

**Title: Implementation of legal principles in learner disciplinary
processes in secondary schools**

by

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Declaration

I, Tshepang Kabelo Segapo, (Student Number: 18250409), declare that this dissertation entitled: **“Implementation of legal principles in learner disciplinary processes in secondary schools,”** which is submitted in accordance with the requirements for the Master of Education degree at the University of Pretoria is my own original work and has not previously been submitted in any form for any degree or diploma to any tertiary institution. Where the work of others has been used, sources have been identified and acknowledged by means of concise and complete in-text references and in the list of references.

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- Compliance with approved research protocol,
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Ethics Statement

I Tshepang Kabelo Segapo obtained ethical approval for data collection on the research topic – ***Implementation of legal principles in learner disciplinary processes in secondary schools***. I declare that I observed the ethical standards and policy guidelines for responsible research in the code of ethics for researchers prescribed by the University of Pretoria.

Dedication

I dedicate this research to:

My loving and supportive mother, Annastacia Matlotlo Segapo. Thank you for always believing in me and for affording me space to truly be myself while striving to achieve my goals. Your parenting skills, love and care have and still keep me going strong. I love you way more than words can express.

My late grandfather, Simon Kabelo Segapo, your teachings and discipline have produced the kind of person I am and growing to become. I will forever be grateful to the Lord for having chosen you to be my grandfather. Continue to rest in eternal peace.

My aunt, Phillicia Magogodi Segapo and grandmother, Celestina Mothopeng Segapo, you too have been a great inspiration behind my pursuit towards excellence in life. You are such a great support structure, and I love you greatly. And to my brothers, Onalerona Thegedi Segapo and Warona Segapo. I hope this achievement inspires you to be great and know that you have all the power to be whatever and whoever you want to be in life.

Lastly, a special thank you to all the Segapo family members as well as friends and loved ones who have supported and encouraged me throughout this journey. And above everything, I wish to thank God Almighty for all the protection, guidance and wisdom at all times.

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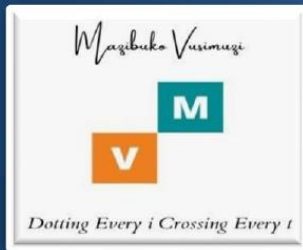
My Editor, Mr. Vusimuzi Goodman Mazibuko, for his contributions. He deserves special mention for not only editing the written work but also offering valuable advice.

Abstract

Learner discipline management continues to be a common problem for educators, parents and learners in most South African schools. The purpose of this research was to examine the implementation of the legal principles pertaining to learner disciplinary processes in secondary schools. Three (3) secondary schools were chosen from the Ngaka Modiri Molema district, in the North West province as research sites. The study adopted a qualitative approach through an interpretive paradigm, and it employed a case study design. The conceptual framework for this study was developed with the set of legal principles that govern the learner disciplinary processes. The participants in the study involved the principals/deputy principals, educators, SGB Chairpersons/deputy chairpersons and SGB parent components. Semi-structured individual interviews were conducted to gather data from the participants. The study's findings revealed that participants held diverse perceptions regarding the legal principles related to learner disciplinary processes. The majority of school disciplinary committee members demonstrated an unclear understanding of their roles in accordance with the legal framework governing learner disciplinary processes. Schools reported several challenges with complying with legal principles in learner disciplinary processes which included the development and implementation of the code of conduct for learners, the absence or limited involvement of parents, and insufficient support from the Department of Basic Education (DBE). One school explored strategies such as involving legal experts to ensure proper implementation of legal principles. There were expectations for the DBE to provide support in drafting and implementing disciplinary policy documents and to offer ongoing training for school disciplinary committee members on learner discipline.

Keywords: Learner discipline, just administrative action, *audi alteram partem*, *nemo iudex in propria causa*, procedural fairness, substantive fairness, and secondary schools.

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Dear Tshepang Kabelo Segapo

This letter serves to confirm that we proof-read and edited your dissertation titled "Implementation of legal principles in learner disciplinary processes in secondary schools" submitted in partial fulfilment of the requirements for the degree M. Ed Education Management, Law and Policy in the FACULTY OF EDUCATION at the UNIVERSITY OF PRETORIA.

We proofread your work to eliminate as many grammatical and spelling errors as possible. Additionally, we formatted your work to comply with the dissertation template of the University of Pretoria.

We sincerely hope you were satisfied with our work. Please do not hesitate to contact us if you need any clarification.

Kind Regards

Mr. V.G. Mazibuko

List of abbreviations and tables

DBE	Department of Basic Education
EEA	The Educators Employment Act 76 Of 1998
ELAA	The Education Laws Amendment Act 31 of 2007
ELRC	Education Labour Relations Council
HOD	Head of Department
MEC	Member of the Executive Council
NEPA	The National Education Policy Act 27 of 1996
NSNP	National School Nutrition Programme
NGO	Non-governmental Organisation
PAM	Personnel Administrative Measures (2022)
PED	Provincial Education Department
RCL	Representative Council of Learners
SASA	The South African Schools Act 84 of 1996
SGB	School Governing Body
SMT	School Management Team
SQLTC	School Quality Teaching and Learning Campaign

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CHAPTER ONE: ORIENTATION OF THE STUDY

1.1 INTRODUCTION AND BACKGROUND

Learner indiscipline presents a significant challenge for schools in South Africa. Learner discipline is believed to have been worsened by the introduction of democracy which made it a statutory obligation to respect the rights of learners. Providing an environment where learners' rights are appropriately promoted, understood, and protected is a tremendous task for education managers and stakeholders worldwide, including South Africa (Zwane, 2017:15; Joubert *et al.*, 2004:79). It is worth noting that the legislative framework provided to manage learner discipline requires educators, school governors and learners to understand how to implement the provisions of the legislation within a school setting. It is for this reason that researchers emphasise the urgent need for schools in South Africa to establish robust disciplinary structures and measures with an intention to ensure the proper implementation of legal principles in learner disciplinary processes (Mollo, 2015:198).

The urgency of this issue is highlighted by the nature of malpractices occurring in schools. For instance, a learner from Daeraad school in Potchefstroom, North West, was reported to have been stripped naked and held in solitary confinement for nine days. It is alleged that such punishment was meted out because school authorities had sported the learner with a wrong haircut, and that she refused to shave her head (Hlatshaneni, 2017: 14). The punishment contravenes Section 10(1) of the *South African Schools Act* 84 of 1996 (hereafter referred to as Schools Act), which regards such actions as assault. Furthermore, according to Section 10(2) of the Schools Act, the reprimand should be considered as tantamount to assault and the responsible people as "guilty of an offence and liable on conviction to a sentence which could be imposed for assault."

As detailed in later sections of this paper, schools struggle to implement legal principles in disciplinary processes. For the intentions of this study, legal principles in learner disciplinary processes will include, just administrative action, the *audi alteram*

partem, nemo iudex in propria causa and procedural fairness as well as substantive fairness.

The concept “just administrative action” is at the core of learner disciplinary processes. Importantly, just administrative action finds expression in Section 33 of the *Constitution of South Africa* (hereafter referred to as Constitution) (1996) and relates to due process (Mollo, 2015:45). The phrase “due process” finds expression in Section 8(5)(a) of Schools Act as it requires learners’ code of conduct to be inclusive of due process procedures that undertake and guarantee the protection of learners’ welfare by all the stakeholders in the disciplinary processes. Administrative action is expected to be lawful, acceptable, and delivered in a fair manner. This affirms the need for just procedures in learner disciplinary processes (Oosthuizen & De Wet, 2016:67).

Furthermore, the concepts *audi alteram partem* and *nemo iudex in propria causa* are fundamental components of the right to just administrative action. *Audi alteram partem* ascertains that a learner is afforded the space to share their version of the events in the case at hand, while *nemo iudex in propria causa* means that no one may assume the role of an arbiter in their own case (Herselman, 2015:83). Smith *et al.* (2015:2373) describe procedural fairness as a sequence of events that are followed with the intention to ascertain that a learner is handled with fairness during disciplinary proceedings. The same authors (2015:2374) distinguish between procedural fairness and substantive fairness by showing that unlike the former, the latter refers to the suitability and reasonableness of rules.

The legal principles mentioned aim to protect learners’ rights during disciplinary proceedings and maintain discipline while upholding constitutional ideals and principles. In the South African context, all the disciplinary processes at schools must be grounded in the Bill of Rights as laid out in the Constitution. The Bill of Rights enables South Africans to exercise and fully realise their fundamental rights. These rights include the freedom, security, and dignity of life. Given the stated fundamental rights, Coetzee (2021:2) is of the opinion that schools in South Africa should formulate learner codes of conduct which spell out the disciplinary measures that are aligned with and do not violate the learners’ fundamental rights. It is crucial that a code of conduct incorporates the legal principles in learner disciplinary processes, as this

ensures that disciplinary actions are not only fair and just but also legally sound and consistent with constitutional mandates.

It is in light of this that Section 8(4) of Schools Act states that “nothing contained in this Act exempts a learner from obligation to comply with the code of conduct of the school attended by such a learner.” Therefore, schools in South Africa must enforce discipline among the learners through the use of a code of conduct without any fear, favour or prejudice (Coetzee, 2021:3). In support of the latter argument, Skiba (2014:29) points out that any disciplinary policy, procedure, or intervention approach must be applied consistently and without exception in order to be successful. Further research reveals a debate within the education sector regarding the balance between providing learners the opportunity to make mistakes and learn appropriate behaviour, and the necessity of consistently applying disciplinary policies to maintain a safe learning environment (Mollo, 2015:192; Smith *et al.*, 2015:2374; Mongale, 2021:41). This indicates that there are diverse perspectives on the implementation of disciplinary policies.

Nevertheless, Serame (2011:1) notes a global trend concerning the application of learner discipline measures in secondary schools, citing educators’ difficulty in enforcing appropriate discipline in a democratic setting. For example, a study by Steyn (2003:225) has found that the application of learner discipline policies is a major issue in the United States and Great Britain. These findings are disheartening for schools in South Africa, as their efforts to enforce learner discipline policies are increasingly being scrutinized and, in some instances, overturned. In this light, the concerned study set out to examine the implementation of legal principles in learner disciplinary processes in secondary schools. The research inquiry was conducted in a district in the North West province.

1.2 RESEARCH PROBLEM

In practice, it appears that legal principles in learner disciplinary processes are often disregarded or misapplied, possibly stemming from various factors, including but not limited to, lack of proper training for those involved in enforcing discipline at school level (Du Plessis, 2019:97; Smith *et al.*, 2015:2369). Recent studies conducted throughout the world (Temitayo *et al.*, 2013:7; Kapueja, 2014:56; Ngwokabuenui, 2015:66; Belle & Van Niekerk, 2021:1359) continue to show that learner indiscipline is one of the most serious difficulties facing schools. The indiscipline situation in

schools may be related to the challenges of implementing learner disciplinary policies (Bilatyi, 2012:50). According to research conducted in Nigerian secondary schools by Nakpodia (2010:65), schools have been frequenting the courts owing to disciplinary actions taken against learners. The findings of the aforementioned study confirm the idea that schools worldwide have grappled with disciplinary challenges, particularly in the era of democracy, where there is a heightened emphasis on safeguarding fundamental human rights.

Schools are responsible for establishing and maintaining excellent learner discipline, which is based on effective and unambiguous disciplinary procedures that are within the confines of the law (Rubin, 2004:163). In Mauritius, learner discipline is said to be a serious problem in public schools, owing to a lack of legal framework and political will on the part of the Mauritian government to regulate disciplinary issues (Ramjanally, 2015:10-11, Belle, 2016:15). These findings align with those of Njoroge and Nyabuto (2014:289), who assert that indiscipline is a serious concern in many public schools worldwide. It is evident that managing discipline in schools while seeking to uphold the principles of fairness can be stressful and challenging, despite the existence of numerous regulations established for this purpose.

Notwithstanding the enactment of legislation aimed at the application and management of learner discipline policies to safeguard basic human rights, Wolhuter and Russo (2013:9) conducted a comparative study of education systems in countries including Malaysia, New Zealand, Brazil, Turkey, China, England, Singapore, and Australia, which further confirmed that learner indiscipline is a persistent global problem. This study suggests that a possible reason for learner misbehaviour could be attributed to teachers' inability to apply discipline effectively without the practise of corporal punishment. Section 3(4)(n) of the *National Education Policy Act 27 of 1996* (hereafter referred to as NEPA) stipulates that "no one shall apply corporal punishment or subject a child to psychological or physical abuse in any educational institution." This is in accord with both the Constitution and Schools Act. Ngwokabuenui (2015:70) advocates that schools need to seek alternative and effective disciplinary measures to manage learner behaviour that are not classified as corporal punishment.

Therefore, it is evident that educators need to have a thorough understanding of the principles of learner disciplinary procedures in order to make wise disciplinary decisions. The present study aimed at addressing the disparity that seemed to exist between policy expectations and realities on the ground, thus suggesting that there may be lack of understanding of legal principles in learner disciplinary processes. Khoza (2019:12) identifies a gap in the literature, noting that while numerous studies have been conducted on learner indiscipline in schools, there is limited research on the implementation of legal principles in learner disciplinary processes. He highlights that the methods used to maintain discipline in schools may significantly influence the levels of misconduct among learners.

For instance, the “*Welkom High School and another v Head of Department*” (2013) case, demonstrated even further the disparities between policy prospects and what is happening in schools. The school had instructed a learner to leave the school premises in line with the school’s pregnancy policy that allowed for the automatic exclusion of pregnant learners. However, such an act violates Section 29(1)(a) of the Constitution, which prescribes the right to education emphasising that the right applies to everyone. Consequently, the court ruled that the disciplinary action was unconstitutional and therefore instructed the school to review its pregnancy policy to ensure compliance with the Constitution. This case highlights a lack of clear understanding in the enforcement of legal requirements within school disciplinary processes.

It appears that schools might still be practising banned approaches to manage learner behaviour. One other example where there was no regard for due process is observed in a case reported to the South African Human Rights Council (SAHRC) in 2021 where a learner wore casual shoes because their ordinary school shoes were reported to have been worn out by the parent. Crucially, the learner is said to have presented the worn school shoes as proof of why he was using running shoes, and the mother also sent a letter to the teacher apologising for her child’s violation of the dress code. However, this did not persuade the teacher, who then physically punished the child, causing the child to eventually develop hearing loss. The matter was reported to the court of law which ruled that the teacher be dismissed (City Press, 2015). According to Sithole (2020:22), such flagrant abuses of human rights give rise to grave questions about whether educators are aware of their legal responsibilities when it comes to

learner disciplinary procedures and how to uphold and defend the rights of learners while correcting their behaviour.

In spite of the general grounding of making legal principles official and the promotion of just administrative action in learner discipline, this mandate is still problematic due to the fact that school stakeholders especially teachers do not have the knowledge of the legal principles or the skills required to implement the principles in school context (Lekalakala, 2007:2, Serame, 2011:22, Oosthuizen *et al.*, 2013:3, Nene, 2013:16). Arguably, this gap threatens the integrity of the disciplinary processes, as well as the dignity of some stakeholders and learners concerned in the disciplinary processes. Hence, the concerned study sought to examine the implementation of legal principles in learner disciplinary processes in secondary schools.

1.3 RATIONALE

Based on the researcher's experience as a teacher, it appears that learners are sometimes subjected to disciplinary actions before an investigation is conducted to ascertain the facts surrounding an alleged misconduct. For instance, in one school, a learner was accused of stealing another learner's mathematical instruments. The accused learner was harshly reprimanded and subsequently suspended. However, it was only during the suspension period that the school established the learner had not committed the alleged misconduct. In this case, the learner was unjustly punished and lost contact time which also deprived the ability of the learner to exercise the right to education. Such cases indicate a serious gap in the education law area. The reviewed literature demonstrate that many studies on learner disciplinary processes concentrate mainly on the social and economic factors that tend to lead to indiscipline in schools (Khoza, 2019:52; Sithole, 2020:110; Zwane, 2017:88). The literature is largely silent on how schools apply the policy aimed at managing learner discipline in a democratic state. In particular, studies in the North West province, South Africa, on the legal principles in learner disciplinary processes are lacking. Nonetheless, one may agree with Du Plessis (2019:59) that school practices must be modified to promote and defend learners' rights as desired by the Constitution and the Schools Act, among other important legislations in learner discipline.

The literature review reveals a notable absence of empirical studies conducted in the North West province to thoroughly examine the implementation of legal principles in

learner disciplinary processes in secondary schools. Smith *et al.* (2015:2367) note that policies pertaining to learner disciplinary processes were promulgated with a presupposition that schools would be able to interpret and correctly implement the policies while upholding the principles of just administrative action. However, a recurring issue identified in the literature is the insufficient expertise among School Governing Bodies (hereinafter referred to as SGB) in many public schools, hindering their ability to administer the implementation of learner code of conduct in a realistic manner (Mestry & Khumalo, 2012:97; Herselman, 2015:202).

Section 20(1)(d) of the Schools Act delineates the duties of governing bodies by stipulating that among others they must “adopt a code of conduct for learners at the school.” This statutory provision implies that under the Schools Act, all public schools are obligated to develop and implement disciplinary policies that address learner transgressions in a legally sound and effective manner. Consequently, schools are urged to prioritise the implementation of well-crafted strategies to cultivate an educational environment conducive to efficacious learning and teaching (Serame *et al.*, 2014:23).

Segalo (2015:140) argues that maintaining efficient teaching and learning dynamics in schools is untenable amidst disruptive learner behaviour. This assertion underscores the imperative for school stakeholders to assume responsibility for establishing and enforcing disciplinary policies that are contextually effective. Teachers, in particular, are urged to ensure the establishment of proper procedures and frameworks to manage diverse disciplinary challenges while adhering to the provisions of the Schools Act (Mestry *et al.*, 2018:62).

The primary objective of this study was to investigate the implementation of legal principles in learner disciplinary processes within secondary schools. The researcher aimed to add to the already existing wealth of knowledge in the area of education law by examining the experiences and perspectives of participants regarding their understanding and application of these legal principles in their disciplinary procedures. Through in-depth exploration, the study sought to uncover how these legal frameworks are interpreted and enacted in practice.

Additionally, the researcher expected that the findings and recommendations derived from this study would provide valuable insights for Governing Bodies, School

Management Teams (hereafter referred to as SMT), teachers, and potentially, educational policymakers. By offering a framework for the effective implementation of legal principles in learner disciplinary processes, the study aspires to enhance the capacity of the above-listed to maintain lawful, fair, and effective disciplinary practices, thereby fostering an educational environment that protects learners' rights without compromising teaching and learning.

1.4 CONCEPTUAL FRAMEWORK

Social sciences research that is connected to law is of great prominence since it clarifies the consequences of laws passed by the government and how functional those laws are in accomplishing the intended objectives (Tremper et al., 2010:242). This research is in the social sciences, specifically in the fields of law and education management. As such, it may be acceptable to assume that various strategies must be connected to attain the objectives of this study. All the processes needed to make a disciplinary verdict are within the field of law and involve people. Therefore, this study necessitates the development of a conceptual framework as elucidated in ensuing paragraphs.

A conceptual framework is a collection of connected concepts and/or principles used by a researcher to try to explain a particular research problem (Imenda, 2014:189). Thus, one may refer to a conceptual framework as a format that underpins the intended research project. The primary concepts for the present study include: "just administrative action," "*audi alteram partem*," "*nemo iudex in propria causa*," "procedural fairness" and "substantive fairness." These concepts will play an essential part in the data collection phase to give a comprehensive and coherent understanding of the problem under investigation.

Furthermore, considering that the planned research project sought to examine how secondary schools implement legal principles in learner disciplinary processes, it is pivotal to locate the said principles within a conceptual framework (Jabareen, 2009:51). It is worth noting that the Constitution as well as the Schools Act have a significant influence on managing learners' conduct in schools by ensuring the protection of learners' rights. Therefore, the accurate and consistent application of the law is significant during learner disciplinary processes.

Figure 1 below presents a diagrammatic representation of the conceptual framework that directed the concerned research. This visual representation will help clarify the relationships between the concepts and their application in the research.

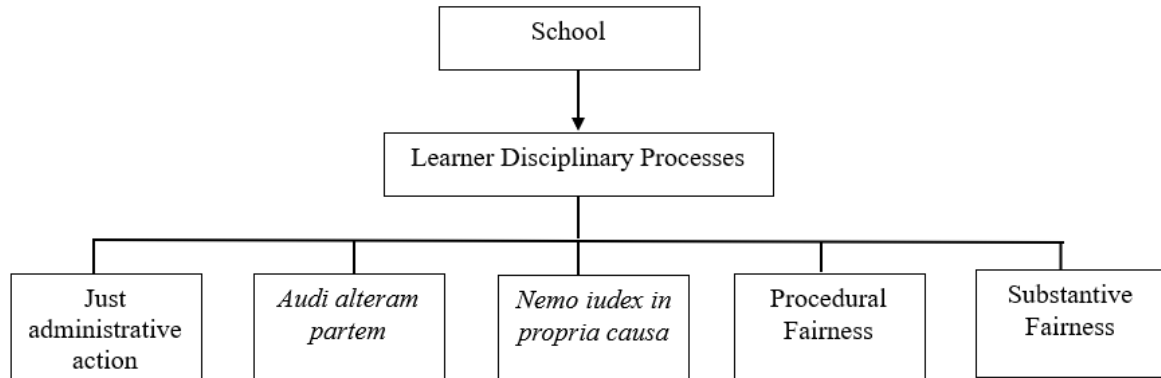


Figure 1: Conceptual framework of legal principles of the learner disciplinary processes

Schools, as organs of the state, are expected to discipline learners in accordance with legal prescripts (Khampepe *et al.*, 2013:2). Thus, the proposed conceptual framework is a pertinent model for understanding the implementation of legal principles in learner disciplinary processes.

The sources of law consulted as a guiding framework to elucidate legal concepts appropriate to this study can be well-defined as the ‘origins’ of law (Kleyn & Viljoen, 2019:52). The South African Constitution, the Schools Act, case law, common law, and reports from legal experts are vital sources of education law that are pertinent to this study.

By grounding the research in this conceptual framework, the study aimed to provide valuable insights into the practical application of legal principles in secondary schools, offering a structured approach to managing learner discipline in compliance with South African law.

1.5 PURPOSE STATEMENT

The purpose of the study was to examine the implementation of the legal principles in learner disciplinary processes in secondary schools. The research study was conducted within Ngaka Modiri Molema—a district in the North West province.

1.6 RESEARCH MAIN QUESTION AND SUB-QUESTIONS

How do secondary schools implement legal principles in learner disciplinary processes?

Secondary research questions:

- How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?
- How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?
- What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes?
- How are the identified problems resolved?

1.7 PROCEDURES

Firstly, the study adopted an interpretivist paradigm. According to Kivunja and Kuyini (2017:33), interpretivism is characterised by a subjective epistemology that views society as constructed through individual interactions. This paradigm aligns well with the nature of law, which is dynamic and context-dependent, centring on human interactions and their environments. Secondly, since the study focuses on settings where such interactions occur, a qualitative approach was employed. This approach allowed the researcher to utilise a probing strategy, thereby providing an opportunity to delve into the depth and complexity of the stakeholders involved in the school's disciplinary processes.

The research design was a multiple case study method. Case studies can assist one to communicate a more authentic analysis of the data about the concerned study. As

such, three (3) secondary schools were selected from the Ngaka Modiri Molema district. The concerned schools formed part of the case study which was used to compare ways on how the selected schools understand and implement legal principles in learner disciplinary processes.

Lastly, the researcher employed purposive sampling to select twelve (12) “information-rich” participants. The selection process was guided by the primary and secondary research questions, ensuring that the participants possessed substantial expertise in managing learner discipline. A key criterion for participant selection was that they had been teachers for more than five (5) years, thus ensuring their adequate experience and knowledge in the field. Moreover, the researcher gathered data using pre-determined interview questions. Face-to-face interviews with purposively selected participants per school were conducted.

Upon the completion of the entire data collection process, the researcher familiarised himself with the information to perform a thematic analysis. Such an act allowed for the construction of themes and codes (Maguire & Delahunt, 2017:3355). The research procedures and the justification of the methodological choices made by the researcher are presented in greater detail in chapter 3.

1.8 SIGNIFICANCE OF THE STUDY

The findings of this study hold significant implications for education authorities, highlighting the pressing need to revisit and refine current strategies and techniques for implementing legal principles in learner discipline. By shedding light on existing challenges and opportunities, this research underscores the potential for policy reform aimed at promoting and safeguarding learner human rights within educational institutions. The active participation of teachers and members of SGBs in this study not only enriches their understanding but also offers them a reflective opportunity to reconsider their roles in creating environments free from unfair discrimination during learner disciplinary processes.

Moreover, this study aims to generate comprehensive data that provides actionable insights and recommendations for education authorities. By bridging the gap between policy formulation and practical implementation, these recommendations are poised

to enhance the effectiveness and fairness of disciplinary procedures across diverse educational settings. Such initiatives are crucial in fostering inclusive educational environments where every learner's rights and well-being are upheld and respected.

Significantly, the study might help and encourage parents to assume responsibility for learner discipline from an informed stance. Furthermore, the study can have a preventive role in terms of rights violations for learners, which would avoid legal actions. Considering that the study's goal was to support scholars, educators, and decision-makers in the application of management policy, it will also help the educational authorities create a stronger foundation upon which to apply the law in learner disciplinary procedures. Finally, it may be agreed upon that a suitable framework is essential for addressing the rights of learners and that this kind of work serves as the foundation for comprehending how children grow and get ready for responsible citizenship.

1.9 DEFINITION OF TERMS

The study revolves around key concepts including, learner, secondary school, school discipline, learner discipline, just administrative action, *audi alteram partem*, *nemo iudex in propria causa*, procedural fairness, substantive fairness, and implementation. These concepts bear the following definitions:

1.9.1 Learner

The term learner applies to an individual who seeks education or is indebted to receive education in terms of Section 1(1) of the Schools Act. In this study, the concept learner refers to a person at secondary school level of education (refer to 1.9.2 below).

1.9.2 Secondary school

In South Africa, secondary schools are institutions that provide education for learners from Grade 8 to Grade 12, as is the case with all the schools in the North West province. This study focuses on secondary schools in one district, *i.e.*, Ngaka Modiri Molema district.

1.9.3 School discipline

School discipline refers to structures and practices implemented to reduce or stop disruptive behaviour of learners and it is also about dealing with ill-discipline when it arises (Mestry & Khumalo, 2012).

1.9.4 Learner discipline

Learner discipline may be described as a deliberate and corrective approach whereby order amongst learners is restored (Monare, 2013:8). Additionally, one may maintain that it is a process by which an educator instils good values among learners and shapes their behaviour to make them accountable adults who take ownership of their own actions.

1.9.5 Just administrative action

This concept is described in Section 33 of the Constitution. For the purposes of the proposed study, it may be defined as the application of fairness and consistency during learner disciplinary processes in secondary schools.

1.9.6 *Audi alteram partem*

This is a common law principle that gives people the opportunity to tell their side of the story and be heard as part of a fair and reasonable disciplinary process (De Wet, 2016:84). In a school system, this means that a learner who is accused of misconduct is provided with an opportunity to give his or her account of what happened in the case before a decision can be made.

1.9.7 *Nemo iudex in propria causa*

De Wet (2016:84) explains this concept as the principle which prescribes that no person is fit to be the judge in their own case. As a result, one could argue that *nemo iudex in propria causa* implies that, for the standards of justice to be respected, only an impartial person should be regarded suitable and proper to preside over a learner disciplinary hearing.

1.9.8 Procedural fairness

Procedural fairness pertains to the adherence to fair procedures during disciplinary processes. These procedures should be transparent, well-known and reasonable

within the context of a democratic and free society. The primary objective is to protect the interests of learners, and all other parties involved in the school's disciplinary actions.

1.9.9 Substantive fairness

Substantive fairness deals with the reasons for the sanction(s) given. It seeks to ensure that the sanction(s) given to a learner during disciplinary processes corresponds with the misconduct(s) committed.

1.9.10 Implementation

Implementation can be defined as a set of actions taken by an institution in order to realise the organisation's strategic goals (Bilaty, 2011:11). For the purposes of this research, "implementation" refers to approaches used by a school to achieve the desired goals of applying legal principles governing learner disciplinary processes.

1.10 ORGANISATION OF THE STUDY

The study is structured into five (5) chapters, each serving a distinct purpose in exploring and elucidating the complexities of learner disciplinary processes and the application of legal principles in educational settings. Chapter 1 provides a comprehensive introduction, offering background information, a brief orientation to the study, and an overview of the subsequent chapters. It sets the stage by delineating the significance of the research topic and outlining the overarching framework that guides the study. Chapter 2 delves into a thorough review of the literature on learner discipline procedures, encompassing both historical perspectives and contemporary insights into legal principles governing disciplinary processes in schools. Chapter 3 details the research methodologies employed in this study. It provides a comprehensive exposition of the methodological approach, including the rationale for selecting specific methods, detailed descriptions of data collection techniques, and a robust justification for their suitability in addressing the research objectives. Chapter 4 constitutes the empirical core of the study, presenting and analysing the findings derived from empirical research. It offers a nuanced exploration of key findings. Finally, Chapter 5 synthesises the research findings, draws conclusions, and presents actionable recommendations based on the empirical evidence discussed in Chapter 4. It offers a summary of the study's outcomes, highlighting their theoretical and

practical implications. This concluding chapter provides valuable guidance for education authorities, policymakers, and practitioners seeking to enhance the effectiveness and fairness of learner disciplinary procedures in educational settings.

1.11 SUMMARY OF THE CHAPTER

Chapter 1 introduced the study and situated it within the existing literature on legal principles relating to learner disciplinary processes. The chapter then presented the research problem and rationale of the study, highlighting knowledge and/or literature gaps pertaining to the implementation of legal principles applicable to learner discipline procedures carried out in schools. It also included a discussion of the study's purpose, conceptual framework, and research methodology (procedures) that were employed for the study. Finally, the chapter presented an outline of the chapters contained in the dissertation. The ensuing chapter will discuss local and global challenges associated with the implementation of legal principles in learner disciplinary processes.

2. CHAPTER TWO: LITERATURE REVIEW ON LEARNER DISCIPLINE AND DISCIPLINARY PROCESSES

2.1 INTRODUCTION

The earlier chapter focused on the overview of the study. The researcher provided the introduction to the study, the problem that underpins the study as well as the rationale and research purpose. The conceptual framework presented in the first chapter serves as the foundation for this chapter. The conceptual framework was utilised to perform a comprehensive review of the prevailing literature herein that explored the nature and scope of learner discipline, legal framework in learner disciplinary processes, challenges associated with learner discipline and disciplinary processes, and management of learner discipline. The significance of the study is also included in chapter one as well as the definition of the key terms. Given that the study is situated within the broader context of education law, it was essential for the researcher to examine relevant case law and policies related to learner disciplinary processes and to assess the extent to which secondary schools perceive and understand these legal principles. The scope of the literature was necessitated by the idea that school managers and other relevant stakeholders should be capable to follow the accurate system as obligated by law during the management of learner discipline.

Lastly, the literature review concludes by highlighting gaps from the existing literature concerning learner discipline and implementation of legal principles in learner disciplinary processes in secondary schools within the Ngaka Modiri Molema district in the North West province.

2.2 NATURE OF LEARNER DISCIPLINE IN PUBLIC SECONDARY SCHOOLS

The concept discipline, to begin with, may be understood to mean self-control, respect for oneself and their surroundings (Monare, 2013:8). Khoza (2019:24) agrees that discipline within a school context infers acceptable standards that enable learners to become independent, responsible and well-adjusted members of the broader society. Therefore, learner discipline may be described as conducts that have an effect in

teaching and learning dynamics (Nooruddin & Baig, 2014:26). A study conducted by Nene (2013:19) found that there are teachers who equate discipline with punishment while other teachers consider discipline as an opportunity to grow and develop moral acceptable behaviour. The literature review on discipline shows the varies understanding of the concept. Consequently, providing a universal definition of learner discipline is complex and nuanced.

There have been a lot of publications, discussions, and general debates that focused on the serious implications of learner indiscipline both nationally and internationally (Narain, 2015:44). Ngwokabuenui (2015:62) further argues that, due to frequent reported learner misconduct cases in schools, more opportunities and boards for managing learner conduct have been established throughout the country. This may be an indication that the severity of indiscipline incidents is on the rise. In my estimation, there were fewer instances of severe learner defiance and general misbehaviour in the past. These behaviours were restrained through the application of physical punishment which may cause bodily harm and other disciplinary measures that teachers claimed were effective in controlling learner behaviour. However, Section 10 of the Schools Act has abolished corporal punishment and any form of punishment that may physically or emotionally violate a child's dignity. Unfortunately, this well-intentioned prohibition seems to have given learners a wrong impression that they can do as they please, since they are 'protected' by the law. Teachers who were used to administering corporal punishment are unsure of how to handle learners using other means of punishment.

The severity and frequency of learner indiscipline appear to be a global issue. For instance, a study conducted by Ngwokabuenui (2015:70) indicates that this phenomenon is prevalent in Cameroonian secondary schools, where students exhibit little regard for school rules and regulations and often display complete disregard for school authority. This kind of behaviour is likely to be encouraged by the absence of other forms of measures that teachers take to manage learner behaviour. Similarly, in Swaziland, the Global School-based Student Health Survey (2013), supplemented by the Health Survey (2023), focused on students and reported that 18.9% of learner indiscipline was aggravated by physical disputes. Additionally, 31.8% of learners aged between 13 and 17 reported being bullied within a period of 30 days. The implications

of these studies coincide with other reports of increased levels of learner misconduct worldwide. Joubert and Serakwane (2009:98) confirm that teachers in South African schools continue to perceive learner indiscipline as a complex and frustrating phenomenon. This could be as a result of the inability of the teachers to use alternative forms of disciplinary measures. Considering the above data, one may contend that the severity of indiscipline is intensifying over time.

Moreover, the continuous emphasis on human rights, especially those of children, in stark contrast to their absence during the apartheid era, can be associated with the declining state of learner self-discipline. Mongale (2021:18) observes that during the apartheid era, the advancement of human rights was minimal. In contrast, the current ongoing efforts to promote children's rights represent a significant shift that may contribute to the deterioration of learner conduct in schools. Similarly, Mestry and Kumalo (2012:110) highlight that the need for the management of learner conduct guided by the statutory obligations of Schools Act and the Constitution has made learner discipline a daunting task for teachers. These two legislations provide guidelines to be used by teachers to discipline learners, at the same time, they are perceived as limiting the teachers' authority to punish undesirable learner behaviour. Additionally, the management of learner misconduct is further constrained by the insufficient knowledge and skills of educators and SGBs regarding effective disciplinary practices (Smith *et al.*, 2013:2565). This shows that there is a gap between the discipline policy that prohibits corporal punishment and what is actually happening in school regarding the management of learner ill behaviour.

