



SAHRC Report on the Investigation and Inquiry  
into School Uniforms and the Over-regulation  
of Appearances  
Eastern Cape  
2022

## Acronyms and Abbreviations

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ECPO	Eastern Cape Provincial Office
Constitution	The Constitution of the Republic of South Africa, 1996
The Commission	South African Human Rights Commission
SAHRC Act	The South African Human Rights Commission Act 40 of 2013
SASA	South African Schools Act 84 of 1996
Uniform Guidelines	National Guidelines on School Uniform (Government Notice 173 of 23 February 2006)
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
Children's Act	Children's Act 38 of 2005
LBTQI	Lesbian Bisexual Trans-Gender Queer Intersex
CGE	Commission for Gender Equality
NMU	Nelson Mandela University
UFH	University of Fort Hare
COSAS	Congress of South African Students
ISASA	Independent Schools Association of South Africa
NDBE	The National Department of Basic Education
ECDBE	The Eastern Cape Department of Education
ECDoE	Eastern Cape Department of Education
MEC	Member of the Executive Council
OTP	Office of the Premier
COGTA	Department of Cooperative Governance and Traditional Authorities
ECHTL	Eastern Cape of House of Traditional Leaders
CGE	Commission for Gender Equality
EELC	Equal Education Law Centre

### **Definition of Terms:**

- **LESBIAN:** Usually refers to a woman who has a romantic and/or sexual orientation towards women. Some nonbinary people also identify with this term.
- **GAY:** Used in some cultural settings to represent men who are attracted to men in a romantic, erotic and/or emotional sense. Not all men who engage in same-gender sexual behaviour identify as gay, and as such this label should be used with caution.
- **TRANSGENDER:** person whose sense of personal identity or gender does not correspond to the sex they were assigned at birth, or does not conform to gender stereotypes. Sexual orientation varies and is not dependent on gender identity.
- **QUEER:** a multi-faceted word that is used in different ways and means different things to different people. 1) Attraction to people of many genders. 2) Don't conform to cultural norms around gender and/or sexuality. 3) A general term referring to all non-heterosexual people.
- **INTERSEX:** An umbrella term that describes people born with any of 30 different variations in sex characteristics including chromosomes, gonads, sex hormones, or genitals
- **GENDER NEUTRAL:** Not associated with a gender in form of Male or female
- **NON-BINARY:** A person whose gender identity does not fall within the binary genders of man or woman.
- **ISIPHANDLA or ICAMAGU:** is a wristband from the hide or skin of an animal that is used in a traditional ceremony and therefore symbolises a certain traditional ritual was done like imbeleko.
- **IMBELEKO:** is a traditional ritual wherein a child is introduced to their ancestors.
- **IINTSIMBI or AMASO:** Beads that are connected by a flexible wire or string which can be used as traditional jewellery or can symbolise a variety of traditional meanings such as Intwaso or ancestral protection from evil spirits.
- **INTWASO or UKUTHWASA:** is a initiation process of someone who has accepted a higher ancestral calling to become a traditional healer, which involves traditional rituals and wearing of symbolic garments and accessories.
- **IKRWALA:** is a Newly initiated man, who is identified as such by his attire.
- **AFRO HAIRSTYLE:** An African Hair setting that naturally occurs through the growth of African Kinky Hair.

## 1. INTRODUCTION

- 1.1. The South African Human Rights Commission's Eastern Cape Provincial Office (referred to as 'the Commission') embarked on an Inquiry aimed at addressing concerns regarding the alleged excessive regulation of learners' appearances and school uniforms in educational institutions. This Inquiry, which took place from March 14th to March 16th, 2022, was initiated in response to complaints received by the Commission on this matter. Additionally, various media reports highlighted instances of alleged discriminatory practices by educators concerning learners' natural hair, religious symbols, and requests for gender-neutral school uniforms. Considering these concerns, coupled with a review of past and pending cases related to this issue, the Commission deemed it necessary to conduct this Inquiry.<sup>1</sup>
- 1.2. The Inquiry was conducted in Gqeberha, Eastern Cape, and involved the participation of numerous stakeholders, including the Eastern Cape Department of Basic Education (ECDBE), the Office of the Premier, associations representing independent and private schools, labour unions, tertiary institutions, parents, and non-governmental organisations. These stakeholders were invited to provide submissions concerning the perceived over-regulation of school uniforms and learners' appearances. The objective was to gain insights into the underlying reasons for the existing regulations/policies/guidelines and to assess their potential impact on the human rights of learners within the educational environment.

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<sup>1</sup> In June 2021, the South African Human Rights Commission's Eastern Cape Provincial Office became aware, through media reports, of a distressing incident involving a 13-year-old learner from Astra Primary School in Gqeberha, Eastern Cape. The learner was reportedly victimised due to her Afro hairstyle. This incident followed a series of similar complaints received by the Commission in recent years, which prompted investigations. In 2020 and 2022, learners were barred from their respective educational institutions for wearing culturally significant goatskin wristbands known as "isiphandla." Additionally, male learners who had completed initiation schools alleged that they were denied the right to wear their traditional "ikrwala" regalia at school. Contextually, learners from the Hindu culture have also faced victimisation for wearing the traditionally important red string, which is tied on an auspicious day in the Hindu calendar. Furthermore, and through conducting a trends-analysis on the issue, transgender, genderqueer, and gender non-conforming learners appear to endure ongoing concerning treatment. They have been either prevented from expressing their gender identity through clothing or stigmatised for not conforming to stereotypical gender-specific school uniform standards. Thus, in light of the "best interests of the child" principle (Section 28(2) of the Constitution) and learners' right to a basic education (Section 29 of the Constitution), the treatment described above stands in stark contrast to the dignity and equality rights guaranteed to learners in Chapter 2 of the Constitution.

1.3. The further aims of the Inquiry were to

1.3.1. ascertain whether potential violations mentioned above had systemic implications;

1.3.2. understand the challenges learners faced in complying with school uniform and appearance policies;

1.3.3. assess the adequacy of measures in place to promote diversity within schools' codes of conduct; and

1.3.4. evaluate the sufficiency of short, medium, and long-term plans aimed at addressing challenges experienced by learners in relation to these matters.

1.4. Ultimately, the Inquiry sought to determine if there was excessive regulation of school uniforms and learner appearances and whether such regulation unjustifiably infringed upon learners' fundamental human rights as enshrined in the Constitution. In the event of adverse findings, the Inquiry aimed to issue directives and make recommendations for appropriate redress.

1.5. Although the Inquiry was conducted at the provincial level, it addressed issues that implicated national stakeholders. The Inquiry Panel consisted out of the following panel members:

1.5.1. Commissioner A H Gaum (Chairperson of the Inquiry and Area Focus Commissioner)

1.5.2. Dr Eileen I Carter (Provincial Manager SAHRC Eastern Cape Provincial Office)

1.5.3. Adv Loyiso Mpondo (Senior Legal Officer SAHRC Eastern Cape Provincial Office)

1.6. This document serves as the Commission's final report ('the Report'), encompassing the findings and directives resulting from the Inquiry and its comprehensive assessment.

## **2. PARTIES**

2.1. The Commission invited several key stakeholders to the Inquiry. The participants were identified in respect of their knowledge, involvement as well as level of responsibility towards the concerns raised by the Commission. Although mainly based within the Eastern Cape, the participants shared information and concerns which may be

superimposed on a national level.

2.2. The following participants appeared before the Commission during the Inquiry:

- 2.2.1. Nelson Mandela University (NMU)
- 2.2.2. University of //Fort Hare
- 2.2.3. CGE
- 2.2.4. EELC
- 2.2.5. OUT LGBTQI+ Wellbeing
- 2.2.6. Access Chapter 2
- 2.2.7. Sibanye LGBTI
- 2.2.8. SA Hindi Maha Sabha
- 2.2.9. EC House of Traditional Leaders
- 2.2.10. COSAS
- 2.2.11. NAPTOSA
- 2.2.12. Sicebise Social Inclusion Forum
- 2.2.13. Affected parents
- 2.2.14. Curro Holdings
- 2.2.15. ISASA
- 2.2.16. ECDBE
- 2.2.17. Office of the Premier: Eastern Cape
- 2.2.18. MEC for Education: Eastern Cape

### 3. **INQUIRY SUBMISSIONS/REPRESENTATIONS**

Below follows an excerpt of key submissions received.

#### 3.1. **NELSON MANDELA UNIVERSITY**

- 3.1.1. Professor Mosito, on behalf of the NMU delivered her presentation, delving into the current state of appearance regulation in schools, particularly from a decolonial standpoint. In her examination of appearance within the school context, Prof. Mosito extensively analysed two critical aspects: hair and the gender-defining nature of uniforms.
- 3.1.2. To begin with, Prof. Mosito elucidated that Anglo Christendom had established the foundation for appearance standards. This framework, she contended, was rooted in the context of colonial uniform regulations, which still exert influence over hairstyles for both male and female students in contemporary schools. She pointed out that this colonial framework laid the groundwork for the apartheid government to further develop and impose appearance standards on learners. Interestingly, Prof. Mosito highlighted that even during the era of separate education for black and white students, these standards were applied uniformly across schools, creating a divide in today's racially integrated school environment. Consequently, despite the advent of democracy and the integration of schools, black students continue to be subject to the same white colonial standards that persist in former Model C schools. Her argument revolved around the idea that these restrictions curtail the freedom of expression among black students, with a significant portion of her analysis centering on the regulation of hairstyles.
- 3.1.3. Moreover, Professor Mosito contended that recent protests by black students against hair policies in former 'Model C' schools substantiate her hypothesis. She argued that the absence of well-defined African concepts of cleanliness and neatness has resulted in the lack of established hair policies or grooming standards that accommodate the diverse forms of self-expression through hair among black students. She emphasised that young black girls sporting afros, a natural state of African-textured hair, are often labelled as untidy or disruptive to the school's culture, a matter she believes necessitates legislative development due to its immediate threat to constitutional freedom of expression.
- 3.1.4. Professor Mosito also drew attention to the gendered nature of hair regulations, which she claimed was rooted in the colonial concept of a binary gender system. This framework presumes that boys should maintain shorter hair than girls. Consequently, students identifying as male are restricted from adopting hairstyles resembling those traditionally associated with females, and vice versa. In her view, this limitation encroaches upon the freedom of expression of students identifying as gender-neutral or differently from their assigned gender.

## **3.2. COMMISSION FOR GENDER EQUALITY**

- 3.2.1. The Commission for Gender Equality (CGE) made a presentation before the Commission, shedding light on critical aspects of children's rights and their intersection with school uniform guidelines and regulations.
- 3.2.2. The CGE emphasised that the framers of the Constitution held children's rights in high regard, emphasising that the best interests of a child should be the paramount consideration in any matter affecting them. The Constitution underscored that "every child has the right to basic nutrition, shelter, health care, and social services, as well as the right to be protected from maltreatment, neglect, abuse, or degradation." Additionally, section 29(1)(a) of the Constitution recognised the right of all individuals to "basic education, including adult basic education."
- 3.2.3. The CGE further contended that the National School Uniform Guidelines (referred to as the National Guidelines) failed to adequately address homophobic attacks within South African schools. It argued that the draft guidelines continued to reinforce a sexist and discriminatory practice of segregating uniforms between 'girls and boys,' thereby limiting the options for LGBTIQ+ students to wear uniforms that align with their gender expression. The CGE urged the Department of Basic Education to revise the existing guidelines to align with the principles of human dignity, the right to education, and freedom of expression. This revision should also address the issue of disciplinary action taken against students who refuse to adhere to the prescribed "gender-appropriate" uniform, as the current approach could potentially lead to disciplinary measures against LGBTI children who choose not to conform to the traditional uniform norms.
- 3.2.4. Furthermore, the CGE stressed the importance of including a general non-discrimination clause in the guidelines, explicitly safeguarding the rights of transgender and intersex children. Such a clause should ensure that these individuals are not deprived of their right to basic education or otherwise discriminated against based on their gender expression and/or gender identity.

## **3.3. EQUAL EDUCATION LAW CENTRE (EELC):**

- 3.3.1. The submissions made by the EELC shed light on the pervasive discrimination issues



prevalent within South African schools. Emphasis was placed on the detrimental impact this discrimination has on LGBTIQ+ learners. It was underscored that such discrimination not only obstructs school attendance and academic performance but also jeopardises the mental and physical well-being of these learners, ultimately infringing upon their fundamental right to education, as enshrined in Section 29 of the Constitution.

