SUBMISSION TO THE DEPARTMENT OF BASIC EDUCATION

on

DEPARTMENT OF BASIC EDUCATION DRAFT NATIONAL POLICY ON HIV, STI's AND TB

SUBMITTED BY:

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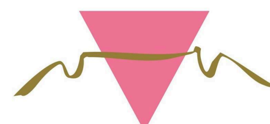

EXECUTIVE SUMMARY

We commend the Department of Basic Education for their efforts in creating an ambitious policy that aims to establish a comprehensive framework for the prevention and knowledge of HIV, STIs and TB among learners, as well as treatment and support for people living with HIV and TB; and aims to establish a framework to address prevention and health promotion sustainably through education, including by promoting learners' sexual and reproductive health.

We recognise that the challenge for the Draft Policy is that it not only needs to address HIV, STIs, TB and sexual and reproductive health more broadly, but also in doing so must endeavour to resolve many of the issues that have been plaguing South Africa's education sector for years. While the Draft Policy is an important and welcomed acknowledgment that learners' sexual and reproductive health, including HIV, is a crucial concern that ought to be addressed in schools, we would also like to point out a few crucial inconsistencies and shortcomings in the following sections of the Draft Policy:

- Inconsistencies in and omissions of key terminology in the Glossary. In our submission, we recommend a number of changes to existing terms in order to align them to international standards, as well as to existing national standards in other policies and laws. Further, we recommend the inclusion of additional terms in order to provide clarity on some of the terms and concepts used throughout the Draft Policy.
- Inconsistent inclusion of vulnerabilities and health needs of vulnerable groups, especially lesbian, gay, bisexual, transgender and intersex learners, educators, school support staff and officials. In our submission, we comment on and suggest changes to the Draft Policy in order to address the gap between recognition and consistent substantial incorporation of vulnerable groups.
- Lack of substantive and operational detail in the Draft Policy with respect to the key policy areas *prevention*, *knowledge* and *curriculum development*. Our submission provides evidence from research to guide the Department's 'thinking' about these issues.

We welcome the opportunity to comment on the Draft Policy, and hope our submission encourages constructive dialogue with the Department in the development of this promising policy.

INTRODUCTION

We would like to commend the Department of Basic Education for their efforts in creating an ambitious policy that aims to establish a comprehensive framework for the prevention and knowledge of HIV, STIs and TB among learners, as well as treatment and support for people living with HIV and TB; and aims to establish a framework to address prevention and health promotion sustainably through education, including by promoting learners' sexual and reproductive health. We welcome the foregrounding of learner health and wellbeing within and through the education system, and the commitment within the Draft Policy to take a human rights-based approach to the development and implementation of the Draft Policy and the explicit recognition of South Africa's Constitutional and international human rights obligations in this regard[1].

The Draft Policy is also an important and welcomed acknowledgment that learners' sexual and reproductive health, including HIV, is a crucial concern that ought to be addressed in schools. To this end, our submission makes reference to the recently approved *South African National Adolescent Sexual and Reproductive Health and Rights Framework Strategy 2015* (NASRHR Framework Strategy). With the guidance of the NASRHR Framework Strategy now available to the Department, it will be important to align the Draft Policy with the rights-based approach to adolescent's sexual and reproductive health that the government has adopted.

The Draft Policy further presents an important opportunity to develop and implement effective policies and mechanisms to reach out to and ensure the best attainable health care for those affected by intersectional discrimination, including lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals and young people with disabilities. This means that LGBTI individuals and young people with disabilities should be considered not only as a "vulnerable group" at the start of the document, but their specific needs and barriers to the fulfilment of their rights must be considered consistently throughout the draft policy.

In this submission we will comment on the proposed Draft Policy. We will also draw the Department's attention to a number of implementation challenges, in light of which we were concerned by the insufficient detail in the Draft Policy. We recognise that the challenge for the Draft Policy is that it not only needs to address HIV, STIs, TB and sexual and reproductive health more

[1] These include, but are not limited to the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2003; the 'Maputo Protocol'); the *Maputo Plan of Action for the Operationalisation of the Continental Policy Framework for Sexual and Reproductive Health and Rights;* the *African Youth Charter*

broadly, but also in doing so must endeavour to resolve many of the issues that have been plaguing South Africa's education sector for years. To this extent, we recognise the on-going challenge for the Department to address the legacy of colonial and apartheid disadvantages that continue to impact on the education sector.

