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**SUBMISSIONS ON THE REGULATIONS ON THE MANAGEMENT OF LEARNER PREGNANCY IN
SCHOOLS
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I. INTRODUCTION

1. SECTION27 is a public interest law centre that works to influence, develop, and use the law to further constitutional rights in South Africa. Specifically, SECTION27 uses community mobilisation, research, advocacy, and litigation to further the right to have access to the right to healthcare services, including reproductive healthcare, and the right to basic education.
2. We welcome the opportunity to make submissions on the Draft Regulations on the Management of Learner Pregnancy in Schools, 2026 ("Draft Regulations"), issued in terms of the South African Schools Act 84 of 1996 ("SASA").
3. SECTION27 acknowledges and welcomes the progressive intent of the Draft Regulations in introducing an enforceable legal framework governing the management of learner pregnancy. However, we are concerned that the Draft Regulations do not give effect to the constitutional rights of pregnant learners, specifically the rights to equality, dignity, basic education, access to healthcare services, including reproductive healthcare, and the best interests of the child.
4. In addition to examining whether the Draft Regulations achieve their intended objectives, and whether they are consistent with the Constitution, this submission also examines the relationship between the Draft Regulations, the Learner Pregnancy Policy and other related policies.

II. BACKGROUND

5. Teenage pregnancy remains a significant global public health and social concern, especially in low-and-middle-income countries, where teenage girls encounter many socio-economic and structural barriers to reproductive health.¹ In 2022/23, the District Health Barometer reported that about 365 teenage girls give birth every day. Official statistics from Statistics South Africa indicated that in 2022, approximately 4%

¹ Maatla D Temane et al, "Socioeconomic factors and living conditions associated with teenage pregnancy in Soweto and Thembelihle townships, Johannesburg, South Africa: 2023–2024" (2025) 22:1 *Discover Public Health* 880, available <https://doi.org/10.1186/s12982-025-01301-2>.

of girls aged between 14 and 19 reported that they were experiencing various stages of pregnancy.² This alarming prevalence of teenage pregnancy has significant individual and societal impacts. Learner pregnancy is both a cause and consequence of educational disruption. It contributes to school dropouts, reduced academic performance, and has long-term socio-economic and health consequences. These consequences are disproportionately felt by female learners, which reinforces existing gender inequalities by limiting their educational attainment and employment opportunities, while entrenching cycles of poverty and social exclusion. As such various efforts have been taken to prevent and manage learner pregnancy.

6. Historically, the management of learner pregnancy in South African schools has been inconsistent and, in some instances, exclusionary. Some schools adopted policies that provide for the automatic exclusion of learners who fall pregnant.³ Over time, the Department of Basic Education (“DBE”) has adopted guidelines and policies aimed at fulfilling, promoting and protecting the constitutional rights of pregnant learners by ensuring their retention in the education system, and enabling a stigma-free, non-discriminatory environment for pregnant learners.
7. In 2007, the DBE published national guidelines called the “Measures for the Prevention and Management of Learner Pregnancy” aimed at providing schools with guidance on the prevention and management of learner pregnancy in schools.⁴ Despite this, pregnant learners continued to face stigma and discrimination, including exclusion from school on the basis of their pregnancy. In 2021, the DBE adopted the Learner Pregnancy Policy. Notably, both the 2007 guidelines and 2021 Learner Pregnancy Policy provide for the prevention and management of learner pregnancy. However, neither is legally binding.

² Zeynep Dierks, “Share of females aged 14-19 years who were pregnant in South Africa from 2018 to 2022, by age” (2026), available at https://www.statista.com/statistics/1115755/share-of-teenage-pregnancies-in-south-africa-by-age/?srsltid=AfmBOoozwcOLUElMckQEkfhQhb25wZvQhk5Jmd2bHVNrop31jGTQM_Zz.

³ *Head of Department, Department of Education Free State Province v Welkom High School and Another; Head of Department, Department of Education Free State Province v Harmony High School and Another (Equal Education and Centre for Child Law as Amici Curiae)* 2014 (2) SA 228 (CC).