- 3.3.2. Furthermore, the EELC drew attention to the urgent necessity for recognising gender diversity and ensuring the full enjoyment of all rights and freedoms, particularly the right to education. The transformative potential of both the Constitution and the South African Schools Act in combatting discrimination and fostering inclusive, secure, and conducive learning environments was highlighted. However, deep concern was expressed regarding the persistence of oppressive uniform policies in numerous South African schools. These policies hinder learners' ability to express their gender identity and self-determination, despite existing legal safeguards.
- 3.3.3. Additional submissions stressed the importance of aligning school codes of conduct and policies with the Constitution. It was emphasised that the authority of school governing bodies to establish policies and codes of conduct should adhere to constitutional principles. Furthermore, the role of the Minister of Basic Education in providing guidance on school uniform policies was discussed, with concern raised over the lack of a final policy version despite a draft policy being published in 2006.
- 3.3.4. Concerns were voiced regarding the effectiveness of the National Guidelines on School Uniforms. The EELC emphasised that these guidelines must not contribute to discrimination and should uphold the constitutional rights and freedoms of all learners, regardless of their gender identity or expression. While recognising the social and educational purposes of school uniforms, it was argued that uniforms should be retained only by those who choose to do so.
- 3.3.5. The EELC advocated for substantial revisions to the current uniform guidelines to provide more inclusive guidance to schools, thereby safeguarding the rights of all learners. To support their argument, they cited two significant South African cases, the Pillay case and the Teddy Bear Clinic Case, which emphasised the importance of school policies not unlawfully discriminating against any learners and recognising the dignity and rights of children within the context of school policies.
- 3.3.6. This submission underscored the need for a comprehensive national policy addressing matters related to sexual orientation and gender identity in school settings. The absence

of such a guiding policy has left school communities ill-equipped to effectively address issues pertinent to LGBTIQ+ individuals. The importance of providing education and training on the principles of gender and sexual diversity to learners, teachers, school management, and governing bodies was emphasised to rectify misconceptions and misgendering among learners.

3.3.7. Concerns were raised about the language and terminology used in previous drafts aimed at providing national support to schools in addressing LGBTIQ+ issues, as well as the delay in publishing these drafts. Consequently, there was a call for the formulation and implementation of a comprehensive national policy that thoroughly addresses sexual orientation and gender identity within South African schools. Such a policy should prioritise sensitivity, clarity, and inclusivity while explicitly recognising and upholding the rights of LGBTIQ+ learners.

3.3.8. In conclusion, the submission stressed the need for binding policies rather than guidelines to effectively combat uniform-related discrimination. These policies should be framed within a rights-based approach to make learners' constitutional rights tangible and protect them from discrimination. The EELC reiterated the importance of recognising LGBTIQ+ rights as fundamental human rights and emphasised the need for collaboration between organisations like theirs and the Commission to effectively address violations. They also highlighted the importance of balancing the right to religion with the right to equality.

#### 3.4. **OUT LGBTI WELL-BEING**

3.4.1. OUT's submissions centred on fundamental rights, particularly the freedom to choose one's religion and associate with others freely. They emphasised that while individuals have the freedom to choose their beliefs, these rights should never be used to justify infringing upon the rights of others. Discrimination and human rights violations should never find validation based on religious or belief-based preferences.

3.4.2. A key point highlighted by OUT is that a learner's mode of self-expression, including their clothing and appearance choices, should never hinder their right to education. Discrimination based on these factors lacks any justifiable grounds, and personal choices should never be used as a pretext for discriminating against learners based on their gender identity or sexual orientation.

- 3.4.3. OUT consistently underscored the importance of fundamental freedoms, particularly the right to choose one's religion or cultural practices. They argued that these choices should never be invoked to justify discrimination against learners based on their gender identity or sexual orientation.
- 3.4.4. The fundamental right to education occupied a central position in their discourse. OUT emphasised that South Africa's constitution guarantees the right to access basic education for everyone, irrespective of their gender identity or expression. They expressed disappointment over the 25-year delay by the government in recognising and addressing uniform policies as potential barriers to education.
- 3.4.5. Moreover, OUT expressed reservations about the effectiveness of sensitising teachers or parents, particularly when many of them may lack a basic understanding of LGBTQI+ issues. They questioned the authenticity of such sensitisation efforts and whether they genuinely address the needs and rights of LGBTQI+ learners.
- 3.4.6. OUT shared a poignant real-life example of a transgender child who faced significant obstacles in accessing education due to discrimination and trauma linked to her gender identity. They highlighted the far-reaching consequences, such as dropping out of school or engaging in risky behaviours, when educational institutions fail to safeguard the rights of transgender students.
- 3.4.7. Another crucial aspect brought into focus was the lack of recognition for intersex individuals, who do not fit conventional male or female definitions due to genetic, anatomical, or genital differences. OUT stressed the necessity of acknowledging intersex individuals as a distinct third sex and highlighted potential violations of their right to privacy and undue pressure to disclose private information in schools.
- 3.4.8. The right to identify with a gender that may not align with the sex assigned at birth was a subject of OUT's submissions. They provided a case example of a transgender child facing challenges in a school environment that failed to comprehend or accommodate her gender identity. OUT contended that these issues stem from outdated guidelines and policies that inadequately protect the rights of transgender students. They also highlighted instances where schoolgirls who prefer wearing pants for reasons of personal comfort or safety have their choices restricted by rigid uniform policies, thereby infringing upon their rights.
- 3.4.9. OUT consistently argued that these policies and guidelines adversely affect a broad spectrum of LGBTIQ+ individuals, including those who do not conform to traditional gender norms or binary systems. They called for a more inclusive and empathetic

approach within schools and condemned the prolonged existence of outdated drafts and guidelines within the education system.

3.4.10. Reference was made to a report published by OUT and other organisations, which revealed that 88% of hate crimes occur in South Africa, with some being committed by teachers. Hate crimes have also been documented within schools, including those targeting transgender students. They suggested that the Love Not Hate report may offer more insights into dropout rates, particularly among trans kids. In general, high school poses greater challenges for LGBTIQ+ students, with many dropping out before reaching grade 10. Primary school students may be compelled to adhere to specific uniform guidelines, but high school students confront more stringent restrictions and may grapple with self-expression.

3.4.11. It was recommended that the government, including the Department of Justice, should uphold the constitution, which unequivocally guarantees equal rights for all individuals.

### 3.5. **ACCESS CHAPTER 2 (AC2)**

3.5.1. AC2 brought attention to the discriminatory treatment of LGBTIQ+ students in educational institutions, particularly in relation to gender expression and uniform policies. They shared two distressing incidents to highlight this issue.

3.5.2. In the first incident, a learner was excluded from school premises for choosing to wear trousers instead of a skirt, aligning with her gender expression. AC2 engaged with the learner's parents, who affirmed her lesbian identity and expressed dissatisfaction with the school's treatment of their child. AC2 initiated communication with local authorities and proposed sensitisation training in the area to seek justice for the learner.

3.5.3. In the second incident, another student faced unjust treatment as she was informed that wearing a tracksuit or grey trousers to school, based on her gender, was impermissible. She was publicly humiliated, called out in front of peers, and instructed to leave the school premises for not adhering to uniform regulations. When her parent approached the school for redress and a referral letter, it was refused on discriminatory and degrading grounds. The school labelled the student as a "slow learner" and a "lesbian" and cited these labels as reasons for the refusal. AC2 highlighted the bullying and derogatory treatment the student endured from fellow learners.

3.5.4. AC2 stressed the urgent need for a gender-neutral uniform policy in educational

institutions. They argued that such a policy would promote unity among students by ensuring that those with different clothing preferences do not face alienation or ostracisation based on their choices. This inclusivity would create an environment where every student feels acknowledged and embraced for their individuality.

### **3.6. SICEBISE SOCIAL INCLUSION FORUM**

- 3.6.1. The organisation began its mission in 2019, initiating ongoing sensitisation campaigns in multiple schools. The objective was to raise awareness and knowledge about LGBTQI+ concerns, often overlooked or misunderstood in society.
- 3.6.2. Sicebise assisted in a case against a school in Motherwell, bringing uniform policies to the forefront as a contentious issue. The focus was not on imposing gender norms but on creating an environment that fosters unity and inclusivity. Collaborative efforts with the school's principal involved training and extensive discussions to address the concerns raised by LGBTIQ+ students.
- 3.6.3. The organisation acknowledged receiving communications from learners seeking the freedom to express their identities through clothing choices. They emphasised the importance of educational institutions accommodating students' gender expression and actively cultivating an inclusive atmosphere. Instances of dehumanisation and mistreatment of LGBTIQ+ students by some school principals were highlighted, underscoring the urgency for reform.
- 3.6.4. While emphasising the significance of educating teachers, parents, and students on LGBTIQ+ issues in educational settings, the submission provided valuable insights into the formulation of a model school code of conduct regarding uniforms and appearance. It emphasised the need for educational initiatives challenging entrenched traditional and cultural norms that perpetuate gender-specific uniform expectations.
- 3.6.5. The submission posited that uniform policies should primarily aim to nurture a sense of unity rather than enforcing gender-specific dress codes. Achieving this unity requires the active involvement of educators and institutions in dispelling normative gender expectations. Consequently, educational programs addressing gender diversity and sexuality were advocated as pivotal components of this transformation.
- 3.6.6. The submission shed light on the responses and impacts of sensitivity training programs

implemented within schools, which yielded positive outcomes. Students organised events, including marches and the creation of memoranda, showcasing the profound influence of training sessions for both educators and students. Such sessions were seen as instrumental in enhancing understanding and fostering acceptance of LGBTIQ+ individuals, facilitating knowledge dissemination and promoting inclusivity.

- 3.6.7. Furthermore, the submission emphasised the need for the strategic inclusion of township-based schools in these initiatives aimed at fostering cooperation and receptiveness. These schools should be equipped with the relevant tools and mechanisms, similar to those in suburban areas, to proactively address issues related to gender and sexual orientation, recognising the prevalence of these challenges across various educational settings.

### **3.7. PARENT OF A GRADE 10 LEARNER AT GEORGE RANDELL HIGH SCHOOL**

- 3.7.1. The parent of the affected learner reported instances of unjust discrimination within her school environment, specifically related to her daughter's natural hair, particularly her Afro hairstyle. The learner endured multiple instances of discrimination, including directives to "tie up her afro" and prohibitions against styling her hair in "two-strand twists." She also faced unwarranted criticism from the principal, who, in the presence of other students, remarked that her hair resembled a "bird's nest."
- 3.7.2. Concerns were articulated about the school's policy, which was seen as discriminatory and non-inclusive, particularly towards black learners who were disproportionately affected by its provisions. This stance was considered to be in contravention of Section 9(3) of the Constitution.
- 3.7.3. The discrimination experienced by the learner had a detrimental impact on her emotional well-being due to the persistent mistreatment she endured. Additional criticism was directed towards the school's policy, especially its narrow approach concerning boys' hair length. Educators were reported to use the "two-fingers from forehead test" to assess hair length physically. Despite engaging with the school and initiating formal correspondence, no response had been received at the time of the Inquiry. Instead, an educator stigmatised the learner as a "bad influence," subjecting her to disciplinary measures like detention. This situation had adverse repercussions for her son, who attended the same school and chose to keep his hair short to avoid discrimination.
- 3.7.4. Moreover, it was emphasised that the policy imposed a financial burden on parents due to the stipulated preference for "acceptable hairstyles" that did not accommodate black

hair. This exacerbated the emotional distress experienced by the learners.

### **3.8. THE PRIESTS COUNCIL OF THE SOUTH AFRICAN HINDU MAHA SABHA**

- 3.8.1. The submission by The Priests Council of the South African Hindu Maha Sabha addressed the intersection of cultural and religious practices within the school environment.
- 3.8.2. Firstly, it highlighted the case of Pillay, a young Indian student who wore a nose stud as part of her South Indian Chamo Hindu Culture. The High Court intervened and declared the school's decision to prohibit the wearing of the nose stud null and void. This ruling was based on the recognition of potential indirect discrimination and the paramount importance of accommodating diversity within the school.
- 3.8.3. The submission emphasised the significance of school dress codes in maintaining order but stressed that they must also make allowances for religious and cultural practices. It underscored the need for a consultative approach involving input from community leaders, parents, and caregivers to strike a balance between learners' rights to self-expression and teachers' responsibilities for a safe school environment.
- 3.8.4. The importance of respecting cultural and religious rights, exemplified by items like "red strings" and "dots" on the forehead, was highlighted. The submission encouraged the celebration of religious and cultural diversity in schools through comprehensive policies and procedures. It also emphasised the need for policies to be periodically reviewed, not just in response to incidents of alleged discrimination.
- 3.8.5. Furthermore, the submission advocated for the application of provisions and principles outlined in the Equality Act to assess discrimination in school practices. It called for dialogues involving school officials, parents, caregivers, and the broader community to centre around the human aspect of dignity, serving as a guiding principle for exploring pluralism and freedom in South African schools.
- 3.8.6. While acknowledging the importance of these dialogues, the submission also expressed the urgency of examining and addressing the subjective perspectives through which schools make "reasonable accommodations" when dealing with diversity and inclusivity. It cautioned against delegating decision-making powers solely to schools and proposed discussions at various levels, including relevant government departments.
- 3.8.7. Regarding the justification of religious symbolism, the submission critiqued this approach as revealing a colonial lens that could lead to an assimilationist stance. However, it

acknowledged the complexities involved in balancing self-expression and avoiding potential excesses, thereby advocating for meaningful dialogues to understand cultural and religious practices better.

