

PERSONALISED LEGAL ASSISTANCE

Professional legal and property consulting

SONNENBERG & ASSOCIATES PROPERTY AND LEGAL ADVICE NEWSLETTER #20

1. Legal Quotes

"A lawyer's fees and a harlot's wages are never to be paid in advance." [Indian proverb]

"Divorce lawyers stoke anger and fear in their clients, knowing that as long as the conflicts remain unresolved the revenue stream will keep flowing." [Craig Ferguson, *The Impossible Adventures of an Unlikely Patriot*]

"The coroner and the lawyer grow fat on the quarrels of fools." [Gaelic proverb]

2. Legal short

A man is talking to his lawyer about his upcoming wedding anniversary. He asks the lawyer's opinion about what gift he should buy his wife. "How about a divorce?" the lawyer answers. The man thinks for a second and then shakes his head. "No, I don't want to spend that much."

3. Inspiring quotes

"The ultimate measure of a man is not where he stands in moments of comfort, but where he stands at times of challenge and controversy." [Martin Luther King Jnr]

"I believe in pink. I believe that laughing is the best calorie burner. I believe in kissing, kissing a lot. I believe in being strong when everything seems to be going wrong. I believe that happy girls are the prettiest girls. I believe that tomorrow is another day and I believe in miracles." [Audrey Hepburn]

"Your present circumstances don't determine where you can go; they merely determine where you start." [Nido Qubein]

4. Payment of school fees

We recently read in the papers the astronomical school fees charged by some private schools. **The information contained herein applies to fees in government (public) schools only.**

Can a school charge fees?

Yes, but to be able to charge school fees:

1. The school must call a general meeting of parents/guardians (giving 30 days notice of such meeting), at which meeting the parents/guardians must decide, *by majority vote*
 - to charge fees or not
 - the amount of fees to be charged
 - the policy on exempting poorer parents/guardians from paying fees.
2. The school governing body must then notify all parents/ guardians in writing of:
 - The amount of the annual school fees to be paid and the criteria and procedures for exemption from school fees.
 - The fact that a parent/ guardian can be sued for not paying school fees unless a parent/ guardian has been exempted from paying school fees.
 - The contents of Section 3, 4, and 5 of the Exemption Regulations.
3. When a parent/ guardian requests, the School Governing Body must make a copy of the Regulations available to him/her.
4. **Where the school's fees have not been lawfully determined, or where school governing bodies have failed to inform parents/ guardians of their right to apply for an exemption, any claim the school may make for outstanding school fees can be challenged by the parent/guardian** (this is set out in Sections 38 & 39 of the South African Schools Act, Act 84/1996 and Sections 4 & 5 of the Regulations.)

Can a school sue a parent/guardian for outstanding school fees?

- **Yes, but the school cannot deny the learner concerned access to the school or any of the school's facilities.**
- Also, a school may only sue a parent/guardian for outstanding school fees if:

- The fees at the school were lawfully determined;
- The school governing body has notified all parents/ guardians in writing of the details relating to school fees;
- The parent/guardian failed to apply for an exemption for school fees.

Which learners do not have to pay school fees?

It is illegal to charge any school fees for a learner who:

- is an orphan, in an orphanage;
- is an orphan in a child-headed household;
- has a foster parent;
- has been placed in a youth care centre or a place of safety;
- has been placed in the care of a family member ("kinship caregiver ") or
- Whose parent receives a social grant on behalf of the same learner (a child support grant).

In all the above cases, as well as in the case where the parent/guardian doesn't earn sufficient income to pay the school fees, he/she must apply for an exemption.

Applying for an exemption

Parents/ guardians who cannot afford to pay school fees (or who qualify) should apply to the School Governing Body in writing for an exemption from school fees.

- The parent/guardian must request an application form from the school.
- If the school has not already given a parent/guardian a copy of the exemption policy, the parent/guardian can demand a copy.
- A parent/guardian who needs help to apply for an exemption may ask an educator, or any other person, to assist him/her with the application. If these people are not able to help, the principal of the school is obliged to help the parent/guardian.

Guidelines:

- **If the school fees are 10% of your annual income, you do not have to pay any school fees.**
- **If the school fees are 8 % of your annual income, you will get 88% or more off the school fees for each learner.**
- **If the school fees are 6% of your annual income, you will get 67% off or more off the school fees for each learner.**
- **If the school fees are 4% of your annual income , you will get 25% off for the first learner and 40% or more off for the second learner for up to 4 learners.**
- **If the school fees are 3.5% of your annual income, you will get 7% or more off for each learner.**

How to appeal

- The School Governing Body has 14 days (two weeks) to consider and decide on an application.
- The decision must follow the Regulations to the South African Schools Act.
- The School Governing Body then has 7 days to inform the parent/guardian of its decision.
- If the parent/guardian is unhappy with the decision, she/he has 30 days to appeal the decision in writing to the Head of the Department of Education in the Province, who must reply to the parent/guardian within 21 days (Sections 4-9 of the Regulations.)

Can a learner be refused access to school for non-payment of school fees?

No, the law states clearly that no learner should be treated differently or unfairly because his/her parent/guardian has not paid school fees.

- This means that where a parent/guardian cannot afford to pay school fees, or even where a parent/guardian has simply forgotten to pay the fees, the school cannot punish the learner by sending him/her home, refusing him/her access to classes or other school facilities, or withholding his/her report card.
- A school that punishes a learner for a parent/guardian's failure or inability to pay school fees is breaking the law.

• Section 5 (1) of the South African School's Act ("SASA") states that a public school must admit learners and serve their requirements without unfairly discriminating in any way.

• Section 5(3) of SASA states that no learner may be refused admission to a public school on the grounds that his/her parent/guardian is unable to pay, or has not paid, school fees that

have been lawfully determined.

- Section 10 of the Admissions Policy states that a learner is admitted to the total school programme and may not be suspended from classes, denied access to cultural, sporting or social activities of the school, denied a school report or transfer certificates, or otherwise victimised on the grounds that his/her parent/guardian is unable to pay, or has not paid, the required fees.

How can a parent find out if their child's school is a "no fee school"?

The Minister of Education is supposed to publish information about which category your school is in, and the government contribution for your school, in the third term of each year (paragraphs 103 A – H of the Norms and Standards).

To find out: ask the school, or the Provincial Department of Education, or visit your closest municipal or university library to look in the Provincial Gazettes from before 30 September each year.

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