

Understanding Your Child's Religious Rights at School

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INTRODUCTION

South Africa is celebrated for its rich tapestry of different religions, cultures and beliefs. As the 2026 school year begins in earnest, understanding how the law protects your child's right to practise their cultural and religious beliefs is essential for the fostering of a respectful and inclusive learning environment.

This article identifies the Constitutional foundation for religious and cultural rights in South African public schools, primarily established in Section 15 of the Constitution of the Republic of South Africa, 1996 ("the Constitution").

THE CONSTITUTIONAL FRAMEWORK

Section 15 of the Constitution provides that everyone has the right to freedom of conscience, religion, thought, belief and opinion. In the context of public schools, Section 15(2) of the Constitution further states that religious observances are permitted at state-aided institutions. However, the Court in *Organisasie vir Godsdiensle-Onderrig en Demokrasie v Laerskool Randhart and Others*¹ emphasized the principle of subsidiarity. This means that because the South African Schools Act 84 of 1996 ("the Schools Act") and relevant provincial legislation were enacted to give effect to these Constitutional rights, the lawfulness of a school's conduct must be assessed against the relevant legislation rather than the Constitution alone.

Section 7 of the Schools Act provides that religious observances may be conducted at public schools provided that:

- such observances follow the rules as set by the appropriate public authorities – such as the School Governing Body ("SGB");
- that they are conducted on an equitable basis; and
- that attendance at such events must be free and voluntary.

As mentioned above, the legal framework also extends to provincial legislation, which often provides more detailed requirements than the national law.

In Gauteng, for example, the Gauteng School Education Act 6 of 1995 requires every SGB to determine a formal "religious policy" in consultation with the department. This policy is not limited only to religious observances but also governs the amount and content of religious instruction offered at the school. This provincial law reinforces that no school employee may attempt to indoctrinate learners into a particular belief or denigrate any religion, and it expressly protects the right of learners and staff to opt out of religious activities without fear of discouragement or undue influence. The *voluntariness* aspect forms the cornerstone of a child's rights to religious freedom as a learner, because it ensures that no learner is pressured or coerced into participating in practices which do not align with their personal or familial religious or cultural convictions, within a schooling environment.

In *Organisasie vir Godsdiensle-Onderrig en Demokrasie v Laerskool Randhart*², the Court held that public schools' coercive promotion of one religion to the exclusion of others, violated Section 7 of the Schools Act because the observances were neither conducted equitably nor on a voluntary basis. Consequently, the Court issued a declaratory order that it offends Section 7 of the Schools Act for a public school to implement or promote one religion with the intention to exclude other religious beliefs and practices.

Accordingly, public schools must ensure that any religious observances conducted are equitable, voluntary, and respect the religious diversity protected by the Constitution.

The right of a person to practise their religious beliefs must also be read with Section 9(3) and (4) of the Constitution, which prohibits unfair discrimination against anyone on the basis of *inter alia* their religion and/or cultural beliefs.

RELIGION IN PUBLIC SCHOOLS AND POLICY

The National Policy on Religion and Education ("NPRE") forms the guidelines which should be borne in mind when public schools determine their rules and codes of conduct in respect of religious practices.

The NPRE indicates that, while there is no “blanket ban” on the presence of religious practices in schools, the goal should be “religious literacy” – teaching learners about different faiths in South Africa to promote religious and cultural tolerance and goodwill. The idea is to shift focus from instruction on one particular faith, to an appreciation of many faiths without prejudicing any scholar’s sincerely-held beliefs.

FREEDOM TO PRACTISE

Learners have the right not to be forced to participate in activities contrary to their religious or cultural beliefs, but also have the right to express and practise their own sincerely-held beliefs, subject to reasonable accommodation by schools.

One of the salient cases in this regard is the judgment in *MEC for Education: Kwazulu-Natal and Others v Pillay*³. In this case, a Hindu learner was not permitted to wear a nose ring to school as this was against her school’s code of conduct. The learner’s mother wrote to the school requesting an exemption for her daughter as the wearing of the nose ring was for cultural and religious reasons.

The school denied the request and the matter ultimately came before the Constitutional Court. In reaching its conclusion, the court did not look at the Constitution in isolation, but rather applied the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (“the Equality Act”). This Act serves as the specific legislation which was enacted to give effect to the Constitutional guarantee of equality.

The court’s ruling was grounded in reading the Equality Act alongside 3 other constitutional imperatives – Section 9 (the right to equality and protection from unfair discrimination), Section 15 (freedom of religion and belief), and Section 31 (the right of persons belonging to a cultural or religious community to enjoy their culture and practise their religion. The Constitutional Court held that ostensibly neutral school codes which have a marginalising effect on certain portions of society require reasonable accommodations.

By failing to provide an exemption for the learner’s sincerely held beliefs, the school had committed unfair discrimination under the Equality Act. The Court was of the view that it is not enough for a school to simply “*put up with*” differences – schools must take meaningful steps to effectively affirm and accommodate the diverse religious and cultural identities of their learners.

CONCLUSION

South African law establishes that public schools are not religiously or culturally sterile spaces, nor may they coerce or exclude learners based on their individual beliefs.

Religious observances may be permitted where compliant with Constitutional standards, but participation must always be voluntary and school rules are to be applied fairly and inclusively, to accommodate sincere beliefs and cultural practices.

It is important that both parents and learners understand these protections to ensure an educational environment that respects dignity, diversity, and freedom of belief – values that lie at the heart of our Constitution.

¹*Organisasie vir Godsdienste-Onderrig en Demokrasie v Laerskool Randhart and Others* (29847/2014) [2017] ZAGPJHC 160.

²*ibid.*

³*MEC for Education: Kwazulu-Natal and Others v Pillay* (CCT 51/06) [2007] ZACC 21.



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