

STUDENT PROTECTION POLICY

EXECUTIVE SUMMARY

The purpose of this Student Protection Policy is to guide and empower Redhill School with the necessary tools and information required to deal with the possible occurrence of abuse in the school environment. The Policy should be used as a guide to inform relevant stakeholders about the immediate and long-term interventions to identify and investigate abuse and to implement the necessary sanctions to prevent future abuse.

Sexual offences against children and students constitute an extensive social crisis that permeates communities and educational institutions throughout South Africa. This policy has been developed to assist all relevant stakeholders in the Redhill School community, namely, school management teams, employees, parents/guardians and, most importantly, students affected by this serious human rights breach.

Sexual misconduct against students has severe consequences for their physical and psychological well-being, school performance, and attendance, and presents a barrier to the full enjoyment of their constitutional rights. Redhill School is legally obligated to protect students in its care and to conduct itself in a manner that is in every child's best interest.

This Policy will articulate the responsibility of the Executive Head, heads of school, educators and other Redhill staff members who may suspect or deal with disclosures of abuse and sexual offences against students and will outline the mandatory duty to report such incidents in the prescribed manner. This document also highlights the responsibility of heads of school to implement the Policy.

PURPOSE

The purpose of the Policy is to:

- (a) assist all students who are victims of abuse, deliberate neglect or any sexual offences;
- (b) prescribe an approach for the school management teams, educators and students to:
 - (i) identify;
 - (ii) report;
 - (iii) intervene; and
 - (iv) provide support in cases of students who are victims of sexual abuse and harassment.

IN THIS POLICY:

1. LEGISLATIVE FRAMEWORK

- 1.1 Constitution of the Republic of South Africa, 1996;
- 1.2 Child Justice Act 75 of 2008;
- 1.3 Children's Act 38 of 2005;
- 1.4 Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007;
- 1.5 Films and Publications Act 65 of 1996;
- 1.6 National Education Policy Act 27 of 1996;
- 1.7 Sexual Offences and Related Matters Amendment Act 32 Of 2007;
- 1.8 South African Schools Act 84 of 1996;
- 1.9 Employment of Educators Act 76 of 1998;
- 1.10 Labour Relations Act 66 of 1995;1
- 1.11 South African Council of Educators Act 31 of 2000;
- 1.12 South African Police Service (SAPS) National Instructions 3 of 2008 (Part 4);
- 1.13 Cybercrimes Act 19 of 2020;
- 1.14 Inclusive Education White Paper 6, 2001; and
- 1.15 Ethical Code for Educators - South African Council for Educators (SACE).

2. DEFINITIONS AND INTERPRETATION

Definitions

For the purposes of this Policy and the preamble above, the following terms shall bear the following meanings:

- 2.1 **“Child”** means person aged under 18 years;
- 2.2 **“Child abuse”** means any form of harm or ill-treatment deliberately inflicted on a child and includes:
 - (a) assaulting a child or inflicting any other form of deliberate injury to a child;
 - (b) sexually abusing a child or allowing a child to be sexually abused;
 - (c) bullying by another child;
 - (d) a labour practice that exploits a child; or
 - (e) exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally;
- 2.3 **“Children’s Act”** means the Children’s Act 38 of 2005;
- 2.4 **“Consent”** means a voluntary or uncoerced agreement that can be given through words or actions. It cannot be forced or given under duress. A child as defined in section 1(1) of the Criminal Law Amendment Act, who is below the age of 12 has no capacity to consent to sexual conduct of any manner, therefore, sexual intercourse with a child below the age of 12 constitutes a rape under the law, even if the child allegedly factually consented. A child between the ages of 12 and 16 can consent, but with consequence for the other party if that person is 18 years or older. A student may never consent when it is in reference to the prohibited conduct of an educator;
- 2.5 **“Confidential Information”** means any information, whether tangible or intangible (including any formula, pattern, compilation, method, technique or process), relating or belonging to ISASA (or any Affiliate), which is not generally known to the public and which ISASA regards, or

could be reasonably expected to regard, as confidential (whether or not it is marked "confidential"). This includes information of ISASA (or any Affiliate), its employees, customers, suppliers, joint ventures, licensors, licensees, distributors and other persons with whom ISASA does business including, without limitation, customer lists, pricing information, business plans, computer software, financial projections, marketing information, actual or anticipated research and development and similar internal data, operations, processes, plans, intellectual property and software;