The Constitution, in Section 12, asserts that "every person has the right to freedom and security." This right includes protection from abuse by any corporal means, freedom from ill-treatment, and the assurance of being treated fairly to avoid dehumanisation. This provision underpins the elimination of physical punishment in South African schools, necessitating the adoption of alternative disciplinary methods that promote humane practices. These principles underscore the importance of implementing safety measures for learners and fostering an atmosphere favourable to effective teaching. It is crucial for educators to recognise the limitations on their authority when disciplining learners within the school setting.

The *Education Laws Amendment Act 31 of 2007* (hereafter referred to as ELAA) introduces modifications to the procedures concerning the suspension of learners in cases of serious offenses. These changes empower SGBs to suspend learners based on their misconduct while the disciplinary process is ongoing. Under the new approach to handling learner misconduct, learners are given the opportunity to seek representation for the disciplinary hearings. Additionally, the provincial Head of Department (HOD) is authorised to approve the suspension period if the governing body requests an extension beyond the seven-day period stipulated in Section 9(1B) of the Schools Act. Consequently, any learner placed under preventive suspension should undergo disciplinary action within the initial seven-day suspension period or during any extension granted by the provincial HOD. Mongale (2021:19) further emphasises that stakeholders, including teachers, parents, and learners, are expected to comply with the legislative requirements for learner disciplinary procedures, thereby promoting and guarding the rights of pupils. What seems absent in the conversation is the responsibility of the learners that aligns with the disciplinary measures.

2.2.1 The state of learner discipline at township and rural secondary schools

One significant issue affecting both teachers and learners is the lack of discipline, which has led to the early resignation of many teachers who are dissatisfied with how disciplinary matters are handled in schools. This issue persists despite the nationwide initiative launched by the South African government in 2000 to provide educators with alternatives to corporal punishment (Monare, 2013:1). Acts of indiscipline remain a prevalent and troubling problem in many schools. In 2012, Pillay (2012:25) documented numerous instances of secondary school learner misconduct that threatened the safety of both educators and learners.

Majoro (2023:33) noted that township schools exhibit the highest incidence of poor discipline, followed by rural schools and a smaller number of urban schools. One frequently cited cause is the apparent lack of stakeholder collaboration, particularly in township and rural schools. For instance, in rural schools, Sithole (2020:41) reported that stakeholders expected principals to ensure the enforcement of discipline. This supports the argument that stakeholders, such as parents, perceive the enforcement of discipline as the sole responsibility of the principal. This should not be the case, the

responsibility of maintaining good learner behaviour should be collaborative responsibility of all stakeholders. However, the DBE has also been criticized for failing to visit these remote schools to enforce policies and regulations (Mollo, 2015:87; Du Plessis, 2019:95; Khoza, 2019:85).

Moreover, the majority of SGB members, particularly parent members, lack the necessary expertise to create an effective code of conduct, making it challenging to ensure learners' adherence (Mestry & Khumalo, 2011:97). Smith *et al.* (2015:2378) add that uninformed parents, unfamiliar with the school code of conduct and disciplinary measures, are unable to actively participate in its enforcement. The issue in township and rural schools is further complicated by historical factors from the apartheid era, which are believed to be a primary cause of the lack of discipline in these schools (Narain, 2015:16). In my opinion, the stakeholders like teachers and parents are in the best position to come up with context relevant strategies that could be used in managing learner behaviour.

The researcher is of the opinion that when parents are not engaged in educational activities and support schools in disciplining learners, it leads to teacher frustration and demotivation, producing an atmosphere that is not beneficial to teaching and knowledge acquisition. The lack of parental involvement also contributes to student rebellion and disruption within the school community as a whole.

2.2.2 The purpose of learner discipline in schools

The primary goal of effective school discipline is to help learners distinguish between right and wrong behaviour and to empower educators to create a learning environment where learners' behaviour can be appropriately regulated and improved (Khoza, 2019:52; Gunderson, 2017:41). The abolition of corporal punishment does not negate the need for discipline among learners. Consequently, educators must guide learners on appropriate and inappropriate behaviour expected of them. The following are suggested reasons for enforcing learner discipline:

Discipline is enforced to help learners develop self-control as well as emotional development, social and intellectual knowledge, and skills (Anayo, 2014).

Discipline is used as a measure to promote conduct that is considered appropriate and self-control in relation to principles like justice, honesty, respect, and consideration for others (Belle, 2016).

Discipline helps in overseeing instructions and mentoring learners in an environment that supports efficient teaching and learning (Busienei, 2018).

Discipline gradually lessens the requirement for teacher intervention, improving the effectiveness of teaching (Charles, 2017).

In line with the aforementioned views, Makendano (2019:30) asserts that serious learner misconduct associated with violence undermines these goals and frequently attracts undeserved media attention. It is essential to mention that disciplinary actions should not be coercive but carefully administered according to rules and regulations that ensure fairness and transparency. For the teachers to succeed in implementing the acceptable disciplinary measures, the support of parents is crucial. In this context, Van Wyk (2016:92) argues that educators taking part in the routine well-being of learners must recognise the legal rights of their learners to apply legal concepts that create a safe learning environment.

A strong teacher-learner collaboration is essential for maintaining good discipline among learners in schools (Van der Linder, 2019:23). Among the vital documents that empower educators to enforce discipline is the *Personnel Administrative Measures* (2022) (hereafter referred to as PAM), which grants teachers the autonomous duty to manage learners' behaviour in the classroom by establishing reasonable rules aligned with the disciplinary policy for learners. Obadire and Sinthumule (2021:4) emphasise that all pupils must conduct themselves in a manner that promotes effective learning while respecting the rule of law. Maintaining good discipline enables learners to achieve their full academic potential and supports the school's primary goal of ensuring holistic development (Dhlamini, 2016:33). In schools where learners are disrespectful unruly towards the teachers, teaching and learning is negatively affected by poor academic climate.

According to Nooruddin and Baig (2014:81), unresolved disciplinary issues "lead to a poor environment for the school and frustration for its stakeholders." Therefore, SMTs play a crucial role in the day-to-day operations of the school, including managing

learner discipline through the establishment of policy documents intended to build and sustain a just atmosphere in schools. Though significant research has been carried out on the roles of SMTs in ensuring sound disciplinary policies are adopted, there is still limited knowledge about the implementation of such policies (Pelser, 2014:81; Van Wyk, 2016:95; Van der Linde, 2019:28). It can be argued that a well-written policy, if not effectively implemented, does not constructively aid the school in meaningful ways.

2.3 SCHOOL GOVERNING BODIES IN PUBLIC SCHOOLS

Zhao and Wang (2020:827) describe “governance” as the interactions between different interest groups within a public or private organisation. In the context of this study, governance refers to the process of deciding on policies and procedures in schools, which includes the implementation of such policy documents within the prescribed legal framework. Significantly, establishing governance structures highlights the democratisation and allocation of authority among all members of the school community (Dlamini, 2022:9). The sharing of power among the different school stakeholders’ aids in managing learner discipline and ensures successful outcomes in disciplinary processes.

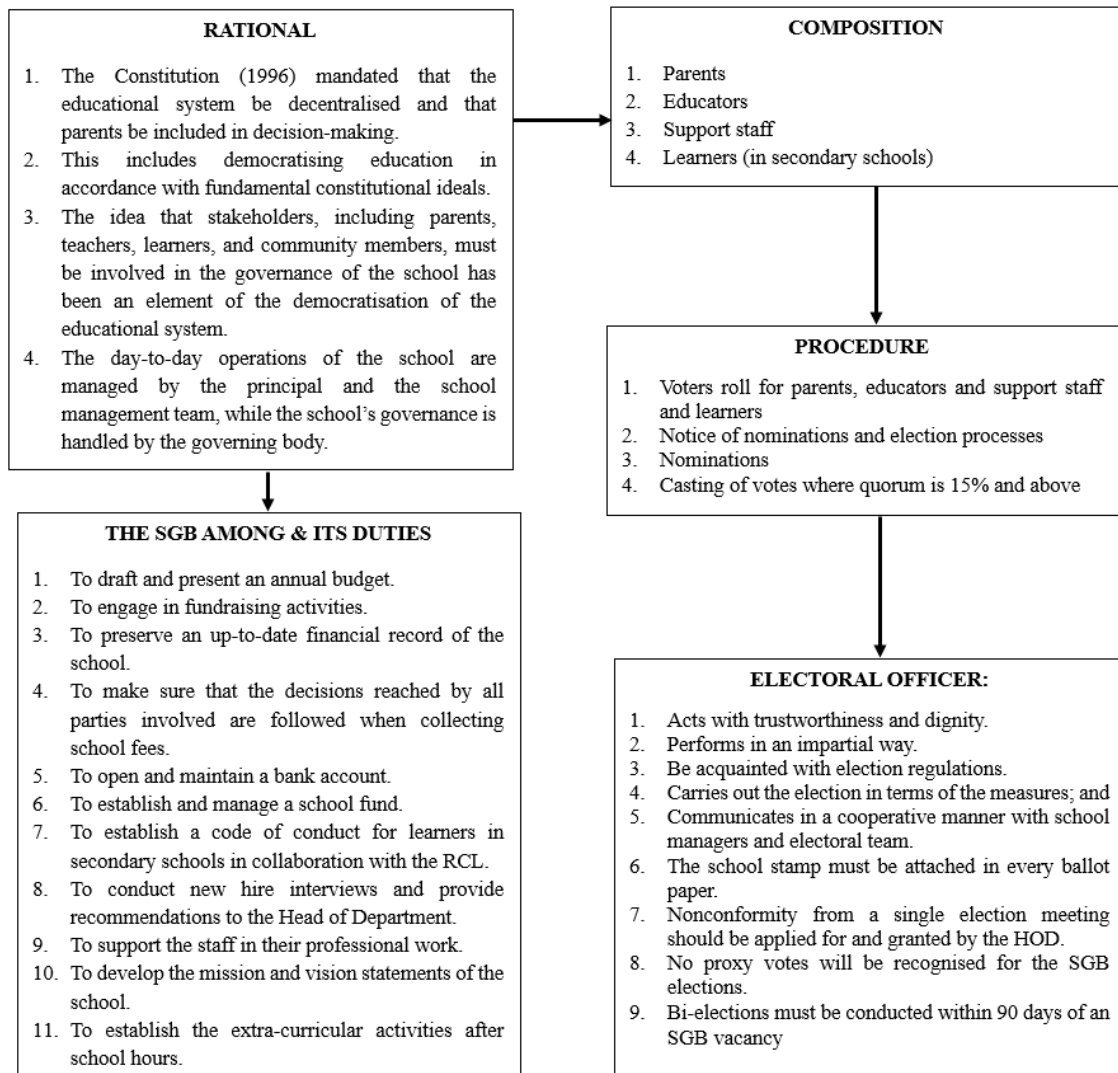
In accordance with the South African Schools Act, the term “School Governing Body” (SGB) refers to a group of stakeholders empowered by legislation to develop and implement school policies based on national, provincial, and district educational visions. This mandates all public schools to elect SGB members who will govern the school and participate in decision-making processes. Majoro (2023:35) concurs, highlighting that the SGB was created to decentralize authority and control among all parties involved in education, including parents, who were historically marginalised in learner discipline and school governance. Thus, parents are essential role players in education and learner disciplinary processes. This calls for school management to provide opportunities for parents to exercise their role in assisting teachers to manage learner behaviour at school.

All functions of the SGB are detailed in the Schools Act. Of particular relevance to this study, the SGB is responsible for enforcing the code of conduct for learners, necessitating that governing body members correctly interpret and apply legislation in learner disciplinary processes. This function must be performed by the SGB in

consultation with the entire school community (Belle, 2016:16; Mollo, 2015:112; Du Plessis, 2019:87). Furthermore, SGBs are expected to defend and uphold the principles exemplified in the Bill of Rights by ensuring that the school code of conduct is grounded in the stipulated rights (Lekalakala, 2007:4; Dlamini, 2022:10). Allocation of specific function to be performed by SGB should also come with the training provisions for empowering the SGB with knowledge and skills for performing the assigned tasks.

The following diagram represents the rationale and composition of the SGB. It has been developed with reference to the Schools Act:

Figure 2: The Rationale and Composition of the SGB



The above diagram or figure depicts a summary of the rationale and composition of the SGB, and how it is established, including some of the key roles and responsibilities performed by the said structure in a school. It is clear that SGBs are a statutory body whose primary responsibility is to ensure that policies are established and applied in the school while observing the principles of egalitarianism and the prescripts of the law (Sithole, 2020:47). There is a solid body of literature that argues that the school environment ought to be protective and secure to enhance the interests of all

stakeholders, such as the learners, parents, the state, and the community (Rossouw & De Wet, 2016:138). In order to realise such an environment, disciplinary hearings must involve all the school stakeholders; therefore, their perceptions with regard to the disciplinary principles directly impact the promotion of learners' rights.

2.3.1 Functions of the School Governing Bodies in learner disciplinary processes

The governing structure is well known to hold the responsibility of ensuring the school operates effectively within a legislative framework, particularly in managing learner conduct according to adopted regulations. The establishment, adoption, and implementation of a learners' code of conduct are among its essential duties (Federation of Governing Bodies of South African Schools, 2006:8). Crucially, the governing body, as mandated by the Schools Act, must undertake these actions after consulting the entire school community. According to Majoro (2022:36), this consultation process underscores the value of cooperation within the framework of democratic education. Thus, in matters of learner discipline, the governance and organisation of the school should align toward a unified objective agreed upon between the school and the governing body.

However, Smith *et al.* (2015:2374) discovered that the governing body does not consistently meet legislative expectations, a view supported by personal experiences as an educator and governing body member. The governing body seems to focus solely on educational management, which should fall under the purview of school management led by the principal. Mathebula *et al.* (2021:67) concurs, noting that while the school community is often consulted during the implementation phase, this is not the case during the inception of the disciplinary policy for learners or the mission and vision statements. This means that the governing body should be involved in the whole process of emerging disciplinary policy.

In the context of this study, the governing body is supposed to supervise the school's disciplinary processes. Yet, principals and teachers predominantly handle these processes (Majoro, 2023:39). The limited participation of governing body members in disciplinary processes appears to negatively impact the state of discipline in South African public schools. Despite this issue, the governing body can form various

committees of experts to assist in its duties for the school's best interests (Sithole, 2020:52). This implies that the governing body may appoint individuals with specialised knowledge to facilitate the creation and implementation of policy documents, particularly policies that relates to managing learner discipline.

2.4 LEGAL FRAMEWORK IN LEARNER DISCIPLINARY PROCESSES

The Constitution includes the Bill of Rights, which applies to all individuals regardless of race, gender, tribe, or religion. The Bill of Rights section of the constitution ensures protection against inhumane or degrading disciplinary practices. In the context of this study, learner discipline and its procedures must adhere to legal principles concerned with learner disciplinary processes. However, despite these constitutional provisions, the South African education system faces ongoing challenges from law enforcement agencies and similar organisations regarding violations of learners' rights during disciplinary processes, contravening the Bill of Rights (Rossouw, 2012:111). Mongale (2021:20) asserts that failure to adhere to the legal framework for learner disciplinary processes results in poor management of learner discipline, leading to increased incidents of unfair treatment and creating unfriendly learning environments. I concur with Mongale (2021:20) because I believe that when the relation between learners and teachers are hostile due to corrective issues, instruction and learning becomes undesirably affected.

Teachers are required to discipline learners through innovative methods other than corporal punishment (Sithole, 2020:48). To achieve this, educators must operate within guidelines that direct disciplinary actions. Section 8 of the Schools Act stipulates that governing body members are responsible for drafting a code of conduct that establishes a purposeful and well-managed school environment beneficial to successful teaching and learning. The code of conduct must also ensure fair and democratic disciplinary practices. Relevant legislation for this study includes the Schools Act, the Constitution, the NEPA, and the Education Laws Amendment Act (31 of 2007). Additionally, the Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners (1998) is a crucial document concerning learner discipline.

Section 8(1) of the Schools Act outlines the conditions under which the SGB operates, including their involvement in learner discipline. According to this legislation, the SGBs' responsibilities include "adopting a code of conduct for the school, sharing it, and implementing it." The code of conduct must incorporate all rules and guidelines, adherence to a just administrative process in fair hearings, and necessary sanctions for wrongdoing (Mestry & Khumalo, 2012:102). This suggests that educators must create classroom disciplinary plans based on the disciplinary policy document, and schools, through the governing structure, must guarantee the appropriate enforcement of the code of conduct and any disciplinary policies.

Section 61 of the Schools Act states that the Minister of Education is responsible for school safety measures. These measures include ensuring no harmful items are stored on school buildings and prohibiting the use or possession of alcohol or illicit substances (Dhlamini, 2014:839). The principal has the authority to enforce rules against unauthorised entry and to take action to protect the school's property and occupants. Lastly, the school's management and governing body must provide evidence of their action plans to prevent violence and threats, guaranteeing the health and safety of all learners, staff members, and parents.

2.4.1 Guidelines for proper use of punishment

Punishment administered to learners in schools, as highlighted by Makendano (2019:34), often resembles harassment. Instances include learners being physically chastised for failing to complete an educator's homework, illustrating that despite the prohibition of corporal punishment, physical abuse persists. Educators, as noted by Brunette (2018:76), sometimes justify such actions by claiming it is necessary due to learners behaving uncontrollably on school premises. However, punishment should ideally serve as a means to foster character development and enhance engagement in learning dynamics. Therefore, excessive use of punishment can desensitize learners when it becomes a routine rather than a meaningful corrective measure (Obadire & Sinthumule, 2021:8).

Mongale's study (2021:25) underscores the contemporary challenges of maintaining discipline, suggesting that relying on punitive measures alone is ineffective in enforcing standards of behaviour. Narain (2015:54) argues for gaining cooperation

and trust from unruly learners as a more effective strategy to manage misconduct. Furthermore, timely and judiciously administered discipline, combined with positive reinforcement, can significantly enhance educator-learner relationships and foster a supportive learning environment. Hence, discipline should empower learners to adhere to school rules while allowing for some flexibility. Involving learners in formulating the school rules make them own it and this makes it easier for teachers to implement the rules and regulations with protest from the learners.

According to Mathebula *et al.* (2021:176), the members of the School Disciplinary Committee comprised of the SGB parent component, the Principal or Deputy Principal (never both), the Chairperson or Deputy Chairperson of the SGB, a teacher, and a learner in the RCL in the case of a secondary school (Schools Act, 84 of 1996; Joubert & Prinsloo, 2008:92). It is apparent that the disciplinary team is a sub-committee of the governing body and thus operates within the SGB's mandate and the principal's guidance.

The following is a diagrammatic representation of the School Disciplinary Committee as stipulated in the Schools Act (84 of 1996).

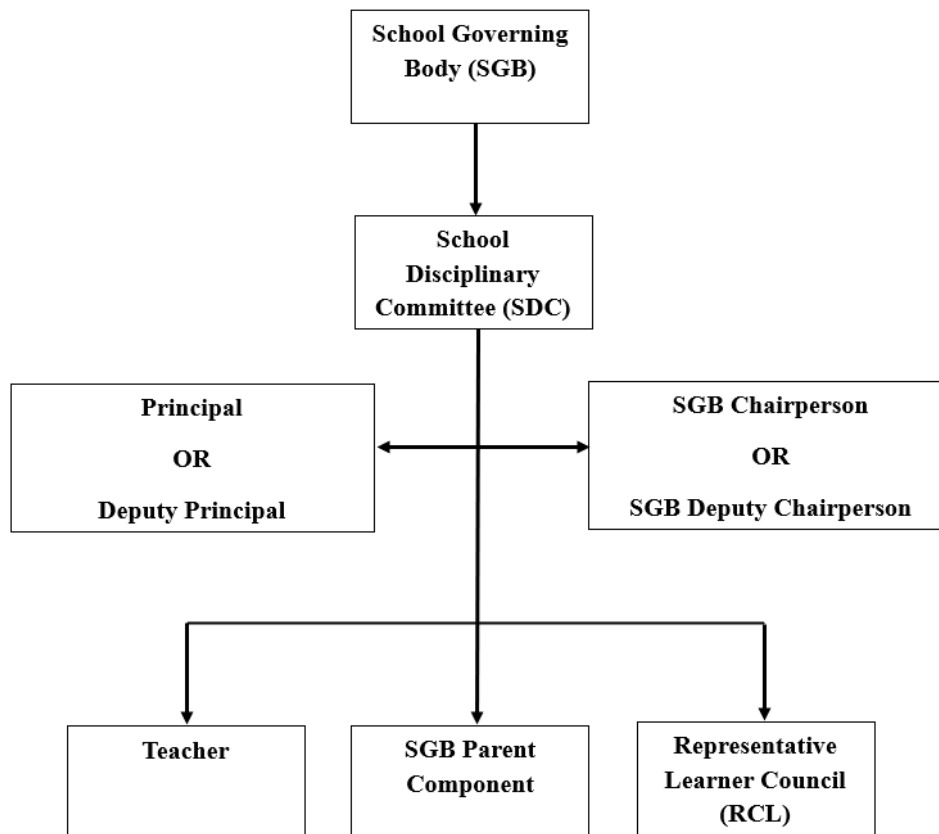


Figure 3: Composition of the School Disciplinary Committee

Lastly, as far as guidelines for proper punishment are concerned, it is vital to highlight that the disciplinary hearing instituted against a learner must meet the following requirements to be seen as a fair process (Joubert & Prinsloo, 2009:213):

It is necessary to inform the learner about the breached rule

There must be an unambiguous motive for the disciplinary action

There must be uniformity in the implementation of guidelines to all learners on the similar misbehaviour

Mitigating factors must be taken into account at all times

There must be compelling evidence of the alleged wrongdoing committed

The learner's punishment and/or corrective measure must be appropriate and fitting for the transgression committed.

All the above-mentioned requirements must be met without any alteration or disregard for any one of them (Mongale, 2021:37). Therefore, one may agree that the committee must be well versed in education law and principles required for a fair disciplinary process.

2.4.1.1 The South African Schools Act (84 of 1996)

The Schools Act establishes a robust framework for school governance aimed at promoting uniformity in management while addressing historical injustices in the country's education system (Smith *et al.*, 2015:2574; Du Plessis, 2019:98). This legislation not only safeguards the rights of all school stakeholders but also defines the State's responsibilities in ensuring equitable educational practices across diverse communities.

Importantly, in Section 10, the Schools Act unequivocally forbids physical punishment within schools. This provision reflects a fundamental commitment to creating safe and nurturing learning environments free from physical harm, with potential legal ramifications for educators who infringe upon this prohibition. The intersection of Section 10 with Section 17 of the *Employment of Educators Act 76 of 1998* (hereafter referred to as EEA) reinforces this stance, imposing severe penalties, including dismissal, for educators found guilty of using corporal punishment. The reason why there is still the use of corporal punishment by some teachers in some school should be investigated and the voices of the teachers be heard so that they may be part of the problem-solving process.

Moreover, Section 8 of the Schools Act mandates the collaborative development as well as approval of a school-specific code of conduct or discipline policy by all parties. These policies serve as foundational documents guiding disciplinary practices, including measures such as suspension or expulsion for serious infractions. Crucially, the Schools Act ensures that learners involved in disciplinary proceedings are afforded fair opportunities to present their cases, thereby upholding principles of transparency and procedural fairness.

Discipline policies implemented under the Schools Act not only serve as corrective measures but also emphasise preventive strategies to address unacceptable behaviour among learners. It is imperative that disciplinary actions strike a balance between maintaining discipline and safeguarding the rights of learners, ensuring a just and equitable process. Section 9(3)(c) of the Schools Act underscores this commitment by requiring schools to adhere to principles of just administrative action in handling disciplinary matters, reinforcing the importance of procedural fairness.

The Schools Act's provisions resonate beyond disciplinary measures, influencing broader educational practices such as school management, curriculum development, and community relations. By promoting inclusive and supportive learning environments, the Schools Act contributes to fostering educational settings where all learners can thrive and develop to their fullest potential.

2.4.1.2 The Constitution of South Africa (1996)

Section 29 (1) of the Constitution guarantees that “everyone has the right to a basic education.” In South Africa, severe misbehaviour by learners is seen as a contravention of their right to free education, which is provided at a specific level (Emekako, 2017:380). For example, the tragic incident reported by Baatseba Mabowa on SABC NEWS, where a grade 10 learner was fatally stabbed by another learner at Photani High School in Mulamula outside Malamulele on 2 March 2024, illustrates a profound interference with the victim's right to receive education. It can be argued that the establishment and adoption of a robust disciplinary policy could mitigate such tragic incidents in schools.

Furthermore, it is crucial to emphasise that in compliance to Section 28(2) of the Constitution, the best interests of the child must always be dominant in any decision affecting them. Applied to disciplinary decisions against learners, this provision necessitates that their best interests, including the protection of their rights during disciplinary actions, be carefully considered (Serame *et al.*, 2014:121). Section 12(1) of the Constitution affirms that “everyone has the right to freedom and security of the person,” include the freedom from torture and the prohibition against receiving cruel, inhuman, or degrading treatment or punishment. These constitutional provisions directly influence the activities within classrooms and schools, requiring that all

disciplinary measures conform to constitutional standards and uphold learners' rights. As the rights are being highlighted it is my opinion that the responsibilities that comes with the rights should be given attention.

Education laws and disciplinary management in schools are profoundly influenced by the supremacy of the Constitution. Therefore, principals and educators must ensure that the rights enshrined in the Bill of Rights are respected and upheld (Bray, 2006:9). Section 8 of the Constitution mandates that any disciplinary policies implemented in schools must be crafted in accordance with the Constitution, safeguarding the rights of both learners and educators. However, it is noted that in school disciplinary processes, there may be a perceived emphasis on protecting learners' rights over those of educators (Sithole, 2020:52; Le Roux & Mokhele, 2016:128).

2.4.1.3 The National Education Policy Act (27 of 1996)

The Minister of Basic Education is explicitly empowered by Section 3 of the NEPA to establish the NEPA for the supervision and discipline of learners in schools, including addressing incidents involving violent behaviour among learners. Additionally, the Act mandates that SGBs, in collaboration with SMTs, develop in-school discipline policies that align with the legislative framework governing learner discipline. Therefore, the foundation of effective school discipline lies in the creation, adoption, and implementation of comprehensive policy documents that prioritise the best interests of children and are endorsed by all stakeholders within the school community.

While the NEPA provides overarching guidelines for learner discipline in schools, it does not prescribe specific forms of disciplinary measures. Sithole (2020:50) emphasises that the Act serves to outline general principles on which schools should base their discipline policies. Similarly, the Act establishes the legal framework within which disciplinary procedures are conducted, akin to the provisions outlined in the Schools Act. Furthermore, the NEPA promotes the adoption of positive discipline strategies, which aim not only to punish but also to educate and nurture positive behaviour. This approach supports the holistic development of learners, aligning with the broader educational goals in South Africa.

2.4.1.4 The Education Laws Amendment Act (31 of 2007)

The Education Laws Amendment Act (ELAA) introduced several significant changes regarding the suspension of learners for serious disciplinary infractions. Specifically, it grants the SGB the power to temporarily suspend a learner if there is a justifiable reason to believe that they have engaged in serious wrongdoing while disciplinary proceedings are ongoing. It is crucial to emphasise that during precautionary suspension, learners must be afforded a fair opportunity to voice their concerns. Moreover, such suspensions should not exceed seven school days unless extended by approval from the provincial HOD.

In order to cultivate a school atmosphere that benefits all stakeholders and upholds the rights of learners in accordance with legal principles governing disciplinary processes, educators, parents, and learners alike must adhere to these statutory requirements. Indeed, Sithole (2020:52) highlights that the Education Laws Amendment Act (31 of 2007) has strengthened the protection of learner rights within disciplinary procedures. In summary, this Act has had a profound bearing on the management of learner discipline in South African schools by clarifying procedures, enhancing learner rights, introducing new disciplinary measures, empowering SGBs, and ensuring adherence to constitutional principles. What I find not sufficiently addressed in this act is the responsibilities expected from the learners that could make the implementation of this Act successful.

2.4.1.5 Guidelines for the consideration of Governing Bodies in adopting a code of conduct for learners (1998)

The procedures outlined in the schedule to the Schools Act play a fundamental role in disseminating principles for the application of the learner code of conduct (Sithole, 2020:27). They articulate the core principles and values that govern the responsibilities assigned to learners and parents within the code of conduct, particularly in matters relating to the learner behaviour and conflict resolution (Guidelines, 1998). Furthermore, these guidelines are designed to assist educators and principals in effectively managing learner discipline to minimize disruptions. For instance, item 7.1 of the Guidelines emphasises that discipline in the classroom is essential to ensure uninterrupted learning and aims to instil self-discipline in learners (Sithole, 2020:29).

However, Sithole notes that while this item offers guidance on discipline and is part of the Schools Act schedule, it lacks a clear definition of discipline and a detailed procedural framework for implementing the code of conduct across different contexts.

The significance of learner discipline is widely recognised for its profound impact on the overall effectiveness of schools (Majoro, 2023:86). Within this context, discipline is understood as the application of legal principles that respect learners' rights (Monare, 2013:9). This perspective aligns with the intent behind item 7.1 of the Guidelines (1998), which aims to foster positive self-discipline among learners. Moreover, discipline should not be perceived merely as a punitive measure for disruptive behaviour; rather, it should be viewed as a means to establish nurturing relationships based on care and support (Oosthuizen *et al.*, 2003:374). The nurturing relationship approach between learners and teachers involves safeguarding and advocating for learners' interests throughout disciplinary processes.

These guidelines provide governing bodies with specific directives on the fundamental components and considerations necessary when developing a code of conduct. Therefore, they ensure that learners, regardless of their background or circumstances, receive equitable and consistent treatment across educational institutions during disciplinary proceedings. Importantly, while offering a structured framework, the guidelines also allow for customisation to address the unique needs and challenges of individual schools. This flexibility enables governing bodies to tailor their codes of conduct to effectively address specific issues pertinent to their school environment.

2.4.1.6 The Employment of Educators Act (76 of 1998)

It is important to acknowledge that the Employment of Educators Act (EEA) (76 of 1998) is one of the Acts passed by the democratically elected government of South Africa to protect learners from all forms of mistreatment. Notably, section 17 of this Act permits the termination of a teacher in the event that the teacher is determined to have engaged in any of the following misconducts:

Sexual harassment directed at a learner or another staff member.

Having romantic relationship with a student.

Seriously attacking a learner or other staff members(s) with the intention to do or inflict significant physical harm.

Similarly, the Code of Professional Ethics adopted by the South African Council for Educators (herein referred to as SACE) in its section 3 also prohibits sexual relationships between an educator and a learner as well as the administration of any form of abuse, whether physical or psychological. Additionally, section 17 of the EEA (76 of 1998) mandates that the employer takes disciplinary action if there is a reasonable suspicion that a teacher has engaged in serious misconduct. Schedule B of this Act also gives an overview of the procedures that should be followed when holding a disciplinary hearing for misconduct. Further, the Educators Act and the Constitution both explicitly prohibit discriminatory practices against pregnant girls in schools. Therefore, this Act is established with the intention to ensure that fairness is practised in school and that all parties in the school disciplinary proceedings are protected.

It is crucial to emphasise that if it is shown that a teacher has engaged in any illegal behaviour in an effort to discipline learners, then that punishment must be applied in accordance with the Educators Act while prioritising the learners' interests (Mahaye, 2022:24). I have observed that educators claim to be disempowered and the educators feel that alternate forms of discipline are not working in their favour. Hence the educators appear to be frustrated by the law amid learner disciplinary processes. It is apparent that such Acts introduce processes and principles that must be observed in order to ascertain fairness and uphold democratic values in schools.

2.4.2 The legal view of disciplining learners in a school context

Many educators are not well-informed about the legal rights afforded to learners under their supervision (Lilemba, 2015:78). Despite the abolition of corporal punishment, some teachers still resort to its use sporadically. Makendano (2019:36) suggests that teachers who continue to administer corporal punishment often exploit parents' ignorance of the law prohibiting physical punishment against children, while others do so out of frustration and a perceived lack of effective alternatives. Unfortunately, many parents also lack knowledge about the legal principles governing learner disciplinary processes (Mestry & Khumalo, 2012:125). Moreover, there are instances where schools withhold information about disciplinary processes from parents to limit their involvement in school administration (Maclean, 2016:83). Similarly, there are cases where learners and parents may wrongfully assume that teachers have no legal rights,

leading to threats against teachers. Such assumptions can be addressed by ensuring that the rights of the teachers are also included in the conversation of the rights of learners.

Beyond enforcing legal rights, the primary objective of school regulations is to cultivate moral discipline among learners (Makendano, 2019:37). In essence, school rules are designed to prioritise ethical conduct. Within the school environment, educators assume the dual roles of judge and probation officer. This dual role implies that teachers are tasked with fairly applying rules and regulations. Consequently, Van Wyk and Pelsler (2014:45) argue that teachers are uniquely positioned compared to judges, as educators have a deeper understanding of the context, and individuals involved in disciplinary incidents.

In line with these perspectives, it is mandated by law that schools act should promote the best interest of children when disciplining them, even in cases where the child is accused of misconduct. The legal obligation underscores the responsibility of schools in upholding principles of fairness and justice while maintaining discipline among learners.

Identifying some underlying causes of the increase in learner misconduct is not difficult (Du Plessis & Mestry, 2024:52). For instance, the high incidence of domestic violence suffered by many South Africans is rapidly redounding on all facets of the community, including the schools. The prevalence and easy availability of violence in video games and television, and the abolition of corporal punishment legislation are said to be contributing to the development of a generation of learners who do not appreciate the difference between right and wrong (Khumalo, 2018:211). Nonetheless, despite several powerful and competing influences, the school should remain the primary institution for helping to establish the necessary behaviours. It is worth highlighting that the authority that schools have historically held is seemingly being challenged due to limited resources, overfilled curricula, and weakening community connections (Pelsler, 2018:78). This has resulted in a reluctance within the community to grant schools the same level of authority they once had.

