



FREQUENTLY ASKED QUESTIONS (FAQs)

1. REGISTRATION

Question: *Can an independent school function before it is registered with the Department of Education?*

Answer: No, the Constitution of S.A. (Section 29 (3)(b), and the South African Schools Act (Section 46(a)) stipulate that all schools must register with the Department of Education before they start operating. However, the registration process and protocol requires independent schools to submit certain information together with their registration application. Some of this information can only be made available once the school is operational, e.g. number of teachers and their SACE registration numbers and number of learners, etc. This has compelled independent schools to submit their registration application at the same time as they begin to enrol learners. Currently, ISASA is lobbying government to consider provisional registration while full registration application is pending.

2. ADMISSIONS

2.1. Refusal of Admission

Question: *Can a school refuse admission of a learner on the basis of race, gender, culture or religion?*

Answer: No, the Constitution prohibits unfair discrimination. In clause 29(3) of the Constitution, it is clear that the only limitation on an independent school's admissions policy is that no racial discrimination is allowed. This would also include admissions policies that may be judged to be a 'cover-up' for racial exclusion. This is drawn from section 9 (3) and (4) of the Bill of Rights on Equality which states that neither the state nor any person may:

unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

In line with their distinctive mission, many independent schools do practise fair discrimination: e.g. a girls' only school does not admit boys; the Drakensberg Boys Choir

School only admits boys with good singing voices and musical ability. Such distinctions between learners for admission are legitimate.

2.2. Admission Age

Question: *What is the admission age for Grade 1 learners?*

Answer: The admission age to an independent school for Grade 1 is age five (5) turning six (6) by 30 June in the year of admission or by the latest, in the year in which the child turns seven.

There are exceptions allowed in the *Education Laws Amendment Act* of 2002:

An independent school may admit a learner at an age lower than the admission age if:

- (a) it can be shown that exceptional circumstances exist which necessitate the admission of an underage learner because admission would be in his or her best interest, and*
- (b) the refusal to admit that learners would be severely detrimental to his or her development.*

3. ACCREDITATION

Question: *Is it important for a school to be accredited by Umalusi?*

Answer: Yes, all independent education institutions in General and Further Education must be accredited by Umalusi (the Council for Quality Assurance in General and Further Education and Training). Umalusi is responsible for standard setting and accreditation of both the institutions and programmes. Independent institutions must comply with policy and criteria developed by Umalusi for quality assurance of independent education institutions.

You can call Umalusi at Tel: 012 349 1510 to find out more about the accreditation process.

4. CURRICULUM

Question: *Are independent schools free to choose their own curriculum?*

Answer: The National Curriculum Statements (NCS) for Grade R - 12 is the curriculum prescribed by the Department of Education for all schools, both public and independent. However, independent schools are free to choose their own curricula and to organise teaching, learning and assessment in the school in any way they wish as long as the learners are able to achieve the minimum outcomes and standards.

Independent schools are also free to choose foreign curricula but they must meet all learning outcomes and assessment standards prescribed in both the NCS for the General Education and Training (GET) and the Further Education and Training (FET) bands at the grade 9 and 12 exit points of the system where they are formally measured through external examinations across the country. Only the outcomes and standards are prescribed, but not the content, sequence or methods of the learning programme of an independent school.

5. ASSESSMENT

Question: *Are independent schools free to choose their own examinations?*

Answer: Yes, an independent school has the freedom to choose which examining body's examinations it wants to write, as long as the examining body is recognised by Umalusi, e.g. the Independent Examinations Board (IEB).

Independent schools are also free to write international examinations, such as the International Baccalaureate, the Cambridge examinations (O- and A-levels) from the United Kingdom, or the Scholastic Aptitude Tests (SATs) from the United States, which do not fall under Umalusi's control, but are approved by Higher Education South Africa (HESA) for admission to tertiary institutions in South Africa.