The submission contains commentary on the following:

- General comments
- The Glossary
- Detailed suggestions for content of the Draft Policy

We welcome the opportunity to comment on the Draft Policy, and hope our submission encourages constructive dialogue with the Department in the development of this promising policy. We trust that your request for comments on the Draft Policy is indicative of your commitment to an ongoing and substantive engagement with organisations that share your objectives in ensuring that the new "Draft national policy on HIV, STIs and TB" is relevant, practicable and constitutionally sound.

GENERAL COMMENTS

While all people must take precautions to protect themselves from and avoid transmission of HIV, STIs and TB, some groups are particularly vulnerable to these health conditions due to several intersecting vulnerabilities, thus requiring targeted interventions and express inclusion to address their specific needs. This includes women and girls; LGBTI people; children and adolescents; people with disabilities and people living in rural areas. We commend the Department for recognising and including some of these vulnerabilities in this Draft Policy. However, in order to meaningfully address the specific health vulnerabilities and needs of these vulnerable groups, they should be considered not only as a "vulnerable group" at the start of the document, but their specific needs and barriers to fulfilment of their rights should be consistently incorporated throughout the Draft Policy.

With this in mind, we will comment on and suggest changes to the Draft Policy in order to address the gap between recognition and consistent substantial incorporation. This includes changes to the key terms and concepts in the glossary in order to meaningfully incorporate notions of gender and sexuality (specifically around LGBTI people) in line with international recommendations and national standards from other policy documents. We are mindful of the fact that meaningful inclusion does

not stop at the level of the wording of a policy, but requires consistent capacity building of policy implementers, and, in this particular instance, of educators, school support staff and officials.

1. THE GLOSSARY

We commend the Department for providing a thorough glossary at the beginning of the document. Glossaries not only provide the tools to understand a policy – they also, in the definition of key terms and concepts, have the power to define which groups are included, and the power to shape our understanding of key concepts. We recommend a number of changes to existing terms in order to align them to international standards, as well as to existing national standards in other policies and laws. Further, we recommend the inclusion of additional terms in order to provide clarity on some of the terms and concepts used throughout the Draft Policy.

CHANGES TO EXISTING TERMS:

'GENDER'

The Draft Policy's attempt at a holistic approach to gender – which includes the rights of sexual and gender minorities – is a vital and promising starting point. However, the distinction between gender, gender identity, gender expression and sexual orientation is blurred in the definition of 'gender'. Sexual and gender minorities (LGBTI people) are subsumed within the definition of gender, and this leads to undue confusion and inaccuracy.

We commend the recognition shown in the Draft Policy for the diverse factors that contribute to a person's disadvantage on the basis of their gender. We would like to point out, however, that the intersections of these vulnerabilities, such as race, disability, sexual orientation and age are not consistently recognised throughout the sections of the policy (for example, sections 5.3 Access to Information, 5.6 Gender Equality, Sensitivity and Responsiveness, 6.2 Prevention and 6.3 Treatment, Care, Counselling and Support).

We recommend that 'Gender' is separated from 'Gender identity' and 'Sexual orientation' – three distinct different concepts with important consequences for vulnerability to HIV and sexual health, and that these three concepts be clearly distinguished throughout the Draft Policy. We recommend the following alternative definitions in the glossary, based on those propounded by the United

Nations Educational, Scientific and Cultural Organisation (UNESCO, 2003) and the World Health Organisation (2012):

'Gender'*: refers to the socially constructed characteristics, roles, behaviours and activities that a specific society considers appropriate for men and women. Gender is an identity that is learned, that changes over time, and that changes from one place, culture or society to another. Hence gender is both a social construct (something made up) and personal identity. In social terms gender refers to the socially created roles, personality traits, attitudes, behaviours and values attributed and acceptable for men and women, as well as the relative power and influence of each. That means that gender is relational (occurs in relation to something else) and refers not simply to women or men but to the relationship between them.*