2.6 **"Criminal Law Amendment Act"** means the Criminal law (Sexual Offences and Related Matters) Amendment Act 32 of 2007;

2.7 **"Department of Basic Education"** means the department established in terms of section 7(2) read with Schedule 1 of the Public Service Act 103 of 1994, which is responsible for basic education at national level;

2.8 **"Educator"** means any person employed by Redhill School who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at any public or independent school, further education and training institution, departmental office or adult basic education centre and who is appointed in a post at any educator establishment under the Employment of Educators Act 76 of 1998; any educator registered fully, provisionally or conditionally with SACE;

2.9 **"Employer"** means an employer in accordance with the labour laws of the country. An educator is employed by the Redhill School Trust.

2.10 **"Employee"** means an educator as defined above; a member of an administrative staff, a support staff-member or contract worker and/or appointed by the Redhill School Trust.

2.11 **"Executive Head"** and/or **"Head"** means an educator appointed, or acting as, the head of a school;

2.12 **“Exploitation”** (as set out in the in the Prevention and Combating of Trafficking in Persons Act 7 of 2013) means sexual exploitation, forced labour and child labour as defined in section 1 of the Children’s Act 38 of 2005.

2.13 **“Harassment”** means directly or indirectly engaging in conduct that the respondent knows or ought to know:

- (a) causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably:
 - (i) following, watching, pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies or happens to be;
 - (ii) engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or
 - (iii) sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person or leaving them where they will be found by, given to or brought to the attention of, the complainant or a related person; or
- (b) amounts to sexual harassment of the complainant or a related person;

2.14 **“In loco parentis”** means “in the position of parents”. Educators are expected to assume the role of the parents, with the expectation of providing the same level of care for students as parents would their children;

2.15 **“Student”** means any person enrolled in an education institution as defined in the South African Schools Act 84 of 1996, which may or may not be a Child

2.16 **“Redhill staff member”** means a person employed at a school as educators or in any other capacity;

2.17 **“Offender”** means a person who intentionally commits an unlawful act, such as an act of abuse or harassment in terms of this Policy;

2.18 **“Parents”** means the parents, guardian, foster parent or caregiver who is legally entitled to care for the student;

2.19 **“Perpetrator”** means is a person who commits an unlawful act, such as an act of violence, harassment or abuse and whose conduct satisfies all the requirements of the definition of the crime in issue;

2.20 **“Province”** means a province established by section 124 of the Constitution;

2.21 **“Provincial Department of Education”** means the department established by section 7(2) of the Public Service Act 103 of 1994, which is responsible for education in a province;

2.22 **“SACE”** means South African Council for Educators;

2.23 **“SACE Act”** means the South African Council for Educators Act 31 of 2000;

2.24 **“Sexual Abuse”** in relation to a child means:

- (a) sexually assaulting a child or allowing a child to be sexually assaulted;
- (b) encouraging, inducing or forcing a child to be used for the sexual gratification of another person;

- (c) using a child in, or deliberately exposing a child to, sexual activities or pornography; or
- (d) procuring, or allowing a child to be procured for, commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child;

2.25 **“Sexual Act”** means an act of sexual penetration or an act of sexual violation in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 definition of the term;

2.26 **“Sexual Harassment”** means:

- (a) unwelcome sexual attention from a person who knows, or ought reasonably to know, that such attention is unwelcome;
- (b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances, which a reasonable person, having regard to all the circumstances, could have anticipated that the complainant or related person would be offended, humiliated or intimidated;
- (c) implied or expressed promise of reward for complying with a sexually-oriented request; or
- (d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually-oriented request.

This may include unwelcome physical contact, verbal or non-verbal conduct. It may include discriminatory or offensive behaviour on the basis of the gender or sexual orientation of a person. Sexual harassment is not limited to situations where an unequal power relationship exists between parties involved and can be committed by or against any person regardless of gender, sex or sexual orientation;

2.27 **“Sexual offence”** means any offence in terms of Chapters 2, 3 and 4 and sections 55 and 71(1), (2) and (6) of the Criminal Law (Sexual

Offences and Related Matters) Amendment Act 32 of 2007 and includes rape, compelled rape, sexual assault, compelled sexual assault and self-sexual assault, compelling or causing persons to witness a sexual offence, sexual acts or self-masturbation, Exposure or display of, or causing exposure or display of, genital organs, anus or female breasts ('flashing'), engaging sexual services, as well as incest, bestiality and sexual acts with a corpse. Abuse shall also be inclusive of attempting, conspiring, incitement or inducing another person to commit sexual offence and trafficking in persons for sexual purposes;