6. PROGRESSION AND PROMOTION REQUIREMENTS FOR GRADES 1 - 9

Question: *What are the promotion requirements for Grades 1 – 9?*

Answer: The *National Policy on Assessment and Qualifications for schools in the GET band* provides requirements for progression for Grades 1 - 8, and promotion in Grade 9. The new promotion and progression requirements are explained below.

6.1. Progression in the Foundation Phase: (Grades 1 - 3) (Rating Scale 1 - 4)

At least a rating code of 3 for the Literacy (Home Language or language of learning and teaching) and at least a rating code of 3 for the Numeracy learning programmes.

Rating Code	Description of Competence	
4	Meritorious to outstanding achievement	<i>All aspects of all assessment standards achieved</i>
3	Adequate to substantial achievement	<i>Key aspects of all assessment standards achieved</i>
2	Moderate to adequate achievement	<i>At least half of the assessment standards achieved</i>
1	Not achieved to elementary achievement	<i>A negligible number of assessment standards achieved</i>

6.2. Progression in the Intermediate Phase: (Grades 4 - 6) (Rating Scale 1 - 4)

At least a rating code of 3 for any three learning areas, one of which must be either the Home Language or the language of learning and teaching, AND at least a rating code of 2 for any three of the remaining learning areas, one of which must be Mathematics.

Rating Code	Description of Competence		%
4	Meritorious to outstanding achievement	<i>All aspects of all assessment standards achieved</i>	70-100
3	Adequate to substantial achievement	<i>Key aspects of all assessment standards achieved</i>	50-69

2	Moderate to adequate achievement	<i>At least half of the assessment standards achieved</i>	35-49
1	Not achieved to elementary achievement	<i>A negligible number of assessment standards achieved</i>	0-34

6.3. Senior Phase: Progression in Grades 7 and 8 and Promotion in Grade 9 (Rating Scale 1 - 7)

At least a rating code of 4 for any three learning areas, one of which must be Home Language or the language of learning and teaching, AND at least a rating code of 3 for any three of the remaining learning areas, one of which must be Mathematics.

Rating Code	Description of Competence		%
7	Outstanding achievement	<i>All aspects of all assessment standards attained</i>	80-100
6	Meritorious achievement	<i>Almost all aspects of all assessment standards attained</i>	70-79
5	Substantial achievement	<i>Key aspects of all assessment standards achieved</i>	60-69
4	Adequate achievement	<i>Key aspects of most assessment standards achieved</i>	50-59
3	Moderate achievement	<i>At least half the assessment standards achieved</i>	40-49
2	Elementary achievement	<i>A negligible number of assessment standards achieved</i>	30-39
1	Not achieved	<i>No achievement</i>	0-29

Teachers must use these requirements to make judgements on whether learners have met the curriculum requirements at the end of a grade.

The above-mentioned promotion requirements became effective as from 2009.

7. PROMOTION AND CERTIFICATION REQUIREMENTS FOR GRADE 12

Question: *What are the promotion and certification requirements for Grade 12 (National Senior Certificate – NSC)?*

Answer: A National Senior Certificate (Grade 12) shall be issued to a candidate who has complied with the following promotion requirements:

- Achieved 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided the School-Based Assessment component is submitted in the subject failed.
- Learners who offer a Music programme from the Associated Board of Royal Schools, Practical Music Examination or Trinity College of London Practical Music Examination or UNISA Practical Music Examination, must obtain the following ratings:
 - (a) Associated Board of Royal Schools Practical Music Examination; at least 65%.
 - (b) Trinity College of London Practical Music Examination: at least 65%.
 - (c) UNISA Practical Music Examination; at least 50%

8. SUPPLEMENTARY EXAMINATION FOR GRADE 12

A supplementary examination will be granted under the following conditions to a full-time, repeat and part-time candidate:

1. If a candidate has not met the minimum promotion and certification requirements but requires a maximum of two subjects to obtain a National Senior Certificate, he or she may:
 - (a) register for a maximum of two subjects for the supplementary examination in the following year. These two subjects must be subjects offered in the previous end-of-year examination.
 - (b) register for Life Orientation, which is internally assessed, as one of the two subjects to be registered for the supplementary examination in subparagraph (a). The re-assessment of Life Orientation must be completed within the period in which the supplementary examination is conducted.
 - (c) be allowed to combine the one or more repeated subjects with those already passed to enable them to obtain a National Senior Certificate in terms of the current National Senior Certificate requirements. In combining these subjects contemplated here, the performance in the best seven (7) subjects would be taken into consideration
2. If a candidate is medically unfit and, as a result, is absent from one or more external Examinations, he or she may register for the supplementary examination.
3. A candidate who does not satisfy the minimum higher education requirements or the requirements for the specific occupation in the end-of-year examination may be allowed to register for the supplementary examination in the year following the end of year National Senior Certificate examination, in a maximum of two subjects, subject to the following:
 - (a) A candidate who is one requirement short of meeting the minimum admission requirements for Higher Certificate, Diploma and Bachelor's degree programmes requiring a National Senior Certificate; or
 - (b) A candidate that provides documentary evidence that he or she qualifies for admission to a higher education institution or for an occupation, but does not satisfy the higher education faculty requirements or the requirements for the specific occupation. For this purpose, the end-of-year and the supplementary examination will be regarded as one examination sitting.
4. If there is a death in the immediate family of a candidate, or other special reasons for the candidate's absence, he or she may register for the supplementary examination.
5. In cases contemplated in sub-paragraphs (1) to (4) above, the School-Based Assessment mark of the Grade 12-year will be used, including practical or oral assessment marks where applicable, in order to meet the internal assessment and external examination requirements.
6. In a case where an irregularity is being investigated, provisional enrolment for the supplementary examination may be granted to the candidate concerned, pending the outcome of the investigation.

7. A candidate who did not write or complete the end-of year examination with a valid reason, has the opportunity to write the supplementary examination for the specific examination question paper he or she did not write in the end-of-year-examination. However, should the candidate select to write the entire subject (e.g. Paper I, II and/or III), even though he or she has been absent for one or more examination question papers, the candidate should be allowed to exercise this option.

9. REGISTRATION OF EDUCATORS WITH SACE

Question: *Is it compulsory for educators be registered with SACE?*

Answer: Yes, all educators working in South African schools, public and independent, in the GET or FET bands, must be registered with SACE (South African Council of Educators). It is illegal for any teacher to work without SACE registration. SACE currently has four processes of registration for individual educators:

- Full registration for those with matric + 3 (NQF level 4) also known as RQV 13;
- Provisional registration for educators that have academic qualifications but who have not as yet acquired a professional qualification.
- Conditional registration for scarce skills where schools are unable to find suitably qualified educators.
- Pre-Accredited Member (PAM) status where educators submit insufficient information to enable SACE to register them appropriately.

Please visit their web-site for more information: www.sace.org.za

10. STATE SUBSIDISATION

Question: *Can an independent school apply for a state subsidy?*

Answer: Yes, an independent school can apply and be considered for a state subsidy. A school must have been registered for a year before it may qualify to receive a subsidy. The awarding of a subsidy is contingent on the school showing proof of further compliance with the *Norms and Standards for School Funding (2006)* that provides national guidelines to the Provincial Education Departments (PEDs), which administer the subsidies.

Subsidies are paid on a five-point progressive scale, with 60% of the provincial average estimate per learner (PAEPL) in ordinary public schools being the highest subsidy that a school can receive, and 15% of the same, the lowest, depending on the school's fee level.

11. MONITORING BY THE PROVINCIAL EDUCATION DEPARTMENT (PED)

Question: *Can a Provincial Education Department (PED) monitor an independent school?*

Answer: Yes, the PEDs have the responsibility to monitor independent schools that are registered with them. The areas for monitoring are specified in the Management Checklist.

