



SACE

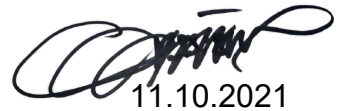
South African Council for Educators

Towards Excellence in Education

CODE OF PROFESSIONAL ETHICS

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Approved



11.10.2021



CODE OF PROFESSIONAL ETHICS

DEFINITIONS

1. In this Code, unless the context indicates otherwise any word or phrase defined in the South African Council for Educators Act, 2000 has that meaning and:

1. **'Code'** means the code of professional ethics for educators contemplated in section 5(c) (i) of the Act;
2. **'Council'** means the South African Council for Educators;
3. **'Educator'** means any educator registered or provisionally registered with the Council means any educator registered fully, provisionally or conditionally with the Council;
4. **'Learner'** means a pupil or a student at any school, further education and training institution or adult learning centre;
5. **'Parent'** means:
 1. any natural parent or guardian of a learner;
 2. any person legally entitled to custody of a learner; and
 3. Any person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) or (b) towards the learner's education at school.

GENERAL

2. The educators who are registered or provisionally registered with the South African Council for Educators:

- 2.1 acknowledge the noble calling of their profession to educate and train the learners of our country;
- 2.2 acknowledge that the attitude, dedication, self-discipline, ideals, training and conduct of the teaching profession determine the quality of education in this country;
- 2.3 acknowledge, uphold and promote basic human rights, as embodied in the Constitution of South Africa;
- 2.4 commit themselves therefore to do all within their power, in the exercising of their professional duties, to act in accordance with the ideals of their profession, as expressed in this Code; and
- 2.5 act in a proper and becoming way such that their behaviour does not bring the teaching profession into disrepute.

CONDUCT: THE EDUCATOR AND THE LEARNER

3. An educator:

- 3.1 respects the dignity, beliefs and constitutional rights of learners and in particular children, which includes the right to privacy and confidentiality;
- 3.2 acknowledges the uniqueness, individuality, and specific needs of each learner, guiding and encouraging each to realise his or her potentialities;
- 3.3 strives to enable learners to develop a set of values consistent with the fundamental rights contained in the Constitution of South Africa;
- 3.4 exercises authority with compassion;
- 3.5 avoids any form of humiliation, and refrains from any form of abuse, physical or psychological;
- 3.6 refrains from improper physical contact with learners;
- 3.7 promotes gender equality;
- 3.8 refrains from courting learners from any school;
- 3.9 refrains from any form of sexual harassment (physical or otherwise) of learners;
- 3.10 refrains from any form of sexual relationship with learners from any school;
- 3.11 refrains from exposing and/or displaying pornographic material to learners and or keeping same in his/her possession;
- 3.12 refrains sexting with learners;
- 3.13 refrains from sending pornographic material to learners
- 3.14 uses appropriate language and behaviour in his or her interaction with learners, and acts in such a way as to elicit respect from the learners;
- 3.15 takes reasonable steps to ensure the safety of the learner;
- 3.16 does not abuse the position he or she holds for financial, political or personal gain;
- 3.17 is not negligent or indolent in the performance of his or her professional duties; and
- 3.18 Recognises, where appropriate, learners as partners in education.

CONDUCT: THE EDUCATOR AND THE PARENT

4. An educator, where appropriate:

- 4.1 recognises the parents as partners in education, and promotes a harmonious relationship with them;
- 4.2 refrains from offering a bribe in any form to parents; and
- 4.3 does what is practically possible to keep parents adequately and timeously informed about the well-being and progress of the learner.

CONDUCT: THE EDUCATOR AND THE COMMUNITY

5. An educator

- 5.1 recognises that an educational institution serves the community, and therefore acknowledges that there will be differing customs, codes and beliefs in the community.
- 5.2 Conducts him/herself in a manner that does not show disrespect to the values, customs and norms of the community.

CONDUCT: THE EDUCATOR AND HIS OR HER COLLEAGUES

6. An educator:

- 6.1 refrains from undermining the status and authority of his or her colleagues;
- 6.2 respects the various responsibilities assigned to colleagues and the authority that arises there from, to ensure the smooth running of the educational institution;
- 6.3 uses proper procedures to address issues of professional incompetence or misbehaviour;
- 6.4 promotes gender equality and refrains from sexual harassment (physical or otherwise) of his or her colleagues;
- 6.5 refrains from sending unsolicited sexual messages and or pornographic material to colleagues;
- 6.6 uses appropriate language and behaviour in his or her interactions with colleagues;
- 6.7 avoids any form of humiliation, and refrains from any form of abuse (physical or otherwise) towards colleagues.