3.8.8. The submission stressed the need to strike a balance between cultural or religious expression and the primary educational focus of schools. It emphasised that while learners should have the freedom to express themselves culturally or religiously through their appearance, the core purpose of attending school, which is education, must remain paramount.

3.8.9. Finally, it advocated for a test that determines whether any expression disrupts education, with the guideline that if it does not, learners should be allowed to express themselves. This approach prioritised enabling learners to express their identities with minimal regulatory constraints.

### **3.9. THE EASTERN CAPE HOUSE OF TRADITIONAL LEADERS**

3.9.1. The submissions made by the Eastern Cape House of Traditional Leaders focused on the significance of preserving and restoring African cultural values and customs within the education system, emphasising the importance of safeguarding African cultural values and customs, especially in view of South Africa's historical perspective on cultural suppression during colonial times.

3.9.2. They submitted that the education system should be decolonised to make room for African identity and cultural values. They further submitted that there is a concerning ongoing dominance of Western culture in South Africa and that has contributed to the erosion of African cultural identity.

3.9.3. The representative called for an environment where African cultural customs and Western influences can coexist harmoniously. They highlighted that while material aspects are important, values play a crucial role in nation-building and cultural heritage preservation. Additionally, they highlighted the need for the education system to reflect these values and promote cultural diversity.

3.9.4. There was a call for a curriculum that incorporates teachings about African history, customs, and traditions. It was pointed out that current education practices predominantly promote Western culture and languages, neglecting indigenous languages and cultural values. The submission stressed the importance of teaching subjects in indigenous languages and reevaluating the curriculum's Eurocentric orientation.



- 3.9.5. In terms of initiation practices, their significance as a rite of passage was highlighted, and it was suggested that they should be included in the educational discourse. An incident involving a traditional leader who refused to stand up in court was cited to underscore the need for a national dialogue on cultural practices and respect.
- 3.9.6. The submission also emphasised the importance of acknowledging and respecting diverse cultural practices within the schooling environment. It called for a broader societal debate on these issues to foster social cohesion and understanding.
- 3.9.7. Regarding reported complaints, two specific cases were mentioned. One involved a young learner who wore traditional attire during Heritage Month and was stopped by security at a shop. The House intervened to address the issue and facilitate a resolution with the shop owner. The second complaint pertained to a traditional leader who violated the Bill of Rights and the code of conduct for traditional leaders. In response, the traditional leader was suspended for a period of 40 years.
- 3.9.8. In terms of school uniforms, the representative expressed the view that students should wear uniforms while at school, with the flexibility to wear their traditional attire or clothing of their choice outside of school. The emphasis was on students maintaining a student identity within the school environment.

3.10. **THE CONGRESS OF SOUTH AFRICAN STUDENTS (COSAS)**

- 3.10.1. COSAS advocated for the right of learners to make choices regarding their accessories, particularly those associated with their cultural, religious, or traditional identities. This right was supported as long as such choices did not disrupt the educational activities within the school environment.
- 3.10.2. It further affirmed the right of learners to maintain natural hairstyles, including afros and long hair. They expressed the belief that these natural hairstyles should not hinder a learner's ability to engage in the learning process effectively. Additionally, they stressed the importance of allowing gender non-conforming learners to select a school uniform that aligns with their gender identity.
- 3.10.3. COSAS acknowledged that it had received complaints from learners concerning school uniforms and gender-related issues. In response to these complaints, they engaged with various stakeholders, including educators' unions and the education department, to address the concerns raised. However, it was noted that, at the time of the Inquiry, these entities had not provided a substantive response to the issues raised by COSAS and the

affected learners

### **3.11. THE NATIONAL PROFESSIONAL TEACHERS' ORGANISATION OF SOUTH AFRICA (NAPTOSA)**

3.11.1. NAPTOSA's submission primarily focused on the issue of school uniform policies and codes of conduct within the framework of the South African Schools Act. While recognising the importance of community involvement in public schools, the organisation expressed caution regarding the ability of school governing bodies to effectively address evolving societal dynamics. They stressed that the South African Schools Act itself provided a solid legal foundation, but challenges often arose in the practical implementation of these policies. It highlighted the positive aspects of school uniforms, such as reducing economic disparities among students, enhancing discipline, and fostering a sense of pride and identity within schools.

3.11.2. The organisation advocated for a more comprehensive examination of how code of conduct policies were developed and why discrimination persisted despite legal provisions to the contrary. They particularly emphasised the significant issue of denying access to education based on non-compliance with uniform or appearance policies. This included instances where students were turned away due to their inability to afford the school uniform or because of their choice of hairstyles.

### **3.12. CURRO HOLDINGS**

3.12.1. The submission made by Curro Holdings emphasised their proactive approach to addressing diversity and inclusion within their schools.

3.12.2. Curro operates a range of schools, including physical and online, catering to a diverse student population. They submitted that they proactively address diversity concerns by continuously monitoring and evaluating their programs, particularly on a termly basis. Their approach focuses on restorative justice and positive discipline to address concerns expediently. An example provided was an audit of member schools' policies and codes of conduct in the Eastern Cape province to ensure inclusivity.

3.12.3. Curro established transformation committees in each school, which include community leaders and advisors. These committees have the autonomy to implement programs

addressing diversity and inclusion based on the specific needs of their communities. While learners do not form part of these committees, they are encouraged to contribute by providing input and lodging grievances through established forums and channels, including student representative councils.

- 3.12.4. In relation to handling hair-related issues, Curro takes a positive disciplinary approach towards hair-related concerns. It was noted that transgressions related to hair typically did not result in disciplinary action. Instead, consultations with parents and learners were emphasised as a means to address potential issues. Ongoing consultations regarding LGBTQI+ policies were mentioned, with a willingness to collaborate with the Commission.
- 3.12.5. Emphasis was also placed on the protection of religious expression, in that Curro was committed to respecting cultural and religious practices to prevent extremism and discrimination. Learners were encouraged to wear accessories with symbolic significance, such as "red strings" or "isiphandla," without being required to conceal these symbols.
- 3.12.6. Curro submitted that it employs a centralised framework to ensure compliance with national regulations.
- 3.12.7. Concerns were expressed about learners having to provide proof before expressing themselves. Curro acknowledged the importance of prioritising human rights and learners' rights over parental preferences and expressed openness to addressing these challenges. They also mentioned allowing nail and hair expressions during certain events but recognised the need to explore more options for individual expression

### **3.13. INDEPENDENT SCHOOLS ASSOCIATION OF SOUTHERN AFRICA (ISASA)**

- 3.13.1. ISASA acknowledged that independent schools are subject to the Constitution and the Bill of Rights.
- 3.13.2. ISASA highlighted the importance of school uniform policies aligning with constitutional principles, stating that such policies should accommodate religious and cultural diversity and promote freedom of expression.
- 3.13.3. They further submitted that while school uniforms can foster a sense of belonging and equality, they can also become sources of division and conflict that should be appropriately addressed.

### **3.14. UNIVERSITY OF FORT HARE (UFH)**

- 3.14.1. UFH emphasised the need for continuous reflection and adaptation in response to the ever-evolving nature of the law, particularly in the context of education.
- 3.14.2. UFH pointed out that the culture of schools and their dress code guidelines often lags behind societal changes. Therefore, advocating for an inclusive and adaptable approach to school uniform policies to ensure alignment with constitutional principles.
- 3.14.3. The importance of achieving a balance and considering competing interests was stressed, such as maintaining a safe and orderly school environment, while also allowing learners the freedom to express themselves.
- 3.14.4. It was further submitted that rules and regulations within the education sector should be in alignment with the Constitution. Transformative constitutionalism was highlighted as a means to address persistent issues, particularly gender discrimination, social discrimination, and exclusion in schools, emphasising the urgency of addressing these issues.

### **3.15. THE OFFICE OF THE PREMIER OF THE EASTERN CAPE**

- 3.15.1. The Office of the Premier emphasised its close collaboration with the Department of Education and ongoing efforts to monitor and address various issues related to education, including teacher support materials. They noted that the Department of Education is actively engaged in outreach activities to promote compliance with national guidelines and regulations.
- 3.15.2. It was strongly emphasised that parental involvement is of utmost importance in school governance matters. Parents were urged to actively participate in the development of school uniform policies. The submission stressed the need for these policies to reflect cultural and religious considerations. Parents were encouraged to engage with school governing bodies to ensure that policies align with the specific needs and preferences of the school community.
- 3.15.3. The Office of the Premier expressed a strong commitment to taking concrete steps to accelerate the development and implementation of school uniform policies and guidelines. They also pledged an active role in monitoring and reporting on the progress of these initiatives to the Human Rights Commission.

### **3.16. THE EASTERN CAPE DEPARTMENT OF EDUCATION (ECDOE)**

- 3.16.1. The ECDOE recognised the importance of addressing gender-related issues, particularly gender-based violence and femicide. Recent incidents within government institutions highlighted the urgency of comprehensive action. The MEC emphasised the need for programs integrated into school curricula to promote understanding and proactive measures, moving beyond conceptual discussions.
- 3.16.2. The ECDOE highlighted the importance of greater integration of cultural and religious beliefs in South African society and referred to the case at Bishop High School that demonstrated the complexities that can arise. Acknowledging these complexities, the department stressed the importance of addressing cultural and religious issues within the education system to foster a more inclusive and tolerant society.
- 3.16.3. The ECDOE recognised the significance of training SGBs and highlighted the mandatory training for SGB members to ensure their understanding and compliance with legislative frameworks. The ECDOE offers various programs to assist SGBs in developing relevant codes of conduct.
- 3.16.4. It was submitted that these programs related to codes of conduct are closely monitored on a monthly and quarterly basis to ensure effective implementation. The ECDOE also facilitates feedback mechanisms to address potential challenges and improve execution.
- 3.16.5. The need for a balanced approach to mediate cultural and religious contradictions was highlighted, further submitting that there is a need for advocating for strategies to handle diversity, symbolic accessories, and cultural practices within educational institutions.
- 3.16.6. Recognising the importance of aligning school policies with constitutional principles and legislative frameworks, the ECDOE mentioned the involvement of school governing bodies in policy reviews. Draft guidelines were being finalised to ensure policy consistency with constitutional principles.
- 3.16.7. The ECDOE further submitted that mediation in uniform procurement, as stipulated in Schedule 11 of 2020, is mandatory in promoting unity within school communities to accommodate diverse beliefs and backgrounds.
- 3.16.8. Distinction was made between draft guidelines specific to the Eastern Cape provincial department and national draft guidelines published in 2006. Concerns were raised about the finalisation of national guidelines and their status as non-binding. Alignment of school codes of conduct with constitutional developments was emphasised.
- 3.16.9. The ECDOE acknowledged concerns about outdated, unconstitutional, and discriminatory school codes of conduct, particularly related to gender conformity, hair length, and natural hairstyles. They advocated for inclusive education that does not unfairly discriminate

against learners, emphasising the need for fairer school rules and uniform designs.

3.16.10. Ensuring alignment with national policies was stressed to maintain a cohesive approach to education policies across provinces.

3.16.11. The challenge of defining neatness, especially concerning cultural and religious orientations, was highlighted. Concerns were raised about subjective judgments when determining neatness in hairstyles. While not explicitly taking a stance on abolishing policing of hair, the need for careful consideration and management of these issues was emphasised.

3.16.12. The 16-year gap between the publication of guidelines in 2006 and the drafting of new guidelines was acknowledged. While the reasons for this delay were not explicitly stated, the importance of comprehensive guidelines that consider evolving societal perspectives was emphasised, along with the need for policy alignment at both provincial and national levels.