Perkins *et al.* (2020:102) reiterate that the violence that pupils are capable of committing against each other, as well as against educators and other staff members

connected to educational facilities, receives continuous media exposure. Besides this type of violence, countless documented cases of unruly and rebellious learners in schools, and thus indirectly causing problems in the larger community, have naturally led to the formulation of educational policies promoting discipline so that the rights of others to education and an optimal environment may be protected. In agreement with Du Plessis and Mestry (2024:87) it can be stated that the prevention of anti-social tendencies and aggressive behaviour is educationally and societally important enough to receive redress in educational policies and codes of conduct.

2.4.3 Rules of natural justice

In the realm of learner disciplinary proceedings, the concept of natural justice holds significant importance, as highlighted by Mollo (2015:38). This principle primarily revolves around ensuring fairness throughout the decision-making process. It encompasses two fundamental principles: *nemo iudex in propria causa* and *audi alteram partem*. These principles mandate that learners facing disciplinary actions must have the opportunity to be represented and heard during disciplinary hearings.

Central to these principles is the requirement that accused learners be informed of the allegations against them, enabling them to adequately prepare and present their defense (Khumalo, 2018:213). Moreover, those responsible for imposing sanctions during disciplinary proceedings must provide clear reasons for their decisions. This procedural transparency ensures that the disciplinary process remains fair and just, safeguarding the rights of learners involved.

Whether learner disciplinary processes are initiated by one teacher or more teachers, the enquiry process concludes with a recommendation to the chairperson of the disciplinary committee, who then acts as judge and forwards the matter to the disciplinary committee for the implementation of any penalty (Du Plessis & Mestry, 2024:98). Further, the Schools Act guarantees every learner a fair hearing; the hearing provides the learner with the opportunity to defend and justify actions believed to have broken any school rule(s). The same is true of a courtroom, where a person accused of breaking the law is allowed to defend themselves in court. Greenleaf *et al.* (2023:123) argue that the difference between the two is the limitations and restrictions placed on schools/courts in their roles regarding what kind of evidence can be used,

how people should be treated throughout the process, and what rights they should have.

One may agree that given the wide powers granted to educators under the principle of *in loco parentis*, the rights that learners have in institutions are very important. Notably, educational institutions are also based on the premise that decisions are made after a fair process (Pelser, 2018:84). Where it is found that an educator does not follow the proper procedure in dealing with a learner in a disciplinary hearing, the learner can take the decision on review for being procedurally unfair. The reason why educators fail to follow the proper procedures also needs to be established to avoid more of such incidences in future.

The learner has the following rights through the rules of natural justice: to be informed of the charges against him or her, to be told about the evidence against them, to present their own side of the story, to cross-examine witnesses who testify against them, to have a fair and open hearing, to be given reasons for the decision, and to appeal the finding (Smith *et al.*, 2015:2375). These rights do not mean that every learner will be given the right to cross-examine each time, or that the educator will make a person available again at the hearing to satisfy the cross-examination right if the learner was not there. However, this must be done for the more serious sanctions. This is because the principle of natural justice is violated if the learner is not given the right to cross-examine (Mestry *et al.*, 2018:78). The child has the right to a disciplinary process that must be procedurally and substantively fair. Only if a learner has been expelled or suspended after a disciplinary process that was procedurally and substantively unfair can the learner challenge the hearing and ask for the case to be reheard and the findings set aside for new findings.

2.4.4 Declaration of children's rights

The historic Geneva Declaration, which was issued by the League of Nations in 1924, acknowledged and recognized for the first time the existence of child-specific rights and the adult's duty to look out for children (Strohwalder, 2021:135). Then in 1959, the United Nations Declaration on the Rights of the Child was again adopted, where their protection and vulnerability were reinforced. The Declaration compels society to treat every child fairly and protect their rights as growing individuals. Despite the documents

and legislation on children's rights, it appears that rights concerning children in disciplinary processes have not been advocated enough (Mahaye, 2022:19). This is because, in most cases, human rights seem to be reserved for adults who are able to defend themselves. Further, the United Nations Declaration of the Rights of the Child indicates that education must be about human rights and as such, the rights of the learner are inherently protected through education and the manner in which they are disciplined.

Children's rights advocates like McConnachie and McConnachie (2017:87) and Senyonjo (2018:56) believe that education should be carried out through a method that secures learners' commitment and competence to act in accordance with their rights. Thus, to educate learners on what is right from wrong, instruction and corrective actions must be learner-centred, learner-friendly, and learner-empowering while taking place in an atmosphere of safety.

In the implementation of learners' rights in schools or principles related to learner discipline, the awareness of such rights must be demonstrated in every action taken by the school to maintain discipline (Faiz and Kamer, 2017:94). However, Mahaye (2022:25) argues that schools are not sensitive to learners' rights. Additionally, because of the alleged unrestricted freedom that comes with legally granted rights, children are said to exhibit disciplinary issues in schools.

2.5 CHALLENGES ASSOCIATED WITH LEARNER DISCIPLINE AND DISCIPLINARY PROCESSES

The issue of learner discipline remains a significant challenge across various educational contexts globally, as evidenced by studies in Mauritius, Kenya, Nigeria, South Africa, Zimbabwe, and Tanzania. In Mauritius, Belle (2016:102) underscores the ongoing struggle within public schools and the Ministry of Education to implement effective disciplinary strategies amidst societal changes. Similarly, Njoroge and Nyabuto (2014:47) highlight the alarming levels of learner indiscipline in Kenyan secondary schools, despite existing policies intended to enforce discipline while safeguarding learners' rights and dignity.

In Nigeria, Temitayo *et al.* (2013:79) observes widespread disregard for school authority among learners, leading to rule-breaking behaviours that impact not only educators but also fellow learners and parents. Mollo (2015:61) asserted that in such cases there is pressure on schools to establish robust disciplinary systems that are widely understood is palpable. I am agreeing that in such cases, all the school stakeholders must work together to enforce school authority on discipline matters.

In South Africa, post-1994 democracy has heightened the scrutiny on school discipline regulation, as Mathebula, Runhare, and Marishane (2021:4) emphasise. The global educational concern over learner indiscipline is echoed by Obadire and Sinthumule (2021:5), who argue for comprehensive strategies to address these issues effectively.

Understanding their rights, such as freedom of speech and privacy, contributes to learners' willingness to challenge authority, posing additional challenges to disciplinary systems (Temitayo *et al.*, 2013). Narain (2015:45) identifies common disciplinary issues in secondary schools, including conflicts, insubordination, and a general atmosphere of mistrust.

In Zimbabwe, Mugabe and Maposa (2013:87) highlight various misconducts plaguing secondary schools, including cheating, vandalism, and substance abuse, exacerbated by parental reluctance to discipline children. Simuforosa and Rosemary (2014:95) underscore the role of schools in managing discipline while upholding learners' rights.

The role of SMTs in enforcing codes of conduct and school policies is pivotal, as emphasised by Nooruddin and Baig (2014:48) and Netshitangani (2018:144), who advocate for approaches that foster self-discipline among learners as a preventative measure.

Across Africa, the responsibility for maintaining learner discipline typically falls on teachers, who are mandated to uphold acceptable conduct within legal frameworks and educational programs (Semali & Vumilia, 2016:59). This underscores the importance of policies and laws that protect and promote children's rights while ensuring effective discipline management in schools.

In conclusion, addressing learner discipline challenges requires a multifaceted approach that integrates policy formulation, teacher training, parental involvement, and a clear understanding of learners' rights, all within the framework of legal guidelines aimed at creating safe and conducive learning environments.

2.5.1 Factors contributing to learner indiscipline

To effectively address learner indiscipline in schools, it is imperative to delve into the fundamental causes underlying such behaviours, as highlighted by Ndlovu *et al.* (2023:121). Understanding these causes not only aids in developing a comprehensive framework for disciplinary management but also in tailoring interventions to suit diverse school environments. Several key factors contribute to learner misconduct, each warranting exploration: the way in which human rights are understood and exercised, peer pressure, family and community settings, and the personal traits of the individual learners. Each of these components interacts dynamically within the school ecosystem to influence learner behaviour. Therefore, a nuanced understanding of these factors is essential for developing proactive strategies that address underlying causes of indiscipline rather than merely reacting to incidents as they arise.

2.5.1.1 *Human rights in the context of learner discipline*

The abolition of corporal punishment in schools marked a significant shift towards emphasising and upholding the promotion of human rights in learner disciplinary procedures, as evidenced by research (Mollo, 2015:84; Mongale, 2021:30). However, this transition has also brought to light a perceived imbalance where learners' rights

are prioritised over those of teachers, potentially leading to negative attitudes among educators and a perception among learners that they hold a superior position in disciplinary hearings and general behaviour within schools. Consequently, this dynamic has been linked to an increase in school indiscipline as educators remain powerless in dealing with disciplined issues.

Ndlovu, Schlebusch, and Mokola (2023:126) argue that the government's focus on championing learners' rights as a political agenda may have inadvertently downplayed the importance of instilling corresponding responsibilities. This imbalance underscores the statutory obligation of schools not only to promote learners' rights but also to educate them about accountability and responsibility. This educational mandate includes enforcing discipline within the framework of legislation designed to maintain order and ensure a conducive learning environment.

2.5.1.2 Peer pressure

It is a well-established phenomenon that learners often form peer groups within classroom settings, and these groups exert significant influence over their behaviour within broader society. Jinot (2018:91) contends that these peer groups fulfil the fundamental need for belonging, establishing norms and expectations that dictate how members respond to school rules. In their endeavour to gain acceptance and fit in, learners adhere to the beliefs and ethos of their peer groups, which may occasionally conflict with familial expectations and the school's code of conduct. I am of the view that if learners are engaged in structuring of the school rules, norms and expectation they may have the same influence on acceptable behaviour through peer pressure. In this case, peer pressure could be perceived as a positive influence.

Correspondingly, Nene (2013:14) observes that learners frequently engage in inappropriate behaviour to conform to the expectations of their peer groups and avoid rejection. This behaviour is often driven by a diminishing reliance on parental role modelling and an increasing emphasis on peer relationships as children mature.

As learners grow older, their peer groups become pivotal in shaping their social identity and behaviour. This transition can lead to instances where learners prioritise peer acceptance over adherence to school rules and parental expectations, influencing their conduct both in and outside of school environments. Understanding these

dynamics is crucial for educators and parents alike in promoting positive peer influences and mitigating the negative impact of peer pressure on learner behaviour.

2.5.1.3 *Community settings*

Schools are often seen as microcosms of the wider community, meaning that community lifestyles and norms can significantly influence the behaviour of learners (Haupt, 2010:13). This viewpoint suggests that the characteristics and dynamics observed within a school environment often mirror those found in the surrounding community. Netshitangani (2014:65) supports this notion, highlighting that external societal factors also play a role in shaping school environments. For instance, instances of violent behaviour in schools may reflect broader societal trends in violence (Obadire & Sinthumule, 2021:6).

Makhasane and Chikoko (2016:87) further emphasise that issues such as violence within communities can permeate into nearby schools, contributing to behavioural challenges that educators must address in the classroom. Consequently, many of the behavioural issues encountered by teachers are rooted in the communities where learners reside, illustrating the interconnectedness between community dynamics and school environments. Understanding these connections is essential for developing effective strategies to promote positive behaviour and manage disciplinary issues within schools. Apart from understanding the contextual factors that influence learner behaviour, influential members of the community should be involved in setting context-based strategies that the schools should use to manage undesirable learner behaviour.

2.5.1.4 *Learners*

Kagoiya and Kagema (2018:55) argue that learners themselves are the primary drivers of indiscipline in schools. It is also noted that certain personality traits such as impulsiveness, inattentiveness or hyperactivity in the classroom, gender, age, substance abuse, lack of responsibility, and experiences of victimisation contribute to disruptive learner behaviour. Additionally, hormonal changes during puberty are identified as triggers for unacceptable behaviour among learners (Sithole, 2020:41). A study by Ndlovu *et al.* (2023:125) reveals that many behavioural issues exhibited by secondary school learners, particularly during puberty, stem from developmental

factors. This means that instead of striving to managing the behaviour of the learners that emerges from developmental factors, schools should be proactive in seeking guidance and counselling as well as psychologist to give talks to the learners of how to manage themselves during the puberty phase.

2.5.2 Lack of legislative knowledge

Legislation provides the essential framework for disciplining learners. This means that educators and other stakeholders in management and governance roles should possess a deep understanding of education law to ensure that policies and procedures related to learner disciplinary proceedings are effectively implemented (Coetzee, 2021:32). It is my opinion that without this knowledge, there is a risk that disciplinary policies may not be followed properly, potentially leading to unfairness.

Interestingly, a study conducted by Pillay (2014:52) among teachers in both rural and urban schools revealed that many had minimal to no formal knowledge of education law. This suggests that they may not be adequately equipped to ensure fairness in learner discipline, thereby potentially compromising learners' rights. The questions that arise from this finding is that who should be responsible for training teachers on education law issues that relates to learner discipline? Secondly, at what stage of the career of the educators should they acquired such knowledge and skills?

Moreover, knowledge of education law often seems to be gained through practical experience when educators encounter situations requiring the application of specific legal principles. Similarly, findings by Smith *et al.* (2013:2356) indicate that educators with limited knowledge of education law, especially in learner disciplinary processes, pose a significant challenge in effectively implementing disciplinary policies. This can result in ineffective disciplinary processes that fail to address learner indiscipline in schools.

It may be acceptable for one to posit that lack of exposure and awareness of legislative requirements can harm the professional image of educators and impact negatively on the school community (Du Plessis & Mestry, 2024:101). It is significant to reiterate that school regulations are in place to maintain order and support the educational process for all learners. These regulations are rooted in principles of fairness and aim to guide learner conduct while also protecting their rights and the privacy of others.

2.5.3 Unfavourable school environment

In certain schools, the implementation of policies is fraught with challenges, influenced by various factors such as the literacy levels of parents and their engagement in school activities. Coetzee (2021:33) supports this view, suggesting that each school adopts a unique approach to implementing and adhering to legislation. In environments where literacy levels are low, efforts to enforce policies often face resistance and negative attitudes from stakeholders. Consequently, teachers may feel obliged to apply physical punishment as a way of managing learner discipline due to apprehensions about relying on policy alone.

The researcher argues that it is crucial to emphasise that to foster a secure school atmosphere that stimulates and safeguards learners' rights, all participants must collaborate and be well-informed about policy requirements for effective implementation. This collaborative effort ensures that disciplinary measures are fair, consistent, and aligned with legal standards, thereby enhancing the overall educational environment.

The school environment includes school structures, facilities, and various other parts of the physical and psychosocial settings of the school (Perkins *et al.*, 2020:101). The condition of these different aspects of the environment can either support or hinder school objectives, high levels of learner motivation toward learning, and desirable events. Likewise, this may negatively affect the administration of learner discipline, as the environment is generally believed to influence behaviour.

Coetzee (2021:98) suggested that these settings should provide a healthy and safe environment, with flexible spaces, the availability of contemporary learning and digital technologies, the ability for teachers and learners to access resources easily, and links to the broader community. Schools should be well-designed with features that enhance desired learning and teaching behaviours, with an environment that is comfortable, attractive, and conducive to learning activities and moulding learner behaviour. All stakeholders should work together in ensuring that the school environment allows teachers to give instructions and learners to achieve set academic goals.

2.6 MANAGEMENT OF LEARNER DISCIPLINE

When considering policies regarding learner discipline and disciplinary processes, the Schools Act stands out as foundational. It mandates SGB to promote and enforce learner codes of conduct, ensuring the protection of learners' fundamental human rights. Additionally, the Schools Act places responsibility on SGBs to safeguard the school by overseeing administrative structures and procedures related to monitoring learner behaviour and disciplinary actions (Mestry & Khumalo, 2012:99). This means that the SGB members should work closely with school management team in ensuring that learners are disciplined and their rights protected within the school premises.

To effectively maintain good learner discipline, schools must establish clear discipline policies that articulate school rules. These policies should be firmly grounded in legal principles governing learner disciplinary processes, such as just administrative action, *nemo iudex in propria causa*, *audi alteram partem*, procedural fairness, and substantive fairness. Developing such policies ensures consistency and fairness in disciplinary procedures across schools (Monare, 2013:23). The challenge that remains is to ensure that schools are prepared and able to implement context relevant discipline policies that includes and explains school rules.

It is crucial to underscore that all actions taken by state organs, including government schools, must strictly adhere to prescribed legal frameworks to protect the rights of all stakeholders during learner disciplinary processes (Khampepe *et al.*, 2013:1). Bray (2005:136) elaborates on the procedural and substantive aspects of just administrative action, emphasising the importance of following a prescribed sequence of events during disciplinary processes and ensuring that sanctions imposed are proportionate to the offense committed. Transparency in disciplinary decisions, guided by principles of natural justice, is paramount. It implies that all the stakeholders involved in the disciplinary hearing should have the knowledge of the principles of natural justice.

Despite extensive research on learner indiscipline and its impact on educational outcomes (Nakpodia, 2010:54; Temitayo *et al.*, 2013:45; Semali & Vumilia, 2016:66), there remains a gap in understanding the implementation of legal principles to mitigate disciplinary issues in public secondary schools. The department of education should consider closing the knowledge gap between legal principles that guides disciplinary

process and the implementation of the principles. The effectiveness of disciplinary management strategies varies widely, ranging from authoritarian methods where educators strictly enforce rules to more permissive approaches granting learners greater autonomy (Ali *et al.*, 2014:266).

Central to effective learner discipline management is the active involvement of parents, principals, educators, and the wider community, as disciplinary issues often originate from community influences (Belle, 2016:37). Schools are microcosms of society, and as such, societal norms and behaviours significantly impact school environments and learner conduct. This means that the strategies employed in administration school discipline should take into account the context of the school environment and the influencing factors.

Historically, educators were isolated from the management of learner discipline, and the principal had broad overall authority in light of the enforcement of learner discipline (Semali & Vumilia, 2016:69). However, this has significantly changed in the new democratic dispensation. Educators, parents, and all public service officials have greater legal accountability as they find themselves at the mercy of stricter legislation, lengthy judicial precedents, and court judgments that occur more frequently. Importantly, the legal environment in which the educator functions is determined by constitutional, legislative, common-law, and statutory considerations. There exists, therefore, a complex legal matrix in which learner discipline is currently managed, and educators must tread very carefully because of the increasing litigation within this field.

Du Plessis and Mestry (2024:91) posit that learner discipline does not consist only of fragmented rules and scrappy instances of misbehaviour but is a social process concerning learners' behaviour and environmental influences. Central to resolving problems related to the discipline of learners is the concept of discourses operating between educators, parents, and learners for its management (Ndlovu *et al.*, 2023:120). The issue is therefore not really that of discipline or punishment, but the failure of proper disciplining creating problems. Schools, however, are not expected to solve disciplinary problems by themselves – learners, parents, law enforcement agencies, education officials, and child courts should help and play their part. One may, therefore, agree that the management of learner discipline is, among other things, a means of creating a conducive atmosphere for learning and teaching and

providing learners with an opportunity to develop a social conscience and acquire appropriate values, standards, and self-discipline.

Literature highlights that in preparing the code of conduct and when implementing disciplinary measures, school authorities must take into consideration the needs and circumstances of learners, including learners' physical safety and psychological well-being (Portella, 2015:33; Kapueja, 2014:120). They also bear the responsibility of ensuring that every learner knows and understands his or her rights, duties, and responsibilities in terms of the Code of Conduct and that disciplinary measures are applied in a manner that is fair and does not prejudice any rights of learners. Such measures must permit representation, in the cases of learners or educators, by a fellow learner or educator who is not a legal person but who has a legal right to represent another learner or educator.

2.6.1 Participation of parents and external stakeholders in learner discipline

The Kiprop and Chepkilot (2011:45) emphasise that parental involvement in their children's schooling significantly influences learner behaviour management. Schools are thus encouraged to engage parents or guardians actively to ensure effective learner discipline. Additionally, Ali *et al.* (2014:267) suggest that the relationship educators build with learners can profoundly impact their behaviour. By fostering strong educator-learner relationships, educators can better understand each learner and identify the underlying causes of disciplinary issues (Obadire & Sinthumule, 2021:5). Therefore, addressing the root causes of problems before implementing solutions is crucial to establishing corrective measures that effectively support and guide learners.

Deaukee (2010:78) argues that schools should utilise the services of specialised counsellors to help shape acceptable learner behaviour. These professionals facilitate open communication with learners, allowing them to express themselves and discuss the triggers of their misconduct, as well as the expected consequences and rewards for good behaviour. Furthermore, Simuforosa and Rosemary (2014:82) highlight that school counsellors not only manage learner behaviour but also contribute to behavioural change that can enhance learner achievement. Given the role played by

the school counsellors, it is vital that they are included in the process of formulating school discipline policy as well as the learners.

Mtsweni (2008:50) underscores the importance of involving learners in the development of school policies, such as codes of conduct, to promote perceptions of fairness among learners regarding the rules. Similarly, researchers advocate for the active involvement of the Representative Council of Learners (RCL) to foster a safe and supportive learning environment where learners willingly adhere to rules and are shielded from intimidation and inappropriate behaviour (Ntuli, 2012:32). These approaches collectively aim to enhance learner discipline by fostering a collaborative environment where learners, educators, parents, and counsellors work together to uphold standards and support positive behaviour development.

2.6.2 Learner appraisals in moulding good behaviour

A strategy that involves recognising and rewarding learners who demonstrate good discipline is widely regarded as effective because it fosters a sense of appreciation among students for their positive behaviour (Mtsweni, 2008:52). According to Njoroge and Nyabuto (2014:296), teachers play a crucial role in this strategy by acknowledging, commending, and rewarding well-behaved learners, which serves to incentivise and reinforce good and acceptable conduct among students. Similarly, Obadire and Sinthumule (2021:6) argue emphatically that teachers should employ effective teaching methods that actively engage learners. This underscores the importance of educators possessing the requisite knowledge, skills, and competency in classroom management techniques not only to address learner discipline effectively but also to cultivate an environment conducive to learning and free from misbehaviour.

All teachers are expected to nurture a climate that promotes mutual respect among students. This responsibility aligns with the principle of *in loco parentis*, where teachers assume parental responsibilities within the school premises (Nene, 2013:26). In practical terms, this principle requires teachers to anticipate and manage potential risks to student safety and well-being in the classroom, demonstrating care while maintaining order during disciplinary actions. When necessary, teachers may refer serious disciplinary matters directly to the principal, who, in turn, should involve the school disciplinary committee, the SGB, the Provincial Education Department (PED),

and ultimately the Member of the Executive Council (MEC) of Education as part of the formal disciplinary process.

In South Africa, a code of conduct serves as a major instrument for managing discipline in schools. According to Coetzee (2021:28), drafting a code of conduct for learners requires consulting relevant legislation to ensure its alignment with legal frameworks. Under the Schools Act, every school in South Africa is mandated to develop and approve a code of conduct in consultation with stakeholders to promote transparency and accountability. The primary objective of this code is to clearly communicate expected behaviour and the consequences of rule violations, thereby fostering an environment beneficial to effective teaching and knowledge acquisition (Sebisha, 2015:62). It is incumbent upon teachers, parents, and learners to work together in enforcing the code of conduct by establishing explicit rules and protocols that govern learner behaviour within the school premises.

2.6.3 Responsibilities of teachers in managing learner discipline

Educators bear various responsibilities in maintaining order and discipline within schools. The PAM explicitly mandates that every teacher assumes a role in managing learner discipline within their respective schools. Consequently, educators are tasked with assisting the principal in organising, planning, developing, and overseeing matters related to learner discipline within the school environment (Makendano, 2019:45). Moreover, according to the DBE (2000:13), educators are required to possess a comprehensive understanding of the educational environment, relevant legislation, and established systems to effectively uphold discipline in schools.

In alignment with these mandates, Mongale (2021:48) outlines several primary duties of educators during disciplinary processes:

The duty to maintain learner discipline in an effective manner.

The legal duty to instil a culture of caring among learners.

The duty to uphold accountability.

The duty of establishing clear classroom etiquettes that adhere to the school's code of conduct and relevant provincial and national regulations.

Setting a solid, disciplined, and positive example for learners. This means that educators should be well-organised and well-prepared for class. In addition, educators should be supportive by praising both hard work and good effort, maintain and control classrooms, provide an environment that maximises learning (Lilemba, 2015:41).

Act more democratically during the implementation of the school rules.

Discuss classroom rules with the learners for greater collaboration in executing the disciplinary policy and this relates to assisting during the development of the school code of conduct.

In the context of upholding learner discipline in schools, teachers and stakeholders face significant challenges within a democratic framework as they are expected to account for learner behaviour. Accountability, as defined by Belle (2016:56), involves the fair and just imposition of disciplinary measures against learners. Koki (2015:141) further argues that educators must possess strong problem-solving skills as they are accountable not only for learners' academic progress but also for the outcomes of all educational activities aimed at maintaining law and order.

A crucial aspect of effective discipline management is the establishment of clear expectations from the outset. Teachers are responsible for establishing clear rules of behaviour, embedding procedures and routines into all classroom activities to create a structured learning environment. It is at this stage that educators should seek the opinion of their learners in drafting school rules and procedures. The learners' input could make the learners accept the rules and regulations that is set for the school.

However, as Makendano (2019:50) points out, there is a critical question regarding whether all schools in South Africa have adequate disciplinary policy documents. Even where policies exist, they often remain theoretical ("white elephants on paper") and fail to be fully understood and implemented in schools, potentially contributing to rising disciplinary issues. Thompson (2018:12) emphasises the importance for educators to comprehend the legal principles underpinning learner discipline and to actively participate in developing policies that effectively address disciplinary challenges within the legal framework.

2.6.4 Principal's role in managing learner discipline

Principals bear the monumental responsibility of managing learner discipline while shaping the overall direction of a school (Mestry, 2017:258). Many school principals, however, struggle significantly to balance their diverse administrative duties with their leadership roles in discipline management. According to Sithole (2020:16), exemplary leadership from principals establishes the standard for a disciplined school environment and ensures that the policy documents adopted by the SGB comply with relevant education management legislation. It is evident that principals hold ultimate responsibility for learner discipline within the school context, a responsibility shared with the entire school community to effectively uphold the law in a democratic state.

The failure of principals to manage discipline effectively can profoundly impact the overall academic performance of the school, creating a toxic environment that hinders the core mission of knowledge and skills acquisition. In the South African context, legislation such as the Schools Act and the Employment of Educators Act (76 of 1998) clearly delineates the authority of principals to discipline learners within the parameters of legal principles to ensure fairness. Principals are tasked with guiding the SGB in approving a fair learner code of conduct that reflects the perspectives of the school's stakeholders (Mestry, 2017:259). The Schools Act specifically assigns principals with the professional administration of the school, while the Employment of Educators Act (76 of 1998) mandates principals with managing the school's academic performance.

Additionally, principals oversee disciplinary hearings in collaboration with the SGB to uphold strict adherence to prescribed regulations. In accordance with the PAM, principals are accountable to education authorities and all relevant stakeholders for the state of learner discipline in schools. Therefore, principals must establish robust connections with teachers, learners, and parents to foster participation from all parties in advancing justice and transparency.

2.7 CASE LAW AND POLICIES IN LEARNER DISCIPLINE AND DISCIPLINARY PROCESSES

Firstly, case law pertains to judicial decisions made in previous cases (Oosthuizen, 2016:13). According to Du Plessis (2019:36), case law holds significant importance in education law as it provides schools with guidance on disciplinary decisions that align

with established legal frameworks, drawing upon precedents set by past court judgments. Therefore, previous court rulings play a crucial role in the application of legal principles within learner disciplinary processes.

However, despite the importance of legal principles in learner discipline, schools often face challenges in bridging the gap between policy formulation and practical implementation. Narian (2015:58) argues that the DBE fails to adequately equip schools with the necessary tools to interpret and apply laws and policies related to learner discipline and disciplinary procedures in agreement with the requirements of the Constitution.

Similarly, it is reported that in Mauritius, school principals lack the necessary empowerment and authority to maintain discipline among school children due to inadequate support from the education ministry and the government at large (Belle, 2018:43). The lack of support as indicated in the study (Belle, 2018:43) significantly hampers their ability to enforce disciplinary measures effectively. Administering discipline policy should be a collaborative task shared among the different school stakeholders.

Nevertheless, it is important to note that not all instances of misconduct require the involvement of higher authorities beyond the school. Minor offences can be addressed informally, leveraging the principal's discretionary powers. For instance, in the case of *Francois Xander Biljon v Neil R. Crawford and Others (2007)*, the principal, after conducting an inquiry that found the learners guilty of cheating during examinations, dismissed them from the prefect committee. The court upheld the principal's decision, confirming that it was in accordance with the regulations promulgated by the Eastern Cape Education Department in the Provincial Gazette No. 978 of 2003.

Such discretionary powers are not unique to one region but are afforded to principals in other provinces as well. For example, the DBE in Gauteng issued guidelines through the Provincial Gazette No. 144 of 2000. Specifically, Section 3(1) of these regulations stipulates that only the school principal may institute disciplinary proceedings against a learner for serious misconduct. This provision ensures that principals have the necessary authority to manage serious disciplinary issues within their schools effectively.

Moreover, the case of *Francois Xander Biljon v Neil R. Crawford and Others (2007)* underscores the importance of ensuring that disciplinary decisions taken against learners in schools adhere to the promulgated laws, policies, and regulations to ensure just administrative action. The judgment affirmed the principal's decision to withdraw the concerned learners from the school's prefect body, as this disciplinary action was consistent with the relevant regulations that endowed the principal with such authority.

This case highlights the necessity for school authorities to operate within the legal framework when making disciplinary decisions, ensuring that such actions are fair and justifiable. Consequently, the learners in this case were disciplined in a manner that adhered to the principles of fairness, as stipulated by the legal guidelines. Furthermore, this approach protected their right to education, as enshrined in Section 29(1) of the Constitution, by allowing them to continue their schooling despite the disciplinary action.

The case demonstrates that even while enforcing discipline, educational institutions must balance corrective measures with the obligation to uphold learners' constitutional rights. This balance is crucial to fostering a just and equitable educational environment. Thus, the adherence to regulatory frameworks in disciplinary matters not only ensures fair treatment of learners but also reinforces the legal and ethical standards that govern educational practices.

However, it is vital to note that although principals have discretionary powers, such powers are not absolute. Despite these given powers, principals and SGBs must always act within the prescribed legal frameworks (Khampepe *et al.*, 2013:1). A pertinent example is the case of the *Head of Department, Department of Education, Free State Province v Governing Body of Welkom High School (2013)*, where the school had instructed a learner to leave the school premises pursuant to its pregnancy policy that allowed the automatic exclusion of pregnant learners.

Evidently, such an act violates Section 29(1)(a) of the Constitution, which guarantees the right to basic education. This act also threatens the realisation of just administrative action and substantive fairness. One may agree that not only was the sanction unlawful, but it also manifestly did not correlate with the 'wrong act.' In this context, excluding a learner based on pregnancy is both discriminatory and punitive, failing to

consider the broader implications for the learner's right to education and personal development.

It is for the above reasons that the school was instructed to review their policies in question, taking into consideration the Constitution, and that the suggested review procedure should be carried out in compliance with the cooperative governance guidelines outlined in the Schools Act. It is due to this case that Du Plessis (2019:45) cautions about the principals' duty of safeguarding the compliance of school policies with the education legal framework. This case, among others, illustrates why most disciplinary decisions taken at a school level are often overturned by either education officials or courts of law, due to reasons including but not limited to incorrect application of the law and disregard of the applicable legal principles.

The phenomenon may also be observed in the *MEC for Education, KwaZulu-Natal and Others v Pillay (2008)*, wherein a child was not permitted to put on a nose stud due to the school's fear that such an allowance could lead to unauthentic cultural claims as pretexts for wearing nose studs. Importantly, the report on this case indicates that the school failed to produce evidence showing that Pillay's conduct had a negative effect on discipline among learners in the school or caused disruptions to the education processes. In this context, the school's decision lacked substantial justification and reflected an overreach of its authority. Accordingly, the court arrived at a decision in favour of Pillay, stating that the school's uniform rules were dubious.

It is widely recognised that prohibiting a learner from wearing a nose stud, particularly when the learner has indicated that such an act is part of their religion and culture, would be in contravention of both Section 15(1) and Section 31(1)(a) of the Constitution. This emphasises the importance of involving parents actively in the drafting of the school's code of conduct. A school code of conduct aims to produce and sustain an atmosphere free of unfair discrimination where all stakeholders assume responsibility and accountability. An effective school code of conduct, drafted and adopted within the prescribed legal frameworks, must allow for the reasonable and justifiable accommodation of cultural differences and practices.

Recently, Chabalala (2022:14) reported on News24 that a pupil from Greytown High School was suspended for growing a beard. Notably, the pupil was suspended despite

numerous attempts by the parents to communicate with the school, explaining that growing a beard was a religious observance. This suspension was a direct challenge to the boy's right to freedom of religion as contained in Section 15(1) of the Constitution. This incident underscores the necessity for school policies to be flexible and inclusive of religious and cultural practices.

Despite the existence of policies on learner discipline and disciplinary processes, there is a growing number of incidents where parents challenge the fairness of disciplinary decisions taken against their children at the school level (Bilatyi, 2012:7). One notable case is *Michiel Josias De Kock v the Head of the Department and Others, Province of the Western Cape (2013)*, where a pupil was suspected of having marijuana. As a result, the SGB recommended the learner's expulsion to the provincial HOD. The situation escalated when the principal and his second-in-command discovered a plastic sack inclosing a substance that looked like tobacco, which they assumed to be marijuana.

Throughout the disciplinary meeting instituted against the learner, the principal and his deputy remained firm on their decision to recommend the learner's expulsion. However, the court found that the principal and his deputy had committed a gross irregularity by simultaneously acting as witnesses, prosecutors, and judges. According to Section 33 of the Constitution, irregularities of this nature contravene the right to just administrative action.

In the case of *Antonie v Governing Body, Settlers High School, and Others (2002)*, a female learner who was 15 years old and Rastafarian grew her hair in dreadlocks. She recurrently requested approval from the principal to cover her dreadlocks with a beanie hat that matched the school uniform. The principal decided to prevent her from wearing the hat. Despite this decision, she put on the hat, trusting that her right to liberty of religion and expression protected her actions.

Although the school's code of conduct did not explicitly prohibit such behaviour, the school determined that Antonie was guilty of serious transgression. Consequently, the SGB suspended her for approximately five days. Interestingly, the court determined that this was not an act of grave misconduct and stated that the inflexible manner in which the SGB made the suspension decision contradicted the values and principles

of justice, impartiality, and rationality. The study does not focus on the suspension itself but rather on the procedure followed and the reasons for the school's decision. According to Section 16A(2)(d) of the Schools Act, the principal should have assisted the SGB in making an appropriate decision by applying relevant education law prescripts.