'Gender identity'*: A person's own feelings about how they see their body, their behaviour, and their appearance, in relation to society and other people. This includes their psychological identification as a man, woman, something in between or neither, which may or may not match the person's sex assigned at birth. This can include refusing to label oneself with a gender. People whose gender identity matches the sex assigned to them at birth are called cisgender, people whose gender identity does not match the sex assigned at birth are called transgender.*

'Sexual orientation'*: A person's physical, romantic, emotional, and/or spiritual attraction to another person, which they may label as lesbian, gay, heterosexual, bisexual, or asexual. A person's sexual orientation can change, and the labels that people use do not define their sexual lives or limit their sexual expression.*

'GENDER-BASED VIOLENCE'

Given the comprehensive definition of 'gender' in the Draft Policy, we infer that the draft policy intends to be inclusive of sexual and gender minority groups (LGBTI people) and strongly commend that goal. However, the definition of 'gender-based violence' (GBV) ignores the evidenced vulnerability of sexual and gender minority people to GBV by focusing only on 'girls and women', and by assuming that all 'girls and women' are similarly vulnerable to GBV. We suggest the alternative definition:

***'Gender-based violence'**: All acts perpetrated against women, girls, men and boys on the basis of their gender or sexual orientation which cause or could cause them physical, sexual, psychological, emotional or economic harm, and includes threats to do so. Commonly, the acts or threats include rape, sexual harassment, domestic violence, child sexual abuse, marital rape, homophobic and transphobic violence. Such acts or threats are rooted in historical, structural and socio-cultural factors that privilege heterosexual man over other people in society and perpetuate gendered power relations. By far the most prevalent form of GBV is violence against women and girls (VAWG), which shows that women and girls (female-bodied and female-identified) are vulnerable to violence precisely because of their gender or gender identity.*

'GENDER EQUALITY':

The suggested definition of 'gender equality' excludes transgender and gender non-conforming people. We recommend that alternative definitions recognise intersecting vulnerabilities and a non-binary understanding of gender, and read as follows:

***'Gender equality'**: The equal respect for and ability of a person to exercise their human rights and freedoms in all parts of life, no matter their biological sex or gender. Gender equality means an environment where people are free to make choices without the limitations set by stereotypes, rigid gender roles, or prejudices and there is no discrimination in opportunities, in the allocation of resources or benefits, or in access to services on the basis of sex or gender identity.*

'SEXUAL AND REPRODUCTIVE HEALTH SERVICES':

We commend the Department for this comprehensive list of sexual and reproductive health (SRH) services, however, we would like to point out the omission of a direct reference to Termination of Pregnancy Services / abortion, which is legally provided for under the *Choice on Termination of Pregnancy Act 92 of 1996* (or 'CTPA') and considered an essential reproductive health service in South Africa. The current reference, only to the 'prevention of unsafe abortions', is concerning as it may lead to confusion about whether abortions are included in the definition of services. The Draft Policy should therefore make direct reference to the CPTA as well as relevant rights and provisions as they apply to children of the age of consent. Further, given the Draft Policy's emphasis of education for health promotion, and in line with recommendations by UNESCO (2013) and World Health Organization (2012), comprehensive sexuality education should be included in SRH services. We suggest the following wording:

'Sexual and reproductive health services'*: This includes services for fertility planning, including contraceptives and infertility services; prevention of unsafe abortion, provision of safe medical and surgical abortions and post-abortion care; diagnosis and treatment of sexually transmitted infections, including HIV; reproductive tract infections; cervical cancer and other gynaecological morbidities and related screening; and the promotion of sexual health and healthy sexuality, including sexuality counselling and comprehensive sexuality education.*

