Offences and Community Affairs Unit SOCA/IDMT	012 845 6100 / 6136	



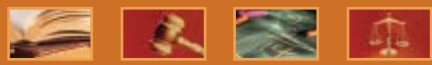
<b>PROVINCIAL ORGANISATIONS</b>		
<b>PROVINCE</b>	<b>ORGANISATION</b>	<b>CONTACT NUMBERS</b>
Eastern Cape	Masimanyane Women's Support Centre	043 743 9169
	Port Elizabeth Rape Crises	041 481 3804
Free State	Network on Violence Against Women	082 307 9205
	NICRO (Bloemfontein)	051 435 5193
Gauteng	Agisanang Domestic Abuse Prevention and Training (ADAPT)	011 786 6608 011 885 3305
	People Opposing Violence Against Women (POWA)	011 642 4345 / 082 463 4848
	People Against Women Abuse (PAWA)	012 805 7416 / 012 320 1100/7
	Midrand Child Welfare Centre	011 315 3522
	Sexual Harassment Project (SHEP)	011 403 0541 / 083 389 4113
	Network on Violence Against Women	031 304 6928
KwaZulu Natal	NICRO	035 772 1574
	Rape Crisis	033 342 5929
Limpopo	NICRO	015 297 7538
	NGO COALITION	015 295 3542
	NIKUSI	015 297 6972
	FAMSA	015 307 4833



PROVINCIAL ORGANISATIONS		
PROVINCE	ORGANISATION	CONTACT NUMBERS
Mpumalanga	Network on Violence Against Women	082 702 8298
	Grip (Rape Prevention Programme)	013 752 4404
	NICRO	013 755 3540
North West	Network on Violence Against Women	014 565 3269
	Adapt	083 575 6222
Northern Cape	Network on Violence Against Women	053 872 2644/5 <b>Fax</b> 053 872 2647
	NICRO (Kimberly)	053 831 1715
	NICRO (De Aar)	053 631 2267
Western Cape	Network on Violence Against Women	021 633 5287 <b>Fax</b> 021 637 0785
	<i>Ilitha labantu</i>	021 633 2383/78
	Rape Crises Centre	021 447 9762
	Rape Crises Centre	021 852 5620 / 083 484 9409

**THUTHUZELA CARE CENTRES (TCC): ONE STOP CENTRES FOR RAPE SURVIVORS**

<p>1. TCC Mamelodi Mamelodi Hospital Tel: 012-801 2717 Fax: 012-841 8384</p>	<p>2. TCC Natalspruit Natalspruit Hospital Tel: 011-909 1002/3/6/9 Fax: 011-909 2929</p>
<p>3. TCC Soweto, Gauteng Nthabiseng Thuthuzela Chris Hani Baragwanath Hospital Tel: 011-933 1229 / 3346 Fax: 011-933 1140</p>	<p>4. TCC Libode, Umtata: Eastern Cape St Barnabas Hospital Tel: 047-568 6274 Fax: 047-568 6004</p>
<p>5. TCC Mdantsane, East London: Eastern Cape Cecilia Makiwane Hospital Tel: 043-761 2023 Fax: 043-761 6277</p>	<p>6. TCC Mannenberg, Western Cape GF Jooste Hospital Tel: 021-691 6194 Fax: 021-691 7962</p>
<p>7. TCC Mafikeng Mafikeng Hospital Tel: 018-383 7000 Fax: 018-383 7000</p>	<p>8. TCC Umlazi Prince Mshiyeni Hospital Tel: 031-907 8496 Fax: 031-906 1836</p>
<p>9. TCC Phoenix Crisis Centre Mahatma Ghandi Hospital Tel: 031-502 2338 Fax: 031-502 2372</p>	<p>10. TCC Galeshewe, Kimberly Northern Cape Hospital Tel: 053-830 8900 Fax: 053-830 8906</p>



## **ANNEXURE D: SOUTH AFRICA'S INTERNATIONAL OBLIGATIONS**

1. The need to extend particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and the Convention on the Rights of the Child adopted by the General Assembly on 20 November 1989, which states that State parties shall protect children from all forms abuse, neglect, sexual exploitation, sale, trafficking and abduction.
2. The Convention on the Rights of the Child, which has been signed and ratified by South Africa, applies to everyone below the age of eighteen (18) and specifically requires State parties to the Convention to: "Take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical and mental violence including sexual abuse". It goes on to state "education of the child shall be directed to the preparation of a child for responsible life in a free society, in the spirit of equality of the sexes".
3. The African Charter on the Rights and Welfare of the Child, article xxvii on sexual exploitation and abuse, particularly point 1b and 1c stipulates that the Government has to have measures to prevent even the use of children in prostitution or other sexual practices and in pornographic activities, performance and materials. Furthermore it requires States to take measures to prevent sexual exploitation and abuse of children and emphasises the right to education.
4. This has been re-enforced by the Protocol to the African Charter on the Rights of Women in Africa (also ratified by South Africa), which provides in Article 12 for the right to education and training. It requires all State parties to take measures to eliminate all forms of discrimination in terms of access to education and requires States to

take “all appropriate measures to protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and to provide for sanctions against perpetrators of such practices.”

5. The Universal Declaration of Human Rights, in particular Articles 25.2 & 26.2, provides statutes and relevant instruments of specialised agencies and international organisations concerned with the welfare of children.
6. The International Covenant on Civil and Political Rights (ICCPR), which South Africa ratified in 10 December 1998, requires Governments to ensure the right to life and security of the person and all individuals in its jurisdiction including schools and colleges.
7. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by South Africa in December 15, 1995 requires Governments to take action to eliminate violence against women and girls which discriminates and inhibits women’s ability to enjoy the rights and freedoms on a basis of equality with men.
8. CEDAW commits States to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. It also sets out specific recommendations regarding duties resting on states. It should be noted that one of the duties set out is that: “States should take all legal and other measures that are necessary to provide women with effective protection against gender-based violence, including effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence.”



9. The Declaration on the Elimination of Violence against Women specifically encourages member states to pursue policies to eliminate violence against women. In this regard Member States undertake to pass legislation to punish violence against women.
  
10. The National Constitution and South Africa's ratification of the above international treaties oblige all sectors of government to protect the rights and safety of children. This transcends into the jurisdiction of the Department of Education and by that virtue obliges it to comply with the letter and spirit of the Constitution and the international treaties, as far as learners under its care are concerned. Government is obliged to provide resources to ensure that inalienable rights are not violated.