All the court cases mentioned above highlight a mismatch between policy expectations and the actions taken by schools regarding learner disciplinary processes. The actions either do not correlate with the wrong act committed or the schools do not follow proper procedures in implementing disciplinary actions. Therefore, it aligns with Mollo's (2015:55) assertion that there is a need to establish structures to monitor and aid the application of legal principles focusing on learner disciplinary processes in schools. Nakpodia (2010:74) supports this idea, emphasizing that suitable disciplinary policies and procedures are necessary to prevent and address learner discipline issues and ensure the effective operation of schools. Additionally, to contextualize the application of laws, policies, regulations, and procedures, it is ideal for structures to be uniquely formed for each specific school setting.

2.8 TEACHERS' UNDERSTANDING OF THE LEGAL PRINCIPLES IN LEARNER DISCIPLINARY PROCESSES

Belle (2016:337) states that schools and parents in Mauritius believe their authority to punish children is limited by the learners' constitutional rights. Consequently, they feel unable to control learner misconduct due to a lack of power. In the South African context, Smith *et al.* (2015:2369) found that SGBs and teachers are not adequately prepared and lack the knowledge and skills to practice legal principles in learner disciplinary processes. Even so, when disciplining learners, schools are expected to uphold democratic principles and the rule of law. Section 8(5) of the Schools Act mandates schools to guarantee acceptable corrective measures in cases of serious wrongdoing following a fair and equitable hearing for the learner. This section directs the disciplinary committee to ensure the disciplinary hearing is carried out fairly.

Furthermore, it is evident that provisions in education legislation aim for fair disciplinary hearings and that schools must ensure justice prevails in these hearings (Van Wyk, 2012:23). However, despite these provisions, a study by Mathebula, Runhare, and

Marishane (2021:185) found that stakeholders identified by the Schools Act to be part of the disciplinary committee often do not perform their stipulated duties or participate in decision-making processes. This finding (Mathebula et. al.,2021:185) calls for further research on the lack of active participation of school stakeholders in the decision-making process of a disciplinary hearing. Such studies could further bring up the voices of the stakeholders regarding what should be done to get them involved in the decision-making process in a disciplinary hearing.

Therefore, it is evident that there are discrepancies concerning policy and practice regarding how schools conduct learner disciplinary processes. Generally, the guidelines in the Schools Act on the election and appointment of school disciplinary members are not followed. As a result, measures and sanctions of learner disciplinary cases are sometimes flawed. These flaws may be exacerbated by the fact that not all members serving on the disciplinary committee have the specialised knowledge to interpret and apply the law correctly concerning learner disciplinary processes (Smith *et al.*, 2015:2369). Additionally, parental involvement in learner discipline remains a significant concern. Parents and/or guardians are not active participants in disciplining their children at school (Belle, 2016:17; Obadire & Sinthumule, 2021:5). De Wet (2003:168) asserts that discipline is not solely the responsibility of the school but the obligation of various stakeholders in the education system.

Literature continues to highlight that natural justice principles are crucial for enforcing discipline in schools, especially in situations where people's rights, liberties, or privileges may be jeopardized (Ngwokabuenui, 2015:67). These rights must be respected despite the challenges in implementing legal principles in learner disciplinary processes. Masitsa (2008:235) suggests that the first step in addressing such problems is adopting and enforcing the school's code of conduct. Likewise, Section 3(3.5) of the Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners (1998) states that learners must be thoroughly and regularly informed about how they should conduct themselves and the type of disciplinary measures that will be applied to correct misbehaviour.

Studies on learner discipline indicate that there is a significant limitation on available disciplinary approaches in managing learner behaviour since the advent of democracy (Van Wyk, 2012:27; Belle, 2016:86). This suggests that educators might be unaware

of how to resolve problems they encounter with legal principles and their applications in disciplinary processes. This, in turn, frustrates educators. Masitsa (2008:260) further points out that teachers misuse disciplinary actions, as they do not apply them as remedial measures to help learners alter their behaviour but instead use them to punish learners without teaching them right from wrong.

Cooperation and communication between parents/guardians and schools are strategies implemented by a few schools to mitigate disputes arising from disciplinary decisions (Smith *et al.*, 2015:2396). This is likely necessitated by the idea that disciplinary processes should be transparent and involve all participants in the discipline and growth of learners, as provided in Section 6 of the Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners (1998). Furthermore, fair-minded management of disciplinary procedures by school disciplinary structures could support the education system in constitutionally disciplining learners to become accountable citizens. This is why affluent schools invest in legal practitioners to act as mediators in cases of serious misconduct, to alleviate problems with interpreting and applying legal principles (Sithole, 2020:52). Educators may not have knowledge on legal issues and therefore mediators may be called upon in difficult cases that need legal expertise.

In an effort to manage disciplinary procedures for learners fairly and uniformly, the Schools Act requires schools to draft codes of conduct to protect the dignity of learners, among other constitutional obligations. Additionally, the Schools Act assigns parents the task of ensuring that learners support and follow all the regulations included in the school's code of conduct while working closely with teachers (Sebisha, 2016:101). Nkabinde (2020:37) reminds us that the application of rules and consequences must be based on the democratic principles embodied in the Constitution. In other words, schools must go beyond merely developing codes of conduct in "black and white." Rather, they should ensure their enforcement is guided by the laws governing learner disciplinary processes.

2.9 POLICY IMPLEMENTATION ON LEARNER DISCIPLINARY PROCESSES

A policy is a structured document containing written statements that outline principles, regulations, and constraints within a specific context (Joubert, 2019:152). In simpler terms, a policy provides a systematic approach for decision-making that leads to specific actions. Therefore, as emphasised by Hanekom (2017:27), policy development is crucial for defining the specific goals prioritised by governments or various levels of governance.

In the context of learner disciplinary processes in schools, policy serves as a set of guidelines aimed at safeguarding learners' rights. This aligns with arguments made by scholars like Mollo (2015:58), who stress the importance of actively enforcing laws enacted since democracy to protect human rights and prevent mistreatment of learners. Similarly, Zwane (2017:17) contends that robust policy guidelines are essential for creating a disciplined learning environment free from cruelty.

Despite established frameworks and processes guiding disciplinary structures in South African schools, effective implementation often remains more theoretical than practical, leading to frustration over procedural requirements for fair disciplinary proceedings. Nonetheless, both teachers and parents bear significant responsibility in upholding and defending learners' rights during disciplinary procedures (Mollo, 2015:58). Simultaneously, learners must grasp that misconduct entails consequences, such as suspension or expulsion, aimed at fostering personal growth and accountability.

Naicker *et al.* (2014:101) emphasise that corrective actions should occur within an environment of mutual respect and trust between educators and learners. This underscores the importance of collaboration among all stakeholders in implementing legal principles in learner disciplinary processes. Therefore, it is crucial for everyone involved to be well-informed about the rules and consequences of violations, ensuring just administrative action and adherence to legal principles.

However, Maphosa and Mammen (2011:62) argue that educators often lack adequate pre-service training to interpret and apply legislation related to learner discipline

effectively. This suggests that theoretical training received at institutions of higher learning may not sufficiently prepare teachers to manage learner discipline and educate parents on the proper implementation of legal principles in disciplinary processes (Smith *et al.*, 2015:2368).

Lastly, the South African education system faces a critical challenge with the lack of learner discipline, particularly pronounced in secondary schools (Coetzee, 2021:23). Factors contributing to this issue include socio-economic challenges and declining moral standards within communities. All schools in South Africa are mandated to establish disciplinary policies to manage institutional disciplinary processes (Mestry *et al.*, 2018:58). These policies must align with the Constitution and the Schools Act, aiming to ensure the safety of all participants in disciplinary proceedings and foster a conducive learning environment. The effectiveness of these disciplinary policies hinges on their consistent application across all school contexts (Joubert, 2019:155; Bray, 2015:98). The policies also guard learners from being harmed physically and emotionally during the disciplinary process.

2.10 GAPS ADDRESSED IN LITERATURE

The intertwining of education management processes and education legislation underscores that the management of learner discipline cannot operate outside established legal frameworks. Despite this, Herselman (2014:3) argues that many education managers still lack sufficient knowledge of education law. Additionally, Reyneke (2016:14) suggests that familiarity with case law and criminal law regulations is crucial for ensuring compliance during learner disciplinary processes, areas where teachers often demonstrate inadequate understanding.

In the realm of school disciplinary proceedings, there is a notable absence of regulations specifying criteria for selecting intermediaries. Mthiyane (2013:9) and Nkabinde (2020:34) highlight that educators or former educators may act as mediators in accordance with criminal law regulations, yet they often lack the requisite knowledge and skills for such roles. Furthermore, Reyneke (2016:18) points out the lack of clear guidelines for educators to reference when necessary.

During disciplinary hearings, it is mandated that children be shielded from situations causing mental stress. However, while this protection is mandated, there are

insufficient measures established to ensure that children do not endure emotional distress during or after these proceedings. It is crucial to appoint someone with expertise on handling emotional and psychological issues that some learners may experience given that some class teachers may not have the knowledge and skills of comforting such learners.

The challenges associated with learner disciplinary processes are not unique to South African schools but are observed worldwide (Nkabinde, 2020:17). Many teachers, as indicated in various studies (Portella, 2015:33; Kapueja, 2014:123), perceive these challenges to be exacerbated by the elimination of physical punishment. The substitutions to physical punishment introduced by the DBE do not appear to effectively uphold discipline or guide schools in regulating learner discipline in alignment with the Constitution and the Schools Act.

Despite numerous studies that has explored learner disciplinary issues, little research has investigated how the implementation or lack thereof of legal principles impact learner discipline in schools. In essence, as a democratic nation, the Constitution establishes a legislative framework that should govern all school discipline rules and processes. Nkabinde (2020:43) argues that this legal framework should equip schools with the necessary knowledge to navigate legal challenges when enforcing discipline. To date, there is a gap in establishing the extent to which schools are able to interpret and implement the legal framework that governs learner discipline. It appears that current legislation does not provide educators and SGBs with clear strategies for interpreting and applying legal principles in learner disciplinary processes. The absence of the understanding of the policy intent and application could have been the cause of the court cases discussed previously.

In light of these observations, this research aimed to examine the implementation of legal principles in learner disciplinary processes within secondary schools.

2.11 CONTEXT OF THE STUDY

The study was conducted within the Ngaka Modiri Molema district in the North West province, where the predominant language spoken is Tswana. Despite the province's abundance of resources, such as platinum, a large portion of its population faces poverty and limited access to resources. Tlhapi (2015:78) laments the state of

discipline in North West schools, suggesting that many students seem more inclined to disrupt rather than engage in learning. Having received both basic and tertiary education in the North West, I have witnessed firsthand the pervasive poverty and high unemployment rates across the province. Additionally, the region contends with a notable incidence of crime, including burglaries and possession of unregistered firearms (Tshatshu, 2016:73).

Moreover, the North West province experiences a high mortality rate, resulting in numerous orphaned children in households. Many families are either child-headed or under the care of guardians, while others reside in children's homes and orphanages. The province's informal settlements also contribute to high birth rates and population density, leading to overcrowded schools (Tlhapi, 2015:83). Despite the presence of Non-governmental Organisation (hereafter referred to as NGO) providing various resources to schools, frequent incidents of sabotage, such as burglaries and vandalism, occur due to a lack of community ownership of school facilities. This behaviour exacerbates learner indiscipline in schools.

Given these unique socio-economic challenges in the province, it is crucial to explore how the regulation of learner discipline, aligned with applicable policies, influences disciplinary processes and the overall development of children beyond school premises. For instance, overcrowded classrooms in informal settlements may hinder effective teaching and learning, while the prevalence of orphaned or vulnerable children necessitates additional support mechanisms both in and out of school.

Furthermore, the presence of NGOs providing resources to schools' underscores efforts to mitigate these challenges, yet persistent issues like vandalism and burglaries demonstrate ongoing community disengagement with school facilities. This lack of ownership can perpetuate a cycle of neglect and indiscipline among learners, as schools struggle to maintain conducive learning environments. The study aims to examine how disciplinary policies are implemented in this complex socio-economic context, where legal frameworks intended to guide discipline may face practical challenges in application. Understanding these dynamics is essential for developing effective strategies that support not only disciplinary processes but also holistic child development in challenging environments.

The literature on school discipline highlights that indiscipline is a global issue that continues to escalate in severity. While there is a documented increase in disciplinary cases and ongoing reliance on corporal punishment, there is also a growing emphasis on measures to protect children from harm resulting from such punishments. The democratization of education has introduced challenges for school managers in effectively regulating learner discipline and in overall school leadership (Narain, 2015:70). Policies advocating for fairness, consensus in disciplinary procedures, and the prohibition of corporal punishment are outlined, yet the literature suggests that maintaining consistent implementation of disciplinary policies remains problematic at times.

2.12 SUMMARY OF THE CHAPTER

Chapter two has presented an extensive review of literature focusing on the nature of learner discipline, the legal framework governing learner disciplinary processes, challenges associated with learner discipline and disciplinary procedures, management of learner discipline, and policy implementation in learner disciplinary processes. Furthermore, the chapter has provided a detailed examination of previous court judgments related to disciplinary decisions made by schools, including the procedures followed and teachers' understanding of legal principles in learner disciplinary processes. The literature also addresses gaps identified in current research and within the context of this study, highlighting a noticeable gap between policy expectations and the practical realities experienced in schools concerning the implementation of legal principles in learner disciplinary processes. The subsequent chapter explains the methodology employed in this research.

3. CHAPTER THREE: RESEARCH METHODOLOGY

3.1 INTRODUCTION

The preceding chapter delved into a comprehensive review of literature concerning the nature and scope of learner discipline, the legal framework governing learner disciplinary processes, the challenges associated with managing learner discipline, and the policies and case law pertinent to these disciplinary processes. Additionally, it examined teachers' understanding of legal principles within the context of learner disciplinary processes, and the implementation of such policies. The chapter culminated in identifying existing gaps in the literature, particularly within the North West province, highlighting issues related to learner discipline and disciplinary procedures. In contrast, the current chapter outlines the research approach, design, and methodologies employed in this study. It further details the strategies utilised to ensure the study's credibility, alongside the methods for data collection and analysis.

More broadly, methodology can be defined as a collection of techniques employed to gather information that can be evaluated and deciphered to clarify or forecast a phenomenon (Cohen *et al.*, 2018:281). Table 3.1 represents the research strategy process.

Table 1: Research Strategy Processes

Paradigmatic assumption
An interpretive paradigm (interpret schools' comprehension and views) A case study research design is a plan of inquiry
Selection of participants
Purposeful sampling (selection of three (3) schools in the North West province, Ngaka Modiri Molema district)
Data collection
Interviews with selected educators and SGB members
Quality Measures
Trustworthiness, credibility and dependability as well as triangulation
Ethical Considerations
Authorities' approval, right to privacy, informed consent, discretion and obscurity

3.2 RESEARCH PARADIGM

This study followed an interpretivist paradigm. Significantly, the paradigm chosen by a researcher is essential for offering insight into the perspective from which the research is conducted. Kivunja and Kuyini (2017:33) describe a paradigm as the set of assumptions and beliefs that characterise a researcher's worldview and reflect their vision of the ideal world. Therefore, the researcher must take a position regarding their views and awareness of how things operate. Furthermore, because data was gathered from various participants in different contexts, the researcher believes in the existence of multiple truths. This implies that in the research project at hand, the reality of schools' experiences in implementing legal principles in learner disciplinary processes is diverse.

Additionally, interpretivism follows a subjectivist approach to the study's epistemology. Researchers in such studies are deeply immersed and become integral parts of the research process. Burton and Bartlett (2015:22) point out that interpretivism views society as created through the interactions of individuals. Thus, it is reasonable to assert that because law is dynamic, contextual, and revolves around individuals interacting with one another and their surroundings, it fits within this paradigm. The

interpretivist paradigm was suitable for this study since achieving impartiality in disciplinary processes necessitates a thorough examination of laws using secondary legal sources and case law.

Moreover, according to Scotland (2012:9), a paradigm describes the ontology of the study, which deals with the nature of reality, and epistemology, which shows how knowledge is created. The ontology of qualitative research views knowledge and substantial realities as being socially constructed through the interplay between individuals and their environment (Cohen *et al.*, 2018:288). Since the concerned study aimed to examine the implementation of legal principles in learner disciplinary processes, it required the researcher to establish the multiple realities of how schools interact with disciplinary policies and perceive legal principles in learner disciplinary processes.

The researcher's epistemological viewpoint in this study was subjectivism and inductive reasoning. Since learner disciplinary procedures are subject to the application of legal concepts, the researcher sought to examine individuals' experiences and knowledge of such processes to generate understanding about the phenomenon under study. Consequently, knowledge in this paradigm is formed through interaction with the social world and can only be comprehended through the perspectives of those who engage with it (Scotland, 2012:14). In this study, the researcher's ontological and epistemological stance posits that schools develop knowledge about their implementation of legal principles in learner disciplinary processes through a nuanced and interactive system. Therefore, the researcher deemed the interpretivist paradigm suitable for this study. The next section discusses interpretivism in greater details, expounding its components, strengths and weaknesses.

3.2.1 Interpretivist paradigm

Firstly, as stated above, the paradigm that this study is situated under is interpretivism since the primary objective is to examine the implementation of the legal principles in learner disciplinary processes in secondary schools. According to Flick (2014:112), interpretivists contend that since knowledge and truth are derived from people's lived experiences and perceptions of reality, they are subjective in nature. As such, one

may agree that truth in this regard is viewed differently by different individuals due to the settings they find themselves in. Creswell (2014:214) concurs that participants' social and historical origins influence how they interpret their experiences with regard to particular issues and how they construct subjective meanings about them. In accordance with DeVos *et al.* (2014:101), the interpretivist paradigm's greatest asset is the attention it gives to the participants' worldviews, which in this case are those of educators and SGB members. In addition to the small sample size that can prevent generalisation, the same authors (2014:122) criticise the aforementioned paradigm for its subjectivity and potential researcher bias on the validity and dependability of findings.

It is evident that meaningful reality and knowledge are created through interactions between people and their surroundings. Thus, the perspective of those engaging with the social world is the only one that can be used to understand it (Scotland, 2012:54). In this study, the researcher contend that as educators carry out their mandate to enforce discipline among pupils, they develop an understanding of how legal principles are applied in real-world settings. It is through activities teachers and SGB members execute in their endeavour to manage learner discipline that their experiences and understanding of the implementation of legal principles are brought to light. In order to better comprehend the subjective realm of human experiences, the researcher conducted the current study under the interpretivist paradigm, in accordance with the ontological and epistemological stances previously described.

3.3 RESEARCH APPROACH

Qualitative, quantitative, and mixed methodologies are the three (3) approaches that are frequently mentioned in research regarding data collection (Cohen *et al.* 2018:178; Creswell, 2014:98). This research employed a qualitative research approach, focusing on meaning-based (qualitative research) rather than statistical forms of data analysis (quantitative research) (Creswell, 2014:94). Nieuwenhuis (2016:55) highlights that a qualitative research approach emphasises the contexts in which interactions naturally occur, viewing social life more in terms of dynamic processes than in fixed terms. Therefore, one may agree that a qualitative research approach is dedicated to recognising and giving meaning to a phenomenon as experienced by the individuals participating in the study (Creswell, 2013:97). Qualitative approach places attention

on how people construe and make sense of their experiences in a systematic and subjective manner.

Nevertheless, there appears to be relatively little empirical knowledge on the implementation of legal principles in learner disciplinary processes in secondary schools, particularly in the North West province. As a result, a qualitative approach is justified, as it has the potential to provide new insights into the subject of education management and the legal frameworks surrounding learner discipline. Additionally, a qualitative approach allows the researcher to obtain knowledge from the diverse views and experiences of participants (Cohen *et al.*, 2018:288). In this study, the researcher generated data on how the participants implement legal principles in learner disciplinary processes. The researcher also employed a probing technique, which granted the opportunity to explore the depth and complexity inherent in the role played by schools amid learner disciplinary processes.

The great benefit of the qualitative approach is its capacity to grasp the understanding of a phenomenon, attempt to explain what is happening, and provide descriptive insights into the circumstances, insights, outlooks, viewpoints, and experiences of participants (Kumar, 2011:32). A qualitative approach enables a researcher to comprehend the participants' perspectives. In this study, the focus was on the implementation of legal principles in learner disciplinary processes. Therefore, the researcher also concentrated on the views and experiences of schools concerning the application of legal principles related to learner disciplinary processes.

Opponents of the qualitative approach caution against the likelihood of researcher bias (Anney, 2014:274; Thirsk & Clark, 2017:5). Being mindful of this possibility, the researcher kept detailed notes of what was happening during each school visit and at the research sites. Furthermore, the qualitative approach is noted for being time-consuming, as highlighted by some studies (Flick, 2011:51; Sallee & Flood, 2012:139), since participants may engage in detailed descriptions of their experiences regarding learner discipline and the implementation of legal principles. To overcome this methodological challenge, the researcher guided the participants to stay within the scope of the questions by emphasising key words and making follow-up questions when necessary. The researcher also allowed adequate time to interview the participants and do follow-up questions when necessary.

3.4 RESEARCH DESIGN

A research design is described as a plan for arranging and carrying out research in such a way that research questions can be answered using the evidence collected (Creswell, 2013:8; Cohen *et al.*, 2018:173). Therefore, research design is essentially a blueprint that the researcher follows to address a research problem in the concerned field of study. In this study, a case study design was employed, specifically a multi-site case study design, since data was generated from different research sites. Through a multi-site design, the researcher could examine the differences within and across cases (Nieuwenhuis, 2016:82). In other words, the design facilitated data analysis within and between settings, enhancing the researcher's convenience. The decision to employ a multi-site case study design was mainly influenced by the fact that this design investigates a particular phenomenon by employing reality in the research setting (Norander & Brandhorst, 2018:118). Since the concerned research study sought to answer the question, "How do secondary schools implement the legal principles in learner disciplinary processes?" it justified the utilisation of a multi-site case study design, as the researcher aimed to examine the nature of the schools' experiences in implementing legal principles in learner disciplinary processes.

A multi-site case study allows researchers to engage with the data and respond to research questions such as "how and why" (Bessong, 2021:104). Consequently, a multi-site case study design offers an analysis that is diverse in perspectives, wherein the inquirer explores the opinions of participants in an open and critical manner. Generally, case studies can assist a researcher in communicating a more authentic analysis of the data concerning the study. To be more precise, three secondary schools were selected to participate in this study. These schools were located within one educational district and formed part of the case study, which was used to compare different disciplinary proceedings at these selected secondary schools. The utilisation of a multi-site case study method is justified by the need for the study's findings to provide detailed insights. Case study design permits the use of various tools deemed necessary. For this research study, interviews and document analysis were utilised to generate data. Each school can be viewed as a distinct case, which helps to address the research question more accurately and authentically (Rule & John, 2011:82).

However, it is essential to acknowledge that qualitative research can adopt numerous designs, including narrative, phenomenology, and ethnography, among others.

Nonetheless, there are certain setbacks associated with using a multi-site case study method, including the possibility that the outcomes may not be generalised unless other researchers perceive their utility (Cohen *et al.*, 2018:256). Similarly, Creswell (2013:99) notes that a multi-site case study method is prone to problems of observer bias, despite efforts to maintain flexibility. To address some of these issues, the researcher adhered to the purpose of the research and recorded only the responses given by participants without influencing their responses to suit the narrative or interest of the researcher. The researcher thoroughly read and examined each case, taking notes and highlighting relevant facts, which assisted in overcoming some limitations associated with a multi-site case study design.

The case study research approach was relevant to this study even if it had certain flaws. The researcher was able to examine variations both within and among cases—specifically, how different educators perceive the use of legal principles in learner disciplinary processes—by conducting a collective case study. Finally, Maree (2016:81) points out that the researcher can analyse each case study both within and across different settings by using collective case studies.

3.5 RESEARCH SITE

This study focused on exploring the implementation of legal principles in learner disciplinary processes in secondary schools through a multi-site case study. A thorough description of the research sites is essential to contextualise participants' perspectives within the specific settings of the study (Norander & Brandhorst, 2018:115). By providing a detailed account of the research sites, readers can better envision the environment and understand how legal principles in learner disciplinary processes are implemented within these secondary schools.

Three secondary schools located within a single educational district agreed to participate in this study. To offer a balanced perspective, one urban school, one township school, and one rural school were selected (Creswell, 2013:72). Schools were chosen based on their participants' willingness and ability to engage in the study. The aim was to include secondary schools from three different quintiles and contexts.

Additionally, geographical proximity and accessibility were considered to facilitate multiple visits, allowing for relationship building and the collection of in-depth data (Creswell, 2016:89).

Among the selected schools, one was previously classified as a Model C school. This school had a significant portion of its enrolment consisting of learners from middle-class backgrounds. It was also multi-racial in both its teacher and learner composition. The second school was located in a township, with learners from diverse socio-economic backgrounds, most of whom relied on public transport to reach the school, while a small portion walked. Although this school charged fees, it remained underdeveloped, as most of the fees were used for operational purposes rather than for procuring resources to support teaching and learning. For example, this school had sufficient classrooms but lacked a variety of sports grounds, possessing only a soccer field.

The third school was situated in a rural area, with learners coming from poor surrounding villages under traditional authorities. This school did not charge tuition fees and participated in the National School Nutrition Programme (NSNP). The school lacked sports facilities, and some learners lived alone or with their grandparents, who rarely attended parent meetings. Some parents worked in cities and only returned home on weekends or at month-end, while others travelled long distances to work daily, which was exhausting. The school was predominantly populated with black learners, and classrooms were overcrowded, with an average of 64 learners per class.

Table 3.5 below displays the population of pupils and educators as well as each school's quintile.

Table 2: Summary of researcher sites

Schools	School Quintile	Number of Educators	Number of Learners
A	5	44	658
B	4	38	841
C	1	27	566

3.6 SAMPLING

The researcher employed purposive sampling to choose participants. The purposive sampling technique is defined as the careful choice of participants because of their attributes (Etikan & Bala, 2017:2). It is worth noting that qualitative research selects participants who will provide the most valuable information as far as the research is concerned (Mollo, 2015:19). In addition, the said technique does not necessitate fundamental theories or a set quantity of participants. Basically, the researcher decides what information is required and searches for people who, through knowledge or experience, can supply such information.

In this study, the participants comprised of the principals/deputy principals, educators, SGB Chairperson/deputy chairperson and SGB parent component. In other words, these were members who largely formed part of the school's disciplinary committee and had the opportunity to participate in the learner disciplinary hearings as well as take disciplinary decisions. One stakeholder from each school will be selected categorically. This implies that one person representing the SGB was selected and that applied equally to the school principals/ deputy principals, educators and SGB parent component. With respect to teachers, only one from those participating in the school's disciplinary committee was selected. Those with five or more years of experience as teachers and also participating in learner disciplinary processes were given preference.

Therefore, the researcher had four (4) participants from each school making it twelve (12) participants in total. The number of sites and participants aided the researcher in ensuring that the amount of data collected is manageable (Masson, 2010:87). Collecting unnecessary and irrelevant data may lengthen the analysis process and

exhausting to the researcher (Marshall *et al.*, 2013:11). Though the selection of participants happened by virtue of one's involvement in a school's disciplinary committee, the principals were allowed to select or recommend participants since they knew who was better informed and involved in disciplinary issues. Notably, the said participants possessed a great deal of experience that varied from each other because of the position held and context they found themselves in. While representativeness was not explicitly sought, it was recommended to involve participants with varying ages, genders, and in respect of teachers to take into cognisance the post levels and years of service, as this had a potential to contribute to the comprehension of the subject of inquiry (Crowe *et al.*, 2015:619). Lastly, background data was considered such as gender balance and race. The purpose of considering such a background was to see whether it has an influence in the management of discipline among learners or whether the disciplinary structure largely constituted by males or females (or is there balance); how does that influence the integrity of the committee and its functions, if it at all.

It should be noted that the researcher used convenience sampling and only collaborated with participants who consented to participate after being fully informed about the purpose and objectives of the study. Convenience sampling, as explained by Cohen *et al.* (2011:91), involves using easily accessible data sources and the closest as well as most willing individuals to participate. As such, all participants were selected by convenience sampling. It is worth reiterating that my intention was not to generalise the study findings to the wider population (all schools); rather, I found the sampling method appropriate for this study.

3.7 DATA COLLECTION METHODS

Interviews were the primary means of gathering data that were employed. An interview is a guided and meaningful dialogue between the participant and the researcher which focuses on exploring the thoughts and viewpoints of the participant (Nieuwenhuis, 2016:93). Notably, to see the world from the participant's perspective is the aim of qualitative interviews. Furthermore, Alshenqeeiti (2014:41) posits that interviews are flexible in nature and as such, allow the researcher to gather as much information as possible about the phenomenon being studied. The interviews will offer participants an opportunity, in this case, school disciplinary committee members to share their

perceptions and understanding towards the implementation of legal principles in learner disciplinary processes, thus offering rich data.

3.7.1 Semi-structured interviews

I gathered data through interviews which were semi-structured and allowed follow-up questions to generate detailed data (Yin, 2016:31). An individual interview that is semi-structured is one in which the participant and the researcher speak with each other. Bell *et al.* (2017:96) point out that the concerned method affords the interviewer an opportunity to structure the interview and present the questions in an orderly manner. Considering the research questions, the researcher decided to formulate open-ended questions to give the participants room to add more information that they regard as important in the implementation of legal principles in learner disciplinary processes in secondary schools.

It is significant to indicate that although the researcher used predetermined interview questions as a guide, the questions were not necessarily asked in the sequence they appear. In an instance where the participant answered a question yet to be asked, the researcher proceeded without posing the question again. Also, if a participant did not answer the question to a satisfactory level, the researcher rephrased the question. And this assisted in creating a free and safe environment for participants as it was one-one-one interviews (Nieuwenhuis, 2010:55). All interviews were recorded upon permission being granted by the participants. This assisted in keeping records of the information provided and easy accessibility whenever necessary to safeguard that the data was recorded correctly and reduce possible misrepresentation.

Academic literature emphasises that in an unstructured interview, the participant somewhat dictates the direction of the conversation, making it difficult for the researcher to keep the focus of the discussion on the subject (David & Sutton, 2011:51). This restriction was overcome, though, because the researcher had prepared a guide for the interviewee and closely monitored the conversations. Since the semi-structured individual interviews were the primary method of data acquisition in the study, the researcher conducted these interviews with each of the twelve (12) participants across the different research sites. All of the interviews took place in English, and most of them lasted between forty and sixty minutes, while two of these

exceeded that time. Importantly, almost all of the questions presented were answered by these participants in very long yet pertinent responses.

Interviews were conducted at different periods of the day, depending on the availability and convenience of each participant. If interviews were planned to happen during school hours, the researcher made sure they happened during the participants' free periods, or when a participant had at least an hour break, or during an open period before or after breaks; in that scenario, the participant might have decided that we should also use their break period. This was done with the intention to protect teaching and learning time.

3.7.2 Document analysis

Document analysis was the second method of data collection process. Data was generated from the administrative and policy documents that were used in the selected schools to monitor the behaviour of the learners. McMillan and Schumacher (2001:42) describe document analysis as a strategy of collecting data from record of past events that are written, such as minutes and letters. Therefore, document analysis in education research includes the inspection of documents like code of conduct, policy statements, and school databases with the goal of gathering data on a certain topic. Documents like the learner's code of conduct, disciplinary hearing notices, and hearing minutes were examined for the purpose of this investigation. These are the documents that the selected schools used on the implementation of legal principles in learner disciplinary processes. Relevant court cases were also be analysed.

Field notes were taken during the data generation process, which permitted the researcher to later reflect on the notes taken during the analyses process. As a result, the researcher was able to identify any data gaps that might have been filled in during follow-up interviews and had the chance to elucidate participants' responses (Moree, 2016:68). The researcher was able to take note of non-verbal communications (Creswell & Miller, 2000:125). The field notes were employed to supplement the information obtained from interviews.

3.7.3 Observations

Another technique used to gather data was observations. Yin (2016:84) notes that this data-generation technique is instrumental since it offers the researcher raw data. The researcher observed three disciplinary meetings, one at each site, as per the invitation and approval of the principal to be a non-member whose role was merely to observe the processes. This method has the benefit of allowing the researcher to observe directly and sense the desired objective with their own eyes (David, 2017:114). This is first-hand data that is not even reported by a participant in most instances. For example, the illiteracy levels that affect how parents perceive and understand the entire processes during such a meeting, relying only on the school to arrive at a decision deemed 'appropriate'. This further increased the findings' credibility because these kinds of situations are immune to the researcher's influence.

On the other hand, Newby (2010:81) draws attention to some of the shortcomings of this method, beginning with the claim that the observation could be affected by the non-member's simple presence. Although Babbie and Mouton (2010:57) contend that such an impact wears off within a reasonable time, the opposite effect is possible, where the activity may influence the researcher's observational style. According to Yin (2016:87), this can be resolved by making several observations on various days and times. However, as disciplinary hearings are not frequently held in schools, the researcher was unable to employ this mitigating technique, also taking into account the time available for the entire data collection period. Since some misconducts are addressed outside of a formal disciplinary meeting.

3.8 DATA ANALYSIS

Data analysis is about presenting the research findings in a manner that is logical and makes sense which includes, *inter alia*, the merging, decreasing and explanation of the participants' responses, as well as what the researcher has observed throughout the process of data collection (Sharan, 2009:175). The data in this study were presented by the researcher using the thematic analysis method. Castleberry and Nolen (2018:808) state that the purpose of thematic analysis is to learn patterns of communication that have useful relevance for the intended research which includes learning the patterns within the gathered data. Furthermore, Braun and Clarke

(2017:3) highlight that thematic analysis is a technique used to find, examine, and comprehend patterns of themes in qualitative data. Thematic analysis provides an interpretation of the participants' perceptions and reality of situations. However, recognising that there is no one correct way to analyse data is equally important. As such, fit for the purpose of the study should serve as a guide for researchers. Given that thematic analysis is a versatile approach, it was appropriate for this research study, in the sense that not only can it be used to identify patterns within but also across data in relation to participants' views and understandings of legal principles focused on learner disciplinary processes.

Therefore, this method effectively allowed for the organisation and interpretation that creates a narrative comprehension of the similarities and variations in the accounts of the participant' actual experiences (Crowe *et al.*, 2015:618). Nonetheless, with the research question and objectives in mind, without making any notes, the researcher listened to every audio interview through to the end as a way of acclimatising themselves with the data. Secondly, the researcher then transcribed all audio data. Thereafter, the transcripts were read numerous times whilst checking reflective notes that would have been taken during the interview process. Lastly, the researcher proceeded to identify relevant segments of information and arrange those into themes and sub-themes while reflecting on the research question and objectives. The researcher continually modified the interpretation, to provide comprehensive findings of the implementation of legal principles in learner disciplinary processes in secondary schools.