⁴ Karabo Ozah and Demichelle Petherbridge, “Learner Pregnancy” (2007) *Basic Education Rights Handbook: Education Rights in South Africa* 208-225, available at <https://section27.org.za/basic-education-rights/Basic%20Education%20Handbook%20-%20Chapter%209.pdf>.

8. SECTION27 therefore welcomes the move towards a legally binding framework as this will strengthen accountability, promote consistency across schools and ensure that the protection of pregnant learners' rights is not left to discretionary practices. We also welcome the Draft Regulations' affirmation that learner pregnancy must be addressed within the education system and not be treated as a basis for exclusion. We further welcome the addition of structured reporting mechanisms for learner pregnancy, as well as the inclusion of provisions that facilitate the pregnant learner's ability to continue with their education. These measures play a critical role in giving effect to the immediate and unqualified right to basic education and the enjoyment of the right to equality and dignity.
9. Our submission addresses specific provisions that should be clarified or strengthened in order more effectively to achieve the objectives set out in the Draft Regulations and to ensure that their purpose is fully realised in practice.

III. ESTABLISHMENT OF DISTRICT AND SCHOOL-BASED SUPPORT TEAMS

10. SECTION27 welcomes the proposal to establish district- and school-based support teams ("SBSTs") whose core functions are to ensure that pregnant learners are provided with adequate resources and support to retain them in school and to minimise disruption to learning.
11. Draft Regulation 4(1) sets out the obligations that district-based support teams have in managing learner pregnancy, providing that they must take reasonable measures to protect the rights of learners, and where necessary, advise on alternative methods for the reasonable accommodation of a pregnant learner. Draft Regulation 4(2)(b) provides that reasonable accommodation of the learner may include the provision of support services. Whilst we acknowledge that the nature of support services will depend on the learner's needs, we are concerned that the failure to provide guidance on what may constitute support services creates a risk of inconsistent interpretation and implementation.

12. The absence of clearer guidance on the nature and scope of support services undermines the effective realisation of the right to basic education as enshrined in section 29(1)(a) in the Constitution. Inconsistent and inadequate application of support services may result in pregnant learners being unable to meaningfully access education on an equal basis with their peers.
13. We recommend that Draft Regulation 4(2)(b) should be amended to include a non-exhaustive list of support services that may be made available to pregnant learners through district-based support teams. This list of support services could include healthcare related support, psychosocial support and social services support.
14. Draft Regulation 5 states that every school must establish a SBST and provides specific responsibilities that SBSTs must fulfil. SBST is defined as a team established by the school as a school-level support mechanism whose primary function is to put coordinated school, teacher and learner support in place. This definition implies that SBSTs coordinate the day-to-day implementation of the Draft Regulations within a defined school community with specific actors in the school. It is therefore unclear how SBST would lead and oversee the process of managing learner pregnancy by **coordinating a multi-sectoral response** (own emphasis) as provided in Draft Regulation 5(2)(a).
15. Furthermore, the lack of clarity regarding the scope of SBSTs' coordination role in a multi-sectoral response may undermine the effective realisation of pregnant learners' rights to basic education and dignity. Where roles and responsibilities between school-level structures are not clearly defined, there is a risk that pregnant learners may not receive timely, adequate and coordinated support, which may in turn hinder their ability to remain in school and continue their education. We recommend that Draft Regulation 5(2)(a) be amended to clearly define the scope and limits of the SBST's role in coordinating a multi-sectoral response.