2.28 **"Sexual Offences Amendment Act"** means the Sexual Offences and Related Matters Amendment Act 32 of 2007;

2.29 **"Sexual penetration"** as stipulated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 includes any act which causes penetration, to any extent whatsoever, by:

- (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person;
- (b) any other part of the body of one person or, any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person; or
- (c) the genital organs of an animal, into or beyond the mouth of another person;

2.30 **"School"** means a public school or an independent school, which enrols students in one or more grades up to grade twelve;

2.31 **South Africa** means the Republic of South Africa; and

2.32 **"Survivor"** means a student who is the subject of sexual abuse and/or harassment.

3. TRAINING

- 3.1 ISASA strongly encourages member schools to train staff in child protection.
- 3.2 Educators and Heads who are trained to identify signs of abuse are in a position to act proactively to identify students who are suffering or at risk of harm and take timely, appropriate action.

4. VETTING

Section 123 of the Children's Act, as amended, stipulates that any person whose name is listed in Part B of the Child Protection Register (CPR) may not work with children. Therefore, not vetting a prospective employee is tantamount to putting students and staff members at risk of potential danger. Consequently, a school can be held liable if it is proven that the employee who has committed a criminal offence against a child or staff member had a previous conviction on similar charges and the school failed to vet that employee before they were appointed.

4.1 Police Clearance

- 4.1.1 This is not a legislative requirement; however, SACE (as part of their registration process) requires that all educators must have police clearance checks done before they come into contact with students. However, police clearances fail to detect and/or pick up whether the prospective employee appears on the sexual offenders' register, as well as the child protection register.
- 4.1.2 Police clearances assist in verifying whether the prospective employee has a criminal record while the below clearances ensure these are not convictions for sexual offences and/or crimes.
- 4.1.3 The validity of the police clearance is 6 (six) months for purposes of SACE registrations, while best practice dictates that these clearances are obtained every two years to ensure that school staff have maintained a clean record.

4.2 **Sexual Offenders Register Clearance**

4.2.1 The Sexual Offenders Register Clearance is a legislative requirement, as provided for by section 44 of the Criminal Law Amendment Act, and is specifically required for any person wanting to work in an environment where they may come in contact with children or mentally disabled people.

4.2.2 The school (management team) as an employer is obliged to ensure all their staff/service providers are checked and cleared; best practice dictates that these clearances are obtained every two years.

4.2.3 Please see **attached** hereto **Form 8 (J739)** which is to be completed by the school and lodged accordingly.

4.3 **Child Protection Register Check**

4.3.1 The Child Protection Register Check clearance is also a legislative requirement as provided for by section 126 of the Children's Act, and is also specifically required for any person wanting to work with children.

4.3.2 The school (management team) as an employer is obliged to ensure that all their staff/service providers are checked and cleared every two years.

4.3.3 Please see **attached** hereto **Form 29 (Regulation 44)** which is to be completed by the school and lodged accordingly.

4.4 **South African Council of Educators (SACE)**

4.4.1 SACE provides its services to schools by ensuring that prospective employees are not being investigated by it OR confirm that there have been no adverse findings against the prospective employee. This can be done by emailing their verification department.

4.4.2 Emails to SACE can be drafted along the following lines:

"We as [insert school] are in the process of employing [insert name and ID and / or Passport number of educator] and wish to verify the following before proceeding to do so:

- (a) That the attached SACE certificate / documentation is authentic;
- (b) That the educator is in good standing with SACE; and
- (c) Whether the educator has been flagged for any reason."

4.4.3 Furthermore, SACE allows for the lodgment of complaints by schools where an adverse finding was made as a result of disciplinary proceedings. SACE investigates these findings and formal proceedings instituted can result in penalties and/or a striking off and/or de-registration from the educators' roll.

4.4.4 A sample letter setting out exactly how to word and address the complaint can be found at:

<https://www.sace.org.za/pages/sample-letter-of-complaint>

A school can simply copy and paste the sample onto the school letterhead, insert the relevant details and attach the outcome of the disciplinary hearing.