After grouping each participant's responses, data fragments that were relevant to the questions of the interview were identified. The key to each response was identified since participants frequently gave lengthy responses, with a significant portion of the material being pertinent to the study. And a code was allocated to each fragment of suitable data. Likewise, data coding, which involves assigning a word or phrase to a particular data segment, is a crucial and helpful strategy in the process of turning raw qualitative data into useable sections to address the main research topic. Linneberg and Korsgaard (2019:123) post that the researcher can pinpoint questions that were not adequately addressed and set up a sequel interview by using the method of coding to verify that participants responded to the questions posed. Lastly, themes and sub-

themes were established upon completing the coding stage. And in this study, the data from several individuals in this study was triangulated while discussing the research findings.

During the first semi-structured interview, the researcher began the data analysis while attempting to understand the participant's responses. The researcher observed several viewpoints in the second interview that were either the same as or different from the prior participants, so the researcher continued to probe for a deeper comprehension of the responses. This continued throughout the entire process of collecting the data. It is also vital to indicate that as soon as the researcher finished the first interview, the researcher started transcribing the data to save time and to capture the participants' views verbatim (Crowe *et al.*, 2015:73). The researcher took each participant's replies to a question and placed it below the question across all the research sites.

With the research questions in mind, the researcher identified relevant portions of information from the transcripts, arranging these into segments. Several labels were applied to the segments based on the meanings they conveyed. As a result, the information was categorised by linking pertinent information to a code or codes. Additionally, the initial codes were created by reading the data, and to make coding easier, codes with comparable meanings were assigned the same colour. After that, codes with comparable meanings were grouped together (Gale *et al.*, 2013:124). Ultimately, the researcher combined sets of linked codes to create categories, which were then arranged into main themes and supporting themes. Notably, themes emerged from the literature and were connected to the study problems that needed to be addressed. As a result, the study's themes and sub-themes corresponded to its questions and sub-questions.

The participants' actual experiences with applying legal principles in learner disciplinary processes were displayed by these themes and sub-themes. A deductive and inductive analysis of the data was performed. In other words, certain variables were present from the moment the study problem was formulated (deductive approach), whereas other variables surfaced during the process of compiling the data needed to write the final research report (inductive approach). Finally, as the researcher progressed with the data analysis, the researcher continuously improved

the interpretations to obtain a better comprehension of how legal principles are applied in learner disciplinary processes.

3.9 THE ROLE OF THE RESEARCHER

It was the researcher's duty to present results that were true, accurate, and representative of the area of study. To ensure transparency, findings underwent extensive validation and verification. Importantly, the researcher used follow-up questions to confirm that the data accurately reflected the participants' opinions and viewpoints regarding the implementation of legal principles in learner disciplinary procedures. In pursuit of maintaining a formal partition separating the researcher's personal opinions from those of the participants, the researcher did not have nor develop any personal relationships with the participants, thus it was easier to maintain a professional barrier throughout the data collection stage. Also, the researcher does not work at any of the schools that were selected as research sites, hence there was no prior association with the participants.

3.10 ETHICAL ISSUES

Most educational institutions consider it unethical for researchers to collect data from human participants without receiving prior ethical approval (Fleming & Zegwaard, 2018:210). In this light, Abed (2015:77) indicates that ethical considerations are not only vital at the start of a research project, but throughout the entire process. Accordingly, before beginning the real fieldwork, the researcher requested and received the necessary approvals, and all ethical issues were upheld throughout the entire project. Bodies from whom permission was sought include the Ethical Committee, Faculty of Education in the University of Pretoria, North West PED, Ngaka Modiri Molema Education District, participating schools, SGBs as well as educators in participating schools.

Prior to contacting and accessing participants in schools, the researcher drafted a letter to request permission from the school principal to gain admission to the school premises. The said letter explained the purpose of the research while other specific details were explained to the participants themselves. Furthermore, the researcher requested all participants to read and sign consent forms before the study commenced. These consent forms explained the purpose of the concerned research

project and intended data collection methods. Additionally, the researcher informed participants about the procedures that were to be followed prior to the interview process. The researcher assured the participants that they had a choice to agree or decline to give consent to be involved in the study. A further assurance was that even when the study was ongoing, they could still opt not to continue participating in the study. The researcher also clarified to the members participating in the study that all the information received during the data collection would not be made publicly available but handled confidentially and the identity of the participants would also be anonymous (King & Horrocks, 2010:117). Anonymity in this study referred to hiding the identity of the participants by using code names in recording and reporting the research findings.

3.11 TRUSTWORTHINESS OF THE STUDY

The concept of trustworthiness focuses on assessing the degree of confidence in the study's findings and the validity of the researcher's reported findings (O'Donoghue, 2018:149). Korstjens and Moser (2018:131) state that for a researcher following a qualitative approach, trustworthiness can be attained through guaranteeing confirmability, dependability, credibility, and transferability. Thus, trustworthiness may be understood to mean the precision and consistency of the research findings. Accordingly, the trustworthiness of the findings in this study was ensured by maintaining rigor in all phases of the research process. This was done with the aim of ensuring the trustworthiness of the research findings.

3.11.1 Credibility

According to Anney (2014:275), credibility refers to the integrity of a research project. This entails actions that increase the research's authenticity in reflecting the conclusions drawn from the data collected (Wagner *et al.*, 2012:93). The researcher in this study guaranteed the truthfulness and credibility of the research by conducting member checking, providing the participants with interview records to affirm the accuracy of the generated data and add more information where there were gaps. Anney (2014:273) points out that member-checking is conducted by the researcher to reduce bias tendencies that could occur during the course of interpreting and analysing the findings. Lastly, the researcher also referred to the field notes when

reporting the research findings as one of the ways of enhancing credibility. Likewise, a comprehensive literature review and data collection plan were clearly stipulated to strengthen the credibility of this research and reliable, as well as recent sources, which were used as part of references. Additionally, a continuous consultation process was engaged with the researcher's supervisor to ensure that proper guidance was provided.

For verification purposes, as indicated above, the researcher provided certain participants with the raw data and others with the findings. A small number of participants made word choice modifications to the raw data. All participants who took part in verifying the findings expressed satisfaction with the report. Additionally, as the data-collection phase advanced, the researcher participated in member checking by having discussions about the data interpretation throughout my multiple visits.

3.11.2 Transferability

Wagner *et al.* (2012:97) describe transferability as the basis on which similarity judgments are made: how well findings apply to broader contexts and are deemed significant. The researcher followed the guidelines for using comprehensive interview data and the study's setting for the purpose of making the research findings transferable. Accordingly, Anney (2014:277) posits that a thick description is necessary and should be provided and used in the final report to enable the reader to generalise the findings of the study to similar contexts. To ensure reliability, the researcher used transferability as a criterion by providing adequate information on the research site, the data collection process, and analysis processes.

3.11.3 Dependability

In this study, the dependability of the research findings was guaranteed. Wagner *et al.* (2012:92) define dependability as the consistency of evidence, achieved by verifying the accuracy of information translation from multiple data sources (triangulation) and allowing for the reconstruction of the procedures and events that led to the conclusions of the research project. Notably, this research project has adequately described the data collection procedures and the philosophical rationale underpinning the project. All data sources underwent triangulation. The entire study process is documented and available for access at any time. This documentation includes data analytic

techniques, ethical approvals, and audio recordings of interviews that have been transcribed. Participants were provided with a copy of their transcribed interview, along with the research study's findings and discussions.

To accommodate new and valuable data that may be discovered throughout the course of the study and to reinforce it, the researcher was also made aware of the option of combining different methods of data gathering. This is why the study included document analyses and interviews.

3.11.4 Confirmability

Confirmability is one of the many strategies employed in qualitative research projects to ascertain the trustworthiness of the study. Wagner *et al.* (2012:92) agree that confirmability in a study shows that the data and conclusions are chronologically connected to events in the research project, as opposed to simply being the researcher's construction. From the first contact with the schools to the end of the study, the researcher visited each research site multiple times, conducting extensive fieldwork and intense interaction with participants. In addition, the participants and the researcher established an acquaintance and a relationship of trust that enabled the participants to share authentic opinions about their actual realities concerning the management of learner discipline with the application of legal principles.

To truly comprehend the viewpoints authentically, follow-up questions were posed to participants about the implementation of legal principles in learner disciplinary processes. Additionally, triangulation was employed. According to Maree (2016:87), triangulation is the process of gathering information about a single event from multiple sources and comparing the gathered information. In the context of this study, interviews were conducted with various educators and SGB members to find similarities and distinctive experiences regarding their implementation of legal principles in learner disciplinary procedures.

3.12 SUMMARY OF THE CHAPTER

In this chapter, the researcher discussed the research approach, design, and methodology. Additionally, ethical considerations throughout the study were thoroughly addressed. The approaches used to ensure the study's credibility were

described, along with the ethical principles applied. The next chapter present detailed research findings on the implementation of legal principles in learner disciplinary processes in secondary schools. Direct quotations from the interview with the participants are used to confirm the research findings.

4 CHAPTER 4: RESEARCH FINDINGS AND DISCUSSION

4.1 INTRODUCTION

The methodology of this study was discussed in the preceding chapter. The researcher adopted a qualitative research methodology which facilitated the exploration of participants' experiences through open-ended questioning. Additionally, the researcher used follow-up questions for clarity and in-depth understanding of the data presented. The interviews were digitally recorded. This chapter presents the findings of the research project based on the data generated through one-on-one interviews and document analysis. The data were coded and categorised, resulting in the development of sub-themes and themes. Importantly, the sub-themes derived from the interview questions, which corresponded to the research questions presented as themes. The findings obtained from the study are supported by exact quotes from the responses given by the participants.

The findings reported in this chapter are linked to the following research questions:

How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?

How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?

What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes?

How are the identified problems resolved?

Lastly, the following section contains the participants' biographical information.

4.2 BIOGRAPHICAL INFORMATION OF THE PARTICIPANTS

A description of the symbols in the table is presented below.

Key: Schools: A, B, C; **Principals/Deputy Principals:** P/DP; **SGB Chairperson/Deputy Chairperson:** SGB C/SGB DC; **SGB Parent Component:** SGB PC; **Teachers:** T (Example: PC is a principal of school C: DPA is a deputy principal of school A; SGB DCB is an SGB deputy chairperson of school B).

Table 3: Biographical data of the participants

Participants		Gender	Number of years in the position
School	Key		
A	DPA	Male	14
	SGB DCA	Female	9
	SGB PCA	Male	6
	TA	Female	15
B	DPB	Male	11
	SGB CB	Male	6
	SGB PCB	Female	12
	TB	Female	13
C	PC	Female	17
	SGB C	Male	6
	SGB PC	Female	9
	TC	Male	21

It appears that there is an equal representation of both males and females in this study, with more than half of the participants having ten (10) or more years of experience in the position held.

4.3 RESEARCH QUESTIONS

The intention of this research study was to explore the implementation of legal principles in learner disciplinary processes in secondary schools. The research questions and interview questions on this topic are shown in the table below:

Table 4: Research questions/interview schedule

Research Question(s)	Descriptions
Biographical questions	<p>How many years do you have in the school?</p> <p>How long have you been a member of the disciplinary committee?</p> <p>What role do you play?</p>
Q1: How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?	<p>What do you understand by the concept legal principles in a disciplinary process?</p> <p>In your view, what are the key legal principles that govern the disciplinary processes?</p> <p>What are the principles that you follow in the school?</p>
Q2: How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?	<p>How do you apply the following legal principles in a disciplinary process?</p> <p>Just administrative action</p> <p><i>Audi alteram partem</i></p> <p><i>Nemo iudex in propria causa</i></p> <p>Procedural fairness</p> <p>Substantive fairness</p> <p>Do you make learners aware of these principles?</p>

Q3: What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes?	In your view, to what extent is the disciplinary process fair and transparent?
Q 4: How are the identified problems resolved?	What measures do you have in place to address problems experienced with compliance with the legal principles?

4.4 RESEARCH QUESTIONS, THEMES AND SUB-THEMES

The findings of this inquiry are reflected in numerous themes and sub-themes. The research questions, along with the themes and sub-themes that emerged from the participants' responses, are presented in the table below:

Table 5: Research questions, themes and sub-themes

Research Questions	Themes and Sub-themes
Question 1: How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?	Theme 1: Conceptualising the legal principles in learner disciplinary process Sub-theme 1: <i>Understanding of the concept legal principles in a disciplinary process.</i> Sub-theme 2: <i>The key legal principles that govern the disciplinary processes.</i> Sub-theme 3: <i>The principles followed in the school during learner disciplinary process.</i>
Question 2: How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?	Theme 2: Application of legal principles during the learner disciplinary processes Sub-theme 1: <i>Procedures followed in a disciplinary hearing.</i>

	<p>Sub-theme 2: <i>Management of different views from all parties involved in a disciplinary matter and the fairness as well as transparency of procedures followed.</i></p> <p>Sub-theme 3: <i>Ensuring impartiality in the disciplinary processes.</i></p> <p>Sub-theme 4: <i>The equivalence of sanctions imposed to the wrong act committed.</i></p> <p>Sub-theme 5: <i>Learners' awareness of the legal principles in the learner disciplinary processes.</i></p>
<p>Question 3:</p> <p>What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes?</p>	<p>Theme 3: Challenges in implementing legal principles in disciplinary processes</p> <p>Sub-theme 1: <i>Lack of clarity on legal principles especially on the interpretation of the principles.</i></p> <p>Sub-theme 2: <i>Inconsistencies in the application of these legal principles.</i></p> <p>Sub-theme 3: <i>Limited training and expertise on the part of those who are expected to apply the legal principles.</i></p> <p>Sub-theme 4: <i>Consistent adherence to the code of conduct.</i></p> <p>Sub-theme 5: <i>Nature of learner discipline in secondary school.</i></p>
<p>Question 4:</p> <p>How are the identified problems resolved?</p>	<p>Theme 4: Strategies for Problem Resolution</p> <p>Sub-theme 1: <i>Participation of parents in the review of school policies.</i></p>

	<p>Sub-theme 2: <i>Capacity building and training for the committee members, in particular.</i></p> <p>Sub-theme 3: <i>Intervention by departmental officials.</i></p> <p>Sub-theme 4: <i>School's approaches to problems experienced in disciplinary procedures.</i></p>
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4.5 RESEARCH FINDINGS

The intention of this research study was to examine the implementation of legal principles in learner disciplinary processes in secondary schools. Data were generated through the contributions of twelve (12) participants across three (3) schools at various quintile levels and contexts of legal principles. While exploring schools' perceptions of legal principles in learner disciplinary processes and their application, the inquiry also investigated problems experienced with compliance and how these problems were resolved. Based on participants' responses, the researcher classified them into sub-themes, which were then combined into themes that addressed the research questions. These themes and sub-themes are discussed in the following section and are related to the study and the extant literature. Additionally, quotations from participants' responses are shared, as mentioned earlier.

4.5.1 Theme 1: Conceptualisation of the legal principles in learner disciplinary processes

This theme focuses on the research question - How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes? This study found that schools have different perceptions of legal principles in learner disciplinary processes. Therefore, the findings elaborate on the schools' perception and implementation of the legal principles in learner disciplinary processes. The findings are presented starting with what schools shared regarding their comprehension of the legal principles in learner disciplinary processes, as well as the data from document analysis.

4.5.1.1 *Sub-theme 1: Understanding of the concept legal principles in disciplinary processes.*

The first sub-theme presents the responses of the participants to the interview question - What do you understand by the concept legal principles in a disciplinary process? There was evidence in all three (3) schools that the research participants had a different understanding of the concept of legal principles in learner disciplinary processes. The participants said the following when they were asked to explain what legal principles meant:

...or maybe the rules that must be taken into account when disciplining learners (DP B).

So, I would say they are the regulations from the department that are meant to guide schools in dealing with learner discipline (T C).

I think they are like the laws or maybe rights of learners that must be remembered or respected maybe when you are disciplining learners (SGB PC A).

It seems from the above quotations that schools do have some understanding of what the concept of legal principles in a disciplinary process encompasses. The schools perceive the concept of legal principles to include rules and procedures that must be followed in managing learner discipline. Additionally, the participants appear to associate the concept of legal principles with the learners' rights that ought to be protected. The participants in this study recognize that legal principles are binding on schools in their attempt to manage discipline among learners, and that the execution of disciplinary procedures must be conducted in accordance with the law. One participant said:

So legal principles would be what legally binds the school and the SGB to act on the misdemeanour as empowered by the Schools Act (SGB DC A).

Nonetheless, it is important to keep in mind that although participants seemed to understand the concept of legal principles in learner disciplinary processes with reference to the Schools Act, the challenge that the researcher discovered is that not every condition of learner indiscipline behaviour is portrayed in the code of conduct;

instead, it is up to the preference of every school in determining disciplinary decisions. This suggests that schools are relying solely on the relevant Acts and Policies, potentially neglecting the formulation of internally contextualized codes of conduct for learner discipline. One participant said:

My understanding of the concept is that we should just follow the regulations from our government, and we really do not have to stress ourselves with developing any policy further because we almost have policies for everything, I mean trust me in my years as a principal, I have seen that if we can just use the government policies then we are fine (P C).

The above response confirms the notion that most schools do not see the importance of developing disciplinary policy documents for learners that comprise provisions related to legal principles in learner disciplinary processes. This compromises Section 8(5) of the Schools Act, which stipulates that “A code of conduct must contain provisions for due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.” Importantly, the absence of integration between legal principles guiding learner disciplinary procedures and the school’s code of conduct results in a lack of provisions for these principles within learner codes of conduct. Consequently, this deficiency jeopardises the integrity of the entire disciplinary process.

Furthermore, it is apparent that schools primarily understand the concept with reference to the Schools Act and the Constitution, as these are the two dominant pieces of legislation mentioned in the participants’ responses regarding their understanding of the concept of legal principles in learner disciplinary procedures. It is worth noting that in sharing their understanding of the concept of legal principles, participants did not mention any specific legal principles in learner disciplinary processes. Only one participant said:

So, they could talk to certain common law principles for example when we are having any disciplinary matter, it is important that we do not only look at one side of the case, but we need to have an understanding of both sides of the case (P C).

The quotation from principal C suggests that the participant possesses an understanding of the origin of legal principles, thereby indicating an understanding that in every disciplinary decision-making process, the accused learner(s) must be given a fair chance to present their own side of the story prior to a verdict being reached, thus embodying the principle of *audi alteram partem*. However, it is noteworthy to emphasise that during discussions on legal principles, certain participants failed to enumerate any specific principles or elucidate their application within a school context. One participant said:

I'm not sure if I'm correct but legal principles are principles that have to do with measures in place to assist the principal and his team to manage discipline of learners (SGB PC C).

The above quotation suggests that the participant may not have the theoretical knowledge of the principles and may struggle to know how to apply them during disciplinary processes. The participants provided several meanings of the concept of legal principles in a disciplinary practise according to their indulgent. However, a significant number of the participants did not mention the specific principles nor explain their application in their scenarios for managing discipline to show that they have both theoretical and practical understanding of the principles.

4.5.1.2 Sub-theme 2: The key legal principles that govern the disciplinary processes

The second interview question was - In your view, what are the key legal principles that govern the disciplinary processes? The research findings in this sub-theme show that schools are not certain of the specific and/or key legal principles that govern learner disciplinary processes. In fact, participants mentioned the steps they follow when dealing with learner discipline without indicating the principles that inform such steps to demonstrate their understanding of the key principles involved. Participants said:

...not administering corporal punishment and also not insulting our children... And another one is also that learners have the right to education and maybe the last one is that they should all be treated equal as learners and maybe not be discriminated by nobody (SGB PC B).

Say that we are involving parents when we deal with serious situations... the child must be suspended depending on the situation if the SGB feels that the situation is very serious then we can also ask the SGB to ask the department for us to recommend expulsion (DP A).

There is a verbal warning that needs to be given. There is a written warning. There is a suspension that needs to happen before ultimately getting to expulsion, which rarely happens in state schools (SGB DC A).

Such responses suggest that the schools may not be aware of the key legal principles that govern the disciplinary processes. The participants only highlight that such legal principles should be contained in the school's code of conduct. One participant said:

And we must develop the code of conduct for our learners that has the legal principles (SGB C C).

While the participant mentioned that legal principles should be included in the learners' code of conduct, there was no clarity on the specific principles to be included. This suggests that the participants may not know these principles. It appears that the awareness as well as the implementation of the legal principles in learners' disciplinary processes are lacking in the context of this study. The participants possessed a vague and shallow understanding of the principles. One participant said:

As a register teacher I am the first line of defence when dealing with learner discipline so and if I fail to handle the learner, I then refer the matter to the grade head and those are the principles that should govern the processes that we follow certain routes when solving an issue meaning we must have structures in place to handle discipline (T A).

This finding confirms the notion that the participants were mentioning the steps they follow in school and not the key principles that govern learner disciplinary processes. This lack of clarity and familiarity among policy implementers is likely to undermine the integrity of the disciplinary processes. Other participants seemed to believe that the key legal principles are mainly about enforcing discipline at all costs and not taking into account the laws that may govern the steps to be followed. One participant reported that:

It's everything we do to ensure that discipline is maintained by hook or crook... as long as learners know how to behave, the laws matter not because we are not lawyers at the end of the day but teachers... (T C).

This quotation suggests that schools are applying a militaristic approach in their management of learner discipline and are careless about the steps that should be taken to ensure that learners are treated fairly even if they are on the wrong side of the law.

4.5.1.3 Sub-theme 3: The principles followed in the school during learner disciplinary processes

The third sub-theme under theme on focuses on the findings related to the interview question - What are the principles that you follow in the school? This sub-theme pertains to the adherence to principles followed during learner disciplinary processes. The findings seem to indicate that parents are less concerned with their children's behaviour and discipline at school as they should be, and that the participating schools' attempts to include guardians in the disciplinary proceedings are not well received. One participant said:

We involve parents especially when we are dealing with serious misconducts of violence or fighting among learners coming from communities... it's a pity they don't always come and that is one of the problems we have (SGB C B).

The above response insinuates that parents are not keenly involved in the schools' disciplinary processes, and this appears to be a challenge schools are facing in having all parties involved in the learner disciplinary processes. Furthermore, this may cause one to argue that since parents are not actively involved in learner disciplinary processes, despite attempts by schools to involve them, the development of codes of conduct for learners may not be reflective of the parents' views. Consequently, parents may consistently struggle to understand the expectations schools have for their children and the procedures to be followed in cases where a learner is suspected of any wrongdoing. The participant only refers to the involvement of the parents in the learner disciplinary processes as a principle, and this may indicate that they do not have concrete knowledge of the principles that govern the learner disciplinary processes. Lastly, with reference to the response above, there seems to be the

suggestion that parental involvement in a disciplinary process is reserved for certain cases that are regarded as severe and is not part of the code of conduct or the designed disciplinary processes.

In the document analysis process, the findings reveal that the schools only have classroom rules that are referred to as the code of conduct, which is not inclusive of the legal principles in learner disciplinary processes. Some participants said:

Our principles really are taken from the Schools Act as you would know, and we then have rules we have developed that we use to enforce discipline among learners (SGB PC C).

Since my arrival in this school, I have not seen a code of conduct with my own naked eyes but I always hear my colleagues refer to it so I think we just use our own knowledge in enforcing discipline (T B).

It is safe to assume, based on the above findings, that the schools do not take into account the legal principles in learner disciplinary processes when dealing with learner indiscipline. This oversight is probably due to factors such as lack of training offered to schools by the DBE/PED on the implementation of the concerned principles in learner disciplinary processes. One participant said:

Well, it is very difficult to tell you which principles we follow in the school because we really are not informed of the legal requirements when dealing with learner discipline. Like speaking for myself, I don't even know that there are principles that need to be followed and which ones are those because the department never really inducts us on these things (T C).

This underscores the necessity for professional development initiatives focusing on legal principles, as well as ongoing monitoring of their application within disciplinary processes. Additionally, it highlights the importance of providing support to schools by departmental officials to guarantee effective implementation of these principles. The schools' policies on learner discipline also need to be reviewed constantly. One participant said:

We are using the old rules that were used when I was still a learner some years back in here. And they are always challenged by some parents, but we haven't

reviewed them and that is part of the reasons why our school is so troubled with unruly learners (SGB C C).

From this response, one may assume that either the participant did not comprehend the question or does not know the principles that are followed in the school when dealing with learner discipline. This further suggests that the participant may not have any policy in school that explicitly provides provisions for the principles pertaining to learner discipline and possibly does not have a source they use as a guide when disciplining learners, besides the rules they think are outdated and need to be reviewed. Some participants said:

...also we make sure that each and every learner is protected especially against gangsters on the streets... (SGB PC B).

We follow the constitution as a guiding principle and ensure that our learners, their rights are protected and also ensure that they know that they have committed a misconduct (T A).

These responses affirm the proposition that there is a lack of clarity regarding what legal principles entail as well as the mechanisms that should be in place to ensure that the principles are followed. It seems that instead of mentioning the principles followed in the school, participants would rather mention the steps they follow in handling the reported matter that have less to do with the interpretation or application of legal principles in learner disciplinary processes. Some of the participants would bluntly mention that they follow the Schools Act without a clear indication of what processes they exactly do they follow. For instance, the participant said:

...basically, we follow the constitution as the rule of law... (SGB PC C).

The response provided does not sufficiently delineate the process by which schools adhere to constitutional guidelines, nor does it outline how they ensure alignment of their code of conduct with constitutional precepts. Moreover, it should be noted that during document analysis at one school, no written code of conduct or learner discipline policy was found. This absence suggests that disciplinary actions are subject to individual discretion, potentially resulting in inconsistent enforcement and non-uniform disciplinary measures due to the absence of a guiding code of conduct as well as a learner discipline policy.

In discussing the findings of this theme, I would like to restate that the focus of this theme was to explore how the participants of this study perceive the legal principles in learner disciplinary processes. This study divulges that schools still lack sufficient understanding of the concept legal principles in learner disciplinary processes and as such, compromises their application. This finding is consistent with Moemedi (2018:35), who highlighted that problems with learner indiscipline are exacerbated by the fact that schools still struggle with interpretation and implementation of policies governing learner disciplinary processes. Therefore, one may still maintain that the DBE must contemplate reinforcing training on the application of legal principles in learner disciplinary processes and mechanisms to monitor and support their implementation.

Furthermore, Emekako (2017:8) reported that the DBE has made some efforts to use legislation in administering the management of discipline in South African schools. Despite this being the case, the findings of this study have shown that there are still many problematic issues regarding managing learner discipline in following the legal provisions. In addition, schools reported that the legislation on learner discipline is long and tedious. This may be one reason why schools avoid implementing the regulations. It appears that even though school stakeholders are conscious of the guidelines relating to the administration of learner discipline, they do not have clarity on the specific legal principles that govern the said disciplinary processes and as such are not capable of acting in line with the stipulations of the legal frameworks on learner disciplinary processes.

This supports the assertion that schools have scant theoretical knowledge of the principles in learner disciplinary processes (Herman, 2015:165). As De Wet (2020:101) emphasised, schools must know and understand the law to ensure that it is applied correctly. Therefore, when participants do not demonstrate knowledge of the key principles in learner disciplinary processes, this may result in compromising legality in the management of learner discipline, which may lead to learners being unfairly punished, and in some instances, their rights being compromised. Interestingly, this study has revealed some unfair practices and discrepancies in the administration of learner discipline, and some of the reported discrepancies arise because there are no codes of conduct for learners that have been drafted and

adopted by the governing bodies in consultation with all other parties concerned, as required by the Schools Act.

Moreover, it appears that participants do not necessarily follow the principles that govern disciplinary processes in the schools when disciplining learners, and this may be due to a lack of knowledge of such principles as shown above. This is said because in most instances, when participants were asked about the principles they follow in the schools, they were indicating the steps rather than the disciplinary principles that inform such steps. In contrast to the findings by Mongale (2021:71), which contend that school management effectively enforces discipline among learners through collective action and unified reference sources guiding disciplinary management, this study revealed a different reality. It discloses that members of disciplinary committees do not function collectively in managing learner discipline, resulting in inconsistent application of principles. This inconsistency is evident in the divergent responses observed within the same school setting, where individuals rely on personal discretion rather than established principles to address learner misconduct, thus compromising fairness and consistency.

The following crucial ideas of fair and democratic learner disciplinary procedures are reiterated throughout the literature. First, the learner who is accused has the right to a fair hearing, to call witnesses, to have a representative, and an opportunity to be heard, among others (Narain, 2015:34). These are some of the influences that must be taken into cognizance when dealing with learner discipline, and there must be systems in place to guarantee such fairness in the administration of learner discipline. Nonetheless, the present study has shown that learners are, in most instances, subjected to disciplinary measures without having been given an opportunity to state their case. In my perspective, this factor contributes to disparities between imposed sanctions and the committed misconduct, as some schools lack clearly established procedures to govern disciplinary processes, thus ending up contravening the requirements of the Schools Act.

Further, in the data analysis stage, one of the recurring findings was that schools still demonstrate a lack of knowledge of regulations regarding learner disciplinary processes. This is consistent with a finding from a study conducted by Du Plessis (2019:104), which suggests that schools lack the necessary skills to develop learner

discipline policies in consultations with relevant stakeholders and applicable legislation. Consequently, this situation serves to frustrate teachers in their endeavour to effectively manage learner discipline in a democratic dispensation. Nonetheless, the documents that were reviewed in this study show the absence of collaboration among the stakeholders in managing learner behaviour. Mongale (2021:73) asserts that schools ought to foster a collaborative culture regarding learner discipline. Hence, it can be inferred that effective management of learner discipline necessitates a collective endeavour involving all relevant stakeholders.

Studies show that when there are appropriate measures to ensure learner behaviour such as an effective code of conduct and the use of a discipline policy, managing learner discipline is bound to be successful (Dlamini, 2015:84 & Mongale, 2021:73). In this study, it was revealed that schools do not have well-drafted codes of conduct or even discipline policies as required by the law. In fact, participants seemed to refer mostly to the Schools Act without citing their own discipline policies that are internally developed with the intention to guide the disciplinary processes. Section 8(1) of the Schools Act states that the SGB is afforded the authority to adopt the school code of conduct and share it with other stakeholders. The code of conduct must be made visible in the school premises and learners are encouraged to abide by it. Contrary to the above explanation, this study has found that the majority of the SGB members are not properly trained and possess no specialized knowledge on how to draft codes of conduct and implement them in a manner required by the law. As a result, this leads to schools not having structures in place to ensure the implementation of legal principles in learner disciplinary processes.

Lastly, from the analysis of documents collected from the participating schools, there were schools in which there was no code of conduct or evidence that the drafting of the code of conduct was underway. In fact, in one school, there was no code of conduct or discipline policy formally drafted and known by stakeholders in the school. It seems participants were solely relying on their knowledge of the Schools Act and a general understanding of the law to enforce and manage learner discipline. Mestry and Khumalo (2012:84) argue that the task of drafting school policies must be initiated by the principal. The implementation and the accountability for the use and effect of the policies are the duties of the principals and the SMTs. Such a policy must contain

legal principles that relate to the management of disciplinary processes in schools and needs to be evidently understood by all the parties involved in learner discipline to ensure that learners are disciplined in accordance with the legal framework on learner discipline in South Africa.

4.5.2 Theme 2: Application of the legal principles during the learner disciplinary processes

Theme two presents the findings of the research question: ‘How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?’ The findings of this theme have revealed that the application of legal principles during the learner disciplinary process is often compromised in schools due to a number of factors, including, but not limited to, the lack of understanding of these principles by the disciplinary committee members. The sub-themes present the process of following fair procedures in a disciplinary hearing, the manner in which the disciplinary committees manage different views from all parties involved, the methods used to guarantee procedural fairness and transparency, and the measures implemented by the disciplinary structure to ensure that sanctions are commensurate with the transgressions committed, and lastly, the learners’ awareness of the legal principles in the learner disciplinary process.

4.5.2.1 *Sub-theme 1: Procedures followed in a disciplinary hearing*

This theme strives to answer the interview question - How do you apply the following legal principles in a disciplinary process? The responses from the participants provided evidence that the process of following fair procedures is not clearly outlined in the code of conduct for learners or even the disciplinary policy document in schools. As such, there was no uniformity in the process followed when a learner has been alleged to have committed a misconduct until the disciplinary decision is taken. Some of the participants said the following when they were asked about the process of following fair procedures in a disciplinary hearing:

...well, it will depend on the severity of the matter but one is to hear the learner’s side of the story and if you deem it fit not to call the parents or any other colleague for assistance then you can just discipline the child or

sometimes we call the parent especially if you see as a teacher that the child is not cooperating... (DP A).

...for starters, I would normally invite one or two teachers, even if they are not in the disciplinary committee to question the learner on the misconduct committed... obviously if the misconduct is more serious we just suspend the learner right away and sometimes we'd have a meeting with their parents when they come back from suspension... so I think it depends on you as teacher on how you want to discipline the child (T C).

...in our school misconducts are handled by the principal and the deputy sometimes... so they are the ones who takes in the child for disciplinary hearing and questioning and we will also get a report from him about the disciplinary decision of such a meeting as the governing body (SGB C B).

The findings above indicate that participants exercised their individual discretion in handling each reported case of learner misconduct. This observation may imply either the absence of a standardised document used across schools to outline the procedures to be followed when a learner is accused of misconduct, or perhaps the neglect and non-implementation of the contents of such a document. As expressed by some participants:

Having to follow the law or even those principles is a tedious process shame like it can be tiring and time consuming so what we do, well... lemme say what I do is to ask the learner who has committed a misconduct to explain themselves and also ask other learners who might have seen all that then I can see how to better reprimand the child... like maybe I ask them to apologize or I take them to the principal for him to handle the matter (T A).

Those legal principles sound nice and convenient on a paper, but I hardly follow them or even read our code of conduct because our teachers are the ones who largely discipline learners, and we only come in for support where required (SGB PC C).

Firstly, the child who is reported should be given a chance to also voice out their side and then secondly, we interview the child, and any other child involved in separate rooms and write down their statements and then we are

able to determine whether do we call the parents or we just reprimand the child on our own in that internal disciplinary hearing. Maybe only when there is a need which hardly happens, we call the parents to be part of the disciplinary hearing (T C).