IV. ROLE OF SCHOOL PRINCIPALS

16. Draft Regulation 6 outlines the duties of a school principal in relation to overseeing and coordinating the implementation of the Draft Regulations and supporting pregnant learners. Our concern is that some of the obligations placed on the principal are onerous and impractical. For instance, Draft Regulation 6(1)(e) requires principals to strengthen referral processes between the health services providers, clinics and any designated child services organisation near the school. These service providers fall under different government departments who cannot be assigned corresponding obligations under the Draft Regulations. It is not clear how this obligation can be practically implemented at the school-level. Furthermore, it may present logistical inefficiencies since in most circumstances a clinic serves more than one school. Indeed, the management of learner pregnancy requires the collaboration of multiple stakeholders. In our view, the coordination of the relevant stakeholders should be the responsibility at the district level. We therefore recommend that Draft Regulation 5(1)(e) be incorporated into Draft Regulation 4 instead.
17. Draft Regulation 6(1)(b) provides that a principal must record the details of pregnant learners on the South African School Administration and Management System in compliance with the Protection of Personal Information Act 4 of 2013. The contemplated details are set out in Draft Regulation 6(2).
18. Draft Regulation 6(1)(c) places an obligation on the principal to report the retention of learners during pregnancy. However, the Draft Regulations do not define 'retention'. It is unclear whether "retention" and "return" simply refer to whether a learner remained in school or returned, or whether they require more specific information, such as the length of time the learner remained in school or the date on which the learner returned. This ambiguity may result in inconsistent data capture across schools and undermine the Department's ability to effectively monitor learner retention. We recommend that these terms be clearly defined to indicate whether dates, time periods, or status information are required, in order to promote uniform implementation and ensure compliance with data protection principles.

19. Furthermore, Draft Regulation 6(1)(h) places an obligation on the principal to ensure that after a learner gives birth, the learner returns to the relevant grade to continue her basic education. While we support the objective of facilitating a learner's return to school after giving birth, this obligation imposes an onerous responsibility on principals. In practice, a learner's return to school is influenced by a range of factors beyond the control of the school, such as socio-economic circumstances, access to childcare and social support, and health considerations. The framing of this provision creates unrealistic expectations for principals. We recommend that Draft Regulation 6(1)(h) be amended to require principals to take reasonable measures to facilitate, support, or enable the return of learners to school after childbirth, rather than to ensure such a return.

20. We further note that Draft Regulation 6(2) appears incomplete as Draft Regulation 6(2)(c) is blank, thus creating uncertainty regarding the scope of what details need to be recorded on the SA-SAMS. We recommend that the reference to Regulation 6(2)(c) should either be removed or completed to ensure legal certainty.

V. GENERAL PROCEDURE FOR MANAGEMENT OF LEARNER PREGNANCY

i. Duplication of responsibilities and lack of guidance on medical certification and continued attendance

21. Draft Regulations 8(1) and 8(2) assign obligations to the SBST and the principal respectively. Notably, some of the responsibilities (see Draft Regulation 8(1) and Draft Regulation 8(2)(a)-(b)) have been duplicated thus creating ambiguity regarding whether both the SBST and the principal must each conduct the referrals, or whether it is in the alternative. Furthermore, it is unclear whether the further assessment contemplated in Draft Regulation 8(2)(a) is in addition to that which would be conducted in terms Draft Regulation 8(1)(b). We submit that Draft Regulations 8(1) and 8(2) be amended to ensure clarity so that there is no duplication. Duplication of processes may deter learners from seeking support and would also result in a waste of resources.

22. Draft Regulations 8(2)(a), 8(2)(c) and 8(3) (which must be read together) set out the requirements for medical certification and continued attendance during later stages of pregnancy. Draft Regulation 8(2)(a) provides that a social worker or the Department of Social Development (“DSD”) must assess a pregnant learner and submit a report to the school principal advising on the assessment. The report must state the estimated delivery date, whether the pregnancy is high risk at the time of assessment and whether it is safe for the learner to continue with school. The principal must then work with the SBST to develop an individual support plan contemplated in Draft Regulation 8(11). Whilst the Draft Regulation 8(11) anticipates that reports from a clinic or health facility must be considered, the Draft Regulations do not require the principal to receive reports from clinics or health facilities.
23. Furthermore, while Draft Regulation 8(11) provides that an individual support plan must take into consideration reports provided by the social worker, a child service organisation, a clinic or health facility, there is no guidance on how this information should inform a pregnant learner’s continued attendance.
24. In contrast, the Learner Pregnancy Policy provides more detailed guidance. It states that learners who are over six months pregnant must submit a medical certificate indicating the status of the pregnancy and their delivery date, and that learners who wish to stay in school beyond 32 weeks (8 months) of pregnancy may be required to provide a medical report confirming that it is safe to do so.
25. Research has shown that continued school attendance during pregnancy is a protective factor for learner retention. A study conducted in South Africa found that a significant proportion of learners discontinue schooling during pregnancy as early as the first trimester because of structural and social barriers.⁵ The same study also showed that 75% of participants that were enrolled in school at the onset of the

