EXAMINING THE REASONS FOR THE EXCLUSION OF PREGNANT LEARNERS FROM SCHOOL THROUGH THE SCHOOL GOVERNING BODY PREGNANCY POLICY

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A dissertation submitted in total fulfilment of the requirements for the degree of

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ABSTRACT

Discrimination is a serious violation of human rights and it is strongly condemned by various legal instruments in South Africa. The South African Constitution (1996), Promotion of Administration Justice Act (2000) and Promotion of Equality and Prevention of Unfair Discrimination Act (2000) forbade discrimination and exclusion of pregnant learners from school. In spite of these legislative frameworks, School Governing Body (SGB) continues to exclude pregnant learners from school. SGB claimed that pregnant learners are harmful to other female learners and is becoming a significant barrier to girls' education. Research shows that learners' pregnancy is predominant in rural areas, apparently poses a threat to female education (Annual School Survey Report, 2010). The purpose of this dissertation is to establish that SGB lacks power to do so; however, their resistance to the law by excluding the pregnant learners from school is in conflict with the South African Constitution. This dissertation investigated an alternative instrument of legal remedy to reduce the problem of learners' pregnancy rather than exclusion. The theoretical framework of this study is informed by Public Policy Theory (Ijeoma, 2010). Literatures and scholarly works on education law (Oosthuizen, 2015) and articles on Learners' pregnancy shall be reviewed (Morell, Bhana & Shefer, 2012). The study followed qualitative research method which utilizes a transformative research paradigm that provides a collective voice for the participants. The data is collected through focused interview and open-ended questions, and subsequently analysed to establish that SGB lacks power to exclude a pregnant learner from school. Finally, the study reveals an alternative instrument of legal remedy to reduce the alarming number of pregnant learners rather than exclusion.

Keywords: Education law; Education management; Administrative law; Human rights law; School Governing Body (SGB).

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DECLARATION OF ORIGINALITY

This dissertation is presented for the approval of the Senate for the fulfilment of the requirements for the Master of Education (Education Law). I hereby declare that I have read and understood the regulations governing the submission of the research dissertation, including those relating to length and plagiarism, as contained in the rules of this University, and that this research paper conforms to those regulations.

I, Bamidele James Seidu hereby declare that "examining the reasons for the exclusion of pregnant learners from school through the school governing body pregnancy policy" is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references. This research has not been previously submitted for any degree at this university or any other university.

_____

Bamidele James Seidu

_____25 July 2017_____

Date

CERTIFICATION

I certify that this dissertation was carried out by Mr. Bamidele James Seidu under my supervision.

………………………………….

Prof. Emmanuel O. Adu.

Date: 04/08/17

(Supervisor)

DEDICATION

To my late father Seidu Ishola Makusota

He died of myocardial infarction (heart attack) after he had supper with his immediate

family.

Ishola omo agidi o ko'ku

Omo orokun'ja f'eseko

Omo jabujabu……….

Alesin ni'le Alesin lo'ko

sun un re o (Rest in peace 'Baba Iyabo').

ACRONYMS

PAJA   Promotion of Administrative Justice Act 3 of 2000

PEPUDA   Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

BELA   Basic Education Law Amendment Act

MPMLP   Measures for Prevention and Management of Learners' pregnancy (2007)

DoE   Department of Education

HOD   Head of Department

SMT   School Management Team

SGB   School Governing Body

GET   General Education and Training

FET   Further Education and Training

SASA   South African Schools Act

RSA   Republic of South Africa

MEC   Member of Executive Council

RCL   Representative Council for Learners

HIV/AIDS   Human Immune Virus

AIDS   Acquired Immune Deficiency Syndrome

SASSA   South African Social Security Agency

ECDoE   Eastern Cape Department of Education

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CHAPTER ONE

Background and Introduction

1.1 Introduction of the study

The exclusion of pregnant learners from school is outlawed in South Africa (Measures for the Prevention and Management of Learners Pregnancy, 2007:9). The resistance of the School Governing Body (SGB) to exclude and discriminate against pregnant learners is apparently receiving detail attention from South African jurisprudence. South African Constitution (Act 108 of 1996) and Promotion of Equality and Prevention of Unfair Discrimination Act (2000) expressly stated that, no learner should be excluded from school due to pregnancy. In spite of these legislative frameworks, School Governing Body (SGB) continues to exclude pregnant learners from school. SGB claimed that pregnant learners are prejudicial to other female learners and is becoming a significant barrier to girls' education (Bhana & Ngabaza, 2012).

Though, pregnancy among learners is, therefore, entangled within a framework of regulations, there are tensions that situate sexuality and age against the broader policy context, and within moralising discourses that stigmatise and regulate the active sexuality of school children. In addition to, the rising incident of learners' pregnancy has been a problem to all stakeholders in education administration such as SGB, parents, educators and DoE. Nonetheless, it could be disputed that SGB and education managers sees exclusion of pregnant learners as a measure to maintain efficient administration, discipline and good governance (Bray, 2008: 134).

The concept of educational law is unusual to many rural school governing bodies and this lack of understanding makes the task of legal intervention foreign and uncomfortable to most rural school education managers. It is, therefore, ironic that rural school parent governors with no proper knowledge in the education legislations are expected to deal

with legal challenging circumstances such as exclusion policy and administrative procedures.

According to the South African Medical Research Council (SAMRC), the high level of learners' pregnancy has increased from 3% to 5% of girls under the age of 18 years that becomes pregnant while in schools most especially in rural schools, poses a threat to South African morality (Annual School Survey Report, 2010). The Department of Education, Education Management Information System (EMIS) reported that, the prevalence of learners' pregnancy is disturbing in South Africa with 45 276 pregnant learners, ranging from grade 3 to grade 12 (Ibid). Of great concern, is the fact that the studies indicated that learners' pregnancy often lead to girls drop out from school due to pressure they experience, which includes; stigmatization associated with early parenting, isolation from peers and lack of needed support from family, friends, schools, social service agencies and other organizations (Kost et al., 2010).

The centre point of this dissertation is to critically examine the reasons for the exclusion of pregnant learners in South African public schools by SGB through their pregnancy policy. The SGB lacks power to do so according to the law that guides school administration, but they are resistant to the law by excluding the pregnant learners from school. The study is to explore any alternative instrument of legal remedies to reduce or curb the increase in learners' pregnancy rather than exclusion.

The governance of every public school is entrusted in its school governing body (Oosthuizen, Botha, Roos, Rossouw & Smit, 2015). The legislative mandate of the School Governing Body (SGB) in terms of the school administrative decision-making has given South African public and independent schools more thoughtful meaning about their obligation in the school development (van der Merwe, 2013). The sustained development

of this body (SGB) attempts to maintain an oversight role on the School Management Team (SMT) which has however produced increased reliance on it. SGB is the primary governance structure of the school that formulates policies, adopts a constitution, adopts code of conduct for learners and teachers and constitute disciplinary measures for the school (South African Schools Act, No. 84 of 1996, section 16 (1) SASA as amended by Basic Education Laws Amendment Act No.15 of 2011 (BELA). In terms of this Act, a governing body may suspend a learner from school. Oosthuizen (2009:159) cautions that the learner must receive a lawful hearing before being suspended, and may not be suspended for more than a week. However, the period of suspension can exceed one week where it is recommended that the learner be expelled and the governing body is awaiting the decision from the Department of Education.

This section further stipulates that the expulsion of the learner may only be carried out by the Department of Education, after the learner has been found guilty of serious misconduct at a fair hearing, not pregnancy. Ultimately, Department of Education (DoE) is a custodian of basic education that works collectively with SGB. In contrast, Department of Education disagrees with the policies formulated by the SGB, with particular reference to learners' pregnancy policy (Serfontein & de Waal, 2013).

In relation to SASA, every public school is a juristic person, with a legal capacity to perform its function in terms of the Act (section 15 of SASA). The imminent stakeholders of the school are the SGBs who derive their mandate from the SASA to fulfil their legislative obligations. Section 18 (2) (a-e) of SASA narrowly defines the scope of the constitution of SGB as well as the formulation of policies, but excludes empowering provisions to formulate some policies like learners' pregnancy policy, which SGB often

acted beyond their power. The exclusion of pregnant learner courtesy of SGB policies is considered as violation of learners' right in term of the South African Constitution.

The Constitution of South Africa is the supreme law of the Republic, any law or conduct inconsistent with it is invalid, and the obligation imposed by it must be fulfilled (section 2 of the South African Constitution). Fundamentally, the decision to exclude a learner from school is an administrative action (decision) that is judicially reviewed in the court of law. Section 29 of the Constitution (RSA, 1996) states:

> 29. Education   *(1) Everyone has the right*
>
> (a) to a basic education, including adult basic education; and
> (b) to further education, which the state, through reasonable measures, must make
>   progressive available and accessible*.*

South African administrative law defines the scope of administrative decision. Administrative law establishes that formulation of policy is a non-administrative action which is not judicially reviewed, while implementation of the same policy is an administrative action (Hoexter, 2012). The implication thereof is that, after SGB formulates policy, the implementation of the policy is carried out by the SMT (Principal) which in turn can be challenged in court. Importantly, it means SGB lack jurisdiction or empowering provision to formulate and implement policies that are inconsistent with the South African constitution.

The procedure to implement administrative policies including pregnancy policy is enclosed in the Promotion of Administrative Justice Act 3 of 2000 (PAJA). Such administrative action originates from administrative policy, especially policies that affect the right of any person adversely, including right to reproduction and right to education. Hence, exclusion of pregnant learner from school is an administrative action.

PAJA defines administrative action as

any decision taken, or any failure to take a decision,
By (a) organ of state, when

(i) exercising a power in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation; or

(b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision, which adversely affects the rights of any person and which has a direct, external legal effect (section 1 of PAJA).

PAJA is a law passed by the Parliament, to give effect to the constitutional rights to lawful, reasonable and procedurally fair administrative action, as well as the right to written reasons (section 33 of the Constitution of the Republic of South Africa 108 of 1996). Basically, SASA requires SGB to formulate policies as governance structure, to play legislative role over the implementation of the policies by the SMT as management structure, that plays executive role (section 20 (1) of SASA). The instrument of SASA gives these entire stakeholders an obligation to participate actively in the governance of the school (Brown & Duku, 2008).

Hence, it is confirmed by the South African Constitution that SGB has no power to exclude a child from school for pregnancy reason; this is due to the limitation of the juridical mandate of the SGB in the Constitution submitted by Arendse (2011). Justice Moseneke confirms that SGB may only perform such functions and obligations only if such rights are prescribed by the Act (*HOD Mpumalanga DOE v Hoerskool Ermelo & another* 2010 (2) SA 415 CC). However, SASA which is the source of SGB empowering provisions is obviously incapable of addressing the problem of administrative decisions (in particular learners' pregnancy problem) in the South African school system (Bhana & Ngabaza, 2013).

Consequently, this study examines reasons for the exclusion of pregnant learners from school through the SGB pregnancy policy; and draw attention to issues such as the essentiality of the SGB's working knowledge of the legislations that impact on the school governance. The study addresses the problem of unlawful exclusion of pregnant learners from school and highlight any contrary conducts from SGB will be inconsistent with the law, but rather the study will propose an alternative instrument of legal remedies to address the problem.

1.2 BACKGROUND TO THE STUDY

The global perspective on learners' pregnancy was given a detailed attention at the 8th United Nation Millennium Development Goal Summit (The Millennium Development Goals Report, 2009), the resolution was to achieve zero per cent learners' pregnancy by 2015 (Morell, 2013). This was not achieved due to global policies regulating learners' pregnancy (Kumar Rai & Tulchinsky, 2015). Administrative decisions and policies formulation on learners' pregnancy remains a problem to the SGB worldwide (Herselman, 2014). Research on learners' pregnancy in South Africa has followed an international trend of conceptualizing learners' pregnancy as a social problem with negative consequences particularly on the girl child (Macleod, 2009).

One of the major negative effects of learners' pregnancy is considered to be disruption of the girl's education that often accompanies pregnancy (Ibid). Learners' pregnancy is also linked to poverty and health issues (Kirby, 2012). Statistics shows that 67 per cent of families begun by a learner mother living in abject poverty and 52 per cent of most mothers currently on social grant had their first child as a student. Perhaps, this is because learner mothers are less likely to complete high school, making it difficult for them to obtain higher paying jobs (Cassell, 2002).

Several studies have found that many girls who got pregnant do not plan on returning to school (Mkize, 2005) despite the new legislation on the main streaming of learners' with pregnancy. Research shows that incessant increase of pregnant learners in schools pose a threat to South African society at large (Ramulumo & Pitsoe, 2013); however, South African Constitution protects the rights of pregnant learners. Department of Education as the custodian of basic education is at a logger-head with the SGB to exclude a learner from school on the ground of pregnancy. Though, SGB has mandate to formulate school policies, but not in conflict with the South African constitution (SASA, section 16). SGB exclusion policy due to pregnancy often produces negative results such as inappropriate interventions to address their unique developmental needs, lack of proper procedure for the affected pregnant learners', and insensitivity on the part of the educational system to help the pregnant learner to balance their education and their responsibilities as parents (Mangino, 2012).

This research is prompted and engineered by the two recent court cases in the Free State Province on pregnancy policy adopted by the SGB of the schools (The Head of Department: Department of Education, Free State Province v Welkom High School & Harmony High School Case: CCT 103/12 [2013] ZACC; hereafter refer to Welkom & Harmony) which was challenged by the Head of Department of Education. The SGB of Welkom and Harmony adopted a policy on the management of learners' pregnancy which were not empowered by the SASA (Skelton, 2013). Both governing bodies contended that the policy was in accordance with the National Department of Education measures for the prevention and management of learners' pregnancy.