#### **4. APPLICABLE DOMESTIC LEGISLATION AND POLICIES**

##### **4.1. Constitution of the Republic of South Africa, 1996:**

4.1.1. The Constitution of the Republic of South Africa, 1996, stands as the highest legal authority in the nation, establishing itself as the supreme law. It unequivocally declares that any law or conduct inconsistent with its provisions is invalid, making it the cornerstone of the legal system. This supreme law applies universally, binding all branches of government, including the legislature, executive, and judiciary, and all organs of state.

4.1.2. It enshrines the fundamental principle of equality before the law, prohibiting unfair discrimination on various grounds such as race, gender, and more (section 9).

4.1.3. Additionally, the Constitution recognises and protects the inherent dignity of every individual, emphasising their right to have their dignity respected and safeguarded. It guarantees the right to freedom and security of the person, encompassing protection from cruel, inhuman, or degrading treatment and the right to bodily and psychological integrity (section 10).

4.1.4. Furthermore, the Constitution safeguards the right to freedom of expression, including freedom of the press, imparting information or ideas, artistic creativity, academic freedom, and scientific research, subject to specific limitations (section 16).

4.1.5. Importantly, the Constitution underscores the paramount importance of a child's best

interests in all matters concerning the child and affirms the right to basic education for all (section 28).

#### **4.2. Promotion of Equality and Prohibition of Unfair Discrimination Act No. 4 of 2000:**

- 4.2.1. The Promotion of Equality and Prohibition of Unfair Discrimination Act No. 4 of 2000, commonly known as the Equality Act, gives tangible expression to the principles outlined in Section 9 (Equality) of the Constitution. This act provides crucial definitions for discrimination and prohibited grounds, aligning closely with the constitutional framework.
- 4.2.2. It explicitly prohibits discrimination by the State or any other person on these prohibited grounds. Importantly, when assessing the fairness of discrimination, the act outlines various factors to consider, including the context, impact, societal position, and the existence of less restrictive means to achieve the purpose.

#### **4.3. South African Schools Act, 84 of 1996:**

- 4.3.1. The South African Schools Act, 84 of 1996, emphasises the principle of non-discrimination in public schools. It mandates that public schools must admit learners and serve their educational requirements without engaging in any form of unfair discrimination.
- 4.3.2. Additionally, this act requires the governing bodies of public schools to adopt codes of conduct for learners, following consultations with learners, parents, and educators. These codes of conduct are aimed at establishing disciplined and purposeful school environments dedicated to enhancing the quality of the learning process.

#### **4.4. National Guidelines on School Uniform:**

- 4.4.1. The National Guidelines on School Uniform serve as a tool to ensure that school uniform practices align with the Constitution, thereby facilitating access to education and safeguarding constitutional rights.
- 4.4.2. These guidelines highlight the importance of schools considering their learners' specific needs and sensitivities, including age and gender considerations, when designing or amending school uniforms.
- 4.4.3. Furthermore, the involvement and support of parents and stakeholders are deemed crucial for the successful implementation of new uniform policies.

4.4.4. Additionally, the guidelines emphasise the importance of accommodating religious and cultural diversity within the school community and ensuring that uniform policies do not infringe on students' religious practices.

4.5. **National Education Policy Act, 1996 (NEPA):**

4.5.1. The National Education Policy Act, 1996 (NEPA), grants the Minister of Basic Education authority to determine national education policy in accordance with the Constitution and NEPA itself. This policy aims to protect the fundamental rights of all individuals, including protection against unfair discrimination, access to basic education, and the advancement of democracy and human rights.

4.5.2. Furthermore, NEPA seeks to promote equitable education opportunities, redress past inequalities, and enhance gender equality in education, emphasising the moral, social, cultural, political, and economic development of the nation.

4.6. **Children's Act, 2005:**

4.6.1. The Children's Act, 2005, is designed to give effect to the rights of children, as enshrined in Section 28 of the Constitution.

4.6.2. It establishes mechanisms for the protection and attainment of these rights through the establishment of the Children's Court.

4.6.3. Importantly, the Act reaffirms the constitutional imperative that the best interests of the child are paramount in all matters concerning their care, protection, and well-being.

4.6.4. It further affirms that children capable of understanding and participating in decisions concerning them have the right to participate appropriately, with their views given due consideration.

## 5. CASE LAW

### 5.1. **Minister of Education v Pillay<sup>2</sup>**

5.1.1. This case dealt with a school's policy on hairstyles and the right of learners to express

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<sup>2</sup> ZACC 21; 2008 (1) SA 474 (CC); 2008 (2) BCLR 99 (CC).



their cultural and religious beliefs through appearance. The Court held that schools must reasonably accommodate learner's cultural and religious practices, including their choice of hairstyle. This case is significant in establishing the principle of cultural accommodation in school policies.

**5.2. Antonie v Governing Body, Settlers High School, And Others<sup>3</sup>**

5.2.1. The applicant sought to have the first respondent's decision, which found her guilty of serious misconduct and suspended her from school for five days, set aside. This suspension, although stayed pending the review, remained on her school disciplinary record and had the potential to negatively impact her self-esteem, personal development, and future career.

5.2.2. The applicant, at the age of 15 and a grade 10 learner at Settlers High School, embraced the Rastafarian religion, which required her to wear dreadlocks and cover her head. Despite her efforts to obtain permission to express her religious beliefs through her appearance, she was ultimately charged with serious misconduct by the school's governing body. The first respondent found her guilty based on allegations of disruption and defiance of school rules, leading to the disciplinary action. This case raises important issues concerning freedom of religious expression and school disciplinary policies, which warrant consideration and guidelines for resolution by the court.

5.2.3. The court pointed out that the school's code of conduct did not explicitly prohibit these actions and that even if it did, such violations should not be assessed rigidly. The court emphasised the importance of promoting positive discipline, mutual respect, reconciliation, and tolerance within the school environment. It questioned whether the conduct in question could genuinely be classified as "serious misconduct" as defined in the regulations related to serious misconduct of learners. The court ultimately found that the first respondent had not applied its mind properly to the meaning of "serious misconduct" and set aside both the finding of guilt and the suspension.

**5.3. Head of Department, Department of Education, Free State Province v Welkom High School and Another<sup>4</sup>**

5.3.1. The court emphasised the paramount importance of the best interests of the child principle

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<sup>3</sup> 2002 (4) SA 738 (C).

<sup>4</sup> CCT 103/12 [2013] ZACC.

in all matter concerning children, including education. This case reaffirmed that children have the right to be protected from maltreatment, neglect, abuse, or degradation and their best interests must be a primary consideration in all relevant decisions, especially in the context of education. The ruling underscored the responsibility of the state and the education institutions to ensure the well-being and protection of children in the schooling environment.

#### 5.4. **Centre for Child Law v T.S and Others**<sup>5</sup>

- 5.4.1. In this matter the court referred to section 28(2) of the Constitution, which requires that a child's best interests have paramount importance in every matter concerning the child. The court cited the Fitzpatrick case, which held that the reach of section 28(2) cannot be limited to the rights enumerated in section 28(1) and that section 28(2) must be interpreted to extend beyond those provisions.
- 5.4.2. The court noted that the "best interests" standard had been applied in a number of different circumstances and appropriately had never been given exhaustive content in either South African law or in comparative international or foreign law. The court emphasised that the best interests of the child must be the primary consideration in all matters concerning the child, including disputes between parents, and that the child's interests must be protected and promoted in a manner that is consistent with the child's rights.

#### 5.5. **S v Williams**<sup>6</sup>

- 5.5.1. The court established that the Constitution mandate that any measures or actions that undermine the dignity and self-esteem of an individual must be justifiable. The Court's ruling emphasised that there is no room for brutal or dehumanising treatment and punishment under the Constitution. This decision underscores the fundamental principle that the Constitution upholds the protection of human dignity and prohibits any actions that violate or degrade it, particularly in the context of treatment and punishment.<sup>7</sup> The case underscores the importance of respecting and upholding human dignity in all circumstances.

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<sup>5</sup> (CCT 157/22).

<sup>6</sup> CCT20/94 [1995] ZACC 6.

<sup>7</sup> 1995 (2) SACR 251 (CC).

## 6. SUMMARY OF SUBMISSIONS

- 6.1. Throughout the course of the Inquiry, several salient and common facts emerged from the submissions received.
- 6.2. Participants consistently identified the primary purposes of school uniforms, which included promoting school safety, enhancing discipline, and fostering an improved learning environment.
- 6.3. Furthermore, school uniforms were seen as aiding school officials in the identification of authorised individuals, helping parents and students resist peer pressure for costly clothing, reducing theft, minimising gang-related violence, instilling discipline, and facilitating learners' focus on their studies.
- 6.4. Additionally, stakeholders noted that school uniforms played a role in instilling pride in learners and enhancing their safety, particularly protection against kidnapping incidents.
- 6.5. Regarding the issue of gender-neutral school uniforms, the authority to determine school uniform policies was found to rest with schools through their governing bodies (SGBs). The National Guidelines on School Uniforms aimed to ensure that uniform practices did not obstruct access to education or infringe upon constitutional rights. Nevertheless, concerns were raised regarding the Guidelines' predominant use of a binary approach by referring to "boys" and "girls."
- 6.6. The regulation of hairstyles and appearances emerged as a noteworthy topic in the submissions. It was consistently reported that learners' hairstyles, particularly those of black students, were closely monitored and regulated. Natural hairstyles such as Afros were discouraged, often under the pretext of maintaining "neatness." Male learners, in particular, faced stringent regulations requiring short hair, and some schools even employed a "two fingers" test to measure hair length.
- 6.7. The submissions highlighted the accommodation of traditional, religious, and cultural symbols and attire within school uniform policies. The Uniform Guidelines allowed for the inclusion of religious and cultural diversity and freedom of expression in such policies. Learners typically had the option to apply for exemptions or deviations from uniform policies to wear legitimate traditional, religious, or cultural symbols. However, it was commonly expected that these symbols should be concealed under the school uniforms.

- 6.8. The concept of "excessive control and restrictions" imposed by school uniform policies was a recurring concern. This referred to situations where policies extended beyond reasonable standards, resulting in undue rigidity and violations of students' rights, particularly concerning cultural, religious, gender-related matters, and hairstyle regulations.
- 6.9. The national guidelines, while intended to provide clarity on some aspects of these considerations, allowed significant room for interpretation, leading to varying and inconsistent implementations.
- 6.10. Furthermore, it was evident from submissions that discriminatory practices against gender non-conforming learners existed, leading to infringements upon their rights to freedom of expression and education. In certain cases, learners who did not conform to gender norms were explicitly instructed not to attend school or subjected to punitive measures based on school policies. Such practices were found to unequivocally contravene constitutional and statutory protections.
- 6.11. Key factual conclusions from the Inquiry and submissions shed light on the multifaceted perceived role of school uniforms, challenges related to gender-neutral policies, issues concerning hairstyles and appearances, and the accommodation of traditional, religious, and cultural symbols and attire. They emphasise the legal obligations to protect learners from discrimination and underscore the paramount importance of safeguarding children's well-being within the educational environment.
- 6.12. These shared concerns reflect the complex landscape of diversity and inclusion within South African schools and the need to strike a balance between preserving cultural and religious rights while maintaining a conducive educational environment.
- 6.13. One recurring theme across multiple submissions was the emphasis on aligning school policies with constitutional principles.
- 6.14. Stakeholders, including the Independent Schools Association of Southern Africa (ISASA) and the University of Fort Hare, highlighted the importance of ensuring that school uniform policies accommodate religious and cultural diversity while promoting freedom of expression.
- 6.15. The need to address gender-related issues, including gender-based violence and discrimination, was recognised by the ECDOE in response to submissions. It stressed the

importance of creating fairer school rules and uniform designs that do not unfairly discriminate against learners, emphasising the pursuit of inclusivity.