It appears from the responses above that the participants showed reluctance in ensuring a fair disciplinary procedure. While participants exhibited a degree of comprehension regarding the necessary steps for conducting a fair disciplinary hearing, it was noted that members of the disciplinary committee tended to sidestep the established process, citing its length and perceived tediousness as reasons for avoidance. Two participants said:

...concerning ourselves with the process in terms of legislature is really not our interest for as long as the discipline is maintained, and we produce good results we are fine... (P C).

We involve parents and the governing body is also kept abreast as the parent component of the disciplinary decisions taken by the school. So, I do not think we really follow the same process in all cases, we just work to ensure that a learner is treated fairly and also is held accountable for their actions that may be unaccepted to us (DP A).

The quotations show that the participants do not view the process of establishing a fair disciplinary procedure as an important element in enforcing learner discipline. In their view, their responsibility is just to ensure that the learners are disciplined, even though they may not follow the same process consistently. This observation further underscores the tendency for disciplinary committee members to rely on their individual judgment in many instances. Such subjective practices persistently undermine the integrity of disciplinary procedures. One participant said:

Following these long processes isn't really important as long as discipline is maintained, and we are producing good results. My staff knows that when they encounter an ill-disciplined learner, they must reprimand them there and then unless they are failing and only then will we call parents and sit for a disciplinary hearing with those processes being followed with reference to the schools Act (P C).

One may infer from the findings above that participants do have some theoretical knowledge regarding the process to be followed for a fair disciplinary hearing. They could indicate that the process involves parents and following certain steps when a learner is reported to have committed a transgression. However, participants still could not indicate exactly which steps are followed in their respective schools from when a learner is reported until a disciplinary hearing is instituted. This lack of clarity suggests a fundamental misunderstanding of the process, leading participants to rely on their discretion rather than attempting to implement the prescribed legal principles when conducting learner disciplinary hearings.

4.5.2.2 Sub-theme 2: Management of different views from all parties involved in a disciplinary matter and the fairness as well as transparency of procedures followed

This sub-theme focuses on disciplinary committee members discussing the measures employed in managing the different views from all the parties involved in a disciplinary matter. Despite attempts by the participants to respond clearly to the question, the responses seemed to suggest that schools do not have established measures that are intended to manage different views from all the parties involved in a disciplinary matter. Participants said:

Firstly, we give learners a chance to share their stories on the case reported about them... call parents to also be part of the interviewing process when statements from learners are taken it all depends on the situation... (DP A).

Our teachers including us as the SGB we always refer to our disciplinary policy... and as such, we will give learners an opportunity to write their own versions like I have said of what happened and we compare their views then try and come to a reasonable conclusion based on the information provided... (SGB DC A).

...so in the legal framework one can, yes accept a suggestion from time-to-time but now when you peruse through your policies you have to ensure that when you accommodate a suggestion it does not contravene the law or go against basically to what the law is saying... so suggestions can be made but

when they are implemented, they have to be in line with what the policy allows (DP B).

The above responses support the idea that schools do not have established and well communicated measures on the management of the different views from all the parties involved in a disciplinary matter. In fact, the responses were giving information on what schools do in preparing for a disciplinary hearing and not so much about the management of different views in a disciplinary matter. It seemed participants only shared the steps taken when a learner has been alleged to have committed a misconduct. Further, it appeared that schools do not have clearly written learner discipline policy documents that accommodate and guide the management of different views of all the parties involved in a disciplinary matter. One participant said:

...when a learner is reported, the principal would ask the deputy principal to interview the learner alone and get to hear their own side of the story in a separate room while the other is also being interviewed on a separate room and you will note that this happens in isolation of other learners... disciplinary committee is constituted by parents of learners who are reported and also senior management team members so that all parties have their views heard in the meeting of disciplining learners (SGB C B).

This response suggests that schools provide a secure environment for learners to express their perspectives individually during interviews, yet it overlooks scenarios where the views of learners or their parents diverge. Therefore, one may agree that the measures for managing the various views from all parties are not well-defined.

Furthermore, it seems that the governing bodies are not fully involved in learners' disciplinary matters. This may suggest that the SGB members are not considered full members of the school's disciplinary committee and, as such, are unable to aid in managing different views in a disciplinary hearing. One participant said:

Discipline in itself is managed by our teachers so they are the ones that ensure that everything runs according to the law and that all learners are listened to before they can punish them or even before calling parents... So, yea, in short we allow the teachers to guide us and discipline the learners while we also observe the processes (SGB PC B).

The response above suggests that SGB members do not form part of the decision-making in a school and as such have no interest or knowledge of the matter. Accordingly, one may argue that if the structure of the disciplinary committee is not fully staffed, then even some of the processes will be compromised and later compromise the management of various views in a disciplinary hearing by all concerned members. In certain cases, sole authority is vested in one individual regarding learner disciplinary matters within a school, potentially leading to a lack of fairness as other perspectives may not be adequately considered or expressed. One participant said:

Our principal always handles the legal things of the discipline like having to ensure that all views are accommodated, parents are invited, and kids are asked questions so that they are also heard (SGB PC C).

Even in this response, it appeared that schools were of the view that if all parties are involved, then they can manage the different views. However, it's important to recognise that while including all parties is crucial, effectively managing the differing views they hold within the same disciplinary matter is a separate challenge altogether. Not surprisingly, schools were not mentioning what measures are in place to manage those varying views of all the parties involved in disciplinary matters.

4.5.2.3 Sub-theme 3: Ensuring impartiality in the disciplinary processes

The participants' responses to the interview question - In your view, to what extent is the disciplinary process fair and transparent? Is presented in this sub-theme. The findings of this study seem to suggest that schools do not have well-written and adopted codes of conduct for learners nor learner discipline policy documents. This deficiency may contribute to compromising the integrity of disciplinary processes in general. It seems schools do not hold regular meetings to induct learners and parents on the measures in place to combat ill-discipline. One participant said:

...so at the beginning of our children's 8th grade, we call a meeting with their parents to inform them about the school's code of conduct since they are new students in our school... (DP A).

The response from the above participant insinuates that parents only get to be inducted on the school's code of conduct for learners at the beginning of grade 8, which is only at the onset of their secondary school journey. One may argue that for a fair and transparent disciplinary process, learners must be constantly engaged with the contents of the policy document throughout their schooling journey as part of an ongoing education process. This indicates that parents and learners in the upper grades are often in conflict with the mechanisms employed by the schools to manage learner discipline. In most cases, parents cite that they are not aware of the code of conduct and its contents in black and white. Some participants said:

...to be honest we really don't have a code of conduct that is written in a paper like one would expect, we just use our own knowledge and discretion when disciplining learners which gives us a problem when some parents want to see what the rules say vs what we are doing... (T C).

Well as for me as the principal, I can tell you that we really don't need to bother ourselves so much with all these laws and principles as long as we are performing and are able to maintain discipline, we are fine (P C).

The responses above seem to suggest that schools do not see the development and implementation of codes of conduct for learners as a necessary tool for ensuring fairness and transparency in the disciplinary processes. The participants were of the view that their knowledge as adults on how to maintain discipline alone is enough and that the school's performance is what matters. Therefore, having regulations written down to guide the management of learner discipline is perceived as an unnecessary task.

Further, in the document analysis process, the findings reveal that learners have sanctions imposed on them without any reference to an established school policy guiding disciplinary processes. In certain instances, minutes were absent, lacking clarity regarding the specific rule violated and the corresponding sanction. Furthermore, in some cases, there were no records documenting the proceedings of the disciplinary cases, leaving disciplinary committee members to rely solely on their own discretion in managing disciplinary matters.

In some cases, transparency was perceived as informing learners about the sanction without explaining the relation between the sanction and the wrongdoing committed. One participant said:

...as for transparency, it is all about telling learners what punishment will be given to them because we already established that they are wrong and sometimes parents are part of the disciplinary process so that they can also say if we are not being fair to their child... (SCB PC B).

The provided response does indeed imply that there is a misunderstanding regarding fairness and transparency in the disciplinary processes. Consequently, schools may face challenges in consistently upholding these two concepts in all disciplinary cases involving learners. This may be exacerbated by the absence of policy documents established at schools to aid the implementation of learner discipline principles. Lastly, it seems minutes of disciplinary cases are not consistently recorded. One participant said:

We only take minutes in some cases where the misconduct is more serious and that's if there was a formal disciplinary hearing instituted... then we'd record some summaries after the meeting in the incident book... (T A).

This response suggests that schools do not consistently take minutes of disciplinary cases. This was further confirmed during the document analysis process. It appears there are cases that are concluded verbally, and the nature of such cases is not well established and known by every member of the disciplinary committee. As such, the final verdict issued in most instances will depend on the person(s) involved in the case, which affects uniformity and ultimately fairness. Hence, even in cases where some misconducts were similar, the sanctions were totally different.

Altogether, it appears schools lack systems employed by the disciplinary committees to guarantee fairness and transparency in learner disciplinary processes

4.5.2.4 Sub-theme 4: The equivalence of sanctions imposed to the wrong act committed

The research findings in this sub-theme seem to suggest that schools are struggling to introduce measures that may assist them to ensure that the sanctions imposed are

equivalent to the transgression. In most instances, it was observed from the findings that schools cite the Schools Act more often as a document that they claim to follow to ensure that sanctions are equivalent to the transgression, without citing their own internally drafted policy documents. As one participant confirmed:

...we follow the School's Act and use it to guide us when imposing sanctions to learners... (SGB PC C).

The response above seems to support the argument that schools do not have their own internally drafted policy documents that guide the disciplinary processes and all other members involved in the proceedings. Hence, one could argue that the lack of internally drafted policy documents to guide the disciplinary processes may lead to sanctions being imposed that are not commensurate with the severity of the wrongdoing committed. Nonetheless, some participants in one school said the following when asked about measures they have in place to ensure that the sanctions imposed are equivalent to the wrongdoing committed. The participants said:

...we have a policy, a disciplinary policy so now in our disciplinary policy... we classify the misconducts according to their grades so grade A,B,C,D and the last one is E (DP A).

...that is why the discipline policy needs to go to the head of departments to approve... to make sure that whatever we have decided on as the SGB together with the SMT of the school is in alignment with what is legally accepted (SGB DC A).

I think we do have a policy, but we just never use it or even bother to refer to it every time we need to reprimand a learner not unless it's a serious case and there is a need to check the policy vs what we may want to impose as a punishment (T A).

The above responses suggest that the school has a policy on learner discipline, and offences are classified and treated in accordance with the grade of offence as determined by the same policy. Further, the participants acknowledge that the policy documents developed in school must be submitted to the DBE/PED to check compliance with the legal principles governing learner disciplinary processes. It is noteworthy to emphasize that one participant pointed out that the existing policy is not

consistently utilised as a reference point. This observation suggests that although the policy might exist, its full implementation is lacking, thereby potentially compromising the consistency and appropriateness of sanctions imposed for various offenses.

Moreover, the findings suggest that schools are failing to apply uniformity in handling learner disciplinary cases. It appears that each case is treated differently and without any reference to previous cases or decisions on similar cases. In this regard, one participant said:

Each matter will be handled by a different teacher from time to time and such teachers get to decide how they want to punish the child depending on the child's general behaviour in school. So, I think what works one is assess the case in their own understanding and apply the sanction based on how they see fit (T B).

This response seems to imply that every teacher or member of the disciplinary committee imposes a sanction using their own discretion, and such disparity as highlighted above may differ from one person to another since no established guidelines are followed or the ones that are contained in the disciplinary policy documents are not implemented. It was also evident from the data analysis that in some cases involving the same misconducts, learners were given varying sanctions. This observation leads to infer that schools do not systematically evaluate the sanctions imposed and assess their proportionality to the severity of the wrongdoing committed. The sanctions are mostly imposed discretionarily and based on the members with the case. Lastly, in the document analysis process, I found that members of the disciplinary committee in schools are not consistent in how they handle the disciplinary processes, and also the disciplinary hearings are not handled by the same cohort of members from one case to another. It seems members are invited to participate based on availability rather than expertise and commitment to serve on the committee.

4.5.2.5 *Sub-theme 5: Learners' awareness of the legal principles in the learner disciplinary processes*

This theme answers the interview question - Do you make learners aware of these principles? In as much as learners were not part of the participants in this study, there was evidence that seemed to suggest that they have limited to no knowledge of the legal principles in learner disciplinary processes. This may warrant one to argue that learners' awareness of legal principles has a direct bearing on the application of legal principles in matters concerning the learners. Nonetheless, the above claim is based on some of the responses given by participants regarding learners' awareness of the legal principles in learner disciplinary processes. Some participants said the following when they were asked about the awareness of the legal principles in learner disciplinary processes by all other stakeholders:

...look, in simple terms only the teachers know about the legal principles, and we are the ones that then lead the disciplinary processes while teaching the SGB members about them because learners only get to see or hear about them when they are in the middle of a disciplinary meeting... (T 2).

I think we try to have all these principles known by the SGBs and any other person involved representing the child because the kids know nothing about these things and we don't bother them about these laws because I mean they are just kids you see (P C).

The above responses suggest that schools may not be making any effort to educate or share with learners the principles applied in the management of learner discipline. This may continue to make it challenging for schools to fully implement the said legal principles and realise the ideals of the Constitution. One participant said:

Some of the greatest challenges is that learners only know their rights and less about the responsibilities... in fact, learners see the enforcement of discipline as torture and unnecessary for them ... hence they even act violently to our teachers (DP B).

This supports the idea that learners are not well informed about their rights even during disciplinary processes. Perhaps learners are not even made aware of their rights when

they are to appear before the disciplinary body. Nonetheless, the misbehaviour that may be displayed by learners during disciplinary processes may also be influenced by the idea that they do not know the rights and procedures that must be followed for a fair disciplinary process; hence, they do not cooperate well in most instances. Some participants reported the following:

...our learners care less about these legal concepts and make it difficult for us to even inform them of how the processes must run because they even act violently as soon as they know that they are on the wrong... some of us even shy away from applying these principles because we know it might just be a waste of time... (T A).

Me, I think these laws are just meant to be understood by school managers and then learners will just be guided and follow what happens should they be on the wrong side of the law because also they might not be able to allow them to comprehend these things... so we just focus on correcting the learner... (T C).

These responses show that learners may not be aware of the legal principles in learner disciplinary processes and that schools are hesitant to inform learners of these principles. In fact, schools appear to deem it suitable to limit the knowledge of such legal principles to teachers and SGB members. Participants believe that learners do not need to know the legal principles that are involved in the disciplinary processes and that they (learners) need to trust that teachers and SGB members will always act in their best interest. One participant said:

Learners are kids and they must follow instructions given by teachers at all times since teachers are the ones that know what is right from wrong (SGB C C).

It is clear that participants do not believe learners should know the legal principles nor their application in learner disciplinary processes. It appears that some participants who took part in the study viewed legal principles as affecting teachers and school governors exclusively, while learners are excluded from the understanding or implementation of policy documents intended to govern discipline with reference to the concerned legal principles.

In discussing the findings of this theme, firstly, insofar as the process of following fair procedures in a disciplinary hearing is concerned, the following crucial ideas of fair and democratic learner disciplinary procedures are reiterated throughout the literature. Narain (2015:34) asserts that the learner who is accused has the right to a fair hearing, to call witnesses, to have a representative, and an opportunity to be heard, among others. These are some of the factors that must be taken into account when dealing with learner discipline, and there must be systems in place to guarantee such fairness in the management of learner discipline. In contrast, the present study has shown that learners are, in most instances, subjected to disciplinary measures without having been given an opportunity to state their case or even having a fair disciplinary hearing before a decision may be taken. Lastly, learners are not trained nor informed about the legal principles pertaining to learner disciplinary processes. This may be used to support the argument that learners are not thoroughly inducted into the consequences of breaking the rules and the procedures to be followed thereafter.

The findings of this study support the assertion by Zwane (2017:57) that teachers disregard the constitutional provision that imposes an obligation on them to guide their conduct toward learners in the management of discipline. Some disciplinary committee members lacked adequate knowledge about the principles that must be considered while addressing disciplinary cases as well as the contents of the Schools Act. According to Coetzee (2021:68), this has a detrimental influence on instructional processes in schools, which explains the unfavourable reports of rights abuses and infringements during disciplinary actions.

4.5.3 Theme 3: Challenges in implementing legal principles in disciplinary processes

This theme presents the findings of the research question: 'What are the problems experienced by the school disciplinary committee in the implementation of legal principles in learner disciplinary processes?' The findings of this study show that there are a variety of problems experienced in schools, including, but not limited to: a lack of clarity on legal principles, inconsistencies in the application of these legal principles, limited training and expertise on the part of those expected to apply the legal principles, and the perception that discipline is purely the task of members of the SMT rather than

a collective responsibility of all educators in the school, which affects adherence to the code of conduct.

4.5.3.1 Sub-theme 1: Lack of clarity on legal principles especially on the interpretation of the principles

The research findings on this sub-theme seem to support the assertion that schools do not take the task of developing and enforcing a code of conduct for learners seriously. In fact, the findings of this study reveal that some schools do not have any document adopted by the SGB and used to manage learner discipline. As such, the disciplinary committee members find it challenging to ensure fairness in the disciplinary measures. According to the study's participants, SGBs are not performing this function to the fullest extent possible, and they attribute this to a lack of knowledge of the legislation and what it says about their duties as governors. Some participants said:

The SGB and other teachers are not actively involved in school discipline, and as a result they do not know nor care about the laws that must be followed during disciplining of learners... so I have to come up with some rules as a manager to work on for the benefit of the school (P C).

...there other problem is that not all disciplinary hearings are minuted because at times, I am just alone with parents and learners and no one is taking minutes of the proceedings and later when we need them, there are nowhere to be found... (T C).

...discipline is left to us as the SMT and we rarely get support from other colleagues during disciplinary cases and as such we end up missing some of the tasks that should be done to ensure fairness or maybe applying the law consistently... (DP B).

Look in our school and context, enforcing discipline through the use of paper and such structures is just a lot of unnecessary work to us. Because our parents are illiterate in the majority and do not take interest in the learners' education or even management of learner discipline unlike in schools where parents are actively involved and the likes (P C).

This finding seems to relate to the argument that there are not enough personnel in the school to ensure full implementation of legal principles. In addition, the second response shows that SMT members are the ones left with the responsibility of enforcing discipline, and others are only participating in some cases. Thus, one may agree that it makes the task of implementing the legal principles in learner disciplinary processes challenging. Furthermore, it seemed that the contextual factors of different schools may have played a role in compliance with the legal principles in learner disciplinary processes. Some participants said:

...in our school, we only have to deal with parents when the child has been suspended... and the parents come with their own lawyers who challenge the school's internal disciplinary processes and fight to bring their child back to school like they are not ill-disciplined... One of our major problems is parents who are ignorant of the code of conduct and discipline policy we give to them to study with their kids. They do not care to read it and those are the ones that mainly will come to the school furious insulting our management not being aware that they were supposed to study the policy and know what is it that we want as a school (SGB PC A).

...I think parents' literacy levels in our school is also a problem because they are unable to follow when we refer to policy documents and as such don't even see our school rules as something that needs to be followed and consequences applied when a learner misbehaves... (P C).

The above responses revealed that parents only come to school when the SGB has suspended their child following an alleged serious misconduct. It appears that parents only come to the school once a disciplinary decision has been taken against their child and do not participate in the initial processes that the school may have followed before its decision to suspend the concerned child. This may also suggest that the same parents do not study the school's code of conduct or learners' discipline policy so that they may engage the school if they have any questions seeking clarity regarding the processes the school follows in managing learner discipline. Furthermore, the involvement of lawyers by parents in the learner disciplinary processes even before they engage the school's disciplinary committee may suggest that parents rely on their social and financial influence to challenge the school's disciplinary processes without

being part of the development of the said disciplinary systems put in place to manage the processes fairly and in the best interest of all the parties involved. There is also an assumption that parents should be able to understand the discipline policy and its application in disciplinary cases without proper induction on the legal principles in the learner disciplinary processes.

The quotations in this section further imply that some parents are not cooperating with the school in the management of learner discipline. Such behaviour from the parents seems to be a challenge when a learner has to face the consequences of their misconducts. To expand on this, parents appear to be unaware of the school's disciplinary system and do not seem to actively participate in the development of the codes of conduct for learners. Consequently, in many cases, parents are observed advocating for and defending their children outside the framework of the school's regulations. This behaviour often proves challenging for members of the school disciplinary committee, as they struggle to bridge such a gap stemming from ignorance of existing school policy guidelines. Parents always seemed to speak and defend for their children despite the evidence presented to them.

4.5.3.2 Sub-theme 2: Inconsistencies in the application of these legal principles

The research findings on this sub-theme reveal that schools apply the legal principles inconsistently. In fact, it seems that disciplinary committees find it challenging to implement the legal principles while ensuring that the sanctions imposed are consistent from one learner to another and equivalent to the wrong act committed. One participant said:

...it a challenge to ensuring that the punishment is equivalent to the wrong act committed... (T B).

This response shows that schools are struggling to ensure that the sanctions imposed are equivalent to the wrongdoing committed. This may be due to the non-existence of a learner disciplinary policy or the presence of a disciplinary policy that does not comply with the legal framework on learner discipline. Therefore, I believe that if disciplinary policy documents are not available or are available but not compliant with the law, the school disciplinary committee may not be able to ensure fairness in the

disciplinary processes, such as equating the disciplinary decisions taken with the offenses committed.

Furthermore, participants attributed the causes of the problems to the lack of participation of SGB members in the disciplinary hearings and also alleged lack of support from the DBE/PED. Some participants said:

...part of our issues is that the SGB members are not always available to participate in the hearings and at times when they are present, they are not actively participating because they are not informed of the education laws in the disciplinary matters of learners... (DP A).

...the department is also not giving us any support in the management of learner discipline or with ensuring that our code of conduct and regulations are up to standard... (T C).

The above responses have shown that the SGB members of the school are not always available to participate in learner disciplinary hearings as envisaged by the Schools Act. As a result, this creates a platform for procedural unfairness because the responsibility to chair and impose disciplinary decisions ends up being in the hands of school managers, as disciplinary hearings are conducted in the absence of SGB members. Additionally, schools seem to lack support from the DBE/PED in the implementation of legal principles in learner disciplinary processes. This suggests that schools have disciplinary regulations that are not monitored by the DBE to ensure consistency across schools and that the regulations established by schools comply with the legal framework on learner discipline.

4.5.3.3 Sub-theme 3: Limited training and expertise on the part of those who are expected to apply the legal principles

The findings in this sub-theme highlight that the members who are expected to apply the legal principles in learner disciplinary processes are not thoroughly trained in the interpretation and application of legislation regarding learner discipline. Some participants said:

Our knowledge of these principles is what we grasp along the journey (P C).

Our SGB members are mostly parents who do not even know how to read for comprehension, and this makes it difficult for them to even know some of these laws you and I may know about education law (DP B).

The above quotations insinuate that the governors lack adequate understanding of the legal requirements governing learner discipline in schools. Additionally, this may also suggest that the Department at the district or provincial level is not doing enough in terms of ensuring that the SGB receives proper training and ongoing support on their roles as stipulated in the Schools Act. Some participants reiterated that:

Like I did say, we are not trained on these laws apart from when one may have learnt at the college and even that is not really enough... our department leaves us to perform such duties and learner on a trial-and-error basis... they will only come to correct harshly if we misapplied the law ... (P C).

...but despite the so-called principles, we as teachers have authority to discipline learners... (T A).

These responses show that schools admit they do not have proper training or expertise in the implementation of legal principles in learner disciplinary processes. Additionally, the findings reveal that some disciplinary committee members believe that they have the power to punish learners in any way because they hold a position of authority without due consideration for the principle of just administrative action. One participant said:

Yes, it happens that sometimes we expose learners to hard labour and they miss one or two periods because of the punishment... but what can we do because we can longer beat them (T C).

It is important to note that any school regulation which appears to oppose the Schools Act must be considered invalid and unjust, as such rules could place the schools at risk of violating the rule of law. This study's findings confirm that schools have punished learners in ways that infringed their rights. The findings further reveal that there may be limited acknowledgment among the disciplinary committee members that violating the value of respect and promoting the rights of learners during learner disciplinary processes could lessen the value of school life and undesirably affect reciprocal relationships. Two participants said:

...for me, as long as we tore the line and learners knowing that there cannot just do as they please, the legal principles are of less importance... (SGB PC C).

What is important is to maintain good discipline in the school and that may include breaking some roles here and there just as long as you do not lose your temper (DP A).

It is clearly important that schools use the Constitution and the Schools Act to develop policy guidelines on how to fairly discipline learners while promoting their rights and those of all other parties involved in the disciplinary processes. This will affect the running of the school, and the trust learners develop in the disciplinary system at large. In short, limited training and expertise in applying legal principles in learner disciplinary proceedings can undermine the fundamental rights of all parties involved. Such limitations can lead to unfair treatment, inconsistent decisions, and a lack of accountability, ultimately impacting the educational experience and well-being of learners and others in the educational community. Therefore, it is crucial for educational institutions to ensure that those responsible for conducting disciplinary proceedings receive adequate training and support to uphold legal standards and protect the rights of all parties involved.

4.5.3.4 Sub-theme 4: Consistent adherence to the code of conduct

This sub-theme has revealed that schools do not use the code of conduct consistently in their attempts to address learner discipline. In most instances, the code of conduct is not available, and only the discretion of the disciplinary committee members is relied upon to manage learner discipline. This was also observed during the document analysis stage, where some schools could not produce a copy of the code of conduct. Despite this, some participants highlighted the prominence of having a code of conduct, with others holding the view that it must be put in place and include at least the following: the preamble, the school's mission and vision, principles and values, parental responsibilities regarding the code of conduct, punishment, disciplinary hearing procedures, and an appeals process. The exact contents may vary depending on the context in which participants find themselves. Some participants shared the following perceptions regarding the code of conduct and its application:

The code of conduct is also a document that does not really help in managing our learners here. To us, a code of conduct is a waste of time due to its administrative tasks and the need to ensure that certain steps are followed. These do not work in rural schools. Here, we rely on traditional methods and the authority of parents to maintain discipline (P C).

As a school, what we communicate is that colleagues must enforce discipline using their authority, and then parents must support us, because we are the ones who work with the kids, so we know how to handle them better without worrying about legal principles that may be time-consuming for us (DP B).

At times, when parents are addressed about their child's transgressions, they are not cooperative and act violently, such that at times we move away from the rules or the policy and focus on calming the whole situation instead of using these rules (T C).

The above responses continue to support the notion that participants do not understand the importance of a code of conduct and its application in learner disciplinary processes. While some suggest that its application depends on the parents' cooperation during the disciplinary meeting, it appears that participants view the application of a code of conduct as a time-consuming exercise rather than a tool to be used to protect and promote the rights of learners. Of the few documents analysed in this study from the schools, it was evident that principles related to learner disciplinary processes are not reflected in the documents, nor are the participants interested in accommodating those principles in the strategies to manage discipline. One participant said:

Look, what's important is to have a good relationship with other parents, and then they will support you as a teacher with your disciplinary methods, as long as you do not beat their kids without their consent, if I may put it like that (SGB C B).

This view suggests that participants believe any disciplinary measure is acceptable as long as they have a 'mutual understanding' with the parents. Furthermore, this implies that some participants might think physical punishment is acceptable if they have 'agreed' with the parent of the concerned child. Such an act is considered corporal

punishment, which has been abolished by the Schools Act. Additionally, it is a recurring observation that schools seem to rely solely on the Schools Act as their reference during disciplinary hearings. One participant said:

We at times refer parents to Schools Act which is the one that deals or rather addresses ways of managing discipline and the likes... so parents know why we do certain things to manage discipline (T A).

This view suggests that schools do not use or develop their own contextual regulations but instead rely on Acts promulgated by the government. These Acts are meant to guide schools and their SGBs in developing and enforcing a code of conduct specific to the school and its unique needs. Furthermore, a few participants acknowledged that their schools experience transgressions and violations of learners' rights. In fact, numerous participants claimed that disciplinary proceedings at schools violate the rights of learners and that nothing has been done to remedy this. Below are some of the views shared by participants:

...for example, sending learners out because they have not completed their work... using a duster or ruler to beat them up to try and make them follow instructions... (T C).

At times we don't call parents to disciplinary hearings, we just discipline the kids the best way we know how and then we can later inform the parents if they want to know of what happened (SGB PC B).

At times we don't really give every learner to share their side of the story because they can lie these kids, especially when we know the child to be naughty, we just punish the child as long as we believe that they did commit the misconduct... we know that is not right but yea... it saves time and the trouble (DP A).

Such quotations show that despite schools being aware of what should be done in some instances, they still choose not to do it, citing that it is time-consuming or finding the task of implementing legal principles to be tedious. These discoveries contest schools to adapt their present practices to better promote children's rights during learner disciplinary processes. Lastly, notwithstanding some efforts to enforce the code of conduct, there is insufficient proof to support the claim that school disciplinary

structures consciously and consistently defend the rights of pupils when enforcing discipline.

The findings revealed that learners frequently assert their rights however do not recognise the responsibilities that should accompany these rights. Some participants said:

Our learners are very arrogant when we tell them about the code of conduct or the law... they tend to tell us that they have rights that protect them, and others go to as far as screaming at us that their parents pay our salaries... (T A).

I doubt we all refer to the code of conduct every time we run into a problem with children, at times we save our time and just address the child unless we take the child to the SMT them maybe they may use the policy... (T B).

It is evident from the responses above that learners become arrogant and unruly when they are facing disciplinary hearings because they feel protected by their rights. It became apparent that the learners' presumptive understanding of their rights seems to be undermining the schools' capacity to manage misconduct effectively. This situation may make it exceedingly difficult for schools to adhere to the code of conduct or established rules for managing learner discipline fairly and consistently.

4.5.3.5 Sub-theme 5: Nature of learner discipline in secondary schools

One of the issues that emerged as a major challenge in this study was the nature of discipline among secondary school learners. The findings showed that learner discipline is a serious challenge in secondary schools. Poor learner discipline in the schools affects other learners, educators, and other social partners negatively. It seems learners challenge authority more when they are in secondary schools due to their age and growing awareness of human rights. Some participants said:

For me, I think nature of discipline in secondary schools is more complex than in primary because I used to teach there... I have realised that learners in here question decision more and challenge teacher's authority because they think they have more understanding of human rights (T A).

Sir, one of the many challenges we face here is that discipline of these learners is just unbearable... Like they will challenge you so much that will even want to quit on the spot... They are arrogant, violent and even enjoy protection from their parents... in my school it's worse because we are far from the offices to receive support, and these learners keep making my teachers feel very frustrated (P C).

These responses above suggest that schools are discouraged by the level of indiscipline in secondary schools and appear to be helpless in dealing with the challenges associated with the administration of learner discipline. There is general consensus that a lack of discipline among pupils leads to uncomfortable behaviours, which can be linked to a decline in culture and appreciation for both parents and educators. One participant said:

There is lack of parental guidance at home and that is the greatest cause of ill-discipline among learners... learners' discipline make it very challenging to even achieve the good results we also want to achieve ... (SGB PC B).

The above response suggests that schools are hindered by the conduct displayed by learners from effectively implementing the legal principles. There appears to be an assertion that parents have a greater role to play at home to ensure that learners attend school as disciplined individuals who are ready to receive education. Also, the response supports the argument that parents are not fully involved in the discipline of their children and thus children disrupt the teaching and learning dynamics in schools.

It was revealed from the document analysis of the available learner disciplinary records that drug abuse, possession of dangerous weapons, late coming, swearing, and back-chatting at teachers are noticeable forms of misconduct in secondary schools. One critical source of evidence supporting an observation that learners' absenteeism is high is the attendance registers. It seemed that learners do not report to school on days when they are expected to report for disciplinary hearings. Further to this, there is no evidence justifying the learners' absence which points to the idea that they are just escaping being held to account for their actions before the disciplinary committee and this may also mean the parents do not receive communications from the school or they

simply do not respond positively to the invitation to attend. Some participants reported that:

Parents do not also support us in enforcing discipline... we send the child home to bring a parent, and they end up not coming back or maybe missing school for a day or two and come later without reporting to the disciplinary committee... (DP B).

There are instances where a child tells us right away that they are not going to come with their parent to school or even tear-off the letter in front of us... some parents you call them and they tell you that they are not home due to work and we need to see to it that the child is disciplined so that makes it very difficult in such situations you see? (T A).

Parents also don't really care much about their kids' attendance to school so a child knows that we will never hear any reason from their parent about their non-attendance to school and those are the unruly kids, sir... (SGB DC A).

The views above may lead one to argue that schools do not receive sufficient support from parents in the management of learner discipline. Learners seem to use this loophole as a way of disregarding the systems in place to manage indiscipline. The nature of learner discipline appears to be a daunting challenge and is leading to a significant number of schools under-performing and also losing teachers in a short space of time. Since the learners' conduct directly and indirectly affects the output of teachers, learning is a complicated process that requires the full participation of all parties involved, as output may be at risk when learning and the environment are not at their best.

In this section, I discuss the findings of this theme. To begin with, the emphasis on learners' rights has rendered parents and educators powerless to the extent that they find it significantly challenging to manage learner discipline within the prescribed legal framework (Ndlovu *et al.*, 2023:126). The present study has shown that the levels of learner indiscipline across secondary schools are on the rise, which seems, among other factors, to result from the inadequate understanding of legal principles in learner disciplinary processes displayed by some schools. In my view, schools still face a mammoth task of managing learner discipline in accordance with established

regulations due to a lack of training and support offered to schools on the implementation of legal principles in learner disciplinary processes. The study's findings make it clear that there is still a lack of adequate training for schools, posing numerous challenges for the schools to effectively draft and implement policies on disciplinary matters in an environment where corporal punishment is prohibited.

Another recurring finding was that parents do not take an active part in the schools' disciplinary processes. Supporting this finding, Magaba (2018:93) posits that parents in township and rural schools are not actively involved in school-related activities, contributing to the lack of discipline among learners in schools. In this light, it is reasonable to agree that parents play a crucial role within the school environment, contributing to the establishment of a fair and just democratic system in managing learner discipline. This ensures that all learners are treated equitably, with rules applied uniformly and without bias, prejudice, or favouritism. Indeed, the absence of active parental involvement results in schools struggling on their own to enforce discipline. This deficiency undermines the democratic principles intended for learner disciplinary processes, consequently impeding their full realization (Mabuza, 2017:81).