ADDITIONAL DEFINITIONS

There are several, frequently used terms in the Draft Policy that would benefit from a clear definition with the Glossary, for example 'vulnerable learners'. We therefore recommend clarification of these terms as well as the inclusion of additional terms. These are set out below and may provide better clarity to other concepts of the Draft Policy if they are also included in the Glossary. Our suggestions are set out as follows:

'VULNERABLE LEARNERS'

We suggest the inclusion of a separate and clear definition for 'vulnerable learners', given that this term is used repeatedly in the content of the Draft Policy, and informs key decisions around the approach and service implementation. Given that all learners under the age of 18 are, by virtue of their age, 'vulnerable' according to the Children's Act (Act No. 38 of 2005), we suggest changing the term to 'especially vulnerable learners'. We suggest the following wording:

'Especially vulnerable learners': *Learners vulnerable to HIV, STIs, TB or violence, including GBV and VAWG, on the basis of their gender, and/or age, and/or gender identity or expression, and/or sexual orientation, and/or race, and/or class, and/or disability, and/or geographical location, and/or economic position.*

'LIFE SKILLS'

As the term 'Life Skills' is used throughout the Draft Policy, it is important that the concept and content of this provision is clearly set out. To this extent, in line with WHO recommendations (WHO 2010), we suggest that it be made explicit that 'Life Skills' includes key elements of:

- Information about prevention of STIs and HIV, contraception, and the mechanics of fertility and reproduction;
- Discussion of biological (sex) and gender differences, and on these basis, inequalities and human rights, and the negative and positive effects of gender norms;

- Information on the importance of responsibility and joint decision-making, and training in communication and negotiation skills as it pertains to sexuality and relationships;
- Information on sexual and gender identity and expression and sexual choice.

'COMPREHENSIVE SEXUALITY EDUCATION'

To avoid ambiguity, however, we suggest rather than referring to 'Life Skills' the Draft Policy use the term 'Comprehensive Sexuality Education'. Comprehensive Sexuality Education has the advantage of being a broader concept and is one which South Africa has committed to implement. For example, the recent **Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people in Eastern and Southern African (ESA) December 7th 2013,** which was signed in Cape Town, and for which the government of South Africa can be credited for leading on, states:

> *"Comprehensive sexuality education starting from primary school onwards enables the gradual acquisition of information and knowledge necessary to develop the skills and attitudes needed for a full and healthy life as well as to reduce sexual and reproductive health risks. The most recent scientific evidence demonstrates that comprehensive sexuality education, including education on safer sex and condom use, does not lead to early sexual initiation. Instead, quality sexuality education can help to delay the initiation and frequency of sexual activity, reduce the number of sexual partners, increase the use of condoms and contraception, and reduce sexual risk-taking. When sexuality education includes a strong focus on rights and gender, greater benefits are possible"*[2]

The WHO emphasises that "In addition to general education, good-quality comprehensive sexuality education (particularly through school-based programmes) has been shown to improve sexual health outcomes, including reducing unintended pregnancies, delaying sexual debut, and reducing high-risk sexual behaviours (Kirby, 2002)". We therefore recommend the following definition of CSE:

'Comprehensive sexuality education'*: A systematic, evidence-informed approach to sexual health education that equips children and young people with the knowledge, skills and values to make responsible choices about their sexual and social relationships in a world affected by HIV. (UNESCO 2009).*

[2] http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/HIV-AIDS/pdf/ESACommitmentFINALAffirmedon7thDecember.pdf last accessed 25 May 2015.

‘SEX’

It may be useful to clarify the definition of gender and gender identity in contrast to a person’s biological characteristics, by also including a definition of ‘Sex’ in the Draft Policy. To this extent we propose including the WHO definition as follows:

‘Sex’: *Sex refers to the biological characteristics that define humans as female or male. While these sets of biological characteristics are not mutually exclusive, as there are individuals who possess both, they tend to differentiate humans as males and females.*

‘SEXUALITY’

We further suggest that it may also be helpful to include the WHO definition of *Sexuality,* which is used in the South African NASRHR Framework Strategy (page 18) and by the Department of Health as follows:

‘Sexuality’: *Sexual health cannot be defined, understood or made operational without a broad consideration of sexuality, which underlies important behaviours and outcomes related to sexual health. The working definition of sexuality is: a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psycho-logical, social, economic, political, cultural, legal, historical, religious and spiritual factors.*

2. PREAMBLE AND PURPOSE

The Draft Policy clearly highlights the detrimental impact of HIV, STIs and TB on the South African education sector. We commend the aim of the Draft Policy to address this legacy and to improve future outcomes. In this respect, the Draft Policy makes welcome and explicit reference to the need to take these steps in line with South Africa’s human rights obligations, under the Constitution and international law.