- 6.16. Another common thread in these submissions was the vital role of parental involvement in school governance. The Office of the Premier underlined the significance of parents actively participating in the development of school uniform policies to ensure they reflect cultural and religious considerations.
- 6.17. Similarly, ISASA acknowledged that independent schools are subject to the Constitution and the Bill of Rights, and it recognised the importance of parental engagement in this context.
- 6.18. The issue of mediating cultural and religious contradictions within educational institutions was also a shared concern. The ECDOE, in response to submissions, highlighted the need for strategies to handle diversity, symbolic accessories, and cultural practices within schools. This emphasised the importance of finding ways to balance the preservation of cultural and religious rights with the primary educational focus of schools.
- 6.19. Additionally, stakeholders repeatedly called for an inclusive and adaptable approach to school uniform policies. The University of Fort Hare advocated for policies that are responsive to evolving societal changes and that strike a balance between maintaining a safe and orderly school environment and allowing learners the freedom to express themselves. This adaptability was seen as a means to ensure policies remain aligned with constitutional principles.
- 6.20. Continuous reflection and adaptation were also emphasised as essential elements in promoting diversity and inclusion within the education system. The University of Fort Hare pointed out that school culture and dress code guidelines often lag behind societal changes, calling for a more flexible approach. The ECDOE stressed the importance of ongoing monitoring and feedback mechanisms to address evolving perspectives and challenges effectively, particularly in the context of gender discrimination, social discrimination, and exclusion in schools.
- 6.21. Comprehensive guidelines that consider evolving societal perspectives and policy alignment at both provincial and national levels were recognised as essential.
- 6.22. The ECDOE acknowledged the need for comprehensive guidelines, emphasising that they should address issues such as neatness criteria, especially concerning cultural and

religious orientations. This highlighted the importance of creating a cohesive approach to education policies across provinces.

- 6.23. In summary, these commonalities reflect a shared commitment to promoting diversity, inclusion, and constitutional values within South African schools. The stakeholders' submissions underscore the need to address these complex issues through policies that accommodate cultural and religious diversity while safeguarding the rights of all learners and fostering an inclusive educational environment.

## 7. FACTUAL ANALYSIS

### Historical Context

- 7.1. The Commission acknowledges insights from notable scholars and researchers into the historical evolution of school uniforms, particularly David Brunnsma from the Virginia Polytechnic Institute and State University. While this perspective provides valuable context, it is essential to recognise its implications for the Commission's assessment, especially concerning the introduction of school uniforms in African countries and the diaspora, largely as a consequence of colonialism.<sup>8</sup>
- 7.2. Brunnsma asserts that contemporary school uniforms, akin to those seen in the South African education system today, trace their origins to the convergence of secular and

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<sup>8</sup> See Dulin, C.D. (2016). Impact of School Uniforms on Student Discipline and the Learning Climate: A Comparative Case Study of Two Middle Schools With Uniform Dress Codes and Two Middle Schools Without Uniform Dress Codes [Doctoral Thesis, North Carolina State University]. Dulin here indicates the following towards a lack of research on the matter at hand: *"In their brief history, school uniform dress code policies enjoyed a variety of research being conducted through the 1990's and early 2000's; however, the research pool has become a small puddle in the last ten years. A first implication in this area is to conduct more empirical research. The research that exists becomes Very limited after 2010. In addition, the research that exists has not been exclusively conducted in the public school arena."* Dulin also indicates, as noted by the Commission, that *"[b]efore examining the history of school uniforms, it is necessary to point out that much of the research contained in this section and throughout this dissertation comes from one researcher, David Brunnsma. Brunnsma has extensive research experience with school uniforms beginning in 1998 with the publication of his and Rockquemore's foundational study, Effects of student uniforms on attendance, behavior problems, substance use, and academic achievement. He has conducted at least one small-scale study in Mt. Carmel, Pennsylvania, written at least one journal article reviewing the literature on school uniforms, and authored two books, The school uniform movement and what it tells us about American education: A symbolic crusade in 2004 and Uniforms in public schools: A decade of research and debate in 2006. In his 2004 book, Brunnsma also pointed out that it is not true that no empirical research exist on school uniforms, but the research that does exist lies in dissertation form, unpublished in any other type of venue or setting"*.

religious influences in the earliest European universities, including those in Germany, France, and England. He highlights the emergence of strict regulations regarding clothing, grooming, and other culturally rooted behaviours, particularly in universities such as the University of Cambridge.<sup>9</sup>

- 7.3. The English model for school uniforms further drew inspiration from the attire worn by impoverished orphaned boys and girls in the sixteenth century, symbolising their disadvantaged status. Paradoxically, these uniforms served as a means of "indoctrinating the masses," signifying a message of conformity and uniformity in preparation for their roles in the emerging industrial society.<sup>10</sup>
- 7.4. However, historical accounts, as offered by Bodine<sup>11</sup>, suggest that in the early 1900s, the introduction of school uniforms aimed at mitigating the visible effects of social disparities. Schools sought to eliminate distinctions based on wealth through the implementation of uniforms.
- 7.5. As school uniforms gained wider acceptance in England and later in the United States, their use began to signify a more exclusive status. Uniforms identified those who could afford elite schooling based on their attire. Brunnsma characterises this increasing reliance on standardised dress as a mechanism for exerting social and cultural control over successive cohorts of students as they progressed through the educational system.<sup>12</sup>
- 7.6. By the early 1960s, approximately half of all Catholic schools in the United States had adopted formal school uniforms. It was during the late 1960s that protests against compulsory uniform policies commenced. These protests primarily revolved around concerns related to perceived infringements on parental rights and responsibilities, the

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<sup>9</sup> Brunnsma's research, which has been considered in this report to the extent that it is applicable, includes Brunnsma, David L. (ed.). 2006. *Uniforms in Public Schools: A Decade of Research and Debate*. Lanham, MD: Rowman & Littlefield Education. Brunnsma, David L. 2004. *The School Uniform Movement and What it Tells Us About American Education: A Symbolic Crusade*. Lanham, MD: Rowman & Littlefield Education/Scarecrow Press; Brunnsma, David L. 2001. *School Uniforms: A Critical Review of the Literature*. Monograph for Phi Delta Kappan's Policy Into Practice Series. Brunnsma, David L. and Kerry Ann Rockquemore. 2003. "Statistics, Soundbites, and School Uniforms: A Reply to Bodine." *The Journal of Educational Research*. 97(2): 72-77; Brunnsma, David and K. Rockquemore. 1998. "Examining the Effects of Student Uniforms on Attendance, Substance Use, Disciplinary Behavior Problems and Academic Achievement." *The Journal of Educational Research* 92(1):53-62.

<sup>10</sup> Brunnsma (2004) 3.

<sup>11</sup> Bodine, A. (2003). School uniforms, academic achievement, and uses of research. *The Journal of Educational Research*, 97(2), 67–71.

<sup>12</sup> *Ibid* at 6.

promotion of conformity, and the financial burden imposed by uniforms, although the latter part of this sentence lacks clarity.

- 7.7. The 1970s witnessed an escalation in protests against compulsory dress codes in the United States, with a particular focus on how uniforms encroached upon freedom of speech and expression. These concerns were rooted in the application of the central concept of freedom of expression as enshrined in the First Amendment of the US Bill of Rights.<sup>13</sup>
- 7.8. Scholars such as Dussel<sup>14</sup> argue that the introduction of uniforms in the United States and Argentina was closely tied to the formalisation of discipline over "unruly, savage, untamed bodies." These bodies were associated with individuals who lacked self-regulation or self-governance, including women, Black individuals, Indigenous populations, the poor, immigrants, toddlers, or infants. It is also posited that imposing uniforms on children from native communities was an effort to "civilise" these communities.
- 7.9. The adoption of school uniforms in most African schools can be attributed to the impact of colonialism, imposed upon communities by missionary educators. One theory is that these educators viewed uniforms as a means of distinguishing between children receiving their 'elite' education offerings and their uneducated peers.
- 7.10. Scholars such as Ndege<sup>15</sup> suggest that the adoption of school uniforms on the African continent is intrinsically linked to countries like Britain. In Botswana, for instance, it can be reasonably inferred that the guiding principles of school uniforms were adopted from the British colonial rulers.<sup>16</sup>
- 7.11. Consequently, South Africa, along with other formerly colonised nations, appears to have inherited a practice originating in the global north, in particular, European colonialist nations. Further to this, the education system has accordingly adopted an approach of

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<sup>13</sup> The First amendment of the Constitution of the US states as follows: "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances*".

<sup>14</sup> Dussel, I. 2005. *When Appearances are Deceptive : A comparative history of school uniforms in Argentina and the United States*. Paedagogical Historica, Vol 41 (1&2) 191.

<sup>15</sup> Ndege, Peter. "Colonialism and its Legacies in Kenya." Lecture delivered during Fulbright – Hays Group project abroad program: July 5th to August 6th 2009 at the Moi University Main Campus. Web. 6 Feb 2014.< <http://international.iupui.edu/kenya/resources/Colonialism-and-Its-Legacies.pdf>>

<sup>16</sup> Mothibi, T. C. 2007. "An Exploration of Pupils' and Parents' Dissatisfaction with School Uniforms in Selected Secondary Schools in Botswana." M. Consumer Finance Thesis, University of Pretoria. <http://hdl.handle.net/2263/26603>.



assimilation, where predominantly African learners were made to assimilate into a system which was simply not designed to accommodate them.

- 7.12. A cursory review of the literature reveals a lack of Afrocentric positions or specific research on the origins of compulsory school uniforms. The prevailing understanding is that this practice appears to have been imported.
- 7.13. The above historical context sheds light on why traditional cultural symbols and practices are conspicuously absent from and seemingly incompatible with the strict parameters of the prevailing school uniform culture - they were not factors considered in the original development of these uniforms.

### **The Purpose of School Uniforms:**

- 7.14. As discussed earlier, the participants in the Inquiry echoed reasons that align closely with the global discourse regarding the value and purpose of school uniforms. However, it is important to acknowledge the distinct South African and African context, which has not received as much attention in existing research primarily based on experiences from the global north.<sup>17</sup>
- 7.15. Nevertheless, it is essential to scrutinise and consider these positions to ascertain the underlying purposes and benefits of enforcing strict school uniform policies. The purposes behind these policies, as identified through participants' submissions and additional information, fall into categories such as improving discipline and academic performance, enhancing safety, reducing costs, and alleviating peer pressure.

### **Improving Discipline and Performance:**

- 7.16. The foremost argument in favour of the current school uniform approach is its perceived role in enhancing discipline and academic performance.
- 7.17. Proponents assert that strict school uniform policies contribute to improved discipline and performance among students.

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<sup>17</sup> With the exception of New Zealand and Australia. Although still intrinsically part of the commonwealth, these countries represent a rich heritage of first nations, with cultural and traditional practices requiring integration into a mostly colonial legacy.

- 7.18. Research conducted by Murray<sup>18</sup> in 1997 explored the relationship between school uniforms and school climate, including discipline, and found that students in schools with uniform policies had a more positive view of elements related to the school climate. However, Wade and Stafford's study found no statistically significant difference in students' perceptions of school climate between schools with and without uniform policies. While school uniforms have been associated with improved attendance rates, their impact on student behaviour and achievement remains a topic of debate.
- 7.19. Several studies, including those by Caruso<sup>19</sup>, Stanley<sup>20</sup>, and Brown<sup>21</sup>, have suggested potential benefits of school uniforms in terms of improved discipline. However, it is essential to note that the exact interpretation of "discipline" in the context of school uniforms warrants further examination.<sup>22</sup>
- 7.20. In 2010, a comprehensive study by Johnson in North Carolina aimed to determine whether the adoption of school uniform policies had an impact on discipline by comparing incidents reported before and after the policy adoption. Surprisingly, the study found no significant change in discipline before and after the introduction of school uniform policies.<sup>23</sup>
- 7.21. Returning to the South African experience, the National Department of Basic Education (NDBE) issued draft Uniform Guidelines in 2006, emphasising the potential benefits of school uniforms in promoting school safety, improving discipline, and enhancing the learning environment. These benefits included reducing violence and theft, preventing gang-related activities, instilling discipline, and aiding in the recognition of unauthorised individuals on school premises.
- 7.22. Notably, the NDBE amended its initial language between 2006 and 2008 from school uniforms "could" improve discipline to school uniforms "can" improve discipline. This linguistic shift from "could" to "can" indicates a stronger assertion regarding the potential

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<sup>18</sup> Murray, R. K. (1997). The Impact of School Uniforms on School Climate. *NASSP Bulletin*, 81(593), 106–112. <https://doi.org/10.1177/019263659708159314>.

<sup>19</sup> Caruso, P. (1996). Individuality vs. Conformity: The Issue Behind School Uniforms. *NASSP Bulletin*, 80(581), 83–88. <https://doi.org/10.1177/019263659608058121>.

<sup>20</sup> Stanley, M. S. (1996). School Uniforms and Safety. *Education and Urban Society*, 28(4), 424–435. <https://doi.org/10.1177/0013124596028004003>.

<sup>21</sup> Brown, T.J. (1998). Legal Issues and the Trend Toward School Uniforms (ERIC Document Reproduction Service No. ED 447 588).