5. MANDATORY REPORTING OF CHILD ABUSE IN SOUTH AFRICA

5.1 **Failure to immediately report knowledge, a reasonable belief, or suspicion that a sexual offence has been committed against a child is a criminal offence.**

5.2 **All Redhill school staff members are legally bound to report all matters of suspected child abuse as outlined in this Policy.**

5.3 Mandatory Reporting Legislation:

5.3.1 Criminal Law (Sexual Offences and Related Matters) Amendment Act:

(a) In terms of section 54 of the Criminal Law Amendment Act **every person** has a duty to report "knowledge that a sexual offence has been committed against a child" to a police official. Failure to report under this section is a criminal offence (section 54(1)(b) and (2)(b)).

(b) In terms of section 54:

- (i) Every person has a duty to report:
 - "Knowledge that a sexual offence has been committed against a child"; or
 - "Knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is mentally disabled";
- (ii) The report must be immediate; and
- (iii) The report must be made to a police official.
- (iv) Failure to report under this section is a criminal offence (Section 54 1(b) and 2(b)).
- (v) The penalty for non-reporting is a fine or imprisonment of 5 years or both a fine and imprisonment.
- (vi) Where a report is made in 'good faith' in relation to Section 2(b), ("a reasonable belief or suspicion of a sexual offence committed on a mentally disabled person"), that person shall not be liable for any civil or criminal proceedings as a result of such a report.
- (vii) Part 4 of the SAPS National Instruction 3/2008 sets out who may make a report of a sexual offence

and reiterates compulsory reporting under Section 54 of Act 32 of 2007.

(viii) It is important to note that, in terms of this National Instruction, a SAPS official may not turn anyone away who reports a sexual offence committed on a child or a person who is mentally disabled.

5.3.2 Children's Act

- (a) The Children's Act mandates reporting of abuse in a prescribed manner where there is knowledge or a reasonable belief or suspicion. Reporting abuse may also be made to a police official.
- (b) Section 110(1) of the Children's Act says that an **educator** who, on reasonable grounds, concludes that a child is being abused must report this in the prescribed manner to a designated child-protection organisation, the provincial department of social development, or a police official.
- (c) Failure to report in terms of section 110 is a criminal offence. Any correctional official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, **nurse**, **occupational therapist**, **physiotherapist**, **psychologist**, religious leader, social service professional, social worker, **speech therapist**, **teacher**, traditional health practitioner, traditional leader or **member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre** who, on reasonable grounds, concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberately neglected, must report that conclusion in the prescribed form to a designated child protection organisation, the provincial department of social development or a police official.

(d) Section 110(1) of the Children's Act provides three grounds that trigger a reporting duty, namely:

- (i) physical injury,
- (ii) deliberate neglect, or
- (iii) sexual abuse. All forms of sexual abuse are regarded as serious enough to mandate a response.

(e) No legal action lies against a reporter who complies with the provisions of section 110 of the Children's Act. The only way liability may arise is if there is malice on the part of the reporter or no reasonable grounds for reporting exists.

(f) The Regulations of the Children's Act contain form 22 which must be completed for each child by a mandatory reporter. **Form 22 is attached** hereto.

6. MANAGING DISCLOSURES OF ABUSE OF STUDENTS

6.1 The primary obligation of Redhill staff members, be it as an educator or any other staff member within the school's premises, and the Heads is to always act in the best interest of Students by ensuring their safety.

6.2 All disclosures of child abuse should be managed with care, sensitivity and confidentiality by the reporting Redhill staff member in the following manner:

- 6.2.1 be conscious of the fact that disclosing such conduct can be a very traumatic experience;
- 6.2.2 prevent further emotional harm to the complainant;
- 6.2.3 display empathy, warmth and acceptance;

- 6.2.4 clarify confidentiality, but explain that other professional persons will have to be informed;
- 6.2.5 identify the other role-players who are to be involved, as well as their roles and functions;
- 6.2.6 explain the potential consequences of the disclosure, (i.e., that the Redhill staff member is legally bound to report the case);
- 6.2.7 under no circumstances should the incident of child abuse be discussed with the alleged offender;
- 6.2.8 **do not** interrogate the complainant in order to obtain information or to "investigate" the case, rather record in writing any information provided by the Child;
- 6.2.9 **do not** insist on seeing the physical evidence of abuse;
- 6.2.10 **do not** examine the complainant for signs of sexual abuse or rape by removing clothes and/or touching or examining the pupil;
- 6.2.11 **do not** take a statement from the complainant, as the investigating officer of the SAPS will do this;
- 6.2.12 **do not** confront the parents or the caregivers if they are the suspected or alleged perpetrators; and
- 6.2.13 if the identity of the perpetrator is known and is on campus, the person is to be requested to immediately leave the school premises.