In 2007, the Department of Education attempted to address the issue of unfair discrimination of learners' with pregnancy by introducing a national guideline titled "measures for prevention and management of learners' pregnancy" (MPMLP, 2007). This document only

gives immunity to a learner to take a 'voluntary leave of absence' and may return to school after giving birth. SGB policy to exclude the learner is synonymous to MPMLP but excludes the student without her volition (compulsory exclusion) (Shefer et. al., 2013). Also, the document discourages school girl pregnancy; the subject Life Orientation encourages children to abstain from risky sexual behaviours since pregnant learners drop out of school, which is a risk to South African society's social values and economic deterioration (DoE, 2007).

In their study, Wright and Associates (2010) confirmed that SGB found that Life Orientation educators felt that the major factor contributing to the increase in learners' pregnancy was a lack of comprehensive sex education provided by trained educators in schools. The same study also reports that a lack of opportunity for female youth to gain more knowledge and access to contraceptive measures was a significant factor in learners' pregnancies, particularly among teens living in poverty. This implies that even though educators observe that the curriculum is relevant; teachers may not be comfortable to teach certain contents of the curriculum in schools.

Modisaotsile (2012) submitted that only one-third of the post-pregnancy learners actually re-enter the school system, and she recommended that policy regarding pregnant learner s should be considered. As such, most learners' pregnancy in South Africa is non-marital and unintended, arising from individual boyfriend, relative, and social influence (Mantel,
2006). Recent research figures show that the rate of learners pregnancy in the Eastern Cape increased from 3 264 in 2005; 5 015 in 2007; 8 420 in 2009 and, is still on the increase (Sunday Times, 2010).

Brief Facts of the Case Study

The appellant, (Head of Department of Education Free State) directed the Principal of Welkom High School to act in a manner contrary to the policy adopted by the SGB on the learners' pregnancy. He instructed that the Principal should rescind his decision for exclusion of Ms D, a grade 9 learner from school for pregnancy.

> *The HOD said the pregnancy policies are unlawful, and that the basis of his defence is that the HOD has the power to instruct principals, as their employer, not to obey an unlawful policy or act in an unlawful manner, especially if to do so would be unconstitutional (The Head of Department: Department of Education, Free State Province v Welkom High School & Harmony High School Case: SCA 2011:10).*

Rampai J expressed himself that regarding unlawful actions or interference by the Department in the governing body's power to determine the school's pregnancy policy is unconstitutional, as well as the SGB pregnancy policy is prejudicial.

> *Even if the learner pregnancy policies were substantively unfair, flawed and plagued by countless features of invalidity, the department had no administrative power to determine, amend, suspend or abolish (or to give instructions designed to attain any of these) the learner pregnancy policies for the schools. It follows from this reasoning that the directives issued by the first respondent late last year were unlawful. I am therefore inclined to declare them to be of no binding force and effect in law. To find otherwise would render the functioning of the school governing body ineffective and superfluous. The governance of the schools can fall into disarray (Ibid)*

However, the court acknowledges that SGB pregnancy policy is unfair and discriminatory. In the intervening time, Section 16(2) of SASA requires that a governing body stands in a position of trust towards the school. This provision applies equally to the principal, being a member of the governing body, as to the rest of the governing body members. The principal could thus receive conflicting assignments from the Department and the governing body because of their different goals and interests, which suddenly places the

principal in a close-fitting situation. The governing body clearly supports the principle of maximum transference of school governance to the school governing bodies and to establish a healthy relationship between school management (principal) and school governing bodies. The High Court held that the Free State HOD's only available remedy would have been to call on the governing bodies to change their policies and, in the event that they refused to do so, to apply to the courts for appropriate relief (para 23).

School Survey Report on Learners' Pregnancy

South African Annual School Survey Report (2011) for ordinary schools indicated that, 36 702 learners were pregnant in 2010. KwaZulu-Natal province had about 14 340 learners as the highest number of learners who were pregnant, followed by the Eastern Cape with 6 516 learners. The majority of pregnant learners in 2010 were in grades 10 and 11. However, significantly high numbers of grades 7, 8 and 9 learners were also pregnant (South African Annual School Survey report for ordinary schools in 2010 and 2011). In 2010, Eastern Cape topped the list with grade 3 (17 learners), grade 4 (21 learners), grade 5 (41 learners) and competed with KZN grade 6 (123) of the pregnant learners (Ibid).

According to Reddy and McCouley (2013), 41% of learners aged 14 to 19 representing 10,699 were initiated into sexual activity before attaining the age of 14 years. Among the learners that have been sexually active, 54% had more than one sexual partner in the past, 14 % had sex after consuming alcohol or drugs, only 29 % practised inconsistent condom usage, 16 % had fallen pregnant, and overall 72 % had received education regarding HIV/AIDS. The above findings show that most learners rarely use condoms when having sex (Reddy and McCouley, 2003). This position triggered SGB to formulate policies that excludes any learner who fell pregnant. Though, SGB maintain that school appreciation, academic achievement and higher aspirations for education offer incentives for learners to avoid pregnancy. On the other hand, when the relationship with schooling

is unproven either through dislike of school, poor academic achievement and poor expectation of furthering education, learners are more likely to impregnate each other (Brenner & Robin, 2010).

In relation to the above developments, this study investigated the reasons for the exclusion of pregnant learners from school by the SGB in spite of legislative frameworks not to do so, and also, the study explored any alternative legal instruments to solve the problem of learners' pregnancy rather than exclusion (Bhana, Shefer & Morrell, 2012).

1.3 Statement of the problem

Before SASA was promulgated in 1996, it was a state of common knowledge that pregnant learners will be expelled from school (Shefer, Bhana & Morell, 2013). The constitutional dispensation of South Africa prevents unfair discrimination directly or indirectly against anyone because of pregnancy (Currie & de Waal, 2013). The law took a stand that discrimination on the grounds of pregnancy is necessarily a discrimination on the grounds of sex, since only women can be pregnant (Woolworths (Pty) Ltd v Whitehead, 2000 (12) BCLR: 1340; Currie et al., 2013). This position of increasing numbers of pregnant learners in public schools informs the SGB to attempt to address the problem through formulation of policies to exclude pregnant learners (Clowes, D'Amant & Nkani, 2012). But, it could be argued that the School Governing Body's action to formulate a policy that exclude a learner from school due to pregnancy is unlawful and unreasonable (Shefer, Bhana & Morrell, 2013).

In Welkom & Harmony case, the Court could not rule on the appropriateness of the policy of the SGB to exclude a learner, but rather directed the SGB and the Department of Education to redraft their policy in line with the South African Constitution (Skelton, 2013).

The Department of Education interpreted this as unfair discrimination and violation of learners' right to education.

Hypothetically, Education law is a dynamic discipline in South Africa because of the injustice of the past in terms of racism and gender over the past 20 years. Joubert (2006:18) define education law as laws relating to education. It entails the entire field of law and focuses on the contact points between law and education (Oosthuizen & van der Westhuizen, 2008:15). Education law is part of the domain of administrative law (Hoexter, 2012: 9) and administrative law provides everyone with the rights to administrative action that is lawful, reasonable and procedurally fair (section 33 of the Constitution). Joubert (2009:29) is of the opinion that education managers lacks adequate knowledge of education law in general; it can be argued that education managers will struggle with the provisions of legislation that deals with learners' pregnancy.

In this study, the researcher will analyse the reasons of the School Governing Body (SGB) school policies to exclude a learner from school. In particular, the researcher will consider how legal education and the component of administrative law can provide an alternative legal remedy to solve problems of pregnant learner (especially those learners in final stage of completing basic education), rather than the exclusion thereof. The constitutional mandate of the SGB as a significant body of an institution is in accordance with public administration which is created by law, and the authenticity of their administration is informed by the same law, therefore, SGB derives its authority from the law (Woolman,

2013). Meaning that, the gap was created by SASA to empower SGB for the exclusionary provisions which jeopardises their fundamental competence to exclude a learner; however, DoE and parents view the exclusion as unfair discrimination which is legally unjustifiable.

At this stage, it is established that the high number of pregnant learners is a problem in South African schools, but in contrary, SGB lack juridical mandate or legal provision to formulate a policy that exclude a learner from school. That is, SGB jurisdiction is limited to power granted by the Constitution (Quinot, 2008). This study investigated how to reconcile the following pieces of legislations to answer the questions of exclusion of pregnant learners in South Africa public schools, and proposing the alternative instrument of legal remedies.

- ❖ Section 33 of the South African Constitution

  Everyone has the right to administrative action that is lawful, reasonable and procedurally fair

- ❖ Section 9 (4) of the Constitution

  No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3) (pregnancy included)

- ❖ Section 9 (2) of the South African Schools' Act state that a learner at a public school may

  be expelled only-

  - (a) by the Head of Department, and
  - (b) if found guilty of serious misconduct after a fair hearing.

- ❖ Section 6 of the Promotion of Administrative Justice Act
  - (1) Any person may institute proceedings in a court or a tribunal for the judicial review of an administrative action,
  - (i) If the administrator who took it was not authorised to do so by the empowering provision.

Table 1 Number of learners in ordinary schools who got pregnant, by province and grade, in 2009

Y E A R	Province	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Total
2	EC	15	15	89	176	444	916	1469	1964	1862	1470	8420
	FS	---	2	5	3	18	40	90	251	235	154	798
	GP	74	67	112	43	102	283	614	1297	1486	1194	5272
0	KZN	16	9	34	134	279	839	1680	2923	3749	3291	12954
	LP	2	8	32	125	282	590	1363	2869	2949	2103	10323
	MP	2	3	23	68	228	508	840	1413	1505	1204	5784
0	NC	---	---	---	3	8	16	42	55	60	48	232
	NW	---	2	---	1	9	22	36	67	63	71	271
	WC	---	1	2	18	33	76	209	277	292	304	1212
	SA	109	107	297	571	1403	3290	6343	1116	1221	9839	45276

Source: 2010 and 2011 Annual School Survey Report

Table 2 *Number of learners in ordinary schools who got pregnant, by province and grade 2010*

YEAR	Province	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Total
2010	EC	17	21	41	123	317	719	1220	1367	1606	1085	6516
	FS	---	---	2	4	9	37	104	215	276	162	809
	GP	---	1	1	23	76	251	523	1082	1111	945	4013
	KZN	4	19	41	128	318	906	1876	3489	4126	3433	14340
	LP	2	---	5	9	46	149	365	639	639	456	2310
	MP	3	6	18	62	184	477	843	1346	1332	1009	5280
	NC	---	---	---	4	27	93	125	227	242	211	929
	NW	---	1	1	3	8	19	55	109	111	65	372
	WC	---	3	13	27	56	169	354	483	545	483	2133
	SA	26	51	122	383	1041	2820	5465	8957	9988	7849	36702

Source: 2010 and 2011 Annual School Survey Report

Problematically, the assumption at this stage is that, SGB considers formulation of pregnancy policies as a measure of preventing learners' pregnancy, and that exclusion thereof will serve as a deterrent to other learners, but DoE and parents view it as unjust and discriminatory to learners. In that case, there is need to propose an alternative legal remedies to address the problem of learners' pregnancy.

1.4 Research Questions

The main research question is:

❖ What are the reasons for the exclusion of pregnant learners from school by the School Governing Body pregnancy policies in South Africa?

SUB RESEARCH QUESTIONS:

❖ How can exclusion of pregnant learners be justifiable in South African public and independent schools?

❖ What are the possible challenges to the rights of excluded pregnant learners?

❖ What are the possible solutions of solving the problems of SGB pregnancy policies, and how can these policies accommodate pregnant learners?

❖ What are the alternative legal instruments to address the exclusion of pregnant leaners from school?

1.5 Objectives of the study

This study aims to examine the reasons for the exclusion of pregnant learners from school by School Governing Body pregnancy policies in South Africa.

Thus the research seeks:

a) To establish the extent to which the exclusion of pregnant learners is justifiable in South African public schools.

b) To investigate the challenges to the rights of pregnant learners in a situation of exclusion.

c) To outline the possible solutions to the problems encountered by the pregnant learners from SGB policies.

d) To establish administrative law as an alternative legal instrument to address the problem of exclusion of pregnant learners from school.

1.6 Purpose of the study

This study examined the reasons for the exclusion of pregnant learners from school; which is expressly defined in the Constitution as discrimination. SGB lacks juridical mandate to exclude a learner due to pregnancy. Though, SGB, DoE, learner, parent and the society at large acknowledged that learners' pregnancy contributed to society degeneration (Davids & Waghid, 2013). Education law is the legal instrument to answer the questions of learners' pregnancy policies. Therefore, the intentions of the study are to *"contextualize"* South African administrative law as an alternative legal instrument to address the problem of exclusion of pregnant learners from school. Also, the research intends to investigate how PAJA (Administrative Justice provisions), SASA (Schools' Act provisions), PEPUDA (Equality and Discrimination provisions), and the Constitution protects the rights of pregnant learners from exclusion, as well as the rights of school when formulating 'fair discriminatory' policies to safeguard their institution.

1.7 Significance of the Study

The Annual Schools Survey (2011) submitted that 38% of the pregnant learners in South African schools fall between grade 3 and grade 9. Davids & Waghid (2013) submitted that learners' pregnancy contributed to South Africa morality degeneration. In fact, most

schools' Principals and SGB expressed dissatisfaction with the government policies that allow pregnant learners in school (Shefer, Bhana & Morrel, 2013). This study will contribute towards the body of knowledge, as it will help with empirical findings in the following areas:

❖ A critical analysis of administrative law as an alternative legal instrument to complement government policies and legislations, to provide assistance on the roles of SGB in solving learners' pregnancy problem.

❖ The study will provide assistance to educational managers and SGB on how to deal with the challenges of pregnant learners at school, which most of the principals' view as imperative (Shefer et. al., 2013).

❖ An in-depth study of this nature will outline the possible solutions of solving the problems of SGB pregnancy policies encountered by the DoE, parents, learners and the society in driving to a common ground.

❖ The study will provide the legal rights available to the pregnant learners in a situation of exclusion.