<sup>22</sup> Wade, K. K., & Stafford, M. E. (2003). Public School Uniforms: Effect on Perceptions of Gang Presence, School Climate, and Student Self-Perceptions. *Education and Urban Society*, 35(4), 399–420. <https://doi.org/10.1177/0013124503255002>.

<sup>23</sup> Johnston, J. H. (2010). *Dropout Prevention: A Research Brief*. Fairfield, CT: Education Partnerships, Inc.

of school uniforms to instil discipline in learners. The rationale behind this change remains unclear, as no specific research conducted during that period was identified.

- 7.23. The Commission, therefore, remains cautious in accepting the premise that the wearing of school uniforms unequivocally leads to improved discipline.
- 7.24. Furthermore, while academic performance is often cited as a key element influenced by school uniforms, Alston<sup>24</sup> argues that the educational advantages of uniforms, beyond promoting conformity, are challenging to substantiate. High-performing schools without uniform policies cast doubt on claims that uniforms significantly enhance academic performance.<sup>25</sup>
- 7.25. In 2009, a study by Yeung<sup>26</sup> from Syracuse University in New York aimed to examine the impact of school uniforms on student achievement. Despite using rigorous methodologies and multiple data sets, the study did not find any significant association between school uniform policies and improved academic achievement.
- 7.26. In light of the limited research conducted on this subject, particularly from a South African perspective, the Commission expresses reservations regarding the direct link between school uniforms and improved discipline or academic performance.
- 7.27. As emphasised by Ahrens and Siegel in 2019, the empirical evidence supporting the notion that dress restrictions, such as school uniforms, enhance student performance, school safety, or inclusivity is scarce.<sup>27</sup> These restrictions, which were originally intended to remove distractions and focus on academics, have themselves become a source of

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<sup>24</sup> Alston, K. (2006). Freedom of Expression and school dress codes: South African and international perspectives. *Journal of Law and Education*, 11(1), 92.

<sup>25</sup> In 2004 Brunsmas published comprehensive findings on uniforms in his book, *The School Uniform Movement and What It Tells Us About American Education*. For his work, Brunsmas utilised data from 8th and 10th grade students and the Early Childhood Longitudinal Study (ECLS) from 1998-2000. He indicated that from his research, school boards adopted school uniform policies to decrease, amongst others, discipline problems, and increase academic performance. In short, he found the following: Uniforms have no significant effects on students' perceptions of safety or school climate; Uniforms have no significant effects on perceptions of safety and school climate in elementary schools; Uniforms have no significant effects on 10th grade academic achievement; Uniforms have no significant effects on 8th grade academic achievement; Uniforms have no significant effects on student achievement in elementary schools; Uniforms have a negative effect on academic achievement in high schools; Uniforms have no significant effect on academic preparedness or pro-school attitudes. From his research, he stated that there appears to be no benefits for students or schools that switch from no uniforms to a uniform policy.

<sup>26</sup> Yeung, R. (2009). Are School Uniforms a Good Fit?: Results From the ECLS-K and the NELS. *Educational Policy*, 23(6), 847–874. <https://doi.org/10.1177/0895904808330170>.

<sup>27</sup> Deborah Ahrens and Andrew Siegel, Of Dress and Redress: Student Dress Restrictions in Constitutional Law and Culture, 54 *Harv. C.R.-C.L. L. Rev.* 49 (2019) 97.

distraction and contention, diverting valuable resources from core educational issues and potentially creating an adversarial relationship between students and educators.

- 7.28. Similarly, in line with the Commission's earlier conclusion regarding the effect of school uniforms on discipline, the evidence surrounding their impact on academic performance remains inconclusive. As observed in a research dissertation by Brobeck in 2018, there is no definitive confirmation that school uniform requirements directly influence overall student academic performance in a consistent manner.<sup>28</sup>

### **Improving Safety:**

- 7.29. A prominent submission made to the Commission asserted that school uniform policies contribute to the safety of learners and schools. It was argued that uniforms make learners easily identifiable both within the school premises and outside, reducing the risk of unauthorised access and curbing gang-related violence.<sup>29</sup>
- 7.30. While the Commission recognises the importance of ensuring the safety of learners in and around school premises, it questions the assertion that school uniforms play a significant role in achieving this goal.
- 7.31. For instance, identifying an unidentified person on school premises as an educator, based on the absence of a uniform, may not necessarily mitigate risks. The primary focus should be on improving access control measures and administrative procedures to ensure security.
- 7.32. Similarly, addressing the issue of learners wandering the streets during school hours should be a community-wide concern. Relying solely on school uniforms for identification is insufficient. Additional measures, such as promptly identifying and assisting such learners through law enforcement or social services, are essential for their well-being.
- 7.33. Advocates for strict school uniform policies have argued that uniforms help reduce negative student behaviour associated with gang activity and fighting.<sup>30</sup>

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<sup>28</sup> Brobeck, Elizabeth, "School Uniform Requirements: Effects On Student Academic Performance" (2018). School of Education and Leadership Student Capstone Theses and Dissertations. 4438, 89.

<sup>29</sup>

<https://www.education.gov.za/Portals/0/DoE%20Branches/GET/GET%20Schools/School%20Uniform.pdf?ver=2008-03-05-111454-000>.

<sup>30</sup> Bodine, A. (2003). School uniforms, academic achievement, and uses of research. *Journal of Educational Research*, 97 (2), 67-71.

- 7.34. The narrative of school uniforms minimising gang violence and activity, as echoed in the Uniform Guidelines, appears to have originated in the United States. In some areas of the USA, school uniforms were introduced to distinguish learners from gang members and improve safety in response to significant gang-related threats.<sup>31</sup>
- 7.35. However, while the Commission acknowledges concerns about gang-related violence in South Africa, it questions whether this issue should serve as one of the primary basis for a national school uniform policy.
- 7.36. An examination of the South African Police Service (SAPS) reports on motives for murder, attempted murder, and assault reveals that gang-related incidents are relatively rare on a national scale. In many provinces, gang-related incidents are infrequent or virtually non-existent.<sup>32</sup>
- 7.37. Given the localised nature of gang-related concerns, the Commission raises the question of whether these concerns should be a contributory driving force behind national educational policies and considerations. It is important to note that gang-related issues, if present, are highly concentrated in specific regions, particularly the Western Cape. In other provinces, such concerns are not as prevalent or may be entirely absent.<sup>33</sup>
- 7.38. The Commission acknowledges that, in areas where gang-associated concerns are relevant, compulsory school uniforms may limit the display of gang-related insignia. However, it questions the wholesale adoption of the gang-related narrative from the United States without thorough examination or adaptation to the South African context.

### **Costs and Peer Pressure**

- 7.39. Peer pressure is an inherent aspect of a young person's journey toward adulthood, where they may feel compelled to conform to their peers' behaviours or choices.<sup>34</sup>
- 7.40. The ECDBE contends that school uniforms assist parents and learners in resisting peer pressure that often leads children to demand expensive clothing.

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<sup>31</sup> Anderson, W. (2002). School dress codes and uniform policies. Policy Report (4), 1-20.

<sup>32</sup> [https://www.saps.gov.za/services/downloads/april\\_june\\_2021\\_22\\_quarter1\\_presentation.pdf](https://www.saps.gov.za/services/downloads/april_june_2021_22_quarter1_presentation.pdf)

<sup>33</sup> Further to this, gang related concerns will also be mostly prevalent in secondary schools, where the learners are older and may be partaking in related activities outside of the school.

<sup>34</sup> <https://childlinegauteng.co.za/peer-pressure/#:~:text=It%20is%20the%20pressure%20you,people%20want%20to%20feel%20normal.>

- 7.41. Advocates for school uniforms argue that they level the playing field for learners, reducing peer pressure, teasing, and competition related to clothing. The claim is that learners can focus better when clothing is no longer a distraction, creating a more conducive learning environment.<sup>35</sup>
- 7.42. Child poverty is a significant concern in South Africa, with over 62% of children identified as multidimensionally poor, and particularly high poverty rates in provinces like the Eastern Cape.
- 7.43. Furthermore, South Africa faces a national unemployment rate of 34.5% as of June 2022, which places financial strain on parents and caregivers, limiting their ability to meet even basic needs of learners.<sup>36</sup>
- 7.44. As a result, learners may feel pressure and experience self-esteem challenges when they cannot keep up with their peers who can afford the latest fashion and desired clothing items.
- 7.45. Procuring school uniforms incurs expenses that must be borne by already financially disadvantaged caregivers. In some cases, these expenses may have a severe impact on the overall well-being of the household, especially when additional costs such as seasonal, extracurricular, and occasion-specific attire are considered.
- 7.46. In 2021, the Competition Commission of South Africa (CCSA) jointly published a circular with the Department of Basic Education, providing guidance on best practices for the procurement of school uniforms by schools. This initiative followed complaints about schools requiring uniforms to be purchased exclusively from particular retailers.<sup>37</sup>
- 7.47. The Circular aimed to remind School Governing Bodies (SGBs) of National Guidelines on School Uniforms, encourage compliance with these guidelines, and advise SGBs to ensure that the cost of school uniforms and related items is not an unaffordable burden on parents.
- 7.48. While the Commission recognises the importance of this joint position, it emphasises that the circular is not legally binding on educational stakeholders, serving as encouragement and guidance. The National Guidelines themselves are also regarded as suggestions rather than enforceable regulations.

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<sup>35</sup> Brobeck (2018) 28.

<sup>36</sup> <https://www.statssa.gov.za/?p=15407>.

<sup>37</sup> <https://www.compcom.co.za/wp-content/uploads/2021/01/School-Uniform-Circular-2020.pdf>.

- 7.49. The Commission acknowledges that terms like "unaffordable to parents" are subjective and may lead to debates regarding affordability for different income groups, further highlighting disparities.
- 7.50. Arguments in favour of school uniform policies suggest that they minimise "socio-economic tensions" among learners of varying income levels. This assertion may hold true if all schools consistently adopted policies that mandated the procurement of the same quality and style of uniforms for all learners across districts and provinces. However, many schools promote specific brands and labels of uniforms, not necessarily the most cost-effective options.<sup>38</sup>
- 7.51. Moreover, many school uniform fabrics require ironing for a neat appearance, which poses challenges in a society where indigent households lack access to irons and electricity, particularly amid an energy crisis.
- 7.52. It is apparent that unless a standardised approach to uniform procurement is implemented, the policy's intended goal of reducing disparities may not be fully realised. Learners from affluent backgrounds may continue to wear high-cost brands with logos, while disadvantaged learners are easily identifiable through their uniforms from local low-cost retailers.
- 7.53. To address these issues, the Commission emphasises the importance of adopting a uniform procurement approach to mitigate disparities among learners effectively

#### **Hair and Appearance Policies:**

- 7.54. Throughout the Inquiry, the Commission received evidence indicating that the regulation of learners' hair was a significant and contentious issue faced by both learners and schools.
- 7.55. One extreme measure reported was a "two-finger" policy enforced by a school, stipulating that the hair of African male learners should not be longer than "two fingers."
- 7.56. Learners experienced anxiety and stress disorders because they feared attending school without a haircut, potentially facing embarrassment, reprimand, and disciplinary actions due to the natural growth of their body hair.

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<sup>38</sup> Lumsden, L. & Miller, G. (2002) Dress codes and uniforms. Research Roundup: NAESP, 18(4), 1-4.

- 7.57. The Commission also received complaints where learners, predominantly African, were disciplined for wearing "Afro" hairstyles or specific styles of braids.
- 7.58. Osman and Wilken<sup>39</sup> contextualise this issue in South Africa's history, emphasising the importance of considering learners' hair in policymaking.
- 7.59. They point out that notions of "neatness" regarding hair often reflect Eurocentric norms, neglecting African hairstyles, which are sometimes treated with disdain. This bias is connected to the colonial origins of school uniform policies.
- 7.60. During apartheid, the "pencil test" was used to classify individuals as "White" or "Coloured" based on the texture of their hair. This test reinforced the idea that straight hair was superior and frizzy hair inferior.
- 7.61. Posel<sup>40</sup> reports that hair texture was used to determine racial identity, with officials even calling barbers to testify on hair texture during reclassification requests.
- 7.62. Policing the hair of African students should be critically examined given this historical context. Such actions cannot be justified merely by equating hair length or style with subjective notions of neatness. These imbalanced practices within school appearance policies may not be in the best interests of the child, as emphasized in the *Head of Department v Welkom High School* case. This ruling, as indicated above, underscores the paramount importance of protecting children from degradation, maltreatment, neglect, abuse, or any form of mistreatment. Consequently, it reaffirms the obligation of both the state and educational institutions to prioritize the well-being and protection of children within the school environment.