- 6.3 When disclosure takes place, it is preferable to communicate the following to the complainant:
 - 6.3.1 I believe what you are telling me;

- 6.3.2 I acknowledge that you feel uncomfortable about the incident;
- 6.3.3 I appreciate your courage in speaking to me;
- 6.3.4 I am sorry to hear what has happened to you;
- 6.3.5 It is not your fault; and
- 6.3.6 In order to help you, I will have to speak to another person.

6.4 In managing the process, keep the following in mind:

- 6.4.1 Whatever may happen to the alleged offender is not your fault;
- 6.4.2 The complainant may be unwilling to lay a charge against the alleged offender because of intimidation;
- 6.4.3 The complainant may feel powerless and may have been sworn to secrecy by the alleged offender; and
- 6.4.4 The complainant may be related to the alleged offender and may want to protect the family.

6.5 **The role of the educator/Head of School is to receive the disclosure, report same to the Executive Head, who will facilitate reporting the matter to either SAPS or a designated social worker, as the case may be.**

6.6 At the time of disclosure clarify confidentiality and explain the consequences of the disclosure to the student victim, indicate that in order to help him/her, you are legally obligated to report the case to other role-players such as a social worker and/or SAPS.

6.7 **Actions and interventions must be immediate**, including reporting the matter to SAPS and/or a designated social worker.

6.8 Ensure that the student survivor is protected from additional and unnecessary emotional trauma and victimisation, as the case may be.

6.9 During the disclosure process, the student must **not** be asked to verify the truthfulness of any aspect of an allegation.

- 6.10 The details of the abuse should be related to as few people as possible.
- 6.11 It is sufficient to be told that there was abuse, what type of abuse and who the suspected perpetrator is in order to adequately manage the disclosure process.
- 6.12 If a report is made to a Redhill staff member, be it an educator or any other staff member, and the Redhill staff member reports it to the Executive Head, **the Executive Head should not question the student again but should rather immediately assist in involving the relevant role-players.**
- 6.13 The management of the disclosure process should be immediate and there should be no delays in involving the relevant role-players. SAPS should be contacted on the **same day** that disclosure is made.

7. **SUSPICION / REASONABLE BELIEF OF ABUSE**

The following guidelines should be followed by Redhill staff members who suspect that a student has been/ is being abused:

- 7.1 Start gathering information as soon as you suspect abuse. Continue to do so consistently, and document all information gathered. Treat all the gathered information as confidential;
- 7.2 Discuss your suspicions and the information that you have gathered with the Head / Executive Head immediately (unless they are possibly implicated) or the HR and Legal Compliance Office;
- 7.3 Ensure confidentiality by opening a separate file for the particular pupil. This file should be kept in a locked drawer / room;
- 7.4 Remain objective at all times;
- 7.5 Any information to do with abuse of a student is confidential and must be handled with great discretion;

- 7.6 The reporting and investigation of abuse must be done in such a way that the safety of the pupil is ensured; and
- 7.7 Support the student and their family.

8. PROCEDURE TO BE FOLLOWED IN CASES OF SUSPECTED STUDENT ABUSE

8.1 Step 1

All incidents of suspected Student abuse should be reported to the Head / Executive Head. Failure to report abuse or the suspicion of abuse will be considered grounds for disciplinary proceedings.

8.2 Step 2

The Head / Executive Head, or their designated person, and the staff member will discuss the observations or incident and determine whether there are reasonable grounds to suspect abuse. Based on, amongst other factors, the following, which should be documented:

- 8.2.1 What facts, observations support the suspicion that abuse occurred?
- 8.2.2 What action did the alleged offender take against the complainant?
- 8.2.3 Where did the alleged offender touch the complainant?
- 8.2.4 Did the alleged offender threaten the complainant?
- 8.2.5 What did the complainant say or do during the incident?
- 8.2.6 The date(s) when the incident(s) occurred.
- 8.2.7 The time(s) when the incident(s) occurred.
- 8.2.8 The place(s) where the incident(s) occurred.
- 8.2.9 Were there any other people present at the time of the incident?
- 8.2.10 Were there any other people who were in the surrounding area who might have witnessed the incident?
- 8.2.11 The full name of the alleged offender; and
- 8.2.12 Their position at the institution.