CONDUCT: THE EDUCATOR AND THE PROFESSION

7. An educator:

- 7.1 acknowledges that the exercising of his or her professional duties occurs within a context requiring co-operation with and support of colleagues;
- 7.2 behaves in a way that enhances the dignity and status of the teaching profession and that does not bring the profession into disrepute;
- 7.3 keeps abreast of educational trends and developments;
- 7.4 promotes the ongoing development of teaching as a profession;
- 7.5 accepts that he or she has a professional obligation towards the education and induction into the profession of new members of the teaching profession;
- 7.6 refrains from any contravention of the statutes and regulations of the Republic of South Africa, relevant to the Code;
- 7.7 refrains from unfair racial discrimination and or making racist comments;
- 7.8 refrains from indulging and/or being in possession of intoxicating, illegal, and/or unauthorised substances including alcohol and drugs within the school premises and/or whilst on duty;

- 7.9 refrains from carrying and/or keeping dangerous weapons in the school premises without any prior written authorisation by the employer;
- 7.10 refrains from engaging in malicious communication and cyberbullying on the social media
- 7.11 refrains from engaging in illegal activities

CONDUCT: THE EDUCATOR AND HIS OR HER EMPLOYER

8 An educator:

- 8.1 recognises the employer as a partner in education;
- 8.2 acknowledges that certain responsibilities and authorities are vested in the employer through legislation, and serves his or her employer to the best of his or her ability;
- 8.3 refrains from discussing confidential and official matters with unauthorised persons.
- 8.4 Refrains from employing any unqualified and/or unregistered person to provide education to learners in a formal institution/schools in the Republic of South Africa;
- 8.5 refrains from assuming any form of employment where s/he is required as part of her/his job description to interact with learners without registering with Council; and
- 8.6 must inform and declare his or her business interests to the employer prior executing them.

CONDUCT: THE EDUCATOR AND THE COUNCIL

9. An educator:

- 9.1 Makes every effort to familiarise him/herself and his/her colleagues with the provisions of the Code;
- 9.2 complies with the provisions of this Code;
- 9.3 discloses all relevant information to the Council;
- 9.4 informs Council and/or relevant authorities of alleged or apparent breaches of the Code within his/her knowledge;
- 9.5 co-operates with the Council to the best of his or her ability;
- 9.6 must ensure that Council is duly informed of her/his intention to be removed from the roll of educators as per SACE Act, 31 of 2000 as amended;
- 9.7 accepts and complies with the procedures and requirements of the Council, including but not limited to the Registration Procedures, the Disciplinary Procedures of the Council and the payment of compulsory fees.

DISCIPLINARY PROCEDURES

1 Introduction

- 1.1 This document must be read together with the provisions of the South African Council for Educators Act, 2000 (Act 31 of 2000).
- 1.2 The purpose of this document is to provide a fair procedure governing the investigation and hearing of alleged breaches of the code of professional ethics for educators.
- 1.3 The Council commits itself through these procedures to the development of a high standard of ethics governing the teaching profession.
- 1.4 These procedures are intended to be **corrective** and **not punitive**, where this is possible and desirable taking into account the interests of the teaching profession as a whole.

2 Functions of the disciplinary committee

2.1 The disciplinary committee must:

- 2.1.1 ensure that alleged breaches of the code are investigated;
- 2.1.2 establish investigating panels to investigate alleged breaches of the code;
- 2.1.3 establish disciplinary panels to conduct disciplinary hearings into alleged breaches of the code;
- 2.1.4 ensure that disciplinary hearings are fair and comply with the procedures set out in this document; and
- 2.1.5 on the basis of recommendations received from disciplinary panels, recommend findings and appropriate sanctions if any, to the Council in respect of breaches of the code.
- 2.2 The members of investigating and disciplinary panels established by the disciplinary committee need not be members of the Council.