⁵ Janina Jochim, Lucie D. Cluver and Franziska Meinich, “Learner pregnancy in South Africa’s Eastern Cape: The Factors affecting adolescent girls’ school withdrawal during pregnancy” (2021) 87 *International Journal of Educational Development* 102484, available at <https://doi.org/10.1016/j.ijedudev.2021.102484>.

pregnancy continued schooling until giving birth.⁶ The absence of clearer guidance regarding continued attendance during later stages of pregnancy could contribute towards unnecessary withdrawal from schools. In the absence of uniform standards, schools may adopt inconsistent approaches that result in the exclusion of pregnant learners from school, consequently limiting their access to education and infringing on their right to equality as enshrined in section 9 of the Constitution.

26. We submit that Draft Regulation 8(11) be amended to include guidance on medical certification and continued attendance during later stages of pregnancy. The amendments must include that:

- a. A pregnant learner may be requested to submit a medical certificate stating the status of the pregnancy and the estimated delivery date once the pregnancy has reached a specific stage e.g. 6 months; and
- b. Where a learner wishes to continue attending school beyond a later stage of pregnancy (e.g. 32 weeks) the learner may be requested to provide a medical report confirming that it's safe to do so.

ii. Mandatory duty to report

27. Draft Regulations 8(6), 8(8) and 8(9) establish mandatory duties to report learner pregnancies. By doing this, the Draft Regulations create an implicit expectation that learners must disclose their pregnancy especially since the school is tasked with providing support services that cannot be initiated without the school first being made aware of the pregnancy. Research has shown that learners often conceal their pregnancies and rarely report pregnancies on their own until they are identified.⁷

28. We are concerned that the Draft Regulations do not expressly make provisions in relation to learner's right to privacy and that this may lead to circumstances where learners are forced to disclose their pregnancy status in order for the school to

⁶ Ibid.

⁷ Phindile P. Twala, Antoinette Du Preez and Tinda Rabie, "Perceptions of secondary school management teams in managing pregnant learners in an urban context" (2022) 27 *Health SA Gesondheid (Online)* 1945, available at <https://doi.org/10.4102/hsag.v27i0.1945>.

discharge its reporting obligations. Section 14 of the Constitution protects everyone's right to privacy, which includes a learner's right to confidentiality concerning their health status. As such, learners may not be compelled to reveal their pregnancy status. We therefore recommend the addition of a clause that expressly states that unless a pregnancy is physically evident, learners may not be compelled to reveal their pregnancy status.

29. In circumstances where the pregnant learner is under the age of 16 years, the Draft Regulations provide that such pregnancies must be reported to the relevant provincial DSD and to the South African Police Service ("SAPS"). Draft Regulation 6(1) further provides that where the identity of the father is known and the pregnancy is a result of a sexual offence, the processes provided for in terms of the Sexual Offences and Related Matters Amendment Act of 2007 ("SORMA") must be followed.

30. Given the prevalence of sexual violence against children, this is a welcomed development to hold perpetrators to account. We however caution that this provision should be communicated to learners, clearly indicating that criminal liability does not attach to a pregnant learner. Failure to do this may have a chilling effect on the learners and deter them from disclosing their pregnancies, thereby delaying their access to the appropriate healthcare services and support services contemplated by the Draft Regulations.

31. We submit that the Draft Regulations should provide that:

- a. Mandatory reporting must be accompanied by appropriate counselling and guidance to ensure that learners are supported during the reporting process; and
- b. All disclosures must be confidential to ensure protections of learner's rights to privacy.