- a) **Monitoring of non-subsidised Independent Schools:** The visits by State Officials to monitor non-subsidised independent schools may not be undertaken without prior announcement of the date, time, and purpose of such a visit.
- b) **Monitoring of subsidised Independent Schools:** The visits by State Officials to monitor subsidised independent schools may be undertaken unannounced. In addition, subsidised schools are accountable to the state for the use of public funding. Therefore subsidised schools have to comply with greater provincial direction and control as laid down in the legislation.

12. EXCLUSION OF LEARNERS

Question: *Can an independent school exclude a learner?*

Answer: Yes. Exclusions fall into the two broad areas:

- a) Exclusion on grounds of contravention of the rules contained in the school's Code of Conduct and/or Policies, e.g. extreme unruly behaviour that is in contravention of the code of conduct or school policy.
- b) Exclusion on the grounds that the contract between the parents and the school has been broken, usually because the parents have failed to pay fees.

13. RANDOM SEARCHES

Question: *Can an independent school conduct random searches of learners?*

Answer: Yes. Random searches of individuals are prohibited. Searches of learners can only be carried out by persons of the same gender as part of a structured intervention in a decent and orderly manner, if there is reasonable suspicion that the learner is in possession of a prohibited substance. Should a search be necessary, it should take place in the presence of the learner concerned, a person of their choice to support them and a second adult witness of the same gender.

14. RANDOM DRUG TESTING

Question: *Can an independent school conduct random drug testing of learners?*

Answer: No. Random drug testing is prohibited. Drug testing should be used where there is reasonable suspicion that a child is using drugs. Testing must be implemented as part of a structured intervention or relapse prevention programme in an environment that is committed to safeguarding personal rights relating to privacy, dignity and bodily integrity according to school policy, medical/treatment procedures and ethical guidelines. The results of the testing cannot be made public but can be shared with the child's parent or guardian. The prescribed instruments should be used and relevant procedures followed.

15. PROMOTION AND RETENTION STANDARDS

Question: *Can an independent school set its own promotion and retention requirements?*

Answer: Independent schools may not set their own promotion and retention requirements for those levels of the education system that are exit points and have requirements that are regulated through national assessment and examinations (Grades 9 and 12). However, for the intermediate grades independent schools may set their own promotion and retention requirements as long as they are not below those prescribed in relevant policies as laid out below. The relevant policies include the following.

- a) ***The National Senior Certificate: a qualification at Level 4 of the National Qualifications Framework, 2005***
 - This policy describes the regulations, rules and provisions for the award of the National Senior Certificate (NSC) at Level 4 of the National Qualifications Framework (NQF). The NSC is to be awarded for the achievement of the exit level learning outcomes stipulated in the National Curriculum Statement (NCS) Grades 10-12 (General).
 - This policy is based on norms and standards to which all assessment bodies in terms of *Sections 3(4)(l) and 7 of the National Education Policy Act, 1996 (Act No. 27 of 1996)* and *Sections 6(A) and 61 of the South African Schools Act, 1996 (Act. No. 84 of 1996)*, must give effect.
- b) ***The Regulations pertaining to the Conducting, Administration and Management of Assessment for the National Senior Certificate, (2008)*** were promulgated to regulate the administration, management and conduct of the NSC examination and assessment process. These Regulations apply to both public and private assessment bodies.
- c) ***National Protocol on Assessment, 2006*** (successfully challenged by ISASA in 2007). The National Protocol on Assessment standardises the recording and reporting for schools (Grades R – 12) within the framework of the NSC for Grades R-9 and 10-12. It also provides a regulatory framework for the management of school assessment records and basic requirements for learner profiles, teacher and learner portfolios, report cards and schedules.
- d) **NSC as a three year qualification:** The problem that independent schools now face is that PEDs, through their district officials, are demanding that independent schools comply with promotion requirements prescribed by the GEC and FET assessment policies that are lower than those that the schools themselves have set as their policies in grades other than 9 and 12.
- e) It is ISASA's considered view that, while the prescribed promotion requirements apply to both public and independent schools, the policy does not preclude an independent school from setting higher promotion requirements for those grades that are examined internally by the school and where promotion is not regulated through national examinations. ISASA has always understood from discussions with DoE officials and statutory bodies that the grades in between the two exit grades are under the control of an independent school.
- f) ISASA believes that decisions about promoting or retaining learners are part of curriculum and assessment and critical to an independent school's freedom as a private institution to use its professional judgment and maintain a high quality of education. ISASA believes that independent schools have the right to determine their own promotion and retention criteria which may compare with, or exceed but not be inferior to those at comparable public schools. This lies at the core of the independence of independent schools. The independence of independent schools is