1.8 Rationale of the study

Rhetorically, why is this research important? Is there any justification to embark on this research? This study is a novel one. It requires an in-depth understanding of education laws and policies. Two decades ago, South African Schools Act 84 of 1996 had been passed and forbade discrimination (Bray, 2005), but the gap created by this Act to provide answers to a situation when a learner fall pregnant. SGB and Principals are required by the Constitution and the education policy, to keep pregnant learners at school; however, these stakeholders lack direction on the issues and seem resistant to the policy (Ramulumo et. al., 2013). Among the challenges, a school in Mpumalanga requested a

qualified midwife from DoE if they will allow pregnant learner to stay in their school (Morrell, Bhana & Shefer, 2013).

The Constitutional Court judgment in Welkom & Harmony (Welkom et. al., 2013) confirmed that pregnancy policies is a 'prima facie' violation of constitutional rights, but notwithstanding, the court requested both SGBs to revise the policies with meaningful engagement of HOD Free State Department of Education. This shows that pregnancy policies are inevitable in schools. This research is meant to study a copy of the revised pregnancy policies that exclude a learner from Welkom high school, and examine how these policies solve the problems inherent in learners' pregnancy. This research aims to provide an objective solution to all parties concerned that can validate the agreed alternative legal remedies to the problem of learners' pregnancy.

1.9 Scope of the study

The core focus of this study is to seek how SGB, DoE, parents, learners and the society perceive the exclusion of pregnant learners, and how these stakeholders can come to a common ground on the alternative measures to address the problem of learners' pregnancy without exclusion. The specific area of administrative law (administrative action) will be used as an alternative instrument of legal remedies to address problems in relation to learners' pregnancy policies.
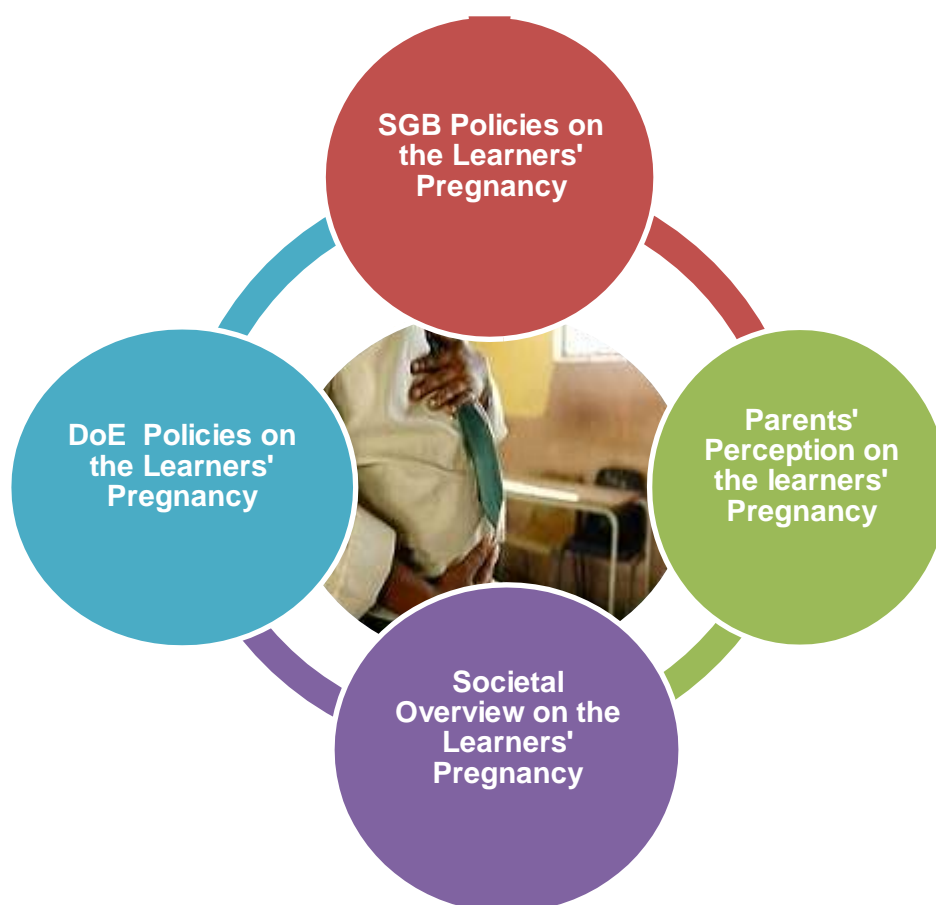
Figure 1   Education Stakeholders' Perception on Learners' Pregnancy

1.10 Definition of key terms

➢ Administrative Law is described as law that regulates the activities of bodies that exercise public power or performs public functions. (Hoexter, 2012). This law also regulates legal relations of public authorities, whether individuals or organisations.

➢ School Governing Body (SGB) is the 'government' of the school, established in terms of the South African Schools Act no 84 of 1996 (Modisaotsile, 2012)

➢ South African Schools' Act 84 of 1996(SASA) is defined as legislation to provide for a uniform system for the organisation, governance and funding of schools; to amend

and repeal certain laws relating to schools; and to provide for matters connected therewith (DoE, 1996).

➢ Promotion of Administrative Justice Act 3 of 2000(PAJA) is a law passed by the Parliament, to give effect to the constitutional rights to lawful, reasonable and procedurally fair administrative action, as well as the right to written reasons (Department Justice and Constitutional Development, The PAJA Mainstreaming Guide for Organs of State, 2010)

➢ Department of Education (DoE) is described as National Department of Basic Education.

➢ Pregnant Learner is described as any school girl who got pregnant in the process of receiving education or obliged to receive education in terms of the South African Schools Act 84 of 1996 (DoE, 2011)

➢ Promotion of Equality and Prevention of unfair Discrimination Act 4 of 2000 (PEPUDA) was legislated to give effect to section 9 read with item 23(1) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, so as to prevent and prohibit unfair discrimination and harassment; to promote equality and eliminate unfair discrimination; to prevent and prohibit hate speech; and to provide for matters connected therewith.

1.11 Chapters Breakdown

This study covers five chapters, and demarcated as follows:

CHAPTER 1:

The chapter discusses the background of the study, examining the reasons for the exclusion of pregnant learners from school through the School Governing Body pregnancy policy. This section further discusses the statement of the problem, the purpose of the study, and also the research questions. The objectives, assumptions, significance and focus of the study are also discussed in this section.

CHAPTER 2:

This chapter discusses the theoretical framework used in the study, the reasons for the exclusion of pregnant learners by SGB pregnancy policies, how are these policies implemented to curb or reduce the learners' pregnancy in school, the support of the Department of Education and other stakeholders in reducing the problem of learners' pregnancy, challenges facing pregnant learners in a situation of exclusion, and lastly alternatives available to pregnant learners rather than exclusion are also discussed.

CHAPTER 3:

This chapter presents and justifies the research methodology used in the study. It also discusses the philosophical assumptions underlying various methodologies and the Interpretivists paradigm on which the study is based. The research design, population and sampling procedures, research instruments used to collect data and ethical considerations are discussed also.

CHAPTER 4:

In this chapter, the researcher presents and analyses the data collected through focused interviews, open-ended questionnaires, as well as document analysis.

CHAPTER 5:

This chapter discusses the findings of the research. The discussion includes the comparison of the findings with data found in the literature. The objective of this chapter is to bring the findings into the fold, the reasons for the exclusion of the pregnant learners from school through SGB pregnancy policy. Also, this chapter gives a summary of the findings in relation to the problem, the methods used to reach the findings and how they relate to the research questions. Conclusions and recommendations reached and their implications for the policy makers.

1.12 Conclusion

SGBs should also continually guard against the view that in practice, education law is subversive to the rights of SGBs. The DoE on the other hand must guard against their actions and decisions being seen as encroaching on the rights and powers of the SGBs as this would inevitably lead to SGBs becoming less involved and less committed to the relationship, which would have catastrophic consequences for education and governance in South African schools.

Of critical importance, communication between SGBs and the parent body of the school they represent is very essential. Each and every School Governing Body should commit themselves to ensuring that these communications serve the better interest of the school and the learners. Exclusionary policy can create a conflict situation in the school

environment and among the various stakeholders. The governing bodies are after all accountable to the parents of whom they are the chosen representative.

CHAPTER TWO

REVIEW OF THE RELATED LITERATURE

2.1 Introduction

The concept of 'education law' is new to many schools governing body, even educators. Most education law scholars have widely published on the role, efficiency and efficacy of the SGB in South African school structures (Oosthuizen, 2015). This study falls within the scope of education law and education management. Therefore, the study will investigate the legal requirements education managers should adhere to, before taking a decision that exclude a pregnant learners from school. The legal requirement falls within the field of education law, while the processes to follow to exclude a learner fall within the scope of education management. Lack of necessary skills makes the task of legal interpretation foreign and uncomfortable to most SGB's. It is therefore apparent that the study is built against this background.

As above-mentioned, this dissertation prepares a medium to engage on the transformative policies of the SGB to change the 'status quo' or the position of the learners' pregnancy policies prescribed by the government for ordinary schools (Smith & Smith, 2009). Perhaps the most remarkable difference between educational system under apartheid regime and constitutional democracy was the establishment of South African Schools' Act of 1996 (Merwe, 2013). The preamble of SASA implicitly highlights the motivation for its establishment; that is, to redress the past system of education which was based on racial inequality and segregation, and to provide a uniform system for the organisation, governance and funding of schools (SASA, 1996). SASA devolved power to school

governing bodies to recommend appointment of educators, to suspend and to expel a learner by the recommendation to the department of basic education and to determine the school's policies (Oosthuizen, et. al. 2015).

In South Africa, a policy was formulated in 1996 which allows pregnant learners to continue schooling logistically (Grant & Hallaman, 2006). The policy on learners' pregnancy in South African schools is clearly set out in the document entitled Measures for the Prevention and the Management of learner pregnancy (2007), which was developed and dispatched to all public schools. In spite of this policy document, SGB continue to exclude pregnant learners from school. The implication is that, SGB formed a parallel policy against the government pregnancy prevention policy. The research on the learners' pregnancy in South Africa has followed an international trend of conceptualizing learners' pregnancy as a social problem with negative consequences particularly on the girls' learner (Macleod, 2009). One of the major negative effects of the learners' pregnancy is considered to be disruption of the girl's education that often accompanies pregnancy (Macleod, 2009).

In addition, the Department of Education further emphasizes its intention to provide an environment in which learners are fully informed about reproductive matters and the risks thereof, through policies to address learners' pregnancy. The information in this particular document (MPMLP) supported by three constitutional principles: the right not to be discriminated against, the right to education, and the rights of the child (DoE, 2007). The measures take into consideration the legal and other requirements pertaining to children and pregnancy. They are supported by and supplemented the National Policy on HIV/AIDS for learners and educators (Government Gazette No 20372 of 10 August 1999). These measures provide a framework for:

- ❖ educating and assisting learners to understand and exercise their rights and responsibilities in regards to healthy lifestyles;

- ❖ guiding and supporting vulnerable learners; and

- ❖ involving all relevant role-players, and integrating these measures with available system and structures. Role-players include parents, learners, educators, communities, non-governmental organisation (NGOs), the South African Police Service (SAPS), and the Department of Education, Health and Social Development.

Several studies have found that many learners who fall pregnant do not plan on returning to school (Mkize, 2005). SGB also pointed to this as a basis for the exclusion from school.

School Governing Body (SGB)

The SGB is defined as the body of parent-elected members of the community tasked with executing the duties of the school in partnership with educators. According to SASA (1996), a governing body is a statutory body of the people who are elected by people to govern a school. In terms of SASA (1996: 18) the functions and duties of the governing bodies stipulate that they must:

(a) promote the best interests of the school and strive to ensure its development through the provision of quality education for all learners at the school;

(b) adopt a constitution;

(c) develop the mission statement of the school;

(d) adopt a code of conduct for learners at the school;

(e) support the principal, educators and other staff of the school in the performance of their professional functions (SASA: 18).

The idea of introducing SGBs in the Republic of South Africa after 1994 was the actualization of the idea of community involvement. (Bush & Gamage as cited in Bush & Heystek, 2013). The literature reveals that the democratisation of school governance is viewed differently by the different authors on school governance and this resulted in the emergence of a number of concepts such as school governance, decentralisation, participation, partnership and collaboration, community involvement, privatisation deconcentrating and inclusion. In reviewing the literature the researcher will unpack these concepts as viewed by different writers. Brown and Duku (2008) view the introduction of SGBs in South Africa as an opportunity for South African parents, learners and educators to participate in school governance and as a shift from authoritarian rule, coupled with racial divisions and socio-economic inequalities to an atmosphere of democracy. Motimele (2010) noted that in the past school governance in South Africa was characterized by a top-down approach in which educators, learners, parents and communities were not involved in making important decisions about schools. Inspectors and principals were regarded as persons who made decisions in the school (Ibid). It is more particular with regard to the role of SGB and stresses the fact that the day-to-day management of the school is not the task of the governing bodies.

Their roles among others include:

- ❖ execute the specific functions assigned to them by the SASA and the other provincial legislation and regulations;

- ❖ set up, improve and develop rules and policies within which the school functions in the framework of the SASA;

- ❖ supervise and manage the development and maintenance of the infra- structure and property of the school; and

- ❖ establish and develop partnerships in the school between all the role players in the education process. Such partnerships consist of parents, learners, teachers and non-teaching staff at the school, the local community and the education authorities.

Above all, this chapter will analyse the conceptual framework of the SGB exclusionary policy of the pregnant learners, and the theoretical framework that will investigate the implications of the SGB pregnancy policy which excludes pregnant learners from school.