8.3 **Step 3**

If there are reasonable grounds for suspecting abuse the Head / Executive Head or their delegated person will be responsible for reporting the alleged incident and to advise on which external role-players to involve in the process, such as the SAPS, the Child Protection Unit, and (if an educator is involved) SACE.

8.4 **Step 4**

The Head / Executive Head will discuss the matter with the parents or caregivers (unless the parent or caregiver is the suspected abuser or is complicit in the abuse). The Child should be informed that this is going to happen, and the consent of the Child should ideally be sought and granted first (particularly where the Child is over the age of 12). Further confidentiality considerations are set out in further detail below.

9. CONFIDENTIALITY CONSIDERATIONS

- 9.1 Confidentiality does not affect mandatory reporting obligations. These considerations apply when a Child requests that a disclosure is not shared with their parents.
- 9.2 In circumstances in which the student requests that the matter be kept confidential from their parents or guardians, the school should maintain such confidentiality only if there are objectively compelling reasons which indicate that it would be in the best interests of the student that such confidentiality should be maintained.
- 9.3 Confidentiality should not be maintained in circumstances in which it is likely to endanger the life, safety or well-being of the student or any other person.
- 9.4 Should the school decide to break confidentiality after it has been requested to do so, the student should be informed in advance of the school's decision.

10. SOUTH AFRICAN POLICE SERVICE IN RESPECT OF CHILD ABUSE

The SAPS must:

- 10.1 Receive and investigate the complaint;
- 10.2 Obtain sworn statements from the complainant (student victim), his/her parents and other relevant witnesses;
- 10.3 Arrest the alleged offender or offenders;
- 10.4 Take the student victim for a medical examination where applicable; and
- 10.5 Take the accused to court within 48 hours after arrest or 24 hours after arrest in the case of the victim being a minor.

11. DISTRICT PSYCHOSOCIAL SERVICES

The school's provincial education department's district offices provide critical psychosocial services to schools, such as:

- 11.1 Provision of support and guidance to schools with regard to the procedures, protocols and process involved in an alleged case of child abuse.
- 11.2 Facilitation of the Executive Head/school's decision-making with regard to the various steps which need to be taken, ensuring that the legal requirements and consequences of each step are carefully considered. All decisions must be taken by the school/Executive Head, taking into cognisance the best interest of the child.
- 11.3 Assistance in ensuring that the matter is reported.
- 11.4 Discussions on the need to support the student, alleged perpetrator (if a student) and other affected persons.

- 11.5 Establishment of whether counselling support is appropriate/necessary. Counselling of this nature is concerned with the trauma/stress experienced by those concerned and is not in any way part of the investigation.
- 11.6 Advice to the Executive Head/the Redhill staff member with regard to the need for confidentiality, as well as who else to inform while guarding against rumour-mongering amongst staff and students.
- 11.7 Support given to Redhill School/Redhill staff member/educator/parent in the form of clarification and interventions with respect to process and procedures that will follow the reporting, as well as the possible signs, symptoms and behaviours of victims of abuse.
- 11.8 Maintenance of a district Register of reported cases and the department must ensure that a district register of all reported cases and copies of Form 22 are available at the district office. Such records must be kept in a confidential, restricted file.

12. HISTORICAL ALLEGATIONS

There is no prescription on the criminal prosecution of any sexual offence. In terms of the case of *Nicole Levenstein and others v the estate of the late Sidney Lewis Frankel and others* there is no time limit in which to institute a criminal prosecution for any sexual offence in South Africa, regardless of how long ago it was committed, or whether the survivor was a child or an adult at the time of the incident(s).

13. JURISDICTION AND TIME LIMITS

Incidents of sexual abuse and/or harassment may occur on or off the school premises, during the school term or during school holidays. The response to these incidents should be the same as it would be if the incident occurred at school and during school hours. Students may disclose allegations of sexual abuse and/or harassment that have occurred in the past. Time elapsed between the incident occurring and disclosure is irrelevant. Disclosure of historical incidents whilst at school or not, should be responded to immediately.

Appropriate disciplinary procedures, actions and support processes, as outlined in this policy, must still be undertaken in all such cases of reported sexual abuse and/or harassment.