iii. Uncertainty and inconsistencies with reporting obligations

32. Draft Regulation 8(6) provides that where a learner is under the age of 16, the pregnancy must be reported to the relevant provincial DSD and SAPS, but does not specify who is responsible for reporting the pregnancy. Similarly, Draft Regulation 8(8) does not specify who must report the incident to the relevant authorities. This is in contrast to Draft Regulation 8(6)(1) which requires the principal to report matters that are subject to the SORMA. The omissions in Draft Regulations 8(6) and 8(8) create ambiguity and may lead to underreporting.
33. Additionally, the Children's Act 38 of 2005 ("Children's Act") imposes mandatory reporting obligations in cases where a child is suspected of being abused, neglected, or in need of care and protection, including where sexual abuse or exploitation is suspected.⁸ The Draft Regulations must be amended to make reference to the Children's Act.
34. We recommend that Draft Regulations 8(6) and 8(8) be amended to designate the responsible reporting authority. We also recommend that Draft Regulation 8(6)(1) be amended to include the circumstances in which learner pregnancy may trigger mandatory reporting obligations under the Children's Act.
35. We note that Draft Regulation 8(7) has been omitted.
36. Draft Regulation 8(8)(c) refers to two separate and independent authorities: Department of Health ("DoH") and South African Council of Educators. We recommend an amendment to itemise them separately.
37. Draft Regulations 8(8) and 8(9) refer to reporting incidents, rather than reporting pregnancies. This should be corrected.

⁸ Section 110 of the Children's Act 38 of 2005.

38. Draft Regulation 8(9) provides for the processes to be followed where the biological father of the child of a learner is a person outside a school. This includes reporting the incident to the SAPS, DSD and DoH facilities responsible for clinical forensic medical services. It is unclear why the condition of 'being a person outside a school' automatically triggers a process that implies a criminal offence. This is particularly relevant because 'a person outside a school' may be reasonably understood to include learners in other schools and other minors who are not in school.

39. Furthermore, Draft Regulations 8(8) and 8(9) do not appear to take into account the limitation in Draft Regulation 8(5), which restricts learners from revealing the identity of the father of the child. In the absence of this, it is unclear how these provisions would be implemented in practice.

40. We recommend that Draft Regulations 8(8) and 8(9) be amended to clarify that any reporting obligations are triggered only when the identity of the father is known, and where there is a reasonable suspicion of a sexual offence. Additionally, Draft Regulation 8(9) must be revised to clearly define its scope, specifying that reporting to the relevant authorities is required only in such circumstances where the biological father of a child is a person outside a school, and there is reasonable suspicion of a sexual offence.

VI. ROLE OF SCHOOL GOVERNING BODIES

41. While the Draft Regulations place clear responsibilities on SBSTs and principals, they do not adequately address the role of School Governing Bodies ("SGBs"). The Draft Regulations refer to SGBs only in the context of collaborating with the principal in conducting meetings targeting internal stakeholders to create awareness and share information on the Regulations. This omission is critical as SGBs play a significant role in school governance.

42. Section 8(1) of the SASA provides that SGBs must create a code of conduct for the learners after consultation with the learners, parents and educators of the school. Furthermore, section 8(2) of SASA provides that that a code of conduct must be aimed at establishing a disciplined and purposeful school environment dedicated to the improvement and maintenance of the quality the learning process.

43. The absence of provisions regarding the role of SGBs creates a significant gap given that SGBs are responsible for adopting school policies and play an important role in shaping how regulations translate into practice at schools. It is extensively documented that schools have often relied on their codes of conduct to effectively exclude pregnant learners.⁹ In 2022, a pregnant learner was expelled days before her final examinations because of a school policy that automatically excluded pregnant learners.¹⁰ She was subsequently barred from writing her Grade 12 school-leaving examination. The learner was one of four girls who were expelled from the school under this pregnancy policy. SECTION27 intervened in the matter, which enabled the learner to write her matric examination and prompted a critical review of the school's pregnancy policy. This is not an isolated incident, as it formed part of a broader pattern where multiple learners were excluded from schools under similar discriminatory pregnancy policies. SECTION27's intervention in this case highlights both the persistence of these unlawful practices and the urgent need for a clear and binding regulatory framework. It further illustrates how, in the absence of oversight and alignment with the law, school policies continue to undermine pregnant learner's constitutional rights.

44. We submit that that the Draft Regulations be amended to include a provision outlining the roles and responsibilities of SGBs in the management of learner pregnancy. Such

⁹ See above note 3.

¹⁰ Sabine Bos, "A race against time: How SECTION27 helped a pregnant teen restore her right to education" (2024), available at <https://section27.org.za/2024/08/a-race-against-time-how-section27-helped-a-pregnant-teen-restore-her-right-to-education/#:~:text=Unable%20to%20secure%20placement%20to,unfairly%20discriminating%20in%20any%20way.%E2%80%9D>.

a provision should require SGBs to develop and adopt learner pregnancy policies that are aligned with the Draft Regulations and the Constitution.