2.2 CONCEPTUAL FRAMEWORK OF THE SGB EXCLUSION OF THE PREGNANT LEARNERS FROM SCHOOL

Research in education law that is linked to education management is of immense significance contribution to the body of academic knowledge. The conceptual framework of this work shall be guided by the sources of South African law to clarify that exclusion of pregnant learners from school is unconstitutional. The South African sources of educational law that are relevant to this study are: the Constitution (being the highest law of the land and the pillar where the entire legal system lies, Act 108 of 996), legislation (law made by the parliament, special focus on the Promotion of Administrative Justice Act 4 of 2000, South African Schools Act 84 of 1996, Education Law Amendment Act 31 of 2007), case law (precedents of the courts), and writings of academic experts.

The interpretivist paradigm is a progressive instrument used in education law to examine legal issues of this nature, the exclusion of pregnant learners from school (Check & Schutt, 2012). The interpretivist paradigm is suitable for the study because legislation must be interpreted in detail by case law and secondary legal literature. The interpretivists see schools as a reflection of the society (McMillan, 2012). Schools are bureaucratic systems that are governed by mechanisms like rules and regulations. They are hierarchical in structure, where authority is centralised. Principals, as educational managers, manage their subordinates in such a way that they will take action in attaining the goals of the school. Parent governor, as the head of governance structure takes the lead to ascertain the smooth running of the school.

Education law and education management falls into this paradigm, since it is dynamics, schools and individuals interact in the society using norms and values to interpret events at schools rather than regulations that informed the act. Hence, SGB learners' pregnancy policies that excludes learners will be interpreted by the existing legislations and case law (primary sources), and education law scholarly writing (secondary sources).
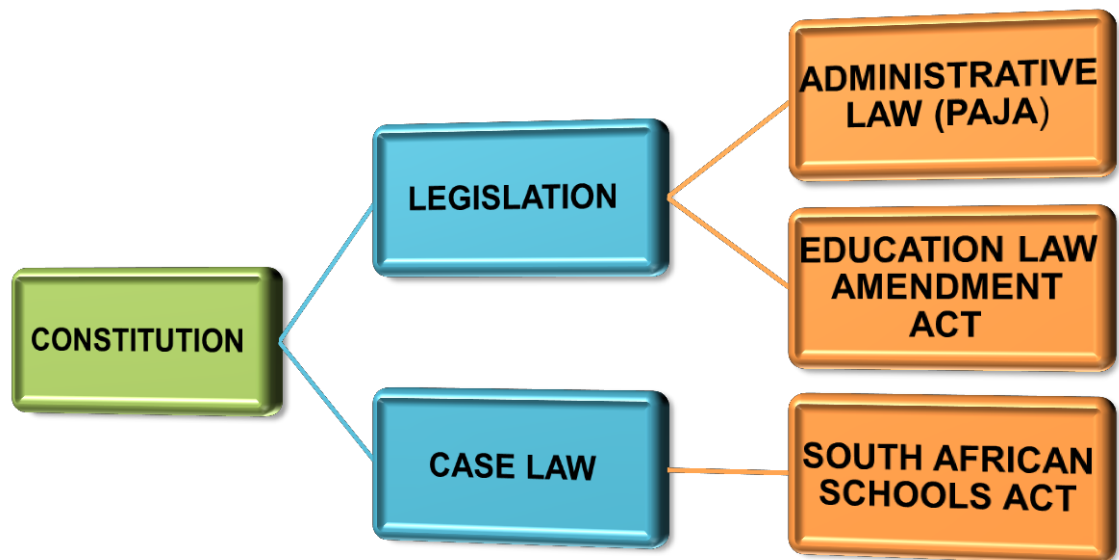
Figure 2 Conceptual Framework

The South African Schools Act expressly stipulated that SGB may only suspend a learner from school on reasonable grounds as a precautionary measure, a learner who is suspected of serious misconduct from attending school, and may only enforce such suspension after a reasonable opportunity to make representation had been granted (SASA: 9). Accordingly, the process of learners expulsion was emphasized in the provision of SASA. In relation to SASA, a governing body may suspend a learner from school not to expel. Oosthuizen cautions that the learner must receive a lawful hearing before being suspended, and may not be suspended for more than a week (Ibid). However, the period of suspension can exceed one week where it is recommended that

the learner must be expelled and the governing body is awaiting the decision from the Department of Education.

This section further stipulates that the expulsion of the learner may only be realized by the Department of Education, after the learner has been found guilty of serious misconduct at a fair hearing, not pregnancy. Jones further submits that the parents of the expelled learner may appeal against the decision of the HOD department of education to the MEC. Naidu et al. (2008) affirmed that if a learner who is subject to compulsory attendance is expelled from school; the HOD must make an alternative arrangement for his placement at another public school.

The intention of the SGB to expel a pregnant learner is to send a deterrent message to female learners that pregnancy is not allowed at school. It is evident therefore, that SGB pregnancy policy is at logger-head with DoE policies framework on the learners' pregnancy (Clase, Kok & Merwe: 2007). Parts of the administrative justice background on public policies in South African schools are: one, the legal certainty based on the administrative procedure to protect the rights of pregnant learners (Liebenberg, 2010) and two, the SGB constitutional setting to formulate policies regarding the school governance (Rembe, 2010). In relation to above position, this research work provides direction to education managers on how to use educational law and educational management mechanism to deal with learners' pregnancy issue rather than exclusion, this will prevent SGB trampling on the constitutional rights of the pregnant learners.

2.2.1 THE PROVISIONS OF THE CONSTITUTION, LEGISLATION AND CASE LAW ON THE LEARNERS' PREGNANCY

Education is the act or process of imparting or acquiring knowledge, proper conduct, technical competency, developing the powers of reasoning and judgment, and generally of

preparing oneself or others intellectually for mature life. It thus focuses on the cultivation of skills, trades or professions, as well as mental, moral and aesthetic development. However, any policy that stands as a barrier to the implementation of these objectives is null and void. The constitution of South Africa is regarded as the supreme law of the land, any law inconsistent with its provisions is declared invalid (section 2 of the constitution). Prior to 1994, there was no written national policy on learner pregnancy in schools, with decisions on this issue being left to the discretion of individual schools (Bush & Heystek: 136). Schoolgirls were normally expelled as soon as the school authorities learned about their pregnancies, and the decision on whether to readmit them after they had delivered the baby was left entirely to the individual school (Duma: 122).

Consequently, and in direct response to the growing number of pregnant school girls being turned away from schools, and perhaps even in recognising the glaring gap between policy and practice, the Department of Basic Education, in accordance with the Constitution, the South African Schools Act, and the Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000) developed the 'Measures for the prevention and management of learner pregnancy' (2007), which states that the pregnant school girl shall not be unfairly discriminated against. The 'Measures for the prevention and management of learner pregnancy' document aims to clarify the position of the Department of Basic Education regarding learner pregnancies, and to provide an environment in which learners are fully informed about reproductive matters and have the information that assists them in making responsible decisions" (MPMLP : 6). As Morrell, Bhana and Shefer (2012) note, until the publication of 'Measures for the prevention and management of learner pregnancy', schools had been expected to interpret the law as best they could.

The 2007 document was designed to make explicit the rights and obligations of schools, teachers, and learners, "by balancing the best interests of the individuals against those of other learners, educators, the school, and its community" (2007: 4). However, the original policy regarding teenage pregnancy, as well as the 'Measures' documents do not seem to take into account that pregnancy is essentially a gendered process, which means that any response to it is couched in gender. To this end, when a girl becomes pregnant, she is not only confronted with the responses (and judgements) of her peers but also by the rest of her community. On the one hand, as stated by Morrell, et al. (2012), the ways in which pregnancy and parenting are responded to at schools generally reflect some of the dominant discourses about gender in the broader society.

On the other hand, because of the multiple ways that policy can be interpreted, and open to exclusion rather than inclusion, it has a limited capacity to change the experiences of learners who happen to be pregnant. For instance, the two-year time constraint for pregnant school girls does not necessarily inhibit or control teenage pregnancy other than limiting the girl's return to school. Morrell, et al. (2012) contend that apart from policies and measures to manage teenage pregnancies, school managers, parents and other community members bring with them gendered identities and moralities (prejudices and inclinations) and practices (both at school and beyond).

In two other recent cases, which started in 2010, involving two Free State School Governing Bodies, the principals were accused by the provincial education HOD of acting unlawfully when they temporarily expelled girls from school, instructing them to return after their pregnancies (Constitutional Court of South Africa, 2013: CCT 103/12). The SGBs in both instances, it would seem, were merely enforcing the school governing body pregnancy policy in terms of its code of conduct and were, according to them, not acting unlawfully, since the contents of the actual policy had been communicated to the relevant

provincial department of education, and had not been brought into contention. Faced with appeals for assistance from the parents of both pregnant girls, the provincial education HOD, in his capacity as the employer of the principals in terms of the Employment of Educators (Act 76 of 1998), issued instructions to the principals of both schools to immediately re-admit the girls on the basis that the two SGBS had not followed proper procedure, and that the fundamental rights of the girls to access to schooling was being prevented.

Both SGBs objected on the basis that the department did not have the power to instruct principals to act against the adopted school policy, and, in making a successful application to the High Court, contended that the instruction of the provincial education HOD infringed on the powers of the SGB. It is important, however, to consider the majority judgement of Justice Khampepe in contrast to the more radical judgement of Justice Zondo. Justice Khampepe found that the schools' governing bodies were empowered to adopt pregnancy policies and that in addressing his concerns regarding the policies, the HOD was obliged to act in accordance with the Schools Act, which he did not. The HOD had acted unlawfully in issuing instructions to the principals that they readmit the pregnant students, contrary to their schools' pregnancy policies.

In considering the unconstitutionality of the pregnancy policies, Justice Khampepe found that the pregnancy policies were discriminatory as they differentiate between students on the basis of pregnancy, which is disallowed under section 9(3) of the Constitution. The policies also limit pregnant students' fundamental right to education, as protected by section 29 of the Constitution, by requiring students to repeat up to a year of schooling. In light of these findings, Justice Khampepe ordered that the appeal be dismissed and that the schools' governing bodies review their pregnancy policies in light of the judgment and furnishes the Court with a copy of the revised policies.

In contrast to the majority's findings on the exercise of public power, Justice Zondo found that the governing bodies did not have the power to make the pregnancy polices as they were inconsistent with provisions of the Schools Act and the Constitution. As such, he found that the HOD not only had the power to act as he did in instructing the principals not to carry out or implement the pregnancy policies which were in breach of the Schools Act and the Constitution, he was obliged to do so (Human Rights Law Centre). Emerging clearly from the majority and the minority judgements, is that the exclusion of the pregnant girls was inconsistent with the provisions of the SA Schools Act and the Constitution.

2.2.2 THE CHALLENGES OF UNFAIR DISCRIMINATION FACED BY THE PREGNANT LEARNERS, WITH A FOCUS ON SGB PREGNANCY POLICIES

SGBs of public schools in South Africa before 1990 did not necessarily have a demanding task because of restricted powers assigned to them. Their powers were more symbolic in nature than being actually enforceable. After 1990 the situation changed dramatically and greater powers and responsibilities were legally handed over to the governing bodies (Squelch 2001:147). The advent of the new government in 1994 and the subsequent acceptance of a new constitutional dispensation in South Africa indicated the beginning of a new era in education. The new era saw an education system that was based on the fundamental principles of democracy, unity, non-discrimination, equality, and equity (Devinish, 2005: 107). The new system invariably led to differences of opinion and tensions between the partners in the education process, and particularly between the DoE, as the representative of the government, and the SGBs, as the representatives of the local school community.

A number of reasons and examples can be cited from literature that undeniably indicate the existence of a field of tension between the governing bodies of public schools in South

Africa and the national and provincial Departments of Education. This field of tension occurs despite the clear demarcation of the powers and responsibilities of the SGBs in SA School Act (Act 84 of 1996). For example, tension originates from issues concerning the funding of schools, appointment of staff, admission requirements at schools, learners pregnancy policy of schools, measures applied to discipline at schools, and the policies on religion. This work shall focus on learners' pregnancy policy formulated by SGB.

Section 9 (3) of the constitution stipulated that "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". It further stated that national legislation must be enacted to prevent or prohibit unfair discrimination (section 9 (4) of the constitution). In the event where SGB policy excludes a learner from school without proper implementation of the provision of SASA, it's definitely inconsistent with the constitution. Discrimination is described as differentiation on illegitimate grounds (Currie, 2013).The illegitimate grounds which includes pregnancy is outlined in section 9 (3) of the South African Constitution (Ngcukaitobi, 2012). The constitution does not prohibit discrimination but prohibit unfair discrimination (section 9 (4). The implication therefore is that, "fairness" is the concept that distinguishes legitimate grounds from illegitimate grounds (Diedrich, 2011). In other words, unfair discrimination is a differential treatment that is harmful or demeaning, which cause negative impact on the victims.

The school governing body policies on pregnancy that exclude pregnant learner from school is interpreted as unfair discrimination by the department of education (Duma, 2010). However, the Constitutional Court outlined three factors to be considered when determining whether discrimination is fair or unfair, these are:

- The position of the complainants in the society and whether the victim has been victim of the past pattern of discrimination;

- The nature of the discriminating law or action and the purpose sought to be achieved by it;

- The extent to which the rights of the complainant have been impaired and whether there has been an impairment of her fundamental dignity (Currie, 2013).

Accordingly, where practical consideration permit, the assertiveness of a pregnant learner at school or in class might differ to other female learners, which makes it more sensitive to be considered. Pregnant learners often faced with attacks from educators and other learners. Against the above developments, the study reviewed the positions of education law scholars on the constitutionality of excluding pregnant learner from school. The researcher provides an alternative legal instrument rather than exclusion of pregnant learners.

Other challenges faced by pregnant learners at school

Studies show that pregnant learners faced with many challenges including irregular class attendance, fear of loneliness at school, and a lack of time to study and do homework (Dunn & Theron, 2006). These challenges are discussed in detail.