#### **Differentiation Between Boys and Girls Regarding Hair Length:**

- 7.63. Learners who violate uniform and appearance policies may be subject to disciplinary procedures, as outlined in the school's code of conduct and Uniform Guidelines.

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<sup>39</sup> Wilke, J & Osman, F 2018, ' Dress Codes in Schools: A Tale of Headscarves and Hairstyles ', *Obiter*, vol. 39, no. 3, pp. 585-603. <https://doi.org/10.17159/obiter.v39i3.11318>.

<sup>40</sup> Posel, Deborah. "Race as Common Sense: Racial Classification in Twentieth-Century South Africa." *African Studies Review*, vol. 44, no. 2, 2001, pp. 87–113. *JSTOR*, <https://doi.org/10.2307/525576>. Accessed 20 Sept. 2023.



- 7.64. This means that learners who do not adhere to the correct uniform and appearance standards may face disciplinary action.
- 7.65. Each school may have a unique code of conduct specifying steps to address learner transgressions.
- 7.66. The Department's example of a code of conduct however categorises offenses based on their seriousness, with Grade 4 offenses being the most serious.<sup>41</sup> Grade 1 offenses include minor uniform infringements like wearing printed T-shirts, incorrect socks or belts, or not wearing the full school uniform in public places. Grade 2 offenses include unacceptable hairstyles, including bleaching or colouring, etc.
- 7.67. Steps to address Grade 1 offenses include a written warning, a final written warning, and a disciplinary hearing. Grade 2 offenses lead to a final written warning, a disciplinary hearing, and then a tribunal hearing.
- 7.68. Notably, learners may face disciplinary procedures for wearing incorrect colour socks or, more disturbingly, for wearing their natural hair. Boys may be disciplined based on the length of their hair.<sup>42</sup>
- 7.69. The Commission firmly asserts that wearing one's hair in its natural form can never be considered an "offense." All learners should be protected from arbitrary and potentially racist practices that label them as offenders for not conforming to colonial standards of "neatness."<sup>43</sup> This position is in line with the matter of *Antonie*, where the court questioned how a learner's hairstyle could constitute "serious misconduct".<sup>44</sup>
- 7.70. The Commission found no sound research or reasoning behind the need to regulate the length, colour, or style of learners' hair. The only argument in favour of regulating hair was that neat appearances contribute to better classroom discipline.
- 7.71. The Commission, however, questions the validity of this assertion and the potential harm it may cause. It also questions why the length of female learners' hair is not disruptive while the length of boys' hair is considered so. Furthermore, it raises concerns about the

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<https://www.education.gov.za/Portals/0/Example%20of%20a%20Code%20of%20Conduct%20for%20a%20school.pdf?ver=2009-10-13-121912-523>

<sup>42</sup> Ibid 12.

<sup>43</sup> 2002 (4) SA 738 (C).

<sup>44</sup> 2002 (4) SA 738 (C)

subjective nature of the "neatness" standard and whether it reflects the transformed society of today.

### **The Binary Approach Towards School Uniforms and Appearances:**

- 7.72. Schools in South Africa still maintain a strict binary approach to applying school uniform policies.
- 7.73. These policies often uphold outdated and archaic positions that reinforce gender stereotypes and misogyny. Enforcing such strict approaches perpetuates patriarchal determinations that have no place in a democratic South Africa built on principles of equality.
- 7.74. Wolfe and Rasmussen<sup>45</sup> describe binary school uniform policies as focusing on how girls (assumed to be cisgender) dress at school. These policies often reflect sexist double standards and contribute to the regulation of femininity, girlhood, and sexuality.
- 7.75. Gender differentiation in clothing is evident in these policies, such as allowing boys to wear short pants while not providing a similar option for girls.
- 7.76. Friedrich and Shanks<sup>46</sup> note that dress codes tend to reinforce binary, heteronormative gender roles, with different rules for boys and girls. They often ignore non-binary identities and disproportionately regulate girls' clothing.
- 7.77. Boys are generally not subjected to the same level of appearance policing as girls. Girls are prescribed detailed attire to conform to expectations created outside of South Africa's non-discriminatory principles.
- 7.78. The Commission conducted an online assessment of school uniform policies and found that girls are even instructed on what underwear they may wear to school.<sup>47</sup>

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<sup>45</sup> Wolfe, M. J. & Rasmussen, M. L. (2020). The Affective Matter of (Australian) School Uniforms. In: Dernikos, B. Lesko, N., McCall, S., & Niccolini, A. (Eds.), (2020). Mapping the Affective Turn in Education: Theory, Research, and Pedagogies (1st ed.). Routledge, pp.179-195.

<sup>46</sup> Friedrich, Jasper & Shanks, Rachel. (2021). 'The prison of the body': school uniforms between discipline and governmentality. Discourse Studies in the Cultural Politics of Education. 44. 10.1080/01596306.2021.1931813.

<sup>47</sup> The Commission conducted a cursory online assessment of available school uniform policies and, to its disdain confirmed its suspicions that girl learners are even prescribed which underwear they may wear to school. Below follows a sample of ten (10) schools in support of this finding:

- Primary school girls summer and winter attire: "blue school panties"

- 7.79. A strict binary approach to school uniforms and appearances excludes gender non-conforming learners.
- 7.80. The Commission agrees with submissions made by the EELC and the Commission for Gender Equality that the current policy fails to protect the equality and basic education rights of the LGBTIQ+ community.
- 7.81. The policy acknowledges the role of school uniforms for social and educational purposes but also states that it should not impede access to education or infringe constitutional rights. It also emphasises that the range of school uniforms should reflect a South African identity.
- 7.82. Despite these principles, the policy proceeds to provide a range of uniforms divided in a binary manner and treat them as disciplinary matters.
- 7.83. The Constitutional Court has found that school policies that unfairly discriminate against learners are unlawful and limit a learner's right to a basic education. The court has also recognised the importance of not shaming children in their sexual development and has stressed the importance of adolescents exploring their sexuality.
- 7.84. It is crucial for schools to ensure that admission policies and codes of conduct do not unlawfully discriminate against LGBTIQ+ learners based on their gender identity and sexuality.
- 7.85. All learners should be allowed to wear clothing of their choice, regardless of whether it aligns with traditional gender stereotypes, as long as it complies with the school's uniform

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- Dark blue school panties (hot pants – available at clothing bank) *must* be worn with school or sports clothing.
  - White and or navy regulation panties
  - White or skin-tone full cotton panties or short black or navy blue ski pants (no G-strings)
  - Panties: Maroon “hot pants”
  - Navy-blue panties
  - Panties must be navy blue.
  - Panties – green to match gym.
  - Bottle green underwear
  - Bottle-green panties are to be worn with all school uniform items. (PLEASE - no white or multi-coloured panties.)

See <https://www.lorraineschool.co.za/school-uniform--kleredrag>; <https://www.brackies.co.za/af/oor-ons/dokumente/9-ons-skool/96-school-uniform-policy>; ; <https://www.stms.co.za/uniform/> ; <https://hamiltonps.co.za/prospectus/> ; [http://www.laerskoolmiddelburg.co.za/wp-content/uploads/2015/08/FINALE\\_INLIGTINGSBOEKIE-ENG.pdf](http://www.laerskoolmiddelburg.co.za/wp-content/uploads/2015/08/FINALE_INLIGTINGSBOEKIE-ENG.pdf); [https://www.curro.co.za/media/204085/c\\_wes\\_1944\\_poster\\_uniforms\\_hb\\_rr2.pdf](https://www.curro.co.za/media/204085/c_wes_1944_poster_uniforms_hb_rr2.pdf); <https://bosmansdamprimaryschool.co.za/school-uniform/>; ; <https://knysnaprimary.co.za/information/dress-code/> ; <https://panoramaps.co.za/wp-content/uploads/2020/07/Prospectus.pdf>

policy. The uniform policy should be gender-neutral, allowing learners to dress according to their gender identity and expression. School staff should refrain from enforcing uniform policies more strictly against gender non-conforming students, and this approach should extend to co-curricular and extra-curricular activities.<sup>48</sup>

### **Cultural, Religious, and Traditional Attire:**

- 7.86. The Commission observed that stakeholders were aware of the Pillay judgment, though its outcomes were not always enforced.
- 7.87. In the Pillay case, the Constitutional Court had to determine whether Durban Girls' High School's Code of Conduct discriminated against a learner by refusing her the right to wear a nose stud, thereby denying her practice of her culture. The court found that preventing her from wearing the nose stud infringed on her religious and cultural identity, and constituted a significant violation of her rights. The Court emphasised that the denial of her cultural practices and beliefs was unwarranted and unfairly discriminatory.
- 7.88. The Court ruled that the learner's constitutional rights to freedom of religion, culture, and expression were infringed upon significantly, and these rights are fundamental and must be protected.
- 7.89. The Court also stressed the importance of celebrating and promoting diversity, not just permitting it. It recognised that differentiating between mandatory and voluntary practices falls short of the constitutional commitment to affirm, promote, and celebrate diversity.
- 7.90. The Court's decision highlighted the need for properly drafted codes that set realistic boundaries and provide a route for applying for and granting exceptions, promoting reasonable accommodation at South African schools.
- 7.91. While the Commission acknowledges the usefulness of a procedural framework for asserting cultural, religious, and self-expression rights, it is concerned that these applications may still be subject to approval and measured against a Eurocentric baseline of accepted school attire. Requiring applications could also place additional and unconstitutional burdens on learners and their parents.

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<sup>48</sup> Inclusive of social events such as matric farewells etc

- 7.92. The Guidelines recommend that school uniform policies should consider religious and cultural diversity and accommodate learners whose religious beliefs conflict with uniform requirements. They also mention that male learners seeking to maintain beards for religious reasons may need to produce a letter from their religious teacher or organisation.
- 7.93. This policy adds an extra step for those wishing to exercise their rights to culture, religion, and freedom of expression and is still subject to approval.
- 7.94. The Commission heard submissions indicating that legitimate requests are not rejected, but it is concerned that this may be a subjective test. Learners who lack agency and resources to challenge such decisions may be denied their constitutionally enshrined rights.
- 7.95. The Commission encourages schools to adopt a rights-based approach that prioritises dignity and self-expression rather than relying solely on administrative approval for exemption applications related to culture and religion, in line with the Constitutional Court's position.

## **8. ANALYSIS AND FINDINGS**

- 8.1. Throughout its investigations and the conceptualisation of the Inquiry, the Commission aimed to understand the purpose of school uniforms and the regulation of learners' appearances in the South African context.
- 8.2. The Commission sought to determine if there was a legitimate purpose behind limiting learners' rights in certain instances and whether this purpose was justifiable in an open and equal democracy.
- 8.3. The Commission conducted its investigations and reported on rights realisation within the context of learners' rights to dignity, equality, freedom of expression, freedom and security of the person, religion, belief, and opinion, as well as their specific rights as outlined in section 28 of the Constitution.
- 8.4. The Bill of Rights protect the rights of all citizens, including children. These rights are interdependent, and one right may depend on the protection of another for its full realisation. For example, the right to freedom of expression may depend on the right to privacy, and the right to education may depend on the right to equality.

- 8.5. The Bill of Rights also recognises that rights are not absolute and may be limited by laws of general application, provided such limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom.

### **The Right to Dignity**

- 8.6. The South African Constitution, in section 10 of the Bill of Rights, protects the right to dignity, affirming that "Everyone has inherent dignity and the right to have their dignity respected and protected." Children share in this right equally with others, as reiterated by the Constitutional Court.
- 8.7. In certain circumstances, school uniform and appearance policies infringe on learners' right to dignity, as the Commission has found.
- 8.8. The Commission finds no legitimate purpose for several practices that limit these rights, such as regulating hair length, applying different standards to male and female learners, disallowing natural hair, enforcing gender-stereotypical uniforms, regulating the colour of girls' hair and underwear, and treating appearance and uniform violations as disciplinary issues.
- 8.9. Forced binary school uniforms can be viewed as oppressive and a means of enforcing conformity, diminishing individuality, and limiting self-expression. This constitutes a violation of learners' inherent dignity, affecting their self-worth and identity.
- 8.10. Additionally, the cost of school uniforms can be prohibitive, leading to a lack of access to education for some learners. This can be seen as a form of discrimination and a violation of their right to dignity.
- 8.11. The Commission finds the regulation of girls' underwear abhorrent and sees no relation to it and the right to a basic education.
- 8.12. This practice invades girls' privacy and dignity, as there is no way to enforce it without grossly violating their rights. Notably, there are no references to policies or codes that prescribe boys' underwear. This objectionable practice seems to exclusively target female learners, thus also impacting on the right to not be discriminated against on the basis of one's gender.