We suggest that it may strengthen the Draft Policy if it expressly acknowledges the National Adolescent Sexual and Reproductive Health Frame Work Strategy in this section.

3. POLICY GOALS

No Comment.

4. SCOPE OF APPLICATION

No Comment.

5. GUIDING PRINCIPLES

5.3 Access to Information

In light of our introductory comments on the 'glossary', and in order to include all people, including LGBTI people's information and knowledge needs, and in accordance with section 9(3) of the Constitution of South Africa[3], we suggest the following amended wording:

> ***'5.3 Access to information':*** *Every person in the Basic Education Sector has the right to relevant and factual HIV, STI and TB information,* ***including through the provision of comprehensive sexuality education****, knowledge and skills appropriate to their age, gender,* ***sexual orientation, gender identity****, culture, language and context, in order that they can make informed decisions about their personal health,* ***sexuality*** *and safety.*

The suggested amendments also reflect concerns that, while we welcome the recognition that access to information is a guiding principle of the Draft Policy, we fear that the definition used in the Draft Policy is too narrow, as it fails to take account of the full range of contextual information required in relation to HIV, TB and STIs. The WHO, UNFPA and UNDP (2010) have jointly emphasised the important role of the education sector in improving sexual health outcomes, including HIV and

[3] S. 9(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

STIs, and the importance of providing learners with comprehensive sexuality education that includes appropriate information on sex and personal relationships:

"One of the most effective ways to improve sexual health in the long-term is a commitment to ensuring that adolescents and young people are sufficiently educated to make healthy decisions about their sexual lives. Accurate, evidence-based, appropriate sexual health information and counselling should be available to all young people, and should be free of discrimination, gender bias and stigma." (WHO 2010).

International human rights bodies, including the United Nations Committee on the Rights of the Child (UNCRC), have also provided valuable guidance in terms of the content of information. The UN Committee on the Rights of the Child has asked states to support legislation and policies that "provid[e] adequate information and parental support to facilitate the development of a relationship of trust and confidence in which issues regarding, for example, sexuality and sexual behaviour and risky lifestyles can be openly discussed and acceptable solutions found that respect the adolescent's rights (art. 27 (3))". [Para 16(b), CRC General Comment 4.]

5.6 Gender Equality, Sensitivity and Responsiveness

We suggest the following wording in order to include the intersecting vulnerabilities to HIV, STIs and TB in general, for all people, including LGBTI people in particular, which have been well documented with regards to HIV for men who have sex with men, lesbian women and transgender people (Lane et al., 2011; Sandfort et al., 2013; Stevens, 2012):

> *HIV, **STIs** and TB may affect **people differently based on race, class, gender, gender identity, sexual orientation, age and ability** and the resulting biological, socio-cultural and economic circumstances and opportunities. Application of all aspects of the Policy will be sensitive and responsive to these different needs and will recognise the vulnerabilities of **all** learners, **particularly those of especially vulnerable learners**, to gender-based violence and abuse.*

6. POLICY THEMES

We commend the Department of Basic Education on the emphasis that the Draft Policy places on the areas of *prevention*, *knowledge* and *curriculum development*. While recognising these three critical areas of intervention we are, however, concerned with the lack of substantive and

operational detail in the Draft Policy with respect to these. Questions surrounding curriculum content and delivery, pedagogical approaches, responsibilities for teacher and learner training, pragmatic considerations regarding existing duties and capacities of teachers, sensitivity of knowledge transfer methodology, amongst others, are crucial for successful engagement of learners. Yet, the Draft Policy offers little detail on how these crucial issues are to be addressed. In addition to requesting that the DBE seriously considers giving more depth and substance to these important issues, we would like to provide evidence from research to guide the Department's 'thinking' about these issues.