3 Investigation of alleged breaches of the code

- 3.1 Any person who believes that an educator has breached the code may lodge a complaint with the Council.
- 3.2 The complaint should preferably:
 - 3.2.1 be in writing; and
 - 3.2.2 clearly disclose the alleged breach of the code.
- 3.3 The disciplinary committee may investigate any alleged breach of the code, whether or not a complaint has been lodged.
- 3.4 The chief executive officer must, as soon as practicable after receiving a complaint, refer it to the disciplinary committee for consideration.
- 3.5 The disciplinary committee must refer an alleged breach to an investigating panel for investigation. The disciplinary committee must refer an alleged breach for investigation.
- 3.6 The investigator/s may, in investigating any alleged breach of the code:
 - 3.6.1 interview complainants and other possible witnesses;
 - 3.6.2 subject to clause 3.7, may interview the educator who is alleged to have breached the code;
 - 3.6.3 notify the educator being investigated of the alleged breach and, subject to clause 3.7, give the educator an opportunity to respond within the period specified in that notice;
 - 3.6.4 gather evidence relevant to the alleged breach; and
 - 3.6.5 if necessary, cause Subpoenas to be served on any person who may assist the panel in its investigation as contemplated in Section 14(4) of the Act.
- 3.7 Before interviewing an educator as contemplated in clause 3.6.2, and in any notice contemplated in clause 3.6.3, the investigator/s must warn the educator:
 - 3.7.1 of the educator's right against self-incrimination; and
 - 3.7.2 that any admission or explanation given by the educator may be used as evidence against the educator at a disciplinary hearing.

- 3.8 The investigator/s must keep a record of the investigation.
- 3.9 If the investigator/s is/are satisfied that there is sufficient evidence of a breach of the code by an educator, the disciplinary committee may refer the matter to a disciplinary panel for hearing.
- 3.10 The investigator/s that has/have investigated an alleged breach of the code cannot serve as a member of the disciplinary panel which hears the matter but can be appointed as a prosecutor.

4 The disciplinary hearing

- 4.1 Once a matter has been referred for hearing by a disciplinary committee, the chief executive officer must issue a summon(s) to the educator who has allegedly breached the code.
- 4.2 The summons must disclose:
 - 4.2.1 the nature of the alleged breach;
 - 4.2.2 the date, time and venue of the disciplinary hearing;
 - 4.2.3 An educator charged with an alleged breach of the code is entitled to representation and which may include representation by a union representative, a fellow employee or a legal representative at any disciplinary hearing.
 - 4.2.4 An educator charged with an alleged breach of the code and who wishes to be represented by a legal representative shall bring an application to the Council for such legal representation; 2 days before the disciplinary hearing convenes.
 - 4.2.5 the educator's right to call witnesses to give evidence and to produce books, documents and other items in support of the educator's case; and
 - 4.2.6 the educator's right to make written submissions against any recommendation of the disciplinary panel to the disciplinary committee.
- 4.3 The summons and all notices must be served to the relevant postal, email, employment and/or residential address appearing on the SACE register by way of:
 - 4.3.1 delivery by hand;
 - 4.3.2 telefax; or
 - 4.3.3 email; or
 - 4.3.4 social network, e.g. WhatsApp; or
 - 4.3.5 registered post.
- 4.4 The date on which the summons is served is regarded as, in the case of:
 - 4.4.1 service by hand, the date of delivery;
 - 4.4.2 service by telefax or email, the dispatching date reflected on the telefax or email transmission; and
 - 4.4.3 service by registered post, the date on which the letter was signed for in the absence of proof to the contrary.
- 4.5 The summons must be served on the accused at least ten (10) working days before the date of the disciplinary hearing.
- 4.6 If in the opinion of the panel, the offence committed is of such a nature that the accused educator could commit said similar offence or worse, the panel may decide to proceed with the matter in the absence of proof of delivery of the summons.
- 4.7 The chief executive officer may issue a summons (subpoena) to any other person to attend the disciplinary hearing in order to give evidence or to produce any books, documents or other items.

- 4.8 If the educator fails to attend a disciplinary hearing, the disciplinary panel may deal with the matter in the absence of the educator.
- 4.9 A witness who attends a disciplinary hearing is entitled to such allowance as the Council may from time to time determine.
- 4.10 Any person who fails to attend a disciplinary hearing when summoned to do so, or fails (to remain) in attendance until excused by the disciplinary panel, commits an offence and is liable on conviction to a fine (not exceeding one month's salary) or **to imprisonment for a period not exceeding six (6) months**.