Furthermore, it was revealed that schools do not have clearly communicated guidelines or policies on the management of learner discipline. In this regard, Ndlovu *et al.* (2023:138) point out that educators and SGB components perceive themselves as lacking empowerment and adequate knowledge in the legal principles related to learner disciplinary processes in schools, and as such, are not confident in drafting legally sound documents to enforce discipline while promoting and protecting learners' rights. I therefore maintain that the limited knowledge of schools on the principles relating to learner disciplinary processes compromises the fairness and integrity of the entire process in schools. Simply put, it appeared that the DBE neglects the provision of ongoing professional development and training for schools on alternatives to corporal punishment and practical measures to implement in pursuit of the legal principles in disciplinary processes.

Lastly, it appeared from the findings of this study that there is a gap between policy prescriptions and practice. According to Mohadi (2022:63), schools are responsible for creating and upholding good learner discipline, which rests on transparent, efficient, and legal disciplinary measures. Since there was a gap identified by the

present study, one might argue that the lack of sound policy documents in schools creates a space for both procedural and substantive fairness, as disciplinary decisions end up being applied inconsistently when members of the disciplinary committee rely solely on knowledge received through trial and error or purely based on one's discretion.

Part of the statutory obligations to adhere to the legal principles should be derived from the common law principle in *loco parentis*, which reminds teachers and any other official in the school to always act in the best interest of the learner (Coetzee, 2021:74). Therefore, the goal of discipline should be to help learners behave better rather than to simply condemn them. This can help create fair and just disciplinary systems as well as ensure that the code of conduct is followed with the best interests of the pupils in mind. Additionally, the above findings reveal that misconduct by learners negatively affects their academic performance. This is also supported by Nene (2013:89), who argues that violence and general indiscipline among learners in schools seriously hamper the culture of teaching and learning. Furthermore, it has been reported that educators globally share the sentiment that lack of school discipline makes it not only difficult to attain good-quality results but also to implement the law in learner discipline effectively. It is therefore evident that learners' indiscipline is generally diminishing the quality of education in the schools and also negatively affects the promotion and protection of the learners' rights during disciplinary proceedings.

4.5.4 Theme 4: Strategies for problem resolution

The interview question that generated data in this theme was - What measures do you have in place to address problems experienced with compliance with the legal principles? The sub-themes under this theme covered the participation of parents in the process of policy review, the capacity building and training required for the committee members, the role played by the departmental officials and the response of the schools regarding the problems they experienced in disciplinary procedures. The findings from this theme revealed that problems are varied and contextual; therefore, even the attempts to resolve the identified problems differed from one environment to another.

4.5.4.1 *Sub-theme 1: Participation of parents in the review of school policies*

This study has revealed that schools do make some attempts to involve parents in the management of learner discipline and other social partners in education, including inviting parents to participate in the review processes of the school learner discipline policy. Participants said:

...we also try and involve parents as much as we can in our disciplinary cases... (DP A).

It's a tough one, but we try and educate both learners and parents about the school's rules... we also invite parents to participate in the learners' disciplinary processes... (T B).

What we also do is do share our learner discipline policy with the parents during the view process for them to submit their comments to the school but they never do (SGB DC A).

The above responses revealed that schools do invite parents to participate in learners' disciplinary processes and also educate parents and learners about the school rules and regulations on learner behaviour. In addition, parents are invited to participate in the review processes of the learner discipline policy documents. It seemed that involving parents was the most common mechanism in various schools, though the response from parents in this regard was not met with the same spirit. Interestingly, not only are parents invited and seen as vital role players in the management of learner discipline, but also other stakeholders. In this regard, one participant said:

One of the things we are also doing is that we are working with the police, we have adopted a cop whereby if we feel that some challenges are just too much for us and the SGB we ask to adopt a cop to come and address learners (T A).

We organised and invited the department of social development, correctional services, and a lot of them. They came and spoke to learners to make learners aware of consequences of breaking the law (SGB DC A).

...involving parents and working with those who are willing to cooperate. Ok, so if I were to expand on that I'd just say we try and involve as many

stakeholders as we possibly can to assist in the management of learner discipline... (P C).

The above responses support the notion that schools are making adequate attempts to involve other stakeholders to assist in the management of learner discipline. However, most of the campaigns or programs run by the school in this regard do not seem to address the implementation of legal principles in learner disciplinary processes. In fact, they seem to be more focused on aiding the learners' holistic development than addressing the management of learner disciplinary processes within the prescribed legal framework. There appear to be no programs aimed at assisting the school to draft legally sound documents to govern learner discipline. Therefore, it seems that schools only do whatever they deem necessary to mould learners' behaviour without addressing the actual gap that appears to exist between policy and practice.

Nonetheless, in some schools, there seem to be innovative ways parents are kept informed of the schools' activities and learner behavioural trends. One participant said:

We have communicated with parents through the newsletter and school magazine and via email, pleading with them to speak up if there's anything they do not understand in any of our policies at school and that they must communicate this through the heads of grade (SGB DC A).

The response above seems to suggest that the school employs innovative ways to involve parents in the contents of their disciplinary policy. Parents are given an opportunity to come to the school or indicate in writing wherever they may need clarity on the school's policy documents. Indeed, such a mechanism fosters parental engagement by encouraging them to familiarize themselves with the school's code of conduct and to communicate its contents to their children. This proactive approach helps prevent misunderstandings and facilitates smoother application of the policy when their children are involved in transgressions outlined within the document.

Furthermore, it appears that parents are also invited to participate in the general monitoring of learners on the school premises. One participant said:

... we speak to the little number of parents we have in meetings to try and assist us to reprimand learners and also report any acts on misconducts when

they see learners misbehaving even during the school where we might not see them who are outside during school hours because they bunked classes and went to the toilets and smoke and all that... (DP B).

The response above supports the idea that parents are invited by the schools to assist in the management of learner discipline, even in situations where educators may not have direct visibility. One may agree that such a response supports an argument that the community wherein the school finds itself is invited to take charge of learners' behaviour and report to the school for proper interventions. Lastly, in some schools, it seems there are no measures in place to address the identified problems. One participant said:

You know, we really do not have too many measures. We just have the structure the same structure that is the disciplinary committee that speak through one voice... we always refer to what guides us which is the policy documents that we have your ELRC your, your code of conduct that we have at the school that we try to speak of and in the right kind of attitude to the parents and try to show them that you want to fix things (T C).

The response suggests that schools are indeed grappling with addressing the issues identified regarding compliance with legal principles. Additionally, it appeared that schools do not have their own established regulations to address the problems associated with the implementation of legal principles in learner disciplinary processes. Hence, as maintained earlier, participants referred to the Education Labour Relations Council (ELRC) and the policies contained therein as opposed to internal systems and regulations promulgated in schools in line with the prescribed legal framework for learner disciplinary processes.

In most observations, it appears that schools do not engage in the review of existing policies on learner disciplinary matters. Some of the available pieces of disciplinary documents from the document analysis process seem to be documents that were last drafted by the previous SGBs, and even the present members find it difficult to interpret what is contained in them. This may suggest that the schools do not review the said policies at least annually to ensure that the contents are in line with the changing prescripts of the law. One participant said:

...We have since occupied the office and have not updated the code of conduct for learners and I have heard the principal saying we must update it because even he himself found it in the school when he was appointed... (SGB DC A).

It seems from the response above that schools do not invest in the review processes of internal policy documents, and as such, this may mean that they do not consistently refer to the same policies while having the legal principles in learner disciplinary processes in mind. If they were, they would be able to understand the importance of reviewing them frequently and inducting all stakeholders on the contents of the documents to ensure fairness. This would assist schools in ensuring that the policy responds to the democratic laws of fairness and that each stakeholder is brought on board to be aware of the procedures that must be followed for a just disciplinary process.

Further, it appears that in instances where schools attempt to engage all parties in the review processes, parents do not respond positively, and even those who are present find it challenging to constructively contribute due to their illiteracy levels and understanding of education law, among other possible reasons. Some participants said:

...even if let's say we invite our SGB and the parents to review or even just to draft the policies from scratch since we really don't have them in writing, those parents will not come...and even if they do, what will they contribute because they don't know much about laws or even education processes... (P1 C)

Our parents care less about policies or even following certain processes when disciplining learners... I think parents only want to see the school running and they do not want to involve themselves on the actual processes (DP 1B).

The responses above suggest that parents are not particularly interested in the policy development processes of the school, and this may be one of the root causes of the challenges schools face in the implementation of legal principles in learner disciplinary processes. Their lack of participation in the establishment of policy documents threatens the principles of just administrative action and cooperative governance.

4.5.4.2 *Sub-theme 2: Capacity building and training for the committee members*

This sub-theme revealed that disciplinary committee members are not formally trained in their roles and responsibilities nor provided with the skills to correctly interpret education legislation regarding learner discipline and to draft internal policy documents accordingly to manage learner discipline effectively. Some participants reported that:

Well, we do not receive any training in respect to these laws or principles if you like and as such we also mostly rely on our own knowledge and discretion to discipline learners (SGB PC C).

...well as for me, I only get to hear of some of these laws during the disciplinary hearings themselves from teachers because they are the ones who actually know these things... (SGB C B).

Our SMT is the one that deals with discipline and us we just invited to observe as class teachers when a learner is going for a disciplinary hearing and mostly our principal uses his discretion to impose sanctions... we rarely look at the code of conduct because we are not a court you see... (T A).

These responses continue to show that there is a lack of capacity and training offered to the disciplinary committee members, and as such, they rely on their own experiences to handle learner discipline. Further, it appears that the lack of training may have contributed to a lack of involvement in issues pertaining to the disciplinary policy and general discipline, which may have frequently meant that the principal and the SMT were responsible for its creation and implementation. Participants stated that, even in cases where the code of conduct is available, it is frequently disregarded when interacting with learners, unless there is a significant infraction in which parents and the department are somewhat involved. Nonetheless, despite an understanding shared among members of the disciplinary committee that training and development are the responsibility of the Department of Education, participants reported that it was never done, which prompted the school principal to undertake it themselves through knowledge attained in practice. One participant said:

...because of our officials' lack of training, I am frequently left to mentor members of the school disciplinary committee in my capacity as principal... (P C).

This is one of the factors that may create a gap in unfairness in the disciplinary processes wherein training is not offered together with mentorship to ensure consistency in the application of legal principles. It is evident that disciplinary committee members in schools are not receiving enough training. Nonetheless, members of the school disciplinary committee are expected to manage the disciplinary hearing processes despite the Department of Education's inadequate training, even if they lack the requisite training to ensure that they can handle discipline in schools according to the stipulated legal framework. Some participants expressed the following views:

Since my appointment as a teacher and even a member of this committee, there has never been training arranged by the department that deals with learner disciplinary principles, and all I know to date is from experience and maybe my passion for the profession... We learn as we go and rely heavily on the Schools Act, and we do not have a code of conduct as required because we don't know where to start if we are to draft one (T B).

I don't remember the last time I saw a document called a code of conduct in our school or even a presentation on how to go about drafting it... and our context as a school does not make it easy because we are a rural school where the majority of the parents are not sufficiently educated to even take part in the development of such legal documents (T C).

Interestingly, it is widely known that the department receives funding from each province to ensure that the SGB and its structures are inducted and continue to receive capacity-building for efficient operation in schools on matters affecting learner discipline, among other pertinent areas of a school. Even so, it appears that the department has delegated training duties for disciplinary matters to school managers, who frequently lack the requisite training and continuous supervision.

4.5.4.3 Sub-theme 3: Intervention by departmental officials

One method mentioned by participants as part of the strategies employed to resolve problems encountered in learner discipline is the involvement of departmental officials for interventions and guidance. These interventions often include mediation between the parents of aggrieved learners and the school in order to reach an amicable solution. Some participants shared the following views:

There are instances where we do not see eye to eye with parents about measures, we might have taken in disciplining their child, and in these instances, we invite our circuit manager, especially when the parent refuses to cooperate or accept our decision (T B).

...oh, and at times, our officials come to the school after a parent has gone to their offices to vent, and they (circuit manager) arrive here gun-blazing, without even wanting to check with us first or review our code of conduct, but already defending the parent... (P C).

The above quotations seem to suggest that departmental officials do intervene in schools when there is a lack of common understanding between the parent and the school disciplinary committee, aiming to mediate in the best interest of the school. However, it appears that these officials often arrive with a pre-determined stance, rather than guiding the school or reviewing its disciplinary system to understand the basis of their decisions before proposing any intervention. In fact, it became evident that some officials are dismissive of the school's disciplinary policy and merely overturn the school's decisions without following proper procedures. Nonetheless, there was evidence from one school indicating that the disciplinary committee consistently refers parents to the code of conduct. Some participants said:

In severe cases, such as when alcohol is brought to school by a learner, we refer to our drug policy. Any parent who refuses to cooperate and argues that they are not going to agree with our decision is referred to the policy because that is what we use to enforce discipline. We do not accept when parents say they don't know what it entails because we provide it to them at the beginning of the year, and it is also available on our website for everyone to see. (SGB DC A)

Well, we stick to our policy and remain firm on it. We are known for this over the years, which is why our school is perceived to be disciplined by the public.

(T A)

From the responses above, it is obvious that maintaining the effectiveness of any disciplinary system depends heavily on the consistent application of policies. It seems that having carefully crafted policies that comply with applicable laws is also crucial. The results of this study suggest that the first step in establishing order in a school is to ensure that policies are well-crafted, that all parties involved are included in the formulation process, and that everyone is aware of the repercussions of breaking such policies. Further, it appears that officials only report to schools to act in favour of parents and not to assist in developing disciplinary systems that are founded on democratic principles. Some participants said:

Our circuit managers never really come to school to support or guide us for that matter on these matters of unruly learners or discipline... they come to ensure that parents are happy, and they don't even check our learner discipline rules and maybe guide if they are wrong or whatever... (P C).

This response insinuates that departmental officials do not offer support to the disciplinary committee members in complying with the legal principles in learner discipline. This undermines the argument that the management and implementation of disciplinary principles should be a collaborative effort involving the schools, parents, and the Department of Education itself.

4.5.4.4 Sub-theme 4: School's approaches to problems experienced in disciplinary procedures

Participants were asked about the resolutions implemented to address the problems experienced during learner discipline processes. This sub-theme revealed that some participants have lost confidence in the school's authority to instil discipline. The following were reported:

Well, my brother we have nothing really to do in these challenges we experience because the law is always on the side of the learner, and we are left frustrated and depressed in our attempts to resolve some of the challenges (T B).

Teaching today has become very heavy and stressful with the discipline challenges we have to address and so many laws and reports that must be written... we end up leaving the issues unaddressed because we don't want to be victimised or have to write lots of reports and such things... I am happy that I am leaving the system soon myself... (T C).

Some of our teachers get admitted to hospitals and some even resign on the spot because of unruly learners and parents who are not cooperative in the measures to manage learner discipline (SGB PC A).

These responses show that schools feel powerless and frustrated by the challenges faced amid learner disciplinary processes, as they feel they are not adequately empowered to address such challenges in a manner expected by the law. One participant reported that some of their colleagues are even admitted into mental health facilities as a result of the stress from the challenges they are left to handle. This suggests that schools are not aware of measures in place to address the challenges that may be experienced in the implementation of legal principles in learner disciplinary processes.

It appeared that schools consider and apply mitigating factors based on their own discretion and vary from one case to another. One participant said:

We managed challenges differently based on the situation at hand... for example, if a parent and a learner are cooperating then we are able to work the solution out with the parent until we arrive to a conclusion of what will be done to the learner but if we can't just find each other than at times we just leave the situation to calm itself... (DP B).

This response suggests that the resolutions or measures for challenges are not consistent or applied to every similar case. Schools seem to rely on the attitude the parent has towards the entire disciplinary process. Additionally, this suggests that several approaches to the problems were adopted by individual members of the disciplinary committee, and no common guidelines were put in place to ensure uniformity.

Some participants avoided addressing the discipline of learners and consequently the challenges that arise during the disciplinary processes. The following were reported:

One of the best ways is just to ignore a lot of things sir, and just try to focus on teaching because if you act... you find yourself out of the policy prescripts and if you just mind your own business, you avoid having to deal with a lot of things... (DP B).

Well because I am just a member of the SGB and not a teacher, I just do not involve myself too much in the work of teachers which includes discipline of learners, and I think it's also a way of dealing with challenges that may arise because at least there will be somebody to address them or maybe just take them to the principal (T C).

The responses above seem to suggest that schools ignore challenges and cite such ignorance as one of the strategies to avoid having to deal with challenges themselves. Additionally, this suggests that schools do not have strategies to curb the problems experienced in learner disciplinary processes.

In discussing the findings of this theme, the present study has shown that high levels of illiteracy among parents pose a severe challenge to the SGB's active participation in the drafting and adoption of codes of conduct for learners. This observation is consistent with the findings of a study conducted by Shemane (2021:232), which revealed that the illiteracy levels of parent components were a major factor leading to malfunctioning disciplinary committees operating below capacity in secondary schools. In my view, compliance with legal principles in learner disciplinary processes requires that members of the disciplinary committee be competent enough to interpret and apply the legislation on learner discipline. In this regard, one may agree that the SGB parent component ought to have a certain level of education to adopt learner disciplinary policy documents which is consistent with legislation. However, another argument is that sufficient training and capacity building should be made available to equip SGBs with adequate knowledge and skills to play an active role in managing learner discipline (Mongale, 2021:22). This recommendation applies to the findings of this study.

Furthermore, properly established and consistent disciplinary committee members in schools were not there, consequently, committee members were changed from one case to another. In my view, this is one of the factors that led to some level of

unfairness in the enforcement of learner discipline and sanctions imposed for misconducts. Du Plessis (2019:92) posits that in the management of learner discipline in line with the prescribed legal framework, there must be established and inducted structures to fulfil their roles in a legally sound manner. In summary, this suggests that if structures are not properly established and the stakeholders trained, the principles of fairness, among others, will be compromised.

The research also showed that parents are not involved in the school's learner disciplinary procedures. Furthermore, it is believed that factors beyond those encountered within the school environment, such as changes in family circumstances, exert a significant influence on the behaviour of learners. Brunette (2018:122) asserts that the child's future psychological, physical, emotional, and social development is shaped in the close quarters of their parents' home. Therefore, one may agree that for a successful implementation of legal principles, parents must be fully involved and support the school in its endeavour to comply with legal principles in learner disciplinary proceedings. Interestingly, the lack of discipline among learners, according to Timothy (2015:89), mirrors what is taking place in the society in which they live. Therefore, parents should be involved and encouraged to contribute to the school's disciplinary processes. Parents may also be supported by other departments and agencies in providing an ideal home environment for their children to the best of their ability.

Lastly, this study has revealed that schools lack mechanisms to address the challenges they face regarding compliance with legal principles during learner disciplinary processes. In my view, this may mean that schools do not have legally sound learner codes of conduct that clearly guide the school on how problems arising during learner disciplinary processes may be managed. Magwa and Ngara (2019:85) posit that challenges experienced during learner disciplinary processes may only be addressed if schools have a code of conduct containing provisions of fairness and are context specific. In summary, this implies that schools should develop policy documents tailored to their specific context while actively involving all relevant stakeholders.

In accordance with the co-construction perspective on policy application, the successful putting into practice of policy can only be realised if a mutual relationship

between various stakeholders exists (Coetzee, 2021:72). In the case of this study, the efforts made by schools to put legal principles into practice do not show that children, their parents, and the Department of Education participate in a reciprocal process. It is undeniable that the effectiveness of applying the legal principles to learner disciplinary procedures is significantly impacted by the context and unity among the different education stakeholders (Curran, 2019:87). In this study, the findings indicate that school disciplinary committees do not receive developmental support from the Department of Education especially regarding discipline management matters, and this demoralises the schools from enforcing discipline in a uniform manner while observing the rights of learners.

4.6 SUMMARY OF THE CHAPTER

In this chapter, I have discussed the findings related to the research sub-questions: How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes? How do secondary school disciplinary committees implement legal principles during learner disciplinary processes? What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes? Finally, how are the identified problems resolved? The purpose of these findings is to illuminate the participants' experiences and understanding of the implementation of legal principles in learner disciplinary processes in secondary schools.

In the next chapter, I will present a summary of the research findings, discuss delimitations and limitations, provide conclusions drawn from the study, and offer recommendations based on the findings.

5. CHAPTER 5: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

The preceding chapter offered and discussed the findings of this study on the implementation of legal principles in learner disciplinary processes within secondary schools. This research is framed within the interpretivist paradigm. It explored how secondary schools interpret and apply legal principles in their disciplinary procedures. Furthermore, the analysis included an examination of disciplinary policy documents and codes of conduct established by schools to govern and oversee learner discipline. In the following sections, I will reflect on the research process, provide a summary of findings, deliberate study boundaries and limitations, make conclusions, and present recommendations for prospect research and practice.

5.2 REFLECTIONS OF THE RESEARCH JOURNEY

Pursuing a postgraduate degree is often seen as a solitary endeavour. Choosing to pursue a postgraduate qualification often means venturing into less trodden paths, facing limited resources and guidance, thus amplifying its solitary nature. However, my enthusiasm wavered as I encountered personal challenges along the research journey, prompting me to request an extension. Despite these obstacles, I must acknowledge that my supervisor has served as an invaluable support system, consistently encouraging me to deliver the utmost quality in this research.

During the fieldwork, some participants declined interview appointments multiple times, causing delays in completing my research. Additionally, I encountered instances where scheduled appointments were forgotten or misunderstood, leading to rushed interviews due to time constraints. These challenges resulted in a prolonged period for completing data collection, exceeding my initial estimated data collection period. Nevertheless, the majority of participants cooperated throughout the data generation process and this encouraged me to complete the data collection process.

Only two participants withdrew from further engagement in the study during the member-check activity; nevertheless, they consented to have their interview data included in the study. The most challenging year of my academic journey was the third year. Balancing full-time employment with academic commitments, I struggled with depression and encountered financial difficulties, hindering my capability to fully focus on my studies. However, the situation improved after several therapy sessions and interactions with fellow postgraduate students who were facing similar challenges as well as the encouraging communication from my supervisor.

Moreover, balancing deadline-driven tasks in both professional and academic spheres proved exceedingly daunting. This led to limitations in social engagements, such as declining invitations to weddings and other ceremonies. Besides, involving schools to participate in this study proved challenging because some of the potential participants were not interested in sharing their experiences with me during the interviews. This hesitancy may stem from a broader lack of appreciation for the value of new research insights, as some perceive that research does not immediately impact the education system.

Nevertheless, interviews with participants served as enlightening encounters. If not carefully managed, these interviews could serve as platforms for airing concerns about school policies or practices with which participants disagreed, or alternatively, as opportunities to market the school. Through these encounters, I learned the significance of formulating thoughtful research questions to maintain participants' engagement.

I also navigated challenges such as load-shedding disrupting my study time, which was mostly at night, tempting me to consider abandoning my academic pursuits. However, being at an advanced stage of my studies when these challenges arose encouraged me to remain steadfast and push myself harder towards the finish line.

In conclusion, this research journey was thought-provoking. It taught me that there is at all times, a space for enhancement in any area of study and that the process of conducting research is not linear. I have developed a passion for academic research and aspire to contribute as an education researcher in the Higher Education sector someday.

5.3 SUMMARY OF FINDINGS

This section provides an overview of the conclusions drawn from the responses provided by participants to the research questions outlined in Chapter 1. The primary focus of this study was to investigate how secondary schools implement legal principles in learner disciplinary processes. This overarching question was further explored through the following sub-questions:

How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?

How do secondary school disciplinary committees implement legal principles during learner disciplinary processes?

What are the problems experienced by the school disciplinary committees in the implementation of legal principles in learner disciplinary processes?

How are the identified problems resolved?

The findings have been categorised into four themes that emerged from the data analysis.

5.3.1 Conceptualisation of the legal principles in learner disciplinary processes

This segment provides a summary of the research findings addressing the question: “How do secondary school disciplinary committees perceive the legal principles in learner disciplinary processes?” The study uncovered diverse perceptions among disciplinary committee members regarding these legal principles. Some participants viewed them as flexible policies that could be applied at the discretion of the committee, while others understood them as strict regulations mandated by the Department of Basic Education (DBE) for consistent application across all schools in disciplinary matters. Moreover, it became evident that many schools still lack a comprehensive understanding of legal principles in learner disciplinary processes, which sometimes leads to compromises in their implementation and compliance.

This finding is aligned with Moemedi’s (2018:35) observation that issues of learner indiscipline are exacerbated by schools’ challenges in grasping the concept of “legal principles” in disciplinary procedures. While some participants demonstrated

familiarity with the Constitution and the Schools Act as authoritative procedures for legal principles in learner discipline, others exhibited less clarity on these matters. This disparity highlights the critical need for a standardised understanding and application of legal principles across South African schools.

In conclusion, the exploration of how secondary school disciplinary committees perceive legal principles in learner disciplinary processes reveals a complex landscape characterised by diverse interpretations and varying levels of comprehension. This diversity underscores the importance of establishing uniformity in the understanding and application of legal principles to ensure equitable disciplinary practices across educational institutions.

5.3.2 Application of the legal principles during the learner disciplinary processes

This indicates that crucial aspects of learner disciplinary policies were inconsistently applied by stakeholders involved in managing learner discipline. Document analysis revealed instances where learners were promptly taken to disciplinary hearings without being afforded the opportunity to have a representative or adequate time for preparation, as required by procedural fairness.

Moreover, the findings highlighted that learner had not been sufficiently briefed on the procedures to follow when facing a misconduct report. Documented minutes showed instances where parents contested school procedures, citing either their lack of awareness about these protocols or their exclusion from the initial stages of policy drafting within the school. This suggests that both parents and learners were inadequately informed about the school's disciplinary policies and were not involved in their development.

Additionally, schools face notable challenges in formulating and implementing learner disciplinary policies that conform to legal standards while safeguarding learners' rights during disciplinary proceedings. The lack of support for teachers with expertise in these processes compounds the difficulties in ensuring compliance with legal principles.

The study's findings also uncovered instances where teachers continued to use physical punishment as a means to correct learner misconduct. Although this was not the primary focus of the study, it appeared as a significant factor contributing to the inconsistent application of legal principles in learner disciplinary actions. Furthermore, it was observed that teachers frequently resorted to offensive language, including name-calling and insults directed at learners. Participants seemed to equate managing learner discipline with methods that avoid physical pain, neglecting the potential for emotional harm, which could still contravene Section 10 of the Schools Act. One might argue that teachers may not fully consider constitutional requirements that bind their actions during the management of learner disciplinary processes.

5.3.3 Challenges in implementing legal principles in learner disciplinary processes

This section provides a summary of the findings addressing the research question: "What are the problems experienced with compliance with the legal principles in learner disciplinary processes?" The study revealed diverse challenges experienced by participants, varying significantly based on contextual factors.

Firstly, it was observed that while some schools have functional disciplinary committees, their policy documents often do not align with the legal framework governing learner disciplinary processes. Conversely, other schools lack both structured disciplinary committee frameworks and internally drafted documents to guide disciplinary proceedings.

A recurring issue highlighted by several participants was the absence of standardised and adopted disciplinary documents within their schools. This gap leads to decisions being made on a case-by-case basis relying heavily on personal discretion. This inconsistency underscores a significant competence gap among participants in utilising legally compliant disciplinary documents effectively.

Moreover, the variability in how disciplinary measures is implemented points to broader systemic issues concerning the standardisation, dissemination, and application of legally compliant disciplinary policies across schools.

Furthermore, it became evident that in many instances, some participants listed as members of disciplinary committees were not actively engaged in executing their

duties. This lack of involvement compromises the effectiveness and legitimacy of disciplinary processes, revealing a disparity between policy intent and practical implementation. It underscores the need for enhanced engagement and accountability mechanisms within disciplinary committees to ensure active participation of all designated members in decision-making and implementation.

Document analysis also revealed inconsistencies in the composition of participants in disciplinary hearings and the absence of recorded roles. This lack of documented minutes for proceedings suggests inadequate record-keeping practices across schools, relying instead on verbal accounts that may not accurately reflect the process and outcomes of disciplinary hearings.

Lastly, the study found that many schools lack properly drafted and reviewed codes of conduct for learners. Even where codes exist, they have often not undergone comprehensive review by all relevant stakeholders, including parents, teachers, and RCL. This exclusion of key stakeholders, particularly parents, from the disciplinary process highlights recurring issues of insufficient support from both parents and the DBE.

In conclusion, the study identifies significant shortcomings in the implementation of legal principles in learner disciplinary processes across schools. There is a clear need for schools to develop and adhere to standardised, legally compliant disciplinary policies that ensure fairness, consistency, and stakeholder involvement. Additionally, improved record-keeping practices and enhanced engagement of all stakeholders are essential to address the identified challenges effectively.

5.3.4. Strategies for problem resolution

The findings of this study have discovered that public schools face significant challenges in addressing problems related to compliance with legal principles during learner disciplinary processes. These challenges may be attributed, in part, to the literacy levels of SGB parent members. This lack of literacy compromises their roles in disciplinary committees, hindering their ability to ensure fair treatment for all learners during disciplinary hearings. Consequently, the effectiveness of the disciplinary processes is undermined, highlighting a critical area for improvement in training and supporting SGB parent members.

The study also found that some disciplinary committees struggled with parental involvement in the disciplinary processes, despite schools' concerted efforts to engage them. The findings indicated that while schools do attempt to involve parents, the parents are often unresponsive and tend to view discipline as solely the responsibility of the school, rather than a shared duty. The strategy that could be used to address this problem may involve members of the community members who have a background in education and the passion to get parents engage with the school in managing learner discipline as well as academic matters.

As previously mentioned, the absence of disciplinary policies within schools may suggest a lack of prioritisation of learner discipline. Regrettably, this oversight could result in the failure to fully implement legal principles. This study underscores that disciplinary committee members often do not adhere to standardised legal documents, instead relying on their individual knowledge acquired through trial-and-error experiences. This reliance on ad-hoc approaches rather than established legal frameworks highlights a systemic gap in the consistent application of legal principles in learner disciplinary processes. As indicated earlier, it raises concerns about the effectiveness and fairness of disciplinary actions within schools.

Efforts to address these shortcomings should include the development and dissemination of comprehensive disciplinary policies aligned with the legal framework, along with training initiatives to ensure that committee members, especially parent members, are equipped with the necessary knowledge and skills to apply these policies effectively.

5.4 DELIMITATION OF THE STUDY

Delimitations delineate the boundaries of the study, that is, what is included and omitted from the study. The researcher elucidates the parameters within which the study was conducted and provides rationale for these methodological decisions.

Firstly, a mixed-method or quantitative approach was not employed in this study. This decision stemmed from the study's primary objective, which was "To examine the implementation of the legal principles in learner disciplinary processes in secondary schools." Given the nature of the research question— "How do secondary schools implement legal principles in learner disciplinary processes?"—a qualitative approach

was deemed most suitable. This qualitative methodology permitted for the gathering of in-depth data, facilitating a nuanced exploration of participants' perspectives. Moreover, the qualitative approach afforded the researcher the flexibility to prompt participants for elaboration on their responses and to pose follow-up questions, enhancing the richness and depth of the data gathered.

Additionally, the researcher opted for a case-study design involving three distinct schools within the Ngaka Modiri Molema District of the North West province. This choice was informed by the desire to enhance the reliability of the study's findings. Unlike single-case studies, multi-site investigations offer a broader scope, yielding more robust and generalisable results. Adopting a case-study approach afforded the opportunity to closely examine participants within each school, thereby capturing authentic experiences within real-world contexts (Morries, 2015:13). Also, the researcher refrained from using research assistants and instead conducted fieldwork independently.

In order to uphold the study's focus and scope, interviews with learners were purposefully omitted, highlighting the need for future research to integrate their viewpoints. While learners are indeed expected to engage in school disciplinary committees and could have been potential interviewees, the study prioritised exploring the contributions and challenges encountered by adult members of these committees, given their particular accountability for any disciplinary outcome in a school. It is worth noting that primary schools were excluded from this study as it focused specifically on secondary schools.

5.5 LIMITATIONS OF THE STUDY

The researcher acknowledges the limitations that could be placed on this or any other study, as remarked by other researchers (Yin, 2009:83; Merriam, 2009:78). Since there are usually limitations to research work, some of the shortcomings in this study are addressed below.

Due to its nature as a case study, the study's sample size was limited. Consequently, generalising the findings should be approached with caution. However, the number of participants involved in this study indicates that comparable experiences might be encountered in similar contexts (Theofanidis & Fountouki, 2018:156). Given the

contextual nature of participants' realities, as observed in case studies, further research conducted in diverse educational institutions or environments may either support or challenge the findings of this study. Nonetheless, there is potential for the findings to be applicable to settings sharing comparable circumstances.

Moreover, potential limitations of this study include certain dynamics observed during the interviews. For instance, it was noted that participants withheld certain views regarding their perceptions and experiences, possibly due to a desire to appear polite or knowledgeable (Morris, 2015:15). Recognizing this phenomenon, the researcher adopted a strategy of prolonged engagement in the field. By interacting with each participant on multiple occasions, the researcher aimed to establish familiarity with both the participants and the research focus, thereby fostering trusting relationships and encouraging participants to share more openly as recommended by Theofanidis and Fountouki, (2018:156).

Given that the research necessitated document analysis, some school principals expressed reluctance and eventually declined to provide their school code of conduct or discipline policies for examination. Additionally, while the researcher compared responses from numerous participants, the ability to triangulate data may have been constrained by the reliance on interviews as the primary data source. There is also the possibility that certain aspects of the findings or data analysis were unintentionally overlooked. However, the occurrence of such was probably mitigated through constant engagement with my supervisor's expert contributions.

The study's focus on a case study involving participants selected from specific schools within a single province, district, or region, each with its own unique cultural context, presents a limitation. This relatively narrow geographical and cultural scope may restrict the generalisability of the findings beyond the studied context. The researcher recognises that the lived-experiences and viewpoints of participants in other provinces, districts, or regions around the country may differ significantly, thus impacting the applicability of the study's conclusions to broader contexts. Therefore, while the insights gained from this study are valuable, caution should be exercised when extrapolating and applying them to other settings.

Finally, although permission was granted by the PED, the researcher faced time constraints that prevented the extension of the study to other regions within the province. While questionnaires could have been utilised as a means of data collection had a quantitative approach been adopted, this was deemed unsuitable as the primary objective was to gather detailed and unfiltered data elucidating the implementation of legal principles in learner disciplinary processes within secondary schools.

5.6 CONCLUSION

In the realm of managing learner discipline in South African schools, a notable gap persists in the full implementation of legal principles within disciplinary processes, crucial for maintaining discipline within the confines of the prescribed legal framework.

