

**THE ROLE OF EDUCATION LAW IN TEACHER
EDUCATION AND EDUCATION SCIENCES IN
SOUTH AFRICA –
A LAWYERS' PERSPECTIVE**

**DR MARIËTTE REYNEKE
SOUTH AFRICA
UNIVERSITY OF THE FREE STATE
FACULTY OF LAW**

T: +27(0)51 401 9111 | info@ufs.ac.za | www.ufs.ac.za

© Copyright reserved
Kopiereg voorbehou

vliruos
SHARING MINDS, CHANGING LIVES

UNIVERSITY OF THE
FREE STATE
UNIVERSITEIT VAN DIE
VRYSTAAT
YUNIBESITHI YA
FRESTATATA

UFS·UV
LAW
REGSLEERDHEID

**Extreme
MAKEOVER
HOME EDITION**

Before

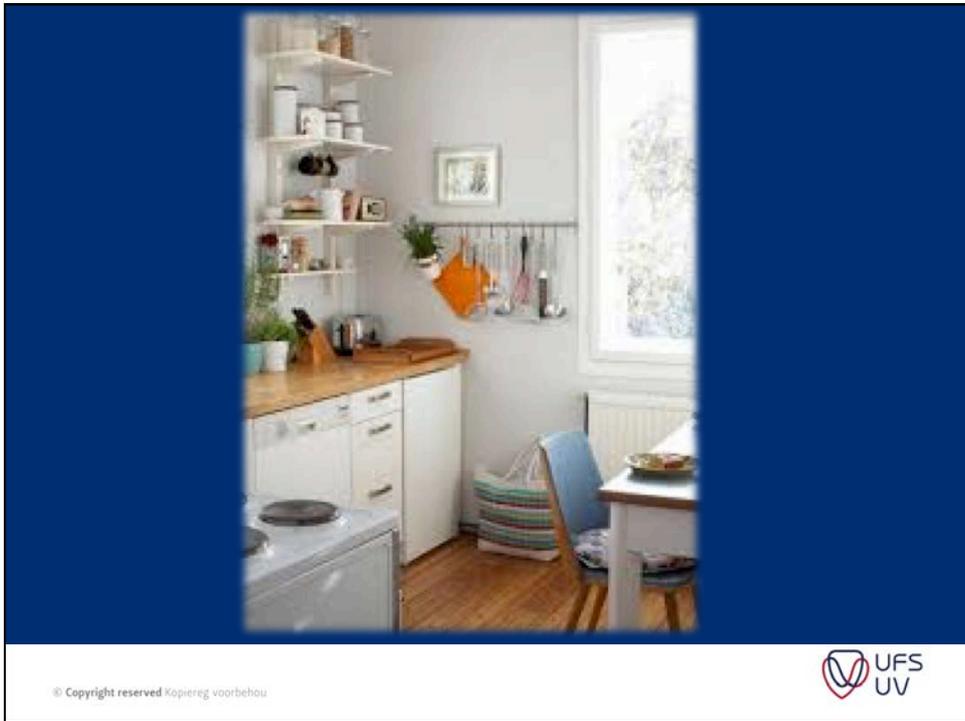


After



© Copyright reserved Kopiereg voorbehou

**UFS
UV**



SOUTH AFRICA - 1994

- New Constitution -1996
 - Constitutional supremacy
 - Bill of Rights
- Potential for dignified living
 - Role of education in realizing constitutional rights
- Role of educators
 - Time
 - Act as role models
- Role of Education Law
 - Equip teachers

© Copyright reserved Kopiereg voorbehou



Arguments for inclusion of Education Law in curriculum

Undergraduate students

Postgraduate (Management)

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN UNDERGRADUATE TEACHER STUDENTS' CURRICULUM

- **Supremacy of the Constitution**
 - Decisions and actions of educators
- **State responsibility**
 - Constitution s 7 & 8
 - Respect, protect, promote, fulfill rights
 - Include in curriculum

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN UNDERGRADUATE TEACHER STUDENTS' CURRICULUM

- **Ignorance of the law is no excuse**
 - *In loco parentis*
- **Disciplinary action**
 - *South African Council of Educators Act 31 of 2000*
 - *Employment of Educators Act 76 of 1998*

Prevention is always better than cure.

© Copyright reserved Kopiereg voorbehou



**ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN
TEACHER STUDENTS' CURRICULUM**

**Constitution S 22 & 23:
Fair employment conditions and practices**
Labour Relations Act 66 of 1995

Department of Education
*Employment of Educators
Act 76 of 1998*

School Governing Body
*Basic Conditions of
Employment Act 75 of
1997*

© Copyright reserved Kopiereg voorbehou



**Arguments for inclusion of
Education Law in
curriculum**

Undergraduate students

Postgraduate
(Management)

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN POST GRADUATE SCHOOL MANAGERMENTS' CURRICULUM

Dual role of principal

- **Governance**
 - SGB
 - Principal - *ex officio* member of SGB
- **Management**
 - Responsibility of principal
 - Under the authority of the HOD

MEC for Education, Gauteng Province, and others v Governing Body, Rivonia Primary School
2013 (6) SA 582 (CC).

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN POST GRADUATE SCHOOL MANAGERMENTS' CURRICULUM

Functions and responsibilities of a principal

- **Implement legislation and policy**
 - S 16A(2)(vi) – implement legislation and policy
- **Assist with disciplinary issues**
 - S 16A(2)(d) – assist SGB in handling of disciplinary matters of learners
 - S 16A(2)(e) – assist HOD in handling of disciplinary matters of staff

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN POST GRADUATE SCHOOL MANAGERMENTS' CURRICULUM

Functions and responsibilities of a principal

- **Ensure continuity and information on SGB**
 - 16(A)(2)(f) – must inform SGB on policy and legislation

- **Role in management of school finances**
 - S 16A(2)(i-k) – management of school finance
 - Prevent prevent maladministration or mismanagement
 - Ensure sound decisions by financial committee
 - Report maladministration or mismanagement

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN POST GRADUATE SCHOOL MANAGERMENTS' CURRICULUM

Functions and responsibilities of a principal

- **Socio-economic realities**
 - Literacy levels of SGB members
 - More support needed

- **Constitutional values and imperatives**
 - Transparency
 - Inclusion
 - Transformation
 - Participatory democracy

© Copyright reserved Kopiereg voorbehou



ARGUMENTS FOR INCLUSION OF EDUCATION LAW IN POST GRADUATE SCHOOL MANAGERMENTS' CURRICULUM

- **Co-operative governance – Department and SGB**
 - Constitution S 41
 - Mutual trust and good faith
 - *Rivonia* case
- **Dangers**
 - Departmental officials do not know the law
 - Imbalance of power
 - Strong arm principals into unlawful actions
- **Power of knowledge ensures**
 - Clear boundaries of power
 - Administrative justice

© Copyright reserved Kopiereg voorbehou



THANK YOU

T: +27(0)51 401 9111 | info@ufs.ac.za | www.ufs.ac.za

© Copyright reserved Kopiereg voorbehou

virus 20 1999

UNIVERSITY OF THE FREE STATE
UNIVERSITEIT VAN DIE VRYSTAAT
YUNIBESITHI YA FREESTATA

UFS·UV
LAW
REGSELEERDHEID