5 Procedure at the disciplinary hearing

- 5.1 The Presiding Officer may exclude any person or category of persons from attending a disciplinary hearing:
 - 5.1.1 on reasonable grounds; or
 - 5.1.2 if the orderly conduct of the inquiry so requires.
- 5.2 The Presiding Officer may postpone or adjourn a disciplinary hearing with or without cost:
 - 5.2.1 at her/his discretion; or
 - 5.2.2 on the request of any party to the hearing, prior to the date set for hearing and/or on the day of the hearing;
- 5.3 A postponement will not be granted where a particular educator's representative is otherwise engaged on the hearing date. –clarity needed
- 5.4 The disciplinary committee **may** appoint one or more suitably qualified assessors to be present at a disciplinary hearing, and to advise the Presiding Officer where need arises on matters of law, procedure and evidence, or other matters requiring specific expertise.
- 5.5 An educator charged with an alleged breach of the code is entitled to representation and which may include representation by a union representative, a fellow employee or a legal representative at any disciplinary hearing.
- 5.6 The Presiding Officer must:
 - 5.6.1 record the evidence at a hearing; and
 - 5.6.2 administer an oath and/or affirmation to any witness at a hearing.
- 5.7 At the commencement of the hearing, the Presiding Officer must:
 - 5.7.1 put the charge to the educator through the Prosecutor and ask the educator to plead to the charge;
- 5.7.2 inform the educator of the her/his rights:
 - (a) to representation and which may include representation by a union representative, a fellow employee or a legal representative at any disciplinary hearing;
 - (b) against self incrimination;
 - (c) to an interpreter; and
 - (d) to adduce evidence and challenge evidence at the hearing.
- 5.8 If the educator:
 - 5.8.1 pleads guilty to the charge, the Presiding Officer may decide whether or not to hear evidence regarding the charge;
 - 5.8.2 pleads not guilty, the Presiding Officer must hear the evidence regarding the charge;

- 5.8.3 refuses or fails to plead, the Presiding Officer must enter a plea of not guilty and must hear evidence regarding the charge.
- 5.9 If the educator charged with a breach of the code fails to attend the disciplinary hearing, and the Presiding Officer decides to proceed with the matter in the absence of the educator, it must enter a plea of not guilty and hear evidence regarding the charge.
- 5.10 If the Presiding Officer decides to hear evidence pertaining to the charge, every party to a hearing or the party's representative is entitled to:
 - 5.10.1 lead evidence in support of their case;
 - 5.10.2 cross-examine any witness of an opposing party; and
 - 5.10.3 re-examine any witness led by that party.
- 5.11 The Presiding Officer may question any witness at the hearing.
- 5.12 The record of any evidence of a breach of the code in any criminal proceedings or disciplinary proceedings by an employer constitutes prima facie evidence of such breach by an educator for purposes of a disciplinary hearing in terms of the Act.

6 Recommendation of the Presiding Officer

- 6.1 The Presiding Officer must make its recommendation on whether or not there has been a breach only after:
 - 6.1.1 evidence has been completed; and
 - 6.1.2 every party to an inquiry has been given a fair opportunity to be heard.
- 6.2 If the Presiding Officer recommends that the educator has breached the code, s/he must request the parties to make representations on an appropriate sanction. This may include the leading of further evidence, including evidence on any previous convictions of the educator for breaches of the code. A certificate issued by the chief executive officer containing details of any previous convictions constitutes prima facie evidence of such previous convictions.
- 6.3 If the Presiding Officer recommends that the educator has breached the code and recommends a sanction s/he must:
 - 6.3.1 record its recommendations; and
 - 6.3.2 submit the report in relation to the hearing and its recommendations to the disciplinary committee.

7 Recommendation of the disciplinary committee

- 7.1 On the basis of the recommendation of the Presiding Officer, the disciplinary committee may ratify or vary a finding and a sanction recommended by the Presiding Officer; where after, it shall inform the educator concerned accordingly.

8 Decisions of the Disciplinary committee

- 8.1 The disciplinary committee, after considering the recommendation by the Presiding Officer and submissions by the educator concerned, if any, may:
 - 8.1.1 accept, reject or substitute the recommendation of the disciplinary panel wholly or in part; or
 - 8.1.2 refer the matter to the appeals committee for review.