Class attendance: Dunn and Theron (2006) found that learners' pregnancy may be associated with a syndrome of failure to remain in school because pregnancy is disruptive when it comes to school attendance. In their study, Chigona and Chetty (2007) found that some teachers were not sure about how to handle pregnant learners at school because pregnant learners do not have time to do their homework. This implies that these girls come back to the school system as mothers without any emotional and supportive preparations for their new situations. As such, they are overwhelmed with the new

expectations resulting in them not performing well academically and in many cases dropping out of school (Chigona & Chetty, 2007). The same study also found that most of the pregnant learners do not attend classes regularly and that their academic performance is usually below average resulting in very few succeeding in their matric examinations.

Fear and loneliness: Sometimes pregnant learners have a fear of participating in classroom discussions during Life Orientation programmes. Such fear and loneliness could lead to social isolation and to regression to an earlier phase of life where the learner felt secure (Taylor, Muller, & Vinjevold, 1997). Educators need to encourage these pregnant learners to participate during these programmes as their informed voices could help educate and support other learners in the class.

Lack of time to study: Pregnant learners may not have adequate time to study and to do their homework whilst at home because they need to pay attention to their babies and take on the responsibilities of motherhood. Chigona and Chetty (2007) found that both pregnant school girls and those who gave birth indicated that they do not have enough time to complete their homework, or to study when at home. When they return from school, their relatives who take care of the child want to be free of the child-care chores. The babies also seek parental and maternal attention from their mother when they return from school. The same source also highlighted that teachers are not willing to support learners who missed lessons who may be sick or attending clinic. One of the learners cited in Chigona & Chetty (2007: 5) study said:

> Sometimes you need to be a student, sometimes a mother, and to balance
> the two is a bit hard. But the mothering takes much of you because like when
> the child is sick you have to think about the child all the time and for me it is

hard to keep the baby at the back of my mind when I am at school. So, it is really much more difficult just to break away from my child.

Chigona and Chetty (2007) stated that pregnant learners face many challenges both at school and at home and this results in girls dropping out of school because they cannot cope with school demands and pressures of motherhood.

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

Promotion of Equality and Prevention of unfair Discrimination Act 4 of 2000 (PEPUDA) was legislated to give effect to section 9 read with item 23(1) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, so as to prevent and prohibit unfair discrimination and harassment; to promote equality and eliminate unfair discrimination; to prevent and prohibit hate speech; and to provide for matters connected therewith. Section 8 of the Act confers Prohibition of unfair discrimination on ground of gender. Subject to section 6, no person may unfairly discriminate against any person on the ground of gender, including-

(a) gender-based violence;

(b) female genital mutilation;

(c) the system of preventing women from inheriting family property;

(d) any practice, including traditional, customary or religious practice, which impairs the dignity of women and undermines equality between women and men, including the undermining of the dignity and well-being of the girl child;

(e) any policy or conduct that unfairly limits access of women to land rights, finance, and other resources;

(f) discrimination on the ground of *pregnancy*;

(g) limiting women's access to social services or benefits, such as health, education and social security;

(h)   the denial of access to opportunities, including access to services or contractual opportunities for rendering services for consideration, or failing to take steps to reasonably accommodate the needs of such persons;

(i) systemic inequality of access to opportunities by women as a result of the sexual division of labour.

2.2.3 PREGNANT LEARNERS' RIGHTS TO LAWFUL, REASONABLE AND PROCEDURAL FAIR ADMINISTRATIVE DECISION

Constitution of the Republic of South Africa Act 108 of 1996 stipulates:

Section 33 Just administrative action

(1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.

(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.

(3) National legislation must be enacted to give effect to these rights, and must—

(a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;

(b) impose a duty on the state to give effect to the rights in subsections (1) and (2); and

(c) promote an efficient administration.

The rights of pregnant learners are protected in the constitution. Axiomatic, before SGB can expel a learner due to pregnancy reason, they ought to test the decision whether it is lawful, reasonable and procedurally fair.

Lawful

Hoexter (2012: 226) defines lawfulness as

> Lawful administrative action means that a decision allowed by law,
>
> taken by an authorised administrator and acting within the scope of
>
> the authorisation. The administrators must obey the law and must be
>
> authorised by law for the decisions they make.

The above definition implies that a policy requirement must be taken into consideration by the authorised administrator when taking a decision. The requirements of lawfulness are legality, requirement of authority, abuse of discretions and the concept of jurisdiction (Hoexter: 2012).

Reasonableness

Reasonableness, means that the decision taken must be justifiable-there must be a good reason for the decision. Pillay (2011:423) submitted that the reason for any decision must be rational and proportional to the purpose for taken such decision. Rationality means that evidence and information must support a decision the SGB takes to expel a learner from school for pregnancy reason. Secondly, there must be a proportional balance between the purpose of taken such decision and the adverse or beneficiary effects. Therefore, the requirements for reasonableness are rationality and proportionality.

Procedural fairness

Procedural fairness means that administrators should follow a procedure that will enable consultation, representation and communication of a decision and rights. Meaning that decisions should not be taken that have a negative effect on people without consulting them first. Also, administrators must make informed decisions and impartially. Section 33(1) of the Constitution gives everyone a right to administrative action that is "procedurally fair". Whereas substantive fairness is concerned with the merits of a matter

or a decision, procedural fairness relates to the formalities that need to be followed prior to a decision being taken.

Procedural fairness has traditionally been based upon two main components: a fair hearing by an impartial decision-maker. This is reflected in the two common law maxims *audi alterem partem* (hear the other side) and *nemo iudex insua causa* (no one should be a judge in his or her own cause). SGB and education managers that perceive exclusion as a remedial option to the learner's pregnancy must understand the dynamics of the approach to fairness.

➢ *Audi alterem partem* (hear the other side)

This implies that all parties must have the opportunity to be heard. The pregnant learner must have an opportunity to state her case, as well as to be informed of the proposed expulsion against her. This process will enable the pregnant learner to prepare properly for her defence. Before the decision is taken, SGB must adhere to the principles of consultation and adequate representation. The pregnant learner and her parent must understand the nature and the purpose of the proposed expulsion decision.

➢ *Nemo iudex insua causa* (no one should be a judge in his or her own cause)

This principle is known as the rule against bias. The governance structure (SGB) must be impartial and perceived to be impartial for the hearing of the pregnant learner. The learner cannot be expelled from school without proper hearing from competent decision making body. The implication is that, SGB formulates the exclusion policy, the same SGB stands as a decision making body to exclude a pregnant learner from school, it is evident therefore to be contrary to procedural fairness principle.

LAWFUL	• Requirement of Legality, Concept of Jurisdiction • Requirement of Authority, Abuse of Discretion
REASONABLE	• Requirement of Rationality • Requirement of Proportionality
PROCEDURAL FAIRNESS	• *audi alterem partem* (hear the other side) • *nemo iudex insua causa* (no one should be a judge in his or her own case).
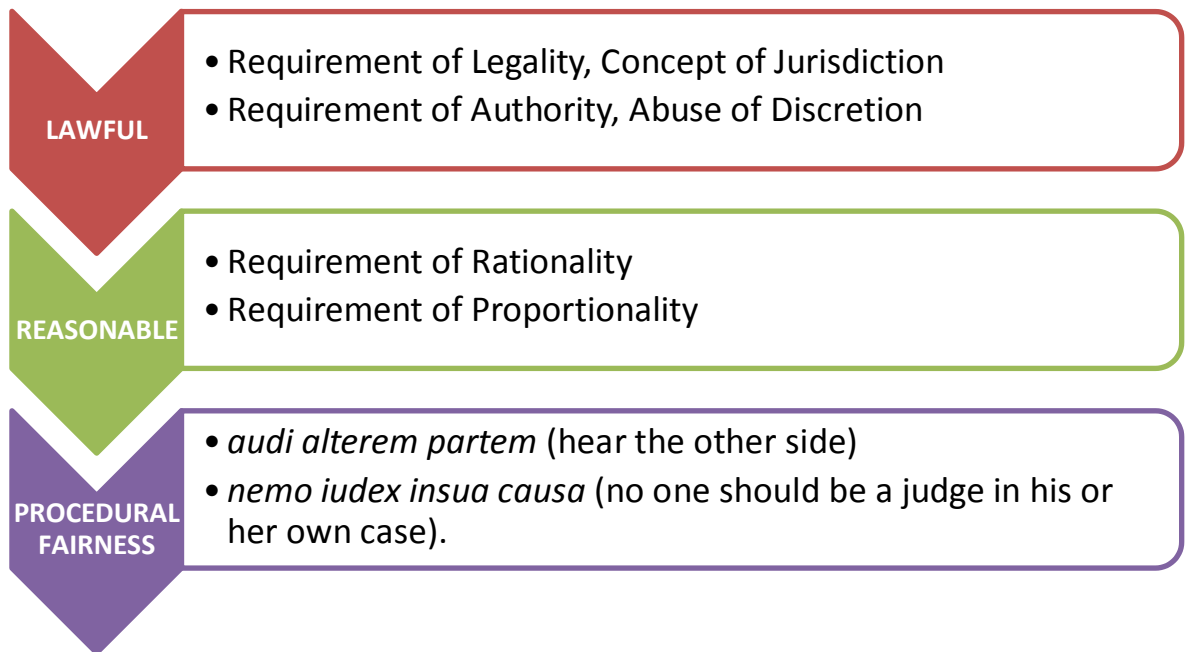
Figure 3 Requirements of administrative decision.

2.3 THEORETICAL FRAMEWORK

Theoretical foundation of this study shall be informed by Public Policy Theory (Ijeoma, 2010). Policy refers to a higher, more general, strategic level of plans and action. The public policy is used to emphasise the plan and action by and for the authorities; typically it refers to the level of government. The public policy theory explains how the policy makers' policy assumptions theory influenced SGB policy on the learners' pregnancy. The study will further investigate other policy theories that serve as impetus to education managers in the formulation of their policies. Policy impact models, Ijeoma (2013); policy validity assumptions, Shcuman (1967); and policy strategy (planning) assumptions, Mason & Mitroff (1981). The researcher will contextualize these theories to the SGB policy on the exclusion of pregnant learners.

A policy theory is a system of social and behavioural assumptions that underlie a public policy which have been reformulated in the form of prepositions. These prepositions reflect beliefs of policy makers about the cognitions, attitudes, and behaviours of the policy's target groups; the people whom the policy is to affect (Ijeoma, 2010:12)

According to Leeuw, public policy should be informed by the implicit social and behavioural assumptions (assumptions to guide the policy makers of the internal cognitions possessed by the targeted groups) and the explicit social and behavioural assumptions (external assumptions attitudes influenced by the policy makers). Knill and Tosun, (2012) analysed the rationality approach of public policy and the incrementalism approach of public policy. The Rationalist approach prescribes how policy making should be organised and evolved in order to achieve optional solutions to the underlying policy problems. Incrementalists on the other hand rejected the idea of rational decision making (Hayes, 2006). Ijeoma (2010:7) submitted that public decision-makers require accurate intelligence to base their decision. Every decision is a risk-taking value judgment, but decision-making theories must be regarded as stepping-stones in the public decision making process, otherwise, fair and effective decision will not be achieved.

The present study compares these two approaches to the policy theory, and identifies the suitable approach for the SGB when formulating their policies, specifically the learners' pregnancy policy. The participants in education law and education management need to be protected by regulatory measures to enable them to fulfil their roles (Oosthuizen et al, 2015).
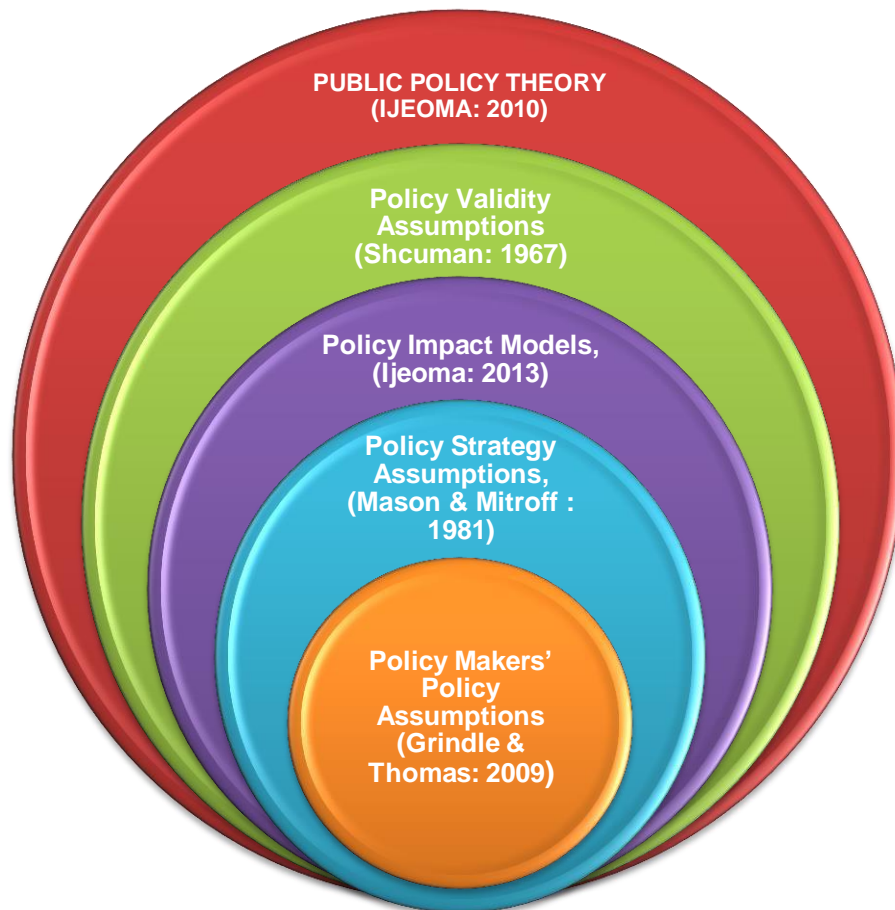
Figure 4 Public Policy Theories

A policy comprises general guidelines that allow a public manager to use his or her discretion without being subjected to specific restriction. Therefore, public policy is intentionally designed to deal with various social challenges, such as learners' pregnancy and sexuality; MPMLP was formulated by the department of education to manage learners' pregnancy (Smith & Smith: 372). The framework indicates that circumstances surrounding issue on policy formation, the criteria that decision makers use to select among options and the characteristics of specific policies are analytic categories that explain a considerable amount about reform outcomes.