What the evidence says:

Research suggests that learners do not respond well to an overly medical approach to teaching about HIV, STIs, sexuality and sexual and reproductive health. Rather, it is clear that teachers and learners both have a preference for participatory and peer learning methods (Francis, 2013; Helleve, Flisher, Onya, Mũkoma, & Klepp, 2011; Wood & Rolleri, 2014). Teachers are concerned that while learners are being exposed to information on HIV or pregnancy, for example, there is not enough focus on the intersection of these 'health' issues with gender and violence (Helleve, Flisher, Onya, Mukoma, & Klepp, 2009). Curricula needs to move beyond addressing HIV and STIs, towards a more comprehensive and relevant discourse surrounding the underlying sexual and reproductive health concerns and social contexts of young people. This includes the need to deal with learners' fears as well as the realities in which learners have to make decisions around sexuality and reproductive health and wellbeing. Such curricula need to be detailed, practical, comprehensive and non-judgmental (UNESCO, 2013). It has been shown that children who receive early, consistent and positive messaging about sexuality, sex and gender more confident about themselves and their bodies, and more likely to treat others with respect, and to avoid (or identify) risky sexual practices, abuse or dating violence (Smith et al. 2008). Contrary to common concerns from parents and some teachers, comprehensive sex education does in fact delay sexual debut and activity, reduces the number of sexual partners, increases the use of contraception and/or reduces unplanned pregnancy and STI rates, and decreases exposure to dating violence (Ahmed et al. 2009).

However, many teachers are not equipped and able to have such candid discussions with their learners. Reasons for this include that they lack the knowledge, feel threatened in their authority, and sometimes feel threatened in their ideology. The consequence of this is that often teachers revert to didactic teaching (what they know best), medicalised responses (in line with how issues of

HIV, STI and sexuality are currently taught in the Life Orientation and biology curricula), and are guided by their own morals and values (Francis, 2013), often informed by religion, especially Christianity (Francis, 2012). It has been shown that teaching sexuality education as being part of a larger constitutional framework of equality, non-judgment and tolerance, which is already established in the curriculum more broadly (DePalma & Francis 2014), helps to provide a non-judgmental framework as an alternative to religious, value-driven perspectives.

We therefore provide the following overarching recommendations:

1. That curricula that address HIV, STIs and TB are framed in comprehensive sexuality education that teaches learners about gender, sexuality, violence, consent, healthy relationships and health sexuality, in ways that is appropriate to their age and context.

2. In order to reduce stigma and discrimination of LGBTI learners, teachers, school support staff and officials, the lives of LGBTI people should not be discussed as an alternative to heterosexuality, but rather as one of the various forms of human sexuality. The stigma and isolation that LGBTI people face are key drivers of problems like poor health-seeking and risky sexual behaviour that exacerbates HIV, TB and STIs. It is therefore vital that as part of any curriculum-based intervention on HIV, TB and STIs, issues around gender, sexuality and LGBTI people are included in a way that does not reinforce damaging notions of heteronormativity (the idea that relationships are only between people of the opposite gender). This involves not only discussing non-heterosexual sexual orientations, but having these discussions outside of the confines of Biology and Life Orientation as these setting can serve to further 'other' and pathologise LGBTI persons and reinforce heteronormativity.

3. That teachers receive comprehensive training in order to be equipped with the knowledge, skills and attitudes to provide quality comprehensive sexuality education for learners.

We hope that the Department will consider this evidence when making decisions around Section 6.2 PREVENTION ('Information, Awareness and Access', and 'Curriculum Development'). We will comment on individual sub-sections of these sections below, in line with our recommendations laid out here.

SUGGESTED CHANGES TO PARAGRAPHS:

6.1 ENABLING ENVIRONMENT

No comments.