Against this backdrop, this study aimed to examine the implementation of legal principles in learner disciplinary processes within secondary schools. The findings underscore that schools lack a comprehensive understanding of these legal principles, with interpretations varying across different settings. While some perceive legal principles as rules to be adhered to during learner discipline, others view them simply as discretionary regulations by the DBE to assist in handling discipline issues in schools. These divergent interpretations highlight a lack of uniformity in the understanding of legal principles in learner disciplinary processes among schools.

Furthermore, the study revealed discrepancies in the composition of schools' disciplinary structures, which do not consistently align with the provisions outlined in the Schools Act. Additionally, many schools lack properly enacted policy documents governing learner disciplinary processes, with instances where codes of conduct or specific disciplinary policies for learners are non-existent. It has been argued that the absence of these disciplinary records prevents schools from establishing systematic programs and ensuring the upholding and advancement of the rights of learners.

The study has shown that some participants view adherence to the prescribed legal framework as time-consuming. This implies that schools struggle to ensure fairness and consistency in managing learner discipline due to the lack of guiding documents. Two of the three schools were unable to provide sufficient documentation to demonstrate an organised structure for applying legal principles in learner disciplinary procedures. Rather than offering a thoughtful assessment of their methods, school

disciplinary personnel seemed to be defending themselves. Additionally, concerns were raised about teacher victimisation and safety during the enforcement of discipline, which may contribute to inconsistencies in the composition of disciplinary committees. The study also revealed that some members of the disciplinary structures lacked adequate knowledge of the legal principles governing learner discipline, negatively affecting their approach to the discipline process. Consequently, schools received negative reports about rights violations during disciplinary proceedings.

Since physical punishment has been outlawed in South African schools, teachers must overcome several obstacles in disciplinary proceedings, and this calls for sufficient support from all parties involved, including pupils and their parents. The study found that many disciplinary committee members are afraid to use disciplinary procedures in the school because they are not well-versed in the laws and policies protecting learners' rights. Other participants said that they were unable to enforce discipline effectively because of insufficient support from parents, teachers and other education officials. The members of the disciplinary committee reaffirmed the necessity of safeguarding their rights because they all believed that pupils were receiving greater importance at their expense.

5.7 RECOMMENDATIONS FROM THE FINDINGS

In this section I present the recommendations.

5.7.1 Recommendations from Theme 1

The DBE should provide continuous in-service training to educators and SGB members on the legal principles pertaining to learner disciplinary processes. Stakeholders should also be trained on applicable skills for correctly interpreting and applying policies for managing learner disciplinary processes. Additionally, the DBE, teacher unions, governing bodies, and SGB organizations should collaborate to establish agreed-upon support and supervision mechanisms for schools. These efforts should aim to promote the consistent implementation of legal principles in learner disciplinary processes, taking into account the contextual factors present in various schools.

In the context of this study, it is crucial to provide training on legal principles to SMTs, governing bodies, and circuit or district officials involved in learner disciplinary processes. Certificates of competency should be issued to individuals who demonstrate proficiency in these legal principles, serving as tangible evidence of their suitability to serve on disciplinary committees. Additionally, regular evaluation conferences should be conducted with these structures on an annual basis to assess the progress made in implementing legal principles within learner disciplinary processes in school settings. These conferences provide an opportunity to evaluate the effectiveness of training initiatives and identify areas for improvement, ensuring ongoing development and refinement of disciplinary procedures in alignment with legal standards.

Schools should establish explicit consequences for inappropriate behaviour or contraventions of policy. They should also provide comprehensive instruction to all learners regarding behavioural standards and expectations. This should include the development of school policies addressing various concerns relating to appropriate and inappropriate behaviour. These elements should be incorporated into a school-wide disciplinary system and reviewed on an annual basis to ensure their effectiveness and relevance to the evolving needs of the school community.

5.7.2 Recommendations from Theme 2

The DBE should establish school-based structures composed of officials who are trained and employed to monitor and support the disciplinary committees in the implementation of legal principles during learner disciplinary processes. This initiative must be aimed at alleviating the administrative burden currently borne by teachers in schools. Furthermore, there is a need for additional research to investigate alternative measures to corporal punishment in schools.

School principals, especially in their capacity as *ex officio* members in the governing body, should bear the responsibility of ensuring the existence of comprehensive policy documents delineating the steps to be followed during learner disciplinary processes. These policy documents should align with legal requirements or acts governing the management of learner discipline in schools. Additionally, the SMT must ensure widespread awareness of the contents of these policy documents on learner discipline, ensuring that all staff members within the school community adhere to the prescribed

regulations outlined therein. This concerted effort is essential for promoting consistency and fairness in learner disciplinary procedures while upholding legal standards and protecting learners' rights.

Educators and SGB members serving on the disciplinary committee should go through both pre-service and in-service training on managing learner discipline while implementing legal principles. Additionally, competency tests should be administered during training based on real-life scenarios to assess their proficiency in handling discipline in accordance with legal requirements. These assessments should not be used to disqualify individuals from serving on the disciplinary committee but rather as a tool to enhance their skills and knowledge.

5.7.3 Recommendations from Theme 3

The DBE's policy documents pertain to learner disciplinary processes. School principals, as leaders within their respective institutions, should take the initiative to conduct orientation sessions at the start of each academic year. These sessions should aim to educate both parents and learners about the school's code of conduct, as well as the general rules governing learner discipline and the consequences for violating these rules. By involving stakeholders from the outset and fostering a culture of transparency and accountability, schools are likely to promote a more collaborative and effective method to managing learner discipline.

The above recommendation should be extended to include teachers and learners as well. This extension is essential for fostering collective accountability, fairness, and transparency among teachers and learners alike.

Additionally, the language used in these policy documents should primarily be spoken and understood by the community to facilitate easier comprehension. This approach ensures that the entire school community can act collectively and with a clear comprehension of the legal principles governing learner disciplinary processes.

To ensure continued adherence to policy, teachers should consistently refer learners to the discipline policy to educate and guide them on appropriate behaviour, even during in-school activities. This practice is likely to reinforce the importance of adhering to established rules and expectations.

The SGBs should co-opt members from the parent body and/or educational social partners who have relevant expertise in education law to serve on and consult with the

disciplinary committee. Additionally, this committee should be responsible for establishing and maintaining an effective recording system to monitor and report on learner progress and interventions, thereby identifying and addressing issues with the application of legal principles in learner discipline.

5.7.4 Recommendations from Theme 4

Schools should conduct periodic reviews of their code of conduct, engaging all stakeholders including experts from the DBE and any co-opted members with expertise on the matter. This collaborative effort will ensure that policy documents at schools remain aligned with the legal framework governing learner discipline. In addition, teachers should strive to familiarize themselves with and gain knowledge of the home experiences of their pupils. This deeper understanding of learners' backgrounds will enable teachers to better comprehend the needs and challenges of the learners, thus facilitating more effective development of policy documents, support, and guidance.

Educators should work collaboratively as a team, holding regular meetings to discuss their approaches in alignment with the prescribed legal framework on learner disciplinary processes. This collaborative effort will ensure consistency and coherence and encourage support among teachers in disciplinary practices. This collaboration should not only be between teachers, but also between schools as well. Schools should establish partnerships with other schools, local organisations (such as social workers, therapists), and law enforcement agencies through the processes of the Quality Teaching and Learning Campaign (SQLTC) to enhance the application of the law, particularly in cases involving serious misconduct that may warrant suspension or expulsion. By leveraging the expertise and resources of various stakeholders, schools can make informed disciplinary decisions that prioritise fairness, accountability, and the well-being of all learners involved.

The SMTs, in conjunction with the Governing Bodies, should establish a programme of capacity-building activities to enhance the implementation of legal principles in learner disciplinary processes. These activities should be conducted at least twice annually, with careful consideration given to the specific needs of the school. The DBE and expert co-opted members should be involved in facilitating these initiatives. By engaging in ongoing capacity-building efforts, schools can strengthen their disciplinary

processes and ensure compliance with legal standards, ultimately fostering a safe and conducive learning environment for all learners.

Schools should establish systems that enable direct communication with parents via phone or email for scheduling meetings or providing updates on their children's disciplinary progress. This approach can bridge the communication gap that often arises when letters are not delivered to parents, leading to their lack of engagement in the school's disciplinary processes. To ensure effectiveness, schools should collect accurate and functional contact details directly from parents at the time of student registration.

5.7.5 Recommendations for future research

The present study aimed to examine the implementation of legal principles in learner disciplinary processes in secondary schools. Employing a qualitative research approach, the study delved into the nuanced aspects of this implementation. However, a quantitative study could be conducted in the future, utilising a broader sample size to facilitate the generalisation of findings across a wider population.

Additionally, the study did not explore the role of learners participating in the RCL in secondary schools and their contribution to the implementation of legal principles. Future research endeavours could focus on examining the involvement of RCL members in disciplinary committee structures and their understanding of legal principles in learner disciplinary processes. This would provide valuable insights into the perspectives and contributions of learners in shaping disciplinary practices within school settings.

The findings of this study underscore the absence of consistent structures within schools for implementing legal principles in learner disciplinary processes, alongside a pervasive lack of understanding regarding these principles and their application.

It may be prudent for future researchers to consider conducting a larger longitudinal study on the implementation of legal principles in learner disciplinary processes, further investigating the inconsistencies in committee structures and the general lack of understanding of these principles. Such a study could provide valuable insights into the varied contexts and challenges faced by schools in adhering to legal principles. The outcomes of this longitudinal study could inform the development of future

monitoring, support, and implementation structures aimed at enhancing the implementation of legal principles across diverse school settings. By gaining a comprehensive understanding of the complexities and nuances involved in learner disciplinary processes, education authorities can position themselves well to provide relevant and effective interventions and resources to schools, ensuring that legal principles are upheld and promoting fair and equitable disciplinary practices.

This study provides a foundational starting point for ongoing discussions regarding the ethical dilemma of balancing learners' rights with legal principles in disciplinary processes. Future research could involve learners, policymakers, and education officials to develop a comprehensive monitoring and assessment system for these crucial elements within the South African educational context and beyond. In conclusion, the study has successfully addressed its purpose and answered all the research questions.

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ANNEXURE A: RESEARCH APPROVAL FROM THE DEPARTMENT OF EDUCATION



education

Department:
Education
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

Garona Building, Mmabatho
First Floor, East Wing,
Private Bag X2044,
Mmabatho 2735
Tel.: (018) 388-3429/33
e-mail: sgedu@nwpg.gov.za

OFFICE OF THE SUPERINTENDENT-GENERAL

Enq. : Dr T Phorabatho
Tel. : 018 388 3071/3433

To: Dr TA Ogina
University of Pretoria
Faculty of Education

PERMISSION TO CONDUCT RESEARCH: MR TK SEGAPO

Permission is hereby granted to your student, Mr TK Segapo to conduct research titled: "IMPLEMENTATION OF LEGAL PRINCIPLES PERTAINING TO LEARNER DISCIPLINARY PROCESSES IN SECONDARY SCHOOLS IN NORTH WEST PROVINCES" in Ngaka Modiri Molema District as requested, subject to the following conditions:

- He contacts the Ngaka Modiri Molema District Director with this letter of permission to arrange for details of data collection.
- Considering that your research will involve both Educators and Learners, the general functionality of the school should not be compromised
- The participation in his study should be voluntary.
- The principles of informed consent and confidentiality should be observed in strictest terms, and
- The findings of his research should be made available to the North West Department of Education upon request.

Best wishes.

Yours sincerely,

DR SH MVULA
ACTING SUPERINTENDENT-GENERAL

15/05/23
DATE

CC: Mr DS Ntlabathi – District Director: Ngaka Modiri Molema



Let's Grow North West Together



ANNEXURE B: PERMISSION FROM THE SCHOOL PRINCIPAL

Enquiries: Mr T.K Segapo

10332 Setumo Park Section

Contact no.: +27 63 326 7046

Lonely Park

Mahikeng, 2768

Dear Principal

Name of school

Town

Dear Sir / Madam

REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT YOUR SCHOOL

I am a Masters student in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. I am conducting research on the **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province**. The aim of this study is to examine the implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province. My project is supervised by Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. We are requesting permission from you to conduct this research with the principal/deputy principal, selected teachers and SGB members at your school.

I will conduct interviews and document analysis in the school. I will conduct a semi-structured individual interview with the principal/deputy principal and selected teachers as well as SGB members and each interview is anticipated to last between 30 to 60 minutes. I will use an audio-recorder after obtaining consent from the participants to ensure accurate collection of data. Additionally, I will be taking down notes during each interview as part of gathering process. The interviews will be conducted at the school, at the end of lessons or at places, dates and times convenient to participants in order not to disrupt lessons. After transcribing the interviews, I will give each participant their

interview transcript to give them an opportunity to confirm, add or clarify any of their information.

Further, the ethical requirements of the Faculty of Education of the University of Pretoria will guide the ethical integrity of this research. I will ensure anonymity and confidentiality of participants and institution. I will not use the real identity of participants or the name of the school in this study. I will use pseudonyms and codes throughout all the processes of data collection, analysis and reporting. Moreover, participation in this study will be voluntary. The participants can withdraw at any stage of the research process with no consequences or penalties. There are no anticipated or known risks to participants in this study. After the study, all data will be stored in digital format in the Department of Education Management and Policy Studies of the University of Pretoria.

I anticipate that, based on responses of participants in this study, I will be able to develop guidelines on how secondary schools can implement the legal principles pertaining to learner disciplinary processes while protecting and promoting the rights of all parties involved in learner discipline at schools. The results of this study will also be published in journal articles and the mini-dissertation will be available in the library of the University of Pretoria for public use.

We also would like to request your permission to use your data, confidentially and anonymously, for further research purposes, as the data sets are the intellectual property of the University of Pretoria. Further research may include secondary data analysis and using the data for teaching purposes. The confidentiality and privacy applicable to this study will be binding on future research studies.

For any enquiries or additional information on this study, please contact me on +27 63 326 7046 or kabelosegapo@gmail.com; or Dr. T.A Ogina on +27 12 420 2445 / +27 82 374 9618 orteresa.ogina@up.ac.za.

Thank you in advance for your positive consideration.

Yours sincerely,

Mr T.K Segapo (MEd Student)

ANNEXURE C: REQUEST FOR PARTICIPATION IN THE RESEARCH STUDY - PRINCIPAL/DEPUTY PRINCIPAL

Enquiries: Mr T.K Segapo

10332 Setumo Park Section

Contact no.: +27 63 326 7046

Lonely Park

Mahikeng, 2768

Dear Sir / Madam

REQUEST FOR PARTICIPATION IN A RESEARCH STUDY (SCHOOL PRINCIPAL/DEPUTY PRINCIPAL)

I am a Masters student in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. I am conducting research on the **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province**. The aim of this study is to examine the implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province. My project is supervised by Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. We are requesting permission from you to conduct this research with the principal/deputy principal, selected teachers and SGB members at your school.

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Thank you in advance for your positive consideration.

If you decide to participate in this study, please sign the consent form attached at the end of this letter. Scan and email it to me at kabelosegapo@gmail.com

Participant: _____ Date: _____ Signature: _____

T.K Segapo (MEd Student): _____ Date: _____

Dr. T.A Ogina (Supervisor): _____ Date: _____

ANNEXURE D: PARTICIPATION CONSENT - SGB CHAIRPERSON/DEPUTY CHAIRPERSON

Enquiries: Mr T.K Segapo

10332 Setumo Park Section

Contact no.: +27 63 326 7046

Lonely Park

Mahikeng, 2768

Dear SBG Chairperson/Deputy Chairperson,

REQUEST FOR PARTICIPATION IN A RESEARCH STUDY

I am a Masters student in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. I am conducting research on the **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province**. The aim of this study is to examine the implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province. My project is supervised by Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. We are requesting permission from you to conduct this research with the principal/deputy principal, selected teachers and SGB members at your school.

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For any enquiries or additional information on this study, please contact me on +27 63 326 7046 or kabelosegapo@gmail.com; or Dr. T.A Ogina on +27 12 420 2445 / +27 82 374 9618 orteresa.ogina@up.ac.za.

Thank you in advance for your positive consideration.

If you decide to participate in this study, please sign the consent form attached at the end of this letter. Scan and email it to me at kabelosegapo@gmail.com

Participant: _____ Date: _____ Signature: _____

T.K Segapo (MEd Student): _____ Date: _____

Dr. T.A Ogina (Supervisor): _____ Date: _____

ANNEXURE E: PARTICIPATION CONSENT - SGB PARENT COMPONENT

Enquiries: Mr T.K Segapo

10332 Setumo Park Section

Contact no.: +27 63 326 7046

Lonely Park

Mahikeng, 2768

Dear SBG Parent component,

REQUEST FOR PARTICIPATION IN A RESEARCH STUDY

I am a Masters student in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. I am conducting research on the **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province**. The aim of this study is to examine the implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province. My project is supervised by Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. We are requesting permission from you to conduct this research with the principal/deputy principal, selected teachers and SGB members at your school.

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Further, the ethical requirements of the Faculty of Education of the University of Pretoria will guide the ethical integrity of this research. I will ensure anonymity and

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Thank you in advance for your positive consideration.

If you decide to participate in this study, please sign the consent form attached at the end of this letter. Scan and email it to me at kabelosegapo@gmail.com

Participant: _____ Date: _____ Signature: _____

T.K Segapo (MEd Student): _____ Date: _____

Dr. T.A Ogina (Supervisor): _____ Date: _____

ANNEXURE F: PARTICIPATION CONSENT - TEACHER

Enquiries: Mr T.K Segapo

10332 Setumo Park Section

Contact no.: +27 63 326 7046

Lonely Park

Mahikeng, 2768

Dear Teacher,

REQUEST FOR PARTICIPATION IN A RESEARCH STUDY

I am a Masters student in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. I am conducting research on the **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province**. The aim of this study is to examine the implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province. My project is supervised by Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria. We are requesting permission from you to conduct this research with the principal/deputy principal, selected teachers and SGB members at your school.

I will conduct interviews and document analysis in the school. I will conduct a semi-structured individual interview with the principal/deputy principal and selected teachers as well as SGB members and each interview is anticipated to last between 30 to 60 minutes. I will use an audio-recorder after obtaining consent from the participants to ensure accurate collection of data. Additionally, I will be taking down notes during each interview as part of gathering process. The interviews will be conducted at the school, at the end of lessons or at places, dates and times convenient to participants in order not to disrupt lessons. After transcribing the interviews, I will give each participant their interview transcript to give them an opportunity to confirm, add or clarify any of their information.

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confidentiality of participants and institution. I will not use the real identity of participants or the name of the school in this study. I will use pseudonyms and codes throughout all the processes of data collection, analysis and reporting. Moreover, participation in this study will be voluntary. The participants can withdraw at any stage of the research process with no consequences or penalties. There are no anticipated or known risks to participants in this study. After the study, all data will be stored in digital format in the Department of Education Management and Policy Studies of the University of Pretoria.

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For any enquiries or additional information on this study, please contact me on +27 63 326 7046 or kabelosegapo@gmail.com; or Dr. T.A Ogina on +27 12 420 2445 / +27 82 374 9618 orteresa.ogina@up.ac.za.

Thank you in advance for your positive consideration.

If you decide to participate in this study, please sign the consent form attached at the end of this letter. Scan and email it to me at kabelosegapo@gmail.com

Participant: _____ Date: _____ Signature: _____

T.K Segapo (MEd Student): _____ Date: _____

Dr. T.A Ogina (Supervisor): _____ Date: _____

ANNEXURE G: CONSENT FORM

I _____ of _____

school have read the information presented in the letter requesting my permission to participate in the research study titled **Implementation of legal principles pertaining to learner disciplinary processes in secondary schools in North West province.**

I was given the opportunity to ask questions and request further explanations about the research study. I understand that the research is being carried out by a Masters student by the name of Tshepang Kabelo Segapo under the supervision of Dr T.A Ogina, a senior lecturer in the Department of Education Management and Policy Studies, Faculty of Education of the University of Pretoria.

I understand that I will participate in an interview that is anticipated to last between 30 to 60 minutes and with my consent these will be audio-recorded to ensure accurate collection of information. I am aware that these interviews will be conducted at my school, at the end of lessons or at places and time convenient to me and other participants in order not to disrupt lessons. I understand that a transcription of my interview will be given to me as an opportunity to confirm, add or clarify any information I gave. I understand that the researcher will also conduct document analysis. I understand that the researcher will ensure my anonymity and confidentiality and that of my institution. The researcher will not use my name or the school's name anywhere in the study but will use pseudonyms and codes throughout all the processes of data collection, analysis and reporting.

Moreover, I understand that my participation is voluntary, that I can withdraw from the study at any stage of the research process without suffering any consequences or penalties. I also understand that, should I decide later to withdraw from the study after data collection, the researcher will seek consent from me to use my information. Additionally, I understand that there are no direct benefits anticipated or known risks to me in this research study. I am aware that after the study, all data will be stored in digital format with the Department of Education Management and Policy Studies of the University of Pretoria.

I have been made aware of the fact that participants' responses in this research may enable the development of guidelines on how to implement legal principles pertaining to learner disciplinary processes in secondary schools, while protecting and promoting the rights of all parties involved in learner discipline at schools. I understand that the results of this study will also be published in journal articles and the mini-dissertation will be available in the library of the University of Pretoria for public use.

We also would like to request your permission to use your data, confidentially and anonymously, for further research purposes, as the data sets are the intellectual property of the University of Pretoria. Further research may include secondary data analysis and using the data for teaching purposes. The confidentiality and privacy applicable to this study will be binding on future research studies.

Participant: _____ Date: _____ Signature: _____

T.K Segapo (MEd Student): _____ Date: _____

Dr. T.A Ogina (Supervisor): _____ Date: _____

ANNEXURE H: INTERVIEW QUESTIONS

Research Question(s)	Descriptions
<p>Q1: Biographical questions</p>	<p>How many years do you have in the school?</p> <p>How long have you been a member of the disciplinary committee?</p> <p>What role do you play?</p>
<p>Q2: How does a school perceive the legal principles pertaining to learner disciplinary processes?</p>	<p>Please tell me. What do you understand by the concept legal principles in a disciplinary process?</p> <p>In your view, what are the key legal principles that govern the disciplinary processes?</p> <p>What are the principles that you follow in this school?</p>
<p>Q3: How does the SGB and educators apply the legal principles during the learner disciplinary processes?</p>	<p>Tell me, how do you apply the following legal principles in a disciplinary process?</p> <p>Just administrative action</p> <p><i>Audi alteram partem</i></p> <p><i>Nemo iudex in propria causa</i></p> <p>Procedural fairness</p> <p>Substantive fairness</p> <p>Do you make learners aware of these principles?</p>
<p>Q4: What are the problems experienced with compliance with the legal principles on learner disciplinary processes?</p>	<p>Please tell me, are there any problems you are experiencing with compliance</p>

	<p>with the legal principles? Please, name those problems?</p> <p>What do you think causes problems with compliance with the legal principles during learner disciplinary processes?</p>
<p>Q5: How are the identified problems resolved?</p>	<p>Tell me, what measures do you have in place to address problems experienced with compliance with the legal principles?</p> <p>Is there anything else that you would like to tell me regarding the compliance of legal principles in a disciplinary process?</p>

ANNEXURE I: DOCUMENT ANALYSIS SCHEDULE

Which documents does the school use when discipline learners?

Do the above mentioned school documents contain the following concepts or legal principles pertaining to learner disciplinary processes:

CONCEPTS/LEGAL PRINCIPLES	YES/NO	OTHER RELATED CONCEPTS	YES/NO	NAME OF DOCUMENT
Just Administrative Action		e.g. Fair process		
<i>Nemo iudex in propria causa</i>		e.g. Impartiality		
<i>Audi alteram partem</i>		e.g. Listen to all parties		
Procedural fairness		e.g. All processes followed correctly, notices, hearing		
Substantive fairness		e.g. What led to the decision, facts, proof		

Notices

Does the school have proof of notices that they used?

What is the content of the notice?

Disciplinary hearings

Does the school conduct any hearing?

Does the school have minutes for a hearing?

What are the main contents of the minutes?

Does the school keep attendance register (for the hearing)? If yes, who are mentioned in the attendance register (e.g. parents, learner, witnesses, etc)?

Disciplinary committee

Does the school's disciplinary documents, such as minutes of the disciplinary hearing, mention the names and positions of members who formed part of the hearing?

Who (positions) is mentioned in the disciplinary documents (minutes, etc)?

Name of document	Member of the disciplinary committee (position)

How do documents prove that learners are given a chance to tell their side of the story?

Name of document	Proof that learners are given a chance to tell their side of the story

What is the relationship between the decision and the code of conduct?

Reason for the decision	Relation with the code of conduct

ANNEXURE J: SAMPLE OF INTERVIEW TRANSCRIPT

SGB Deputy Chairperson (SGB DC B)

Urban school, Quintile 4

Q1: Biographical questions

How many years do you have in the school?

9 years in this school

How long have you been a member of the disciplinary committee?

Since my arrival in the SGB, so that is 9 years ago.

What role do you play?

My role is to assist the school to maintain law and order as the Deputy Chairperson of the governing body. I ensure that the policies of the school are followed and that learners display acceptance standards of discipline and this is one of the ways in which we support the teachers as the governing body.

Q2: How does a school perceive the legal principles pertaining to learner disciplinary processes?

Please tell me. What do you understand by the concept legal principles in a disciplinary process?

So legal principles would be what legally binds the school and the SGB to act on the misdemeanour. That has happened in the school environments. And by legal principles. Obviously, we're gonna have to bring in policy documents that are in place.

In your view, what are the key legal principles that govern the disciplinary processes?

Okay, so when we're going through discipline, it's very important to mention that it comes in four folds. There is a verbal warning that needs to be given. There is a written warning. There is a suspension that needs to happen before ultimately getting to expulsion, which rarely happens in state schools. So before I unpack all those, the school needs to have a discipline policy. And this discipline policy needs to be drafted by the SGB and not the educators. It's the SGB that puts it into place in agreement with the executive senior management team of the school and once everyone is in agreement, it needs to be approved by the Department of Education. So make sure that it will be fair on the learners who are on the wrong end of the test.

And also to make sure that the discipline policy will not in any way, go against the Children's Act. And the Schools Act of South Africa.

What are the principles that you follow in this school?

It depends on how big the misdemeanour is. But like I've mentioned before, we need to give a verbal warning to the learner so there could be a teacher warning the child verbally that it should you do this again. I'm going to report you but also in there giving a verbal warning. Our discipline policy states, each teacher must have an incident report book. So that if there's anything wrong that happens in the classroom, that teacher documents the incident so that is the learners Name, Surname, Grade, the time and the class or lesson that this happened. So if we take that incident book and you realize that the teacher has been giving verbal warnings, three or more times to this learner, then an action must be taken, which is to write a written warning. Not to the learner though, because they are under the age of 18. It goes to the parents.

Why the parents because the school's discipline policy is sent to the parents to read, understand and explain to the child before they sign it on behalf of their child. And when that has been done, the children come back to school now they are learners and we also explain the discipline policy to them and say, as your parents have explained and signed on your behalf, we want to reiterate that this is how we're going to discipline you. So the verbal warning has been given so many times and that's been documented. We write a written warning to the parents, which they must acknowledge and sign. They also have the right to challenge it and not sign it, but in the end, not signing it. So that means we need to go to the third pillar of discipline which is suspension. We suspend you until your parents sign because your parents understands that the school's discipline policy and we expect them to explain it to you before we explain. So after that written warning has been given the parents either signs or they object and they don't sign it. Then they come back for a disciplinary hearing with the both parents and the learner and whoever is involved. Now our disciplinary hearing is different in the sense that in the last year, we have established or not really established we have incorporated what is the word for this thing? Restorative justice into the school.

So we are we are shifting away from the actual punishment, which oftentimes it is there to name and shame the ones that are in the wrong. But restorative justice brings in the victim and the perpetrator in the same room and we reach an agreement. Before written agreement, we need to talk about what happened why did you do it? How did you make it? How did it make you feel? And then the two people perpetrator and the victim need to come to an agreement and this is not me or any other teacher telling them what to do. They themselves agree on what needs to be done. So let's say for example, a teacher is being racist to a learner. And they're coming to us for restorative justice, which is part of our discipline, action as a school. So now if the learner says I forgive you, ma'am, or sir, for calling me a racial slur then the teacher must say how are they going to make sure that they do not use racial slurs going forward? And what exactly are they going to do? So how do they not use racial slurs again, and this is an agreement between the two people, I am just a as an observer and to make sure that I document everything that's happening.

So they get a copy of this agreement. And I keep the original in the learners file in the educators file for the purposes of this example. So whoever is involved, they must be copies between the two entities. And if that restorative justice practice fails, then we would have to move to step number four of the disciplinary hearing principle, which is expensive, but now the thing is, we do not have the right to have the power to expel anyone. We would have to sit down with the "SDC" (School Disciplinary Committee) and recommend and write down reasons why we recommend like expulsion and this goes to the district of this. So the head of department with the district manager, and all the stakeholders in that office must sit down. Go over our reasons or recommendations, and either approve or disapprove. If they do approve expulsion, of which I've only experienced that three times. And we know that misdemeanours happen almost every day in schools. But expulsion in my experience, my nine years of participating in the SGB has only happened three times. If they do approve. The onus is on us as the people who recommended expulsion. So now recommend a school that this child must go we can't just say bye bye, you're expelled. We're done.

We must go to the lengths of contacting nearby schools. To say we've got a learner that has been expelled by the department not by us, we need to make that clear. This letter has been expelled by the department and we currently need space at your school. So we then have three options to give to the parents and say now that your child has been expelled. Here are the three schools that are willing to take your child make a decision. That is our disciplinary.

ANNEXURE K: DOCUMENT ANALYSIS

Which documents does the school use when disciplining learners?

We use the code of conduct and the discipline policy.

Do the above mentioned school documents contain the following concepts or legal principles pertaining to learner disciplinary processes:

CONCEPTS/LEGAL PRINCIPLES	YES/NO	OTHER RELATED CONCEPTS	YES/NO	NAME OF DOCUMENT
Just Administrative Action	Yes	e.g. Fair process	Yes	Code of Conduct Discipline policy
<i>Nemo iudex in propria causa</i>	Yes	e.g. Impartiality	Yes	Code of Conduct Discipline policy
<i>Audi alteram partem</i>	Yes	e.g. Listen to all parties	Yes	Code of Conduct Discipline policy
Procedural fairness	Yes	e.g. All processes followed correctly, notices, hearing	Yes	Code of conduct
Substantive fairness	Yes	e.g. What led to the decision, facts, proof	Yes	Discipline policy

Notices

What is the content of the notice?

Nature of offence, time of the meeting, venue and date of when the hearing will be conducted.

Disciplinary hearings

Does the school conduct disciplinary hearing?

Yes

Does the school have minutes of sessions for a disciplinary hearing?

Not always, but there are some minutes of some meetings.

How are the disciplinary hearings recorded?

On a book called the Offence Register and serious misconducts are registered on the official Incident Book in the principal's office.

Does the school keep attendance register (for the hearing)? If yes, who are mentioned in the attendance register (e.g. parents, learner, witnesses, etc)?

Parents of the learners and the teachers present in the disciplinary hearing.

Disciplinary committee

Does the school's disciplinary documents, such as minutes of the disciplinary hearing, mention the names and positions of members who formed part of the hearing?

Only names are mentioned.

Do documents pertaining to learner disciplinary processes include clauses on just administrative action and *audi alteram partem* as an indication that learners are disciplined fairly and that they are given a chance to tell their side of the story?

Yes, the code of conduct has a clause on hearing all parties involved and following the procedure prescribed.

ANNEXURE L: SAMPLE OF ANALYSIS TABLE

Question and Sub-Question	Responses	Segments	Comments/Codes	Themes/ Sub themes
<p>RQ1: How does a school perceive the legal principles pertaining to learner disciplinary processes?</p> <p>IQ1: What do you understand by the concept legal principles in a disciplinary process?</p>	<p>Legal principles, I think it has to do with the procedures that should be followed during the disciplining of learners. For example, making learners aware of transgressions they have committed and also what are the repercussions.</p> <p>Or maybe the rules that must be taken into account when disciplining learners (DP 1B)</p> <p>Okay right. So I'd say my understanding of legal principles in the process of discipline are actions or guiding aspects of the disciplinary</p>	<p>Or maybe the rules that must be taken into account when disciplining learners (DP 1B)</p> <p>understanding of legal principles in the process of discipline are actions or guiding aspects of the disciplinary process, what is allowed, what is not allowed, what can be done what cannot be done... put there to guide the</p>	<p>Rules and procedures to be followed.</p> <p>Rules and procedures to be followed.</p>	<p>Theme 1: Conceptualising the legal principles pertaining to learner disciplinary process</p> <p>Sub-theme 1: Understanding of the concept legal principles in a disciplinary process.</p> <p>Category 1: Legal principles understood as rules and procedures to be followed.</p> <p>Category 2: Legal principles interpreted as policies to be followed.</p> <p>Category 3: Legal principles understood as fair practices.</p> <p>Category 4: Legal principles understood as fair practices</p>

	<p>process, what is allowed, what is not allowed, what can be done what cannot be done. What is perceived as punitive disciplinary measures, and what's perceived as restorative disciplinary measures? So maybe put there to guide the disciplinary committee into doing what is right, according to policies of the department (T4 B)</p> <p>I think those are polices or maybe laws if you like that should be understood and applied when dealing with learner discipline. Like what should be used to run the discipline meetings when learners have transgressed the school rules (SGB C3 B)</p> <p>Yohh, well I don't study the policies myself</p>	<p>disciplinary committee into doing what is right, according to policies of the department (T4 B)</p> <p>polices or maybe laws if you like that should be understood and applied when dealing with learner discipline. Like what should be used to run the discipline meetings when learners have transgressed the school rules (SGB C3 B)</p> <p>but I think those have to do with the school polices that are used in school to punish learners. (SGB PC4 B)</p>	<p>Policies to be followed.</p> <p>Policies to be followed.</p>	<p>and common law principles.</p> <p>Category 5: Legal principles understood as Legal bound or common law principles.</p> <p>Category 6: Legal principles understood as rights of the learners.</p> <p>etc</p>
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	<p>as I am just a parent but I think those have to do with the school polices that are used in school to punish learners. Like maybe what the principal tell us what should happen maybe when we call a learner to order or maybe want to just deal with the learner in school. So those policies must be followed (SGB PC4 B)</p>	<p>I think those will have to be like laws and maybe rights of learners that must be remembered or respected maybe when you disciplining learners (SGB PC4 A)</p>	<p>Associated with rights of the learner.</p> <p>Associated with common law principles.</p>	
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ANNEXURE M : ONE PAGE TII PERCENTAGE

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