2.3.1 Investigating the roles of Policy Makers' Policy Assumptions on the Learners' Pregnancy

Importantly, the role of decision makers in the formulation of policy (specifically SGB policy on learners' pregnancy) on the education institutional changes needs sustainable initiatives in other to reform. To understand the processes of decision making strategies of the school environment and the implementation of that policy needs are critical legal knowledge. The framework indicates that circumstances surrounding issues of policy formation, the criteria that decision makers employ to select the options and the characteristics of specific policies explain a considerable amount about the outcome of the decision maker (Grindle & Thomas, 2009: 215).

In the current theory, Policy Makers' Policy Assumptions, there are several alternative responses to the question, 'how can exclusion of pregnant learners be justifiable in South African Constitutional dispensation?' Society-centered responses to the question suggested that SGBS decisions to exclude pregnant learners from school is inconsistence with the spirit of 'new South African constitution' that is founded on human dignity, the achievement of equality and the advancement of human rights and freedoms which includes non-racialism and non-sexism (section 1 of the constitution). SGB may adopt, pursue, and change school policies in line with the understanding relationships of power vested on them by South African Schools Act (Grindle et al, 2009).

Moreover, decision makers, even those that are convinced of the need to reform the learners' pregnancy policy, could not consider the constitutional imperatives and the effects of exclusion of a young school girl due to pregnancy, and her future thereof. SGB curiosity of adopting and pursuing the exclusionary policy in the name of school efficiency and development, failed to justify the proportionality and rationality of the most significant changes implied by the decision that is informed by the policy.

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Constructively, in support to society-centered responses, DoE approaches is in contradiction to the perceptions of the SGB policy, they submitted that SGB does not deal adequately with the evidence that decision makers are systematically constrained by societal interests, past policies, and historical and cultural legacies. Following the review of the DoE policy of 'Measures for the Prevention and Management of Learners' Pregnancy' which was widely adopted to provides reasonable solutions to menace of learners' pregnancy. Second, DoE believe that a circumstance of each pregnant learner is unique to a particular case study. SGB policy initiatives affect the dynamics and process of fair decision making, they formulate exclusionary policy and they also sit as a body to exclude pregnant learner based on 'their' policy. The outcome of that process might be prejudicial. Accordingly, DoE suggested that SGB should give particular attention to the circumstances that surround the pregnancy of the learner.

State-centered models of policy change. While society and DoE have emphasized 'society-state' approaches in explaining policy choices, the policy sciences literature has been more explicitly focused on the analysis of decision making within the schools' organizational context. As such, it takes principal as cardinal unit of analysing the SGB decision making process or the organization responsible for decisional outcomes. Not surprisingly, much of this literature credits the decision maker with considerably more capacity for choice and substantially more complex motives for making those choices than is the case with the society-centred approaches. Though, constraints emanating from societal contexts are considerably less powerful in explaining what policy makers can or cannot do in the exclusionary process.

2.3.2 EXAMINING THE STANDARD PROCEDURES OF THE POLICY IMPACT MODELS ON THE LEARNERS' PREGNANCY

Policies are written statements or sets of statements that describe principles, requirements, and limitations that are characterized by indicating "what" needs to be done rather than how to do it. Such statements have the force of establishing rights, requirements and responsibilities (Bossuyt, Corkery & Land, 1995: 2). In concurring with this notion, Anderson (2006: 6) defines policy as "a relatively stable, purposive course of action or inaction followed by an actor or set of actors in dealing with a problem or matter of concern". In simpler terms, (Hill & Hupe, 2006) assert that a policy is a process of decision-making leading to (or appearing to lead to) actions outside the political system. Similarly, Hanekom (1987) believes that policy-making plays a pivotal role in establishing clear objectives as prioritized by the government; establishing the programmes that will contribute towards development and the co-ordination between government institutions on various levels of government and the activities to be executed by these institutions. From the above definitions one can deduce that policy indicates the desires of those whose actions will be guided by the decisions taken.

The South African Schools Act mandates the school governing bodies to participate in the formulation and adoption of the school policies. It is a legal requirement for all schools to develop a constitution and policies for their schools. Tsotetsi (2006) asseverated that some principals and SGBs admitted and confessed that they use the expertise in the process of formulating the school policies including learners' pregnancy policy and they (governing body) only ratifies the policy. These principals justify these action by stating that most parent governors are not educated and those that are, do not have the time or necessary skills to assist in the process (Clarke, 2007). The standard procedures to adopt

when formulating a policy was clearly explained by Ijeoma using rational decision-making model

Rational Administrative Decision Making Model

Rational administrative decision making model is one of the most traditional approaches to decision making (Peterson, 2007:120). Ornstein (2008) refers to rational decision model as the complete rationality concept. The rational model defines decision making as a linear and logical process which has the focus of seeking the best possible solution of the problem (Chance & Chance, 2002:176). The SGBs decision to exclude a pregnant learner from school was seen as an irrational in the case of *Free State Province v Welkom High School & Harmony High School*, Where the SGB policy discriminate against the pregnant learner. Guo (2008) submitted that rational administrative systematic model requires steps in formulation of a policy.

To provides solution to a problem using rationality decision model.

Identify the Problem

Create criteria and generate alternatives

Consider and evaluate alternatives

Choose from the list of alternatives

Develop a strategy and implement the decisions

Evaluate and monitor the decisions

Figure 5: The rational decision making procedures.

➕ Identify the Problem

The problem is the exclusion of the pregnant learners from school through the School Governing Body polices. The manager needs to have a realistic approach to the problem that will not conflict with the constitution of the country, or prejudice the interest of the learners. Where there are complex decisions to make, a manager can dissect the problem into subordinate problems which will further help in identifying the root of the problem.

➕ Creating criteria and generate alternatives

According to Arnold (2008:123), the decision maker should ask the following questions as a criterion before establishing the decisions.

a. What is to be achieved with the decision?

b. What needs to be preserved or avoided with the decision?

c. Is there any negative result that the decision might bring?

These criterions will serve as a checkmate to the proper and fair decision making-processes.

➕ Consider and evaluate alternatives

All alternatives solutions should be evaluated in order to make decisions based on proper and fair judgment with relevant information. SGBs and education manager ought to compare all the solutions against the conditions of certainty, risk and uncertainty. Lunenburg & Ornstain (2010:137) define certainty as a situation where the manger knows exactly what the positive and negative consequences are of each alternative.

➕ Choose from the List of Alternative

Indeed, exclusion of pregnant learners from school will have negative impact on the future of the leaner and might not be to the best interest of the learner. The manager should

choose an alternative that will effectively solve the problem against the background of the aims and objectives of the schools without conflict the law of the land (Guo, 2008:124).

➕ Develop a strategy and implement the decisions

Guo (2008:125) stated that planning and implementation of the school policies is one of the fundamental functions of the principal. The result of proper planning is that it gives well-defined direction to the manager. Communication and consultation is the key needed to implement any decision that will adversely affect the rights of another person. Therefore, decision to exclude a learner from school with a proper representation is described as unfair decision by Hoxeter (2012).

➕ Evaluate and monitor the decisions

Lunenburg and Ornstein (2008:139) state that implementing the decision is not the last step. They emphasise that a manager needs to evaluate the decision implemented against the aims and objectives of the school, and the laws governing school system. If the decision did not reach the expected outcome or the outcome has a negative impact, the principal must desist from implementing such decision.

2.3.3 Assessing the Policy Validity Assumptions to Solve the Problem of the Learners' Pregnancy

Policy Validity Assumptions to solve the problem of the Learners' pregnancy is a process in which the scholars perceive and resolve a gap between a present situation (pregnancy) and a desired goal (complete schooling). In general, the situation of learners' pregnancy is not convenient to all education stakeholders including the pregnant learner. In contrast, decision making of excluding the pregnant learners from school also needs immediate intervention in order not to jeopardise the future of the young lady.

Most models of problem solving and decision making using policy validity assumption includes at least four phases (Bransford & Stein, 2007):

1) an input phase in which a problem is perceived and an attempt is made to understand the situation or problem;

2) a processing phase in which alternatives are generated and evaluated and a solution is selected;

3) an output phase which includes planning for and implementing the solution;

4) a review phase in which the solution is evaluated and modifications are made, if necessary.

Most researchers describe the problem-solving/decision-making process using policy validity assumption as the foundation of the perception of a gap (learners' pregnancy) and ending with the implementation (exclusion clause) and evaluation of a solution to fill that gap (alternatives rather than exclusion).

2.3.4 EVALUATION OF THE IMPLEMENTATION OF THE POLICY STRATEGY PLANNING ASSUMPTION ON THE LEARNERS' PREGNANCY

The reality is that policy strategic assumptions form an underlying foundation for the strategic plan. The problem is that in the field of policy strategic planning, the assumptions that have been made are almost never clearly documented or highlighted. As a consequence, they are rarely scrutinized or challenged as they should be. The process of evaluation, implementation and monitoring of policy strategy planning assumption is adopted by the school governing body to determine the execution of the exclusion policy. The researchers submitted that SGB should be able to identify the strategic assumptions that have been made without having to try to read between the lines of a strategic plan.

They should be clearly and proudly highlighted for all the stakeholders to see how policy strategic planning assumptions solve the problem of learners' pregnancy at school.

2.4 ADMINISTRATIVE LAW COMPONENTS AS AN ALTERNATIVE INSTRUMENT TO THE PROBLEM OF SGB PREGNANCY POLICIES

Hoexter (2012: 10) defined administrative law as

a branch of public law that regulates the legal relations of public authorities, whether with other public authorities or with private individuals and organisations. It has also been described as "an incident of the separation of powers under which the courts regulate and control the exercise of public power by the other branches of government. "To put it differently, courts control the exercise of public power by the application of administrative law as an incident of the separation of powers.

In any school governance and school management structure, the role players (SGB and Principal) need to know what is expected of them and that each other's functions are respected. Any conduct contrary to this will eventually lead to conflict, which is something we are all too familiar with in the context of the relationship between governing bodies and the education department. Much of this conflict can be explained against the backdrop of the policies formulated by the governing body of the school structure with contradict with the ideology of the DoE. Therefore, it is possible for the principal to receive one assignment from the Department, and another, contradictory assignment from the governing body.

Section 16A (1) of SASA states that the principal represents the Head of Department on the governing body. In subsection 16(A) (3), SASA goes on to declare that the principal's assistance to, or participation in, the governing body may not be in conflict with instructions of the Head of Department; legislation or policy; an obligation towards the

Head of Department, Member of the Executive Council (MEC) or the Minster, or a provision of the Employment of Educators Act. Section 16(2) of SASA stipulates that a governing body stands in a position of trust towards the school. This provision applies equally to the principal, being a member of the governing body, as to the rest of the governing body members. The principal could thus receive conflicting assignments from the Department and the governing body because of their different goals and interests, which places the principal in a difficult position.

The governing body of a public school determines the policies of the school (as authorised by section 6(2) of SASA). The HoD of the Free State department of education in Welkom & Harmony's case informed that should the principal choose to give effect to the learners' pregnancy exclusionary policy formulated by the SGBs of the schools, disciplinary action will follow. In terms of section 16A (3) (a), the principal may not go against the Head of Department's instruction. However, at the same time, the principal still is a member of the governing body to whom a specific part of the governing body's duties has been delegated.

The Constitutional Court remarked in *Pharmaceutical Manufacturers Association of SA Ex parte President of the Republic of South Africa 2000 (2) SA 674 (CC)*, when public administrators are exercising their public power.

> As discretionary power exercisable by the executive government for the public good, in certain spheres of governmental activity for which the law has made no provision . . . The law does not interfere with the proper exercise of the discretion by the executive in those situations: but it can set limits by defining the bounds of the activity: and it can intervene if the discretion is exercised improperly or mistakenly. That is a fundamental principle of our constitution (para 36).

Put differently, constitutional principles achieved practical effect as a constraint upon the exercise of all public power. SGBs are curtailed by the provisions of the constitution. The Constitution contains detailed, written provisions, which give effect to the governing principles of constitutional law that protect the rights of pregnant learners at school.

- ❖ The rule of law is stated as one of the foundational values of the new order;

- ❖ Fundamental rights are identified and entrenched;

- ❖ Courts no longer have to battle to find means of controlling the exercise of public power. Provision is made for the control of public power including judicial review of all policies and conduct inconsistent with the Constitution;

- ❖ The Constitution places the responsibility for the control of public power in the hands of the judiciary. It defines the role of the courts, their powers in relation to other arms of government, and the limitations of the exercise of public power.

Administrative law came to be defined as that section of public law which governs the organisation, institutions, schools and actions of administrators. The rule of law, in particular, had a substantive and procedural content that gave rise to what courts referred to as "fundamental rights". Unfortunately, because of these constitutional principles SGBs lack power to exclude a pregnant learner from school (Ian: 214).

2.4.1 RATIONALITY AND PROPORTIONALITY OF DECISION MAKING

Section 33 of the Constitution provides that administrative decision must be reasonable. In administrative law the concept is now uncontroversial that the first element promised by reasonable administrative action is rationality. This means in essence that a decision must be supported by the evidence and information before the administrator as well as the reasons given for it. It is a requirement of the rule of law that the exercise of public power

by the executive and other functionaries should not be arbitrary. Decisions must be rationally related to the purpose for which the power was given, otherwise they are in effect arbitrary and inconsistent with this requirement. It follows that in order to pass constitutional scrutiny the exercise of public power by the executive and other functionaries must, at least, comply with this requirement. If it does not, it falls short of the standards demanded by our Constitution for such action. The decision to exclude a pregnant learner from school is obviously violates the right to education of the learner.