VII. IMPLEMENTATION CONTEXT AND SYSTEM CONSIDERATIONS

45. The Draft Regulations will be implemented in a comprehensive legal and policy context established to prevent and manage learner pregnancy, and to give effect to a range of rights that are implicated by learner pregnancy and its management. These include the constitutional rights to access basic education, equality, dignity and access to health services, all of which are directly engaged in the context of learner pregnancy. For instance, whilst the Draft Regulations seek to manage learner pregnancy to ensure that learners continue to enjoy the right to basic education, there are several policies that are in place to prevent learner pregnancy in the first place. This includes the Learner Pregnancy Policy and the Integrated School Health Policy of 2012 (“ISHP”).
46. These frameworks are not only preventative in nature but also serve as key mechanisms through which the State discharges its constitutional obligations to respect, protect, promote and fulfil the rights of pregnant learners. It will therefore be critical to ensure that these complementary policies are also effectively implemented to ensure the successful implementation of the Draft Regulations. For example, the ISHP is critical to ensuring the referral of pregnant learners whose needs cannot be accommodated within the school; and the referral of learners with babies to the DSD to register for a social support grants.
47. We recommend that the Draft Regulations be strengthened to require explicit alignment with the ISHP, to ensure coordinated service delivery at the school-level. The Draft Regulations must require schools to use existing ISHP structures and services when supporting pregnant learners. It must also mandate coordination between SBSTs and ISHP teams.
48. While it is generally not the function of regulations to guarantee the availability of resources, the effective realisation of the obligations created by the Draft Regulations

is inherently dependent on the availability of adequate support services and systems that are not only beyond the school-level but are also the responsibility of other government departments. Furthermore, schools in rural communities in particular often face severe resource constraints. Consequently, this creates a gap between the legal responsibilities placed on schools and their practical ability to fulfil those obligations, creating a risk that implementation may be inconsistent or ineffective. These systemic gaps undermine the effective realisation of learners' rights to basic education and access to healthcare services. There is therefore a need to ensure that all schools and relevant government departments are sufficiently resourced in order to discharge their responsibilities. Additionally, there must be strengthened coordination among all the relevant government departments to ensure that there are no gaps in access to services.

VIII. CONCLUSION

49. SECTION27 reiterates its support for the Draft Regulations as an important step towards establishing a binding and enforceable framework for the management of learner pregnancy.
50. While the Draft Regulations mark a significant step forward, it must be strengthened to ensure that they fully give effect to the rights to basic education, equality, dignity, access to healthcare services and the best interests of the child. In its current form, the Draft Regulations have certain provisions that lack sufficient clarity and guidance, thereby creating a risk of uneven implementation and continued rights violations.
51. This submission has identified various areas where the Draft Regulations may be strengthened to ensure that they fully realise their intended purpose. These include the need for greater clarity in certain provisions, enhanced alignment with existing policy frameworks, and stronger guidance on issues such as support services, consent, reporting, and the role of SGBs.

52. The effectiveness of the Draft Regulations must be understood within the broader context in which it will operate. The Draft Regulations appropriately focus on the management of learner pregnancy, but its success is intrinsically linked to the effective implementation of complementary measures aimed at the prevention of learner pregnancy.
53. In this regard, we emphasise that the principle of the best interests of a child as enshrined in section 28(2) of the Constitution must be a guiding consideration in both the interpretation and implementation of the Draft Regulations. The Draft Regulations represent a positive and necessary intervention to support pregnant learners and safeguard their continued access to education. However, to fully realise this objective, the Draft Regulations must be coherently aligned with existing laws and policies governing children's rights, to ensure a holistic, consistent and child-centred approach across all levels of implementation.
54. The Draft Regulations represent a welcome opportunity to meaningfully improve both the management of learner pregnancy and the broader protection and fulfilment of pregnant learners' constitutional rights within the education system.
55. We would welcome the opportunity to engage further on these issues. Should you require further information, kindly contact:
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