guaranteed in the Constitution of the Republic of South Africa (1996). Section 29 (3) states that:

Everyone has the right to establish and maintain, at their own expense, independent educational institutions that:

- a) *do not discriminate on the basis of race;*
- b) *are registered with the state; and*
- c) ***maintain standards that are not inferior to standards at comparable public educational institutions.***

Legal opinion that ISASA has obtained and which has been confirmed on numerous occasions by senior DoE officials, is that the import of (c) is that conversely, independent schools are free to offer education at standards higher than public schools. High quality education derives from excellent teaching and learning, high standards of assessment and schools' promotion and retention policies which ensure that no learner passes a grade unless s/he meets the standard required by the school.

We would, however, like to make a distinction between what an independent school requires for its internal promotion of learners and what happens when a child transfers to another school. In that case the independent school will indicate whether the child has met the state requirements for promotion in its transfer card. It does not record that the learner has failed the year s/he has met the state requirements but not the school's higher standards.

Our argument also rests on two other points: the right of independent schools to be consulted about any change in policy and the need for that policy to be put into law before it affects them. This is based on legislation and the response of the DoE with regard to the assessment of the GET band in 2007.

Moreover, we would like to point out that the contract with the PED to be an examination centre refers only to the school's running of the national examinations at grades 9 and 12, and not the lower grades where there are no national examinations.

16. ADMINISTRATIVE JUSTICE

Question: *What right do I have after administrative action has been taken against me?*

Answer:

- a) Any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned furnish written reasons for the action
- b) The administrator to whom the request is made must, within 90 days after receiving the request, give that person adequate reason in writing for the administrative action.
- c) If an administrator fails to furnish adequate reasons for an administrative action, it must, in the absence of proof to the contrary, be presumed in any proceedings for judicial review that the administrative action was taken without good reason.

17. ACCESS TO INFORMATION

17.1. **Question:** *Can a parent demand information pertaining to his/her child that the school has on file?*

Answer: Yes, the *Promotion of Access to Information Act* of 2000 (PAIA) Sections 63(2), 64(2) and 70, give the grounds on which the head of a private body may not refuse access to information or records. Schools are obliged to furnish information to parents. They may not withhold information from parents if that information pertains to their children.

17.2. **Question:** *Can a Provincial Education Department (PED) demand information from an independent school?*

Answer: Yes, a PED may request information from an independent school in accordance with the provisions of the *Promotion of Access to Information Act* of 2000 (PAIA) Sections 63(2), 64(2) and 70, which gives the grounds on which the head of a private body may not refuse access to information or records.

18. SEXUAL OFFENCES

Question: *Is an independent school obliged to report sexual offences?*

Answer: YES

- a) The *Criminal Law (Sexual Offenders and Related Matters) Amendment Act 32 of 2007* stipulates that a person who has knowledge that a sexual offence has been committed against a child or a person who is mentally disabled must report such knowledge immediately to a police official.
- b) An employee must without delay disclose a conviction in terms of this legislation to his or her employer, whether or not such offence was committed during the course of his or her employment.
- c) An employer must also immediately terminate the employment of an employee who fails to disclose a conviction of a sexual offence against a child or a person who is mentally disabled.
- d) In the case of a teacher or student accused of sexual misconduct, the school should immediately suspend such a teacher or student pending the outcome of the investigation. In the case of a teacher, he/she would be suspended with pay.