In the case of *Carephone (Pty) Ltd v Marcus NO 1999 3 SA 304 (LAC)* the Labour Appeal Court put the question in these terms:

> "Is there a rational objective basis justifying the conclusion made by the
>
> administrative decision-maker between the material properly available to
>
> him and the conclusion he or she eventually arrived at?"

The final decision of the SGB to formulate a policy that exclude a learner needs to pass the litmus test of the reason for the decision and the effect of the outcome of the decision.

2.5 Conclusion

It is obvious from the above scholarly writings that most of the school governing bodies have different approaches on the exclusion of pregnant learners in public schools. What is more apparent is the method of drafting the exclusion policy which is not in accordance with the requirement of any legal writing. More so, the implementation of the exclusion policy proves to be inadequate and procedurally unfair to the pregnant learners. The situation portraits that SGBs are not familiar with the legal requirements and processes of the policy formulation, and therefore, they are not aware of the negative effect of this policy.

The Department of Education policy of measures for the prevention and management of learners' pregnancy has also failed in the implementation; this was due to individualist approach used by the SGBs. The literature has clearly shown that school governance use norms, values, religion and morality to take most of the decisions at school rather than legislative framework outlined the procedures.

It is evident that SGB needs training and orientation in the field of education law, education management and education policy, to fulfil the obligations of policy formulation required by the South African Schools Act. Therefore, an important step that could serve as a panacea to address the problem of exclusion of learners' pregnancy is the proper implementation of the department of education pregnancy policy. This study gathered that the school stakeholders (SGBs, SMT and Parents) need a chance to reflect on the exclusionary policy and apply their minds in the implementation of the government policy on the issue.

CHAPTER THREE

RESEARCH METHODOLOGY

3. METHODOLOGY CONSTRUCT

3.1. Introduction

As discussed above in chapter two, the review of related literatures established scholarly writings about the exclusion of pregnant learners from school through the SGB pregnancy policy. This chapter specifically deal with Research paradigm, Research methodology, Research design, Research Site, Population, Sample and sampling procedure, Instrumentation, Data collection procedure, Data analysis, Validity and Ethical considerations.

3.2. Research Paradigm

A research paradigm is a perspective about research held by a community of researchers that is based on a set of shared assumptions, concepts, values, and practises (Johnson & Christensen, 2008:33); it is an approach to thinking about and doing research. A paradigm according to (Kuhn, 2009), is described by the prevailing framework of theories, concepts and principles that accounts for a universally accepted way of thinking and doing within the world view in which it exists. This is also referred to as a philosophy of living life. Babbie (2001:42) defines paradigm as the fundamental model or frame of references used by researchers to recognise their observations and reasoning.

Lichtman (2013:10) talks about traditional research paradigms as ways of seeing the world and make certain assumptions about the world. They assume that there is an objective reality that researchers should try to uncover as they conduct their research.

Maree (2013:47-48) defines a paradigm as a set of assumptions or beliefs about fundamental aspects of reality which gives rise to a particular world-view. The author further points out that paradigm serves as lens or organizing principles by which reality is interpreted. Maree (2013:48) points out the following:

Paradigms represent what we think about the world (but cannot prove). Our actions in the world, including the actions world, including the actions we take as inquiries, cannot occur without reference to those paradigms: "as we think, so do we act.

Thus paradigms are to do with knowledge claims. There are a number of paradigms or knowledge claims that have taken root in today's research, some of which are positivism, interpretivism and post- positivism (Maree, 2007:47).

3.2.1. POSITIVISM

It was during 19th century when the famous movement known as 'positivism' started with Auguste Comte (Johnson & Christensen, 2008:391). They continue by saying that positivism is the idea that only what we can empirically observe is important and that science is the only source of knowledge. Lichtman (2013:10) says that positivism deals only with observable entities and objective reality; or traditional research paradigms (which are ways of seeing the world, make assumptions about it). According to Maree (2013:53), in positivism only objective, observable facts can be the basis for science. He further explains the view of (Comte, the Vienna Circle, and logical positivism) that theological (the supernatural) or metaphysical (the abstract) claims must yield to the positive – that which can be explained in scientific laws.

Gray (2004:17) refers to positivism as of the belief that what reality consists of, it is what is available to the senses. Within positivism, the knower and the known are independent (Tashakori & Teddlie, 2009:85). Ryan (2006) asserted that within positivism, the relationship between the self and the knowledge has been largely denied. In all, for a statement to be true, it has to be tested and proved otherwise. Furthermore, Kim (2003:8) contends that blind faith in the positivist approach can potentially jeopardize the soundness of research in the social sciences because influential contextual factors in organizations can be ignored by methods aiming to draw causal inferences through examining only the phenomena that are readily observed.

3.2.2. INTERPRETIVISM

Interpretivism has its roots in hermeneutics, which is the study of the theory and practice of interpretation (Maree, 2013:58). Schleiermacher and Dilthey in Maree (2013:59) considered understanding to be a process of psychological reconstruction whereby the reader reconstructs the original intention of the author. Maree (2013:59) says that the interpretivist perspective is based on the following assumptions:

- ❖ Human life can only be understood from within. Interpretivism focuses on people's subjective experiences, on how people construct the social world by sharing meanings, and how they interact with or relate to each other.

- ❖ Social life is a distinctively human product. By placing people in their social contexts, there is a greater opportunity to understand the perceptions they have of their own activities. The uniqueness of a particular situation (the context) is important to understand and interpret the meanings constructed.

❖ The human mind is the purposive source or origin of meaning. Through uncovering how meanings are constructed, we can gain insights into the meanings imparted and thereby improve our comprehension of the whole.

❖ Human behaviour is affected by knowledge of the social world. As our knowledge and understanding of the social world and the realties being constructed increase, it enriches our theoretical and conceptual framework.

❖ The social world does not exist independently of human knowledge. As researchers our own knowledge and understanding of phenomena constantly influence us in terms of the types of questions we ask and in the way we conduct our research.

Lichtman (2013:24) explains 'interpretivism' as a doctrine that emphasizes analysing and meaning people confers on their actions. Interpretivism has its greatest strength in the richness and depth of exploration and descriptions it yields through the qualitative approach to research. However, it is criticised for its subjectivity and failure of the app roach to generalise its findings beyond the situation being studied (Maree, 2007:60).

3.2.3. POST-POSITIVISM

Post-Positivism is a modification of positivism. According to Tashakori and Teddlie (2009:5), post-positivism is the intellectual heir to positivism, which came about as a reaction to widely discredited axioms of positivity. Lichtman (2013:292) says that a post positivist view would accept that reality can only be reached in an imperfect manner nevertheless would anticipate a researcher striving to reach it.

Post-positivists approaches assume that reality is multiple, subjective and mentally constructed by individuals (Maree, 2013:65). He continues to say for the post-positivist researcher, reality is not a fixed entity and it is to a certain degree accepted that reality is a creation of the individuals involved in the research. Post-positivist thinkers focus on

establishing and searching for evidence valid and reliable in terms of the existence of phenomena rather than generalisation.

Critics of post-positivism direct their criticism towards the interactive and participatory nature of qualitative and quantitative methods used in research. They argue that post-positivists use methods that are merely an assembly of anecdotes and personal impressions which are highly suspicious in terms of research subjectivity and research bias (Maree, 2013:65).

In conclusion each school of thought discussed above has its own strengths and weaknesses. Many of the criticisms made of one knowledge claim could equally be applied to the other. For practical research purposes no technique is preferable to another. The choice depends in part on the purpose of the study and the research question.

3.3. Paradigm that guided the study

Phenomena in this study refer to SGB policy that excludes pregnant learners from school through their policy. In this paradigm the researcher interprets the public policy and looks at the SGB decision making procedure. Therefore, SGB policy that excludes a pregnant learner from school is considered to be inconsistence with the constitution of South African. Some of the subsets of qualitative research, such as interpretivism (a doctrine that place emphasizes on analysing   the meaning people confer on their own actions), constructivism, and critical theory, accept that reality is virtual and is shaped by various forces (Lichtman, 2013:24). The paradigm which guided this study was interpretivism. Reasons justified for the choice were that:

❖ A researcher chooses to use qualitative approach, so, qualitative approach allows the researcher to enter participants' life-world and study their live experiences.

❖ This research was keen to capture the reasons for the exclusion of pregnant learners from school through the SGB pregnancy policy.

Through this paradigm the researcher was able to acquired in-depth meaning of the "Public Policy" of SGB's in schools under the process of formulation of the learners' pregnancy policy. It should be noted therefore, the researcher interprets the public policy and looks at the SGB decision-making procedure. In any events, the SGB policy needs to conform to the structural guideline of the government policy on the learners' pregnancy.

3.4. Research Approach

The reason for any research is to generate knowledge. Research approach refers to the system of acquiring knowledge and the activity of considering, reflecting upon and justifying the best methods. Approach is the specific technique for obtaining the data that will provide the evidence base for the construction of that knowledge. Thus, approach is concerned with the theoretical and overall process to a research project rather than with the characteristics and practical application of a particular method (Wellington, Bathmaker, Hunt, McCulloch & Sikes, 2005: 97). This study uses a qualitative approach. According to McMillan and Schumacher (2006: 315), research approach involves the process in which one collects and analyses data. It is systematic and purposeful in nature.

McMillan and Schumacher (2006:395) continue by saying that the researcher chooses qualitative methods because of the flexibility. Qualitative research is an inquiry in which the researchers interact with selected persons in their settings.

3.4.1. QUALITATIVE RESEARCH APPROACH

Qualitative research is a general term that describes in-depth research about human behaviour (Lichtman, 2013:17). It is about humans, says Lichtman. The purpose of qualitative research is to describe, understand, and interpret human phenomena, human interaction, or human discourse. Qualitative researchers often conduct interviews in which participants tell their stories. Lichtman (2013:18) spoke about interviewees, informants, or conversational partners rather than subjects or sample. They suggest that in qualitative interviewing "you can understand experiences in which you did not participate".

Peter (2003:41) argues that qualitative research is interesting in both intended and unintended consequences. Qualitative research shows determination to identify the phenomenon. It is also characterised by an understanding that contextual considerations should not be assumed to operate as destructive variables consistently or independently across a range of sites.

3.4.2 STRENGTHS AND WEAKNESSES OF QUALITATIVE METHOD

Qualitative research uses '*wide and deep angle lens method*' when examining behaviour as it occurs naturally in all its details (Johnson & Christensen, 2008:36).

According to Johnson and Christensen (2008:442) the strengths of qualitative research method are:

- ❖ Data is based on the participants' own categories of meaning.
- ❖ Qualitative method is useful for studying a limited number of cases in depth.
- ❖ It provides individual case information.
- ❖ It provides understanding and description of people's personal experiences of phenomena (that is, the emic or insider's viewpoint).

- ❖ It can describe in rich detail phenomena as they are situated and embedded in local contexts.

- ❖ Qualitative researchers are especially responsive to changes that occur during the conduct of a study and may shift the focus of their studies as a result.

In the same vein, the weaknesses of qualitative method are discussed:

- ❖ Knowledge produced might not generalize to other people or other setting (that is, findings might be unique to the relatively few people included in the research study.

- ❖ It is difficult to make quantitative predictions.

- ❖ It might have lower credibility with some administrators and commissioners of programmes.

- ❖ It generally takes more time to collect the data when compared to quantitative research.

- ❖ The results are more easily influenced by researcher's biases and idiosyncrasies.

3.5. Research Design

Research design is a plan that describes the conditions and procedures for collecting and analysing data. Maree (2013:70) says that a research design is a plan or strategy which moves from understanding philosophical assumptions, to specifying the selection of respondents, to choosing the data gathering technique to be used and, finally, to data analysis. He further states that the choice of a research design is based on the researcher's assumptions, skills and research practises and influences the way in which she or he collects data.

A research design relates directly to the answering of a research question (Bless et al, 2013:130) and they continue by saying that the purpose of research design is to ensure high internal validity. In qualitative research, internal validity is sometimes referred to as

credibility and is concerned with whether the researcher's method of data collection and analysis addresses the research question adequately.

Kurma (2005:84) identifies two main functions of a research design. First, to develop and to identify procedures and the logistical arrangements to undertake during a study, the second function is to emphasize the importance of quality in these procedures to ensure their validity, objectivity and accuracy.

Suter (2012:365) defines qualitative research design as the logic that links data to be collected (and the conclusion to be drawn) to the initial questions of the study. Because the goal of much qualitative research is a deeper understanding of a phenomenon or process, documentation of the rigour leading to a meaningful conclusion and understanding becomes especially important (Suter, 2012:365).

The researcher in this study used a case study because the research was conducted in five selected schools in East London. A case study design is an approach to qualitative research that focuses on the study of a single person or entity using an extensive variety of data (Suter, 2012:366). Yin (2009:19 in Suter, 2012:366), also referred to as a recognized leader in case study methods emphasized that case studies may also be useful for explaining presumed causal links between variables too complex for survey or experimental designs. Yin (2009:22) elucidates that a case study allows investigations to retain the holistic and meaningful characteristics of real life events such as individual life cycles and organisational and managerial processes. A case study design involves comprehensive and systematic investigation of a few cases (Maree, 2013:293).

Yin (2013:46) distinguishes between single and multiple studies. A study may contain more than a single case. A common example is the study of school policies (such as the learners' pregnancy policy, disciplinary policy, admission policy etc.) in which individual

schools adopt their own innovations.

The strength of a case study design is that it is very useful for learning about situations, which might be poorly understood or about which not much is known (Leedy & Omrod 2001 in Maree, 2013:294). As in the present, the exclusionary policy of the SGB has adverse effect on both the pregnant learner and the parent of the pregnant learner. Wimmer and Dominick (2000 in Maree, 2013:294) agree with Leedy and Omrod by saying that the case study design is advantageous to research as it provides a large amount of information and detail about the research topic and allow the researcher to deal with a wide variety of raw data.