## The Right to Equality

- 8.13. Section 9 of the Bill of Rights protects the right to equality, stating that "Everyone is equal before the law and has the right to equal protection and benefit of the law."
- 8.14. Enforcing binary school uniform policies can be seen as enforcing traditional gender roles and norms, as uniforms often have different dress codes for boys and girls, potentially violating section 9 of the Constitution and section 9 of the Equality Act.
- 8.15. The Commission has established that binary school uniform policies discriminate in their application between boys, girls and gender-nonconforming learners. Whether this discrimination constitutes a violation of the right not to be *unfairly* discriminated against, is considered below.
- 8.15.1. Once discrimination is established, the Commission must consider whether such discrimination was unfair, in which respect the Commission is guided by section 14 of the Equality Act, quoted below:

“

14. (1) *It is not unfair discrimination to take measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination or the members of such groups or categories of persons.*

(2) *In determining whether the respondent has proved that the discrimination is fair the following must be taken into account:*

(a) *The context;*

(b) *the factors referred to in subsection (3);*

*I whether the discrimination reasonably and justifiably differentiates between persons according to objectively determinable criteria, intrinsic to the activity concerned.*

(3) *The factors referred to in subsection (2)(b) include the following:*

(a) *Whether the discrimination impairs or is likely to impair human dignity;*

(b) *the impact or likely impact of the discrimination on the complainant;*  
*I the position of the complainant in society and whether he or she suffers from patterns of disadvantage or belongs to a group that suffers from such patterns of disadvantage;*

(d) *the nature and extent of the discrimination;*

- l* whether the discrimination is systemic in nature;
- (f)* whether the discrimination has a legitimate purpose;
- (g)* whether and to what extent the discrimination achieves its purpose;
- (h)* whether there are less restrictive and less disadvantageous means to achieve the purpose;
- (i)* whether and to what extent the respondent has taken such steps as being reasonable in the circumstances to—
  - (i)* address the disadvantage which arises from or is related to one or more of the prohibited grounds; or
  - (ii)* accommodate diversity.”<sup>49</sup>

8.16. The Commission finds the following in respect of the factors in section 14 of the PEPUDA:

8.16.1. **Context:** The context here involves educational institutions responsible for nurturing an inclusive and non-discriminatory environment. Gendered school uniforms run counter to this objective.

8.16.2. **Impact on Human Dignity:** Such discrimination impairs human dignity, particularly for gender-nonconforming and female learners, by reinforcing harmful and undignifying sexual stereotypes.

8.16.3. **Position in Society:** Female and gender-nonconforming learners are particularly vulnerable to the impact of gendered school uniforms as they belong to vulnerable groups that suffer from patterns of systemic disadvantage. The aforementioned is exacerbated by the fact that the majority of school learners are children, who hold a particularly vulnerable position in society.

8.16.4. **Nature and Extent of Discrimination:** The discrimination is significant as it affects learners' self-expression, identity development, and sense of belonging within the educational environment as well as their right to a basic education. Furthermore, the extent of the discrimination is severe, seeing as it impacts on the best interests of children, which the Constitution deems to be paramount in all matters concerning children.

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<sup>49</sup> Ibid at Section 14.



- 8.16.5. **Systemic Nature:** Gendered school uniform policies are systemic in nature, perpetuating traditional gender norms and stereotypes within society, and affect millions of children around South Africa.
- 8.16.6. **Legitimate Purpose:** There is no legitimate purpose for enforcing gendered school uniform policies that restrict learners' self-expression and reinforce stereotypes.
- 8.16.7. **Achievement of Purpose:** Gendered school uniform policies do not achieve any legitimate educational purpose and are, in fact, counterproductive to fostering an inclusive and diverse learning environment.
- 8.16.8. **Less Restrictive Means:** There are less restrictive means available to achieve any legitimate educational objectives without discriminating based on gender identity.
- 8.17. In conclusion, the enforcement of gendered school uniforms constitutes unfair discrimination, as it impairs human dignity, perpetuates stereotypes, and restricts learners' rights to express their gender identity freely. Therefore, it is in violation of the Equality Act and should be addressed promptly to ensure a more inclusive and equitable educational environment for all learners.
- 8.18. Policing the length of male learners' hair while not applying the same approach to female learners is further also not unjustified and constitutes an infringement on the rights of male learners to be treated equally.
- 8.19. Enforcing school uniform and appearance policies based on historical practices of policing and regulating the bodies of African and women learners is unacceptable in the current context and should not continue.

### **Right to Freedom of Belief, Religion, and Opinion; Right to Culture and Language**

- 8.20. The Commission accepts the determinations made by the Pillay judgment, which allows for accommodations to enable learners to express their religions and cultures when wearing compulsory school uniforms.
- 8.21. The default position of accommodation should not be Eurocentric but must embrace the richness of South African cultural and religious diversity.

- 8.22. The Commission finds that a lack of a clear accommodation process may violate the rights to culture, religion, and expression of learners.
- 8.23. A uniform or appearance policy imposing additional steps only for certain cultures, religions, and beliefs violates these learners' specific rights.

### **The Right to Freedom of Expression**

- 8.24. South Africa's right to freedom of expression, under section 16 of the Bill of Rights, is not absolute and can be limited in certain circumstances. In addition to the internal limitation contained in section 16(2), which deals with issues such as hate speech and incitement of violence as limitations to freedom of expression (which is not applicable in this context), the general limitations clause of the Constitution in section 36, applies at this stage.
- 8.25. Section 36 allows justifiable limitations of rights, provided the limitations are *“in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors”*.
- 8.26. Schools are empowered by a law of general application in section 8 of the South African Schools Act to develop codes of conduct, and by relevant ministerial regulations enacted under subsection 3. The Commission finds that the socioeconomic climate in South Africa justifies the enforcement of an obligatory school uniform policy generally, as it helps reduce socio-economic disparities among students, levelling the playing field.
- 8.27. School uniforms must however be affordable, available, reasonable and practical to serve their purpose. Compelling learners to procure expensive or impractical items is unjustified. For example, it is not justifiable to require learners to procure school blazers. As set out in the findings regarding equality above, the uniform policies may also not discriminate based on gender.
- 8.28. A school uniform policy may thus be justified in limiting the right to self-expression if it is affordable, reasonable and practical, aligns with the economic climate and physical needs of children and does not unfairly discriminate on the basis of gender.

### **The Best Interests of the Child**

- 8.29. Section 28 of the Constitution specifically addresses the rights of children, emphasising that the best interests of the child are of paramount importance in all matters concerning children.
- 8.30. The Commission finds that bodily autonomy infringements such as the two-finger test on the bodies of African or other learners, and monitoring the colour of girls' underwear, can never serve the best interests of the child. These practices are archaic and degrading, violating section 28 of the Constitution.
- 8.31. All other violations found above by the Commission also constitute violations of section 28 of the Constitution, as it can never be in a child's best interests to unjustifiably limit any of their human rights.

### **Applicability**

- 8.32. The findings of this report have broad implications for all school uniform and appearance policies, irrespective of whether they are implemented in the public or private school sector. The report identifies a pattern of overregulation in respect of school uniforms and learners' appearances that may infringe upon their fundamental human rights, as protected by the Constitution.
- 8.33. Private school authorities, like their counterparts in the public sector, should take cognisance of the principles highlighted in this report. It is imperative to acknowledge that learners' rights must be upheld, and uniform and appearance policies should be in harmony with constitutional principles of equality, dignity, and freedom of expression. While the South African Schools Act empowers School Governing Bodies (SGBs) and private school authorities to determine uniform and appearance policies, they must do so within the framework of the Constitution and the law.

## **9. DIRECTIVES AND RECOMMENDATIONS**

- 9.1. The investigation into South African school uniform and appearance policies has underscored their significant impact on core human rights, particularly the right to

education, equality, dignity, and freedom of expression. This examination revealed that these policies often lack gender sensitivity and inclusivity, reinforcing traditional gender norms and presenting challenges for gender non-conforming and transgender students in expressing their identities. This points to an urgent need for schools to revise their policies to accommodate a diverse range of gender identities.

- 9.2. Stringent uniform policies, intended to promote equality, paradoxically result in inequality and discrimination, highlighting the delicate balance required between policy objectives and their real-world implications. Additionally, instances of non-compliance by schools with established legal frameworks expose a gap between formal standards and practical implementation.
- 9.3. To address these concerns effectively, robust oversight by relevant authorities is imperative, necessitating improved communication among oversight bodies, education departments, and stakeholders. The development and prompt implementation of clear policies pertaining to self-expression and inclusive hair regulations are critical, as any delays can impede learners' rights during their limited time in the education system.
- 9.4. The findings illuminate the complex challenges associated with school uniform policies, transcending mere attire. They call for a comprehensive approach to education and self-expression, deeply rooted in the principles of equality, dignity, and freedom. Urgent reforms and redressal mechanisms are essential to safeguard the fundamental human rights of all learners within South African educational institutions, recognising the multifaceted dimensions and the pressing need for change.
- 9.5. Therefore, and in accordance with the Constitution, read with the South African Human Rights Commission Act, which empowers the Commission to issue directives and make recommendations for the promotion of fundamental rights, the Commission determines as follows:

**Immediate Reforms:**

9.6. **Differentiating hair policies between male and female learners:**

The NDBE must immediately abolish any hair policies that differentiate between male and female learners. This includes eliminating any practice that discourages or subjects African learners to disciplinary procedures for wearing Afros, braids, or any other natural hairstyle chosen by the specific learner.

9.7. **Gender-Stereotypical Use of School Uniform Policies:**

All learners must be allowed to wear any item of clothing that forms part of the approved school uniform regardless of their sex or gender/gender identity. Gender-neutral uniform options must be provided to accommodate gender-nonconforming learners.

9.8. **Prescribed Underwear for Female Learners:**

The practice of prescribing underwear for female learners must be eradicated and condemned, and learners and caregivers should be encouraged to report any invasive monitoring to law enforcement agencies for investigation.

**Within Six Months:**

9.9. **Audit of Codes of Conduct:**

The NDBE/Provincial Departments of Education (PDE's) must conduct an audit of all school codes of conduct to determine whether they include deviation and accommodation processes that allow learners to express their culture, religion, and beliefs.

9.10. **Baseline Assessment and Cap on Uniform Costs:**

The NDBE must conduct a baseline assessment to determine a cap on the costs of any basic school uniform, taking into consideration the country's socio-economic circumstances. Furthermore, the NDBE should consider issuing binding directives to provide for this minimum framework. The assessment should also consider whether the prescribed regulation uniforms are conducive to the South African demographic and the best interests of the child. Factors to include in this assessment should involve an evaluation of whether school uniform materials and items are contributing to accessing basic education or if a compulsory standard uniform that caters to the physical and socio-economic needs of learners and their families is recommended based on current research. The NDBE should make it clear that expensive clothing, such as blazers, is not

compulsory.

**9.11. Amend the Uniform Guidelines:**

The NDBE must amend the Uniform Guidelines to include the findings of this report and should consider binding directives instead of guidelines to prevent non-compliance.

**Within Eight Months:**

**9.12. Reporting on Implementation:**

The NDBE and, where applicable, PDE's, must provide the Commission with a report on how they have addressed or plans to address the abovementioned directives and recommendations within eight months after the issuing of this report. The report should include clear timeframes and action items for each directive and recommendation.

**Applicability:**

The Commission again recognises that School Governing Bodies (SGBs) and private school authorities have a significant role to play in shaping school uniform and appearance policies and ensuring their effective implementation. However, it is essential to reiterate that the ultimate responsibility for ensuring compliance with human rights and constitutional principles rests with the NDBE and PDE's . Therefore, private school authorities are encouraged to engage in a dialogue with the NDBE to align their uniform policies with the directives and recommendations provided in this report. It is recommended that private schools review their existing uniform policies, paying particular attention to the aspects of appearance regulation that may impede learners' rights and create a hostile or discriminatory environment. Collaborative efforts with the NDBE and other stakeholders will be instrumental in promoting inclusive and rights-respecting uniform policies in the private school sector. Private schools should embrace the opportunity to

contribute positively to the broader educational landscape by adopting policies that prioritise the dignity, equality, and freedom of expression of their learners, thus ensuring a conducive and respectful learning environment for all.



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**FOCUS AREA: RIGHT TO EDUCATION**