6.2 PREVENTION

Whilst age-appropriate cognitive skills, knowledge, materials and information on “HIV and STIs, in the context of Sexual and Reproductive Health Services” are vital for addressing HIV and STIs, it is important to recognise that a comprehensive approach to SRHS should promote healthy, safer sexuality more broadly, and that in addition to the key concern of HIV and STIs, such comprehensive curricula should include issues of consent, healthy relationships, healthy sexuality, and violence (GBV) (GHJRU, 2014; UNESCO, 2013). Further, the inclusion of LGBTI people needs to be reflected in the wording of the Draft Policy.

6.2.2. Information, Awareness and Access

We recommend the following changes, drawing on the definition of ‘comprehensive sexuality education’ suggested in the Glossary, and taking into account the needs of LGBTI people:

> *6.2.2.1 Accurate, age-appropriate and comprehensive information and materials on HIV and STIs, in the context of Sexual and Reproductive Health Services* ***and Comprehensive Sexuality Education****, as well as TB, will be made available and accessible to all learners, educators, school support staff and officials in the Basic Education Sector.*
>
> *6.2.2.3 Putting measures for early identification* ***of HIV, STIs, TB, GBV, and other SRH-related health concerns****, risk assessment and implementation of effective controls to prevent causes and mitigate possible consequences.*
>
> *6.2.2.4 Access to male and female condoms,* ***dental dams and lubricant*** *(barrier methods* ***for*** *contraception and sexually-transmitted disease control) and information on their use will be made available to all learners in the Basic Education Sector, as well as all educators, school support staff and officials.*

6.2.5 Voluntary Counselling, Screening and Testing

We recommend the following changes and additions:

*6.2.5.3 Access to male and female condoms, **dental dams and lubricant** (barrier methods **for** contraception and sexually-transmitted disease control) and information on their use will be made available to all learners in the Basic Education Sector, as well as all educators, school support staff and officials.*

> ***6.2.5.9 The provision of all voluntary counselling, screening and testing services for learners, educators, school support staff and officials will be designed and delivered with specific attention to the vulnerabilities and needs of vulnerable groups, including but not limited to, LGBTI people.***

6.2.8 Safe Educational Environment

We recommend that this section include more information on how these aims are to be achieved. In particular, there needs to be a clear stance on how teachers who perpetrate sexual or other violence against learners, will be held accountable. Findings from the National School Violence Study (conducted in 2008 and 2012) show that children experience a range of crimes while at school, including sexual offences that are perpetrated by fellow learners and teachers (Burton & Leoschut 2013), which in turn increases learners' vulnerability to HIV.

We suggest that the Draft Policy also refers to the *National Safe Schools Framework*[4] which promotes safe and supportive school communities, student wellbeing and the development of respectful relationships, which are critical to securing learners' safety.

Further, United Nations and South African human rights bodies have expressed grave concern about the high rates of sexual abuse and violence in South African schools as a barrier to the right to education, especially for girls. In 2011, the CEDAW Committee expressed concern regarding high rates of learner pregnancy and barriers for pregnant learners to remain and return to school. The Committee also expressed its grave concern regarding "the high number of girls who suffer sexual

[4] As mentioned on the Department of Basic Education's website:
http://www.education.gov.za/programmes/safetyinschools/tabid/625/default.aspx [accessed 26 May 2015]

abuse and harassment in schools by both teachers and classmates, as well as the high number of girls who suffer sexual violence while on their way to school." And was "concerned in particular at reports indicating that prostitution, exploitative sex and rape are perpetrated in connection with a child's access to education." (CEDAW Committee 2011)

We respectfully submit that the Draft Policy presents a vital opportunity to expand in detail on the Department's plans to fulfil the CEDAW Committee's recommendation in relation to improving school security and reducing the prevalence of gender based violence and sexual harassment within schools. To this extent, as requested by the CEDAW Committee, we recommend that the Draft Policy be amended to include details on how the Department will:

> "a) Take steps to ensure de facto equal access of girls and young women to all levels of education, to retain girls in schools and strengthen the implementation of re-entry policies enabling young women to return to school after pregnancy across the country;
> b) Provide safe educational environments free from discrimination and violence as well as safe transportation to and from schools and closely monitor the implementation of the Safe Schools Programme;
> c) Strengthen awareness-raising and training of school officials and students and the sensitization of children through the media; and to establish reporting and accountability mechanisms to ensure that perpetrators of sexual abuse and harassment are prosecuted and punished;
> d) Widely disseminate the Guidelines for the Prevention and Management of Sexual Violence and Harassment in Public Schools and to ensure enforcement and monitoring provisions recommended to curtail the problem; and
> e) Ensure the necessary budgetary allocation for the implementation of various projects and programmes." (CEDAW Committee 2011)

6.3 TREATMENT, CARE, COUNSELLING AND SUPPORT

6.3.3 Treatment, Care, Counselling and Support for Learners and Employees

Education has been found to reduce the risk of exposure to HIV infection, particularly among girls. A recent study in South Africa indicated that small cash transfers to school-age girls may increase their ability to remain in school and lower the risk of HIV infection (Cluver et al. 2013). The role of Counselling and Support for learners has been highlighted in another study, (Cluver et al., 2014)

which found that the protective effect of cash transfers in relation to HIV were greater when supported by a care strategy. Indirectly, the study illustrates the widespread lack of emotional support that also impacts on adolescent health, finding that "Whereas more than half of adolescents received a child-focused cash transfer or school feeding, only 3.7% had received support from a school counsellor and around 8% from a teacher".

To this extent we specifically support the proposal of the Draft Policy at 6.3.3.2 and 6.3.3.3. It is essential that budgetary provisions are made and that time for training is allocated. We recommend that the Department provide more specific guidance on how these services will be provided, given the constraints and lack of qualified psychologists in the public sector.

We further suggest the inclusion of a point 6.3.3.6, which reads as follows:

> ***6.3.3.6 The provision of all treatment, care, counselling and support services for learners, educators, school support staff and officials will be designed and delivered with specific attention to the vulnerabilities and needs of especially vulnerable groups, including but not limited to, young people with disabilities and LGBTI people.***

6.3.5 GENDER

We recommend that this section of the Draft Policy be re-written in accordance with our suggestions laid out in the introductory sections and glossary. A gender-inclusive policy needs to employ language that transcends the binary notion of gender, and should mention LGBTI people, explicitly transgender and gender non-conforming people, as well as show an understanding of the intersectional vulnerabilities associated with gender, gender identity and gender expression. We suggest the following changes:

> ***6.3.5.1*** *Implementation of the policy will take into account* ***the different vulnerabilities associated with gender, gender identity, expression and sexual orientation*** *of learners, educators, school support staff and officials.*

> ***6.3.5.2*** *Policy implementation strategies will recognise that* ***girls, young women, and sexual and gender minorities are in a particularly vulnerable position****, especially in relation to HIV and STIs.* ***These vulnerabilities can be compounded by race, and/or class, and/or disability, and/or geographical location, and/or economic position.***

__6.3.5.3__ Schools and institutions with hostel facilities will make additional provision for the protection of vulnerable learners, ***based on gender, gender identity, gender expression, or sexual orientation****, and ensure access to such provision and institutional regulations.*

6.3.5.4 Schools and institutional will provide all necessary support for transgender learners, educators, school support staff and officials who transition from one gender to another. This includes access to gender-neutral ablution facilities, school dress code, sports and housing policies.

6.3.5.5 *Through the provisions of the curriculum and associated learning materials, schools will teach learners about gender roles,* ***gender identity and sexual orientation, the influence of power in gendered power relationships****, and the need for responsible behaviours as understood in comprehensive sexuality education.*

6.3.6 REFERRAL AND STRATEGIC PARTNERSHIPS

Support and referral services should also include ***LGBTI-specific health services*** as a distinct bullet point.

6. CONCLUSION

We thank you for considering our submission. We look forward to on-going and constructive dialogue with the Department in the development of this promising policy. We would welcome the opportunity to work with the Department as stakeholders in the further development and implementation of the policy.

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