- 8.2 The disciplinary committee may impose the following sanctions on an educator who is found guilty of a breach of the code:
- 8.2.1 a caution or reprimand;
 - 8.2.2 a fine not exceeding one month's salary; or
 - 8.2.3 the removal of the educator's name from the register for a specified period or indefinitely, or subject to specific conditions.
 - 8.2.4 (or a combination of the above)
- 8.3 Pending the completion of a disciplinary hearing, Council may request from an employer, the immediate suspension of an accused educator where said suspension would be in the interest of learners.
- 8.4 The Council may suspend any sanction contemplated in clause 8.2 for a period and on conditions determined by it.
- 8.5 The Council must inform the educator in writing of its decision.
- 8.6 The Councils' decision is final.
- 8.7 The Council:
- 8.7.1 may publish such information relating to the hearing as it deems reasonable; and
 - 8.7.2 must not publish information relating to a hearing which reveals or may reveal the identity of any person affected by the proceedings who is under the age of eighteen (18) years.

9

Appeal against the decision of the Council

- 9.1 Any educator who is found guilty of a breach of the SACE Code of Ethics may, appeal to the Council against the recommended findings or sanction of the disciplinary committee or against both.
- 9.2 The appeal must be lodged with the Chief Executive Officer, within (5) five days after the Council has informed the accused of its final decision or sanction.
- 9.3 The CEO must appoint an Appeals committee of at least 3 independent persons selected from a list of panellists approved by the Council to hear the appeal.
- 9.4 A person hearing an appeal must not have been an Investigator or Presiding Officer or Assessor, which dealt with the matter.
- 9.5 Persons appointed to the Appeals Committee should not be members of the disciplinary committee or Council.
- 9.6 The appeal should be based on the record of the proceedings of the disciplinary panel. In exceptional cases, the Appeals Committee may hear new evidence in relation to the appeal but only where such evidence was not reasonably available at the time of the disciplinary hearing may have had a material impact on the outcome of the disciplinary hearing.
- 9.7 The Appeals Committee must consider the appeal within 30 days after the notice is delivered to the Chief Executive Officer.
- 9.8 An accused whose appeal was dismissed by the Appeals Committee may appeal to the appropriate High Court.
- 9.9 A person referred to in 9.8 above, must, after giving notice to the Council, lodge a notice of appeal with the registrar of the appropriate High Court within one month from the date of the decision of the Appeals Committee

10 The Appeal

- 10.1 The appeal referred to in Section 9 above must specify the grounds upon which the accused believes the finding/s and sanction to be wrong.
- 10.2 The appellant, the Council and the complainant or their representatives should be given an opportunity to present argument on the appeal before the Appeal Committee reaches a decision.
- 10.3 The Appeals Committee will make its decision known to the Council and the Appellant based on their findings and which decision shall be final and binding on the parties
- 10.4 The Appeals Committee shall have the power, after considering the finding and penalty ratified by the Disciplinary Committee, to-
- 10.4.1 confirm or set aside the finding;
- 10.4.2 confirm or set aside the sanction; or
- 10.4.3 refer the matter back to the disciplinary committee or the disciplinary panel as the case may be for further deliberations or further evidence.
- 10.5 The finding of the Appeals Committee shall be final and binding on the parties. A disciplinary finding and sanction only takes effect on confirmation by the Council.

11 Definitions

In this document, unless the context indicates otherwise, any word or phrase defined in the South African Council for Educators Act, 2000 has that meaning and:

- 11.1 **'Act'** means the South African Council for Educators Act, 2000 (Act 31 of 2000);
- 11.2 **'Appeals Committee'** means the appeals committee of the Council contemplated in section 15 of the Act;
- 11.3 **'CEO'** means the Chief Executive Officer of the Council;
- 11.4 **'Code'** means the code of professional ethics for educators contemplated in section 5(c) (i) of the Act;
- 11.5 **'Council'** means the South African Council for Educators;
- 11.6 **'Disciplinary committee'** means the disciplinary committee of the Council contemplated in section 14 of the Act;
- 11.7 **'Educator'** means any educator registered fully, provisionally or conditionally with the Council;
- 11.8 **'Learner'** means a pupil or a student at any early learning site, school, further education and training institution or adult learning centre;
- 11.9 **'Register'** means the register contemplated in section 5(a) (iii) of the Act; and
- 11.10 **'Registered address'** means the address of an educator as it appears in the register.

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