14. THE SOUTH AFRICAN COUNCIL FOR EDUCATORS ACT

- 14.1 A teacher must not be employed unless they are registered with SACE. The SACE Act sets out that a teacher may be removed from the SACE register of teachers if the code of ethics is breached. Any form of sexual misconduct is a breach of the code of ethics.
- 14.2 A breach of the code of ethics includes any form of sexual abuse, improper physical contact, sexual harassment, and any consensual sexual relationship with a student.
- 14.3 Any person who believes that an educator has breached the code must lodge a complaint with SACE.

15. RESPONSIBILITIES OF THE EXECUTIVE HEAD

- 15.1 The Executive Head is ultimately accountable for implementing, managing and sustaining the Policy and procedures described in this document.
- 15.2 The Executive Head should seek to:
 - 15.2.1 ensure all educator's employed by Redhill School are aware of their duty of care to all students *in loco parentis*,
 - 15.2.2 ensure Redhill staff and students are familiar with this Student Protection Policy;
 - 15.2.3 make all staff member working within the Redhill school premises are aware of their duty to report any incident or suspicion of sexual abuse or harassment affecting a student;
 - 15.2.4 report any incident or suspicion of sexual abuse and harassment, within 24 hours, following the guidelines as set out herein;

- 15.2.5 refer the victim immediately to psycho-social support if deemed appropriate;
- 15.2.6 revise, evaluate, implement and monitor the School's Code of Conduct to ensure consistency with applicable legislation;
- 15.2.7 ensure the timely initiation and completion of any internal processes (hearing, disciplinary or tribunal, depending on the level of offence); and
- 15.2.8 advocate for, and participate in, creating ongoing staff, student and parent training opportunities that relate to the prevention and management of sexual abuse and harassment.

16. EDUCATOR OBLIGATIONS

An educator should seek to:

- 16.1 provide a safe and private space for a student to disclose any details of any incident and keep information shared with them confidential;
- 16.2 report any incident or suspected incident of sexual abuse and harassment to the Head of School or the Executive Head or the Chairman of the Redhill School Trust if the Executive Head is the alleged offender;
- 16.3 observe any changes in the student's behaviour following the report;
- 16.4 ensure that the guidelines and procedures for the reporting of sexual offences are covered within predetermined lessons and refresh students' awareness of these procedures periodically; and
- 16.5 provide students with information and contact details to report sexual abuse or harassment.

17. STUDENT OBLIGATIONS

Students should report any incidents or suspected incidents of sexual abuse and harassment to the Head of school or the Executive Head, an educator or a Redhill School staff member any other adult employed by the school who they feel comfortable speaking with. They can also report to SACE directly.

18. PARENTS OR GUARDIANS

A parent or a guardian should report any incident or suspected incident of sexual abuse and harassment to the Head of School, the Executive Head, the Grade Head, an educator, SACE and/or the SAPS.

19. SCHOOL CODE OF CONDUCT

If the transgression was in violation of the School's Student Code of Conduct / Disciplinary Code, then due process in relation to disciplinary hearings should be followed. Disciplinary procedures of the school may run concurrently with those of reporting procedures with SAPS, this includes incidents that took place off the school premises.

20. SOCIAL MEDIA

- 20.1 Sexual harassment and grooming may be conducted through social media and non-physical contact.
- 20.2 The Cybercrimes Act 19 of 2020 criminalises the sending of data messages that unlawfully contain an intimate image.
- 20.3 This means that any non-consensual distribution of a sexually explicit or nude video or photograph constitutes a cybercrime which is punishable by a fine or imprisonment for a period of up to fifteen years, or to both a fine and such imprisonment, as may be ordered in terms of the offence.
- 20.4 All Redhill School employees, staff, interns and educators are advised as follows:
 - 20.4.1 They may not accept friend requests / follows / connections from current pupils, or ex-pupils under the age of 18 (where public settings do not allow for this, staff are requested to remove the student as a follower or block them);
 - 20.4.2 Parents are to be notified if a child sends a friend request;

- 20.4.3 Use extreme caution when corresponding with parents via social media, and preferably use a school email address instead;
- 20.4.4 Do not discuss anything to do with school, pupils or other staff members, or post photos of school events on any social media platform;
- 20.4.5 Only post things they would be happy to be attributed to them;
- 20.4.6 Do not identify themselves as being associated with the school; and
- 20.4.7 Use the tightest privacy settings possible.

21. MEDIA ANNOUNCEMENTS

The content of formal media announcements, press releases and statements regarding any incident shall maintain the confidentiality of affected parties.