3.5.1 ADVANTAGES OF DESIGNING RESEARCH

Planning prior to field research is advantageous as Berg (2002); Taylor (2003); De Vaus (2001); Tashakori and Teddlie (2003) mention advantages of designing research as follows:

- ❖ Planning is essential for the research;
- ❖ Ensures that data collected answers the main research question as unambiguously as possible.
- ❖ Assists the researcher to focus and control research proceedings better, and
- ❖ Greatly increases the depth of understanding issues under investigation.

Some of the benefits include the advantages of research design as well as the scope of the work. During the planning, the researcher intends to answer two questions: What is the scope of the field research and what is the nature of data required?

3.5.2 SCOPE OF FIELD WORK

The term 'scope' refers to the domain of inquiry, the coverage and reach of the project. Scope involves both the substantive of inquiry (limits of research topic) and the areas to be researched (the setting) and the sample (Morse and Richards, 2002). Morse and Richards (2002) go on to state what the scope must include. It should contain who, where, and which settings will be studied, in what ways, by whom, and for how long they will be studied; and what can be asked and answered.

In this study the researcher studied about the reasons for the exclusion of the pregnant learners from school through the School Governing Body pregnancy policy. It took place in school environment where the Chairperson of the SGB, the Principal as the head of SMT, educators, parents and pregnant learners as well were present to collect the data and semi - structure interview also took place. The data was collected by the researcher on how the exclusion of the pregnant learner from school will impact negatively on the student and assess the reasons for the exclusion through the SGB pregnancy policy.

3.6. Research Site

A research site is a place where the researcher is going to conduct research. The research sites for this study were five selected schools from East London Buffalo City Municipality which consist of five SGBs, five Principals, five educators, five pregnant learner's parents and five pregnant school learners. These schools are located within the township and urban communities.

Maree (2013:34) states that it is essential to select site that is suitable and feasible. Once you have selected the research sites, it is crucial to obtain permission to access the sites

and conduct the research among the respondents or participants, indicating clearly who you will be collaborating with, when and how.

3.7. Population

A population is a group of elements or cases, individuals, objects or events that conform to specific criteria and to which one intends to generate results of the research (McMillan & Schumacher, 2001). McMillan and Schumacher (2006), say a population is a group of elements or events that conform to specific criteria and to which one intends to generate results of the research.

Johnson and Christensen (2008:224) define population (sometimes called a target population) as the set of all elements. It is the large group to which a researcher wants to generalise his or her sample size. According to Barbie & Mouton (2005), a population of a study is a group of people about whom we want to draw conclusions.

The population used for this study comprised SGB, DoE and pregnant learners in five selected schools. This population was chosen because of its proximity and familiarity since the researcher is a FET (further education and training) teacher at one of the high school in East London, so it was easy for him to reach the schools and deal with known staff members. The population chosen was relevant and suitable for the study because the teachers and education managers are faced with the problem of learners' pregnancy on day to day basis. Unfortunately, most of these pregnant learners were not equipped to take proper hygienic care for themselves. SGBs, Principals and educators were the most relevant population to give accurate information about the learners' pregnancy.

3.8. Sample and Sampling procedure

3.8.1 SAMPLING

Maree (2013:79) says that sampling refers to the process used to select a portion of the population for study. The quality of research, whether quantitative or qualitative, is directly related to the sampling procedures, the adequacy of the technique chosen, as well as the professionalism of implementation and the appropriateness of the sample size. The purpose of sampling is to provide various types of information of a qualitative or quantitative nature about a population by examining a few selected units.

Qualitative researchers must first decide whom or what to study. Johnson and Christensen (2008:243) say that this initial task is based on consideration of which populations or phenomena are relevant to the research focus being proposed or developed. The researcher typically defines a set of criteria or attributes that the people to be studied must possess and uses these criteria to distinguish the people of potential interest from those people who should be excluded from consideration. Once these inclusion boundaries are set, the researcher knows whom he or she wishes to study and can then attempt to locate and obtain the sample (Johnson & Christensen, Ibid).

Sampling refers to the process used to select a portion of the population for study (Maree, 2013:79). Qualitative research is generally based on non-probability and purposive sampling rather than probability or random sampling approaches. Qualitative research usually involves smaller sample sizes than quantitative research studies (Maree, 2013:79). Johnson and Christensen (2008) agree with Maree that sampling is the process of taking a sample from a population. Sampling means selecting a group of people (subjects or participants) from a defined population (McMillan & Schumacher, 2006:400). White (2005:114) states

that sampling means to make a selection from the sampling frame in order to identify the people or issues to include in the research.

3.8.2 SAMPLE

White (2005:114) defines sample as a group of subjects or situation representing a large group. Johnson and Christensen (2008:223) talking about sample say; a good sample is one that is representative of the population it came from, which means that a representative sample resembles the population that it came from on all characteristics (the proportions of males and females, teachers and non-teachers, young and old people, and so forth). They say a sample is a set of elements taken from a larger population according to certain rules.

Bless et al (2013:163) mentions some advantages of sampling which are as follows:

- ❖ Gathering data on a sample is less time consuming.
- ❖ Gathering data on a sample is less costly since the costs of research are proportional to the research.
- ❖ Sometimes, sampling may be the only practical method of data collection.
- ❖ Sampling is a practical way of collecting data when the population is infinite or extremely large, thus making a study of all its elements impossible.

3.8.2.1 Criteria for selecting the sample

Williams (2003:73) suggests the criteria for selecting a sample:

- ❖ Entry or access must be possible. In this study the researcher is a FET phase teacher at high school.
- ❖ The selected area should contain appropriate people (target population). The schools in which the data was collected were five different high schools from the SGBs, Principals, educators and pregnant learners.

- ❖ There must be a high probability that the study's focuses, namely the processes, people, programmes, interactions, and/or structures that are part of research question/s will be available to the investigator. In this research all these were available.

- ❖ An individual or individuals could conduct the research effectively during data collection phase of the study. The researcher was the only one to undertake fieldwork. The duration of interviewing was two weeks.

- ❖ Sample must enable generalizations to be made. In this research, it was possible to generalize findings to the perceptions of the SGBs and the Principals.

3.8.3 SAMPLING PROCEDURE

In this research the researcher used non-random sampling. This type of sampling does not require a list of a large population. Participants for this study were purposively selected from five high schools. The samples of five SGB chairpersons were purposively selected on the basis of the reasons for their pregnancy policy that excludes a pregnant learner from school. The researcher believed that by virtue of being a teacher in the phase, they will provide the information that would be useful to the study.

In purposive sampling (sometimes called judgemental sampling), the researcher specifies the characteristics of a population of interest and then tries to locate individuals who have those characteristics (Johnson & Christensen, 2008:239).They continue by saying that, purposive sampling is a non-random sampling technique in which the researcher solicits persons with specific characteristics to participate in a research study. They also refer to a sample as a set of elements taken from a larger population according to certain rules. Merriam (2002:12) defines purposive sampling as a type of inquiry that seeks to understand the meaning of a phenomenon from the perspective of the participants. It is essential to choose a sample from which the most can be learned. Merriam (2002:12)

enhance the assertion by using the term to describe information-rich cases. Purposive sampling is used in special situations where sampling is done with a special purpose in mind (Maree, 2013:178). Ezzy (2013:74) describes purposive sampling as one that provides a clear criterion or rationale for the selection of participants, or places to observe or events, that relate to the research question.

Purposeful sampling includes site selection, comprehensive sampling, maximum variation sampling, network sampling and sampling by case study (McMillan & Schumacher, 2001:401). A few will be discussed below:

❖ Site selection: Site selection by which a site is selected to locate people involved in a particular event is preferred when the research focus is on complex micro processes. A clear definition of the criteria for site selection is essential. In this study, five schools were selected to provide reasons for the exclusion of the pregnant learners from school through the SGB pregnancy policy.

❖ Network sampling: Network sampling, also called 'snowball sampling', is a strategy in which each successive participant or group is named by a preceding group or individual. Participant referrals are the basis of choosing a sample. The researcher develops a profile of the attitudes or particular traits sought and ask each participant to suggest the alternative remedy to the exclusion of the pregnant learners. Five SGBs were selected, five Principals, five educators, five pregnant learners parents and five pregnant learners.

3.9. Instrumentation

The researcher chooses to conduct interviews because interviews can probe for more specific answer and can repeat a question when the response indicates that the respondent misunderstood the question. There are three probing strategies that can be used to obtain

the maximum amount of data and to verify that what you have heard is actually what the person has meant (Maree, 2013:88).

They are as follows:

❖ Detailed- oriented probes, elaboration probes and clarification probes.

❖ Detailed-oriented probes are probes that aim at ensuring that you understand the "who", "where", "what" of the answer given by the participant.

❖ Elaboration probes are designed to get the full picture and normally involve asking the participant to tell you more about a certain example or answer given.

❖ Clarification probes are used to check if your understanding of what has been said is accurate. Paraphrasing (giving the gist of what you think you heard) can be useful to confirm what has been said.

❖ Clarification probes were used by the researcher as to make sure if she had accurately understood what the respondent had said.

3.9.1. INTERVIEWS

An interview is a one-on-one verbal interaction between the interviewer and the interviewee with the aim of gathering information (Willis, 2007:146). Gray (2004:13) regards interview as a conversation. In the conversation there are two people, one who is an interviewer and the other who is an interviewee. The interviewee can say as much as he or she wants. Maree (2013:87) defines an interview as the two way conversation in which the interviewer asks the participant questions to collect data and to learn about the ideas, beliefs, views, opinions and behaviours of the participants. The aim of qualitative interviews is to see the world through the eyes of a participant, and they can be valuable source of information, provided they are used correctly.

According to Gray (2004:215) interviews may be divided into five categories:

- ❖ Structured interviews

- ❖ Semi-structured interviews

- ❖ Informal conversational interviews

- ❖ Non-directive interviews

- ❖ Focused interviews

The researcher avoided using structured interviews because the research is of qualitative nature and there is a need to evoke deep information which might not be the case structured interview.

Qualitative interviews consist of open-ended questions and provide qualitative data (Johnson & Christensen, 2008:207). They continue by saying that qualitative interviews are also called 'depth interviews' because they can be used to obtain in-depth information about participant's thoughts, beliefs, knowledge, reasoning, motivations and feelings about the topic.

The researcher chose to use semi-structured interviews because probing can be a problem area for structured interview. Respondents may not understand the question and unable to answer it or the respondents may not have received sufficient information to answer the question. The selected techniques are going to be discussed in the following paragraph.

The researcher saw the interview as the appropriate means of collecting appropriate data. Semi-structured interview questions were designed to give the participants the chance to express themselves freely without strict limitations. However, the main aim of the researcher was to design interview questions that would probe deeper information from the participants to cover the main research objectives. As such, interview was one of the research techniques that the study mostly relied on.

Johnson and Christensen (2008:203) define interview as a data-collection method in which an interviewer (the researcher or someone working for the researcher) asks questions from

interviewee (the research participant). Interviews that are done face-to-face are called in-person interviews; interviews conducted over the telephone are called 'telephone interviews'. In this study the researcher chose to use in-person interviews.

O'Leary (2010:194) defines interviewing as an art of asking and the art of listening. Further, interviews can range from formal to informal, structured to unstructured; and can be one–to one or involve a group (O'Leary, 2010:195). Gray (2004:213) regarded an interview as a conversation. In the conversation are two people, one of which takes the role of interviewer. The researcher or the interviewer often uses open questions. Open questions are the kind of questions where the interviewee is not restricted in answering. Basically interviews aim at collecting rich descriptive data that helps the researcher to understand the participant's construction of knowledge and social reality. According to Gray (2004:213) in an interview, the most important skill is listening, not only to verbal responses but also noting elements such as body language of the interviewee. He continues by saying that a well conducted interview is a powerful tool for eliciting rich data on people's views, attitudes, and the meanings that underpin their lives and behaviours.

Since interview is a person to person interaction between two or more individuals with a specific purpose, the researcher is able to probe more if she or he feels the questions are not adequately answered. Interviews are flexible because the interviewer has a freedom to formulate questions as they come to mind around the issue being researched. The researcher must not respond negatively or positively when answers are given as this will create some biases.

In this study, specifically SGBs, Principals and pregnant learners were interviewed. The purpose of the interview was to get "one- on- one" information on SGB perceptions on the reasons for the exclusion of pregnant learners from school using SGB pregnancy policy. Lichtman (2013:217) says that the purpose of conducting interview is to gather information

from the participants about the topic being studied. The researcher used face – to – face interviews where semi-structured questions for interviews were prepared for data collection.

3.9.1.1 Advantages of the interview

In Robson's view (2007:77)

- ❖ Interviews are a research version of something you do all the time.
- ❖ No special equipment is needed apart from a good tape-recorder and microphone.

The purpose of conducting an interview is to gather information from your participants about the topic you are studying (Lichtman, 2013:190). The researcher used interview method to probe more valid information about the respondents' attitudes and their opinion which she could have not managed to get with any other method. Another advantage is its flexibility. The interviewer was able to adjust questions to get valid information. The atmosphere allows the respondents to be open and honest unlike in the questionnaires where the respondent can just feel the questions just to let it go.

3.9.1.2. Face to face interviews

A personal interview, also called a 'face-to-face' interview method, this method is utilized when specific target population is involved. The purpose of conducting a personal interview is to explore the responses of the people to gather more and deeper information.

These interviews are used to probe the answer of the respondents and at the same time, to observe behaviour of the respondents either individually or as a group. The personal interview method is preferred by researchers for couples of advantages.

A benefit of conducting face-to-face interviews is that it enables the researcher to gain participant's cooperation by establishing a relationship with them, which therefore facilitates the production of high response rate (Leedy & Omrod, 2001: Maree, 2013:296). The interviewer will audiotape all interviews and use handwritten notes to support the recordings.

This will assist the researcher with the transcriptions for analysis purposes. Observations will be noted during the interviews, especially with regard to non-verbal cues (Maree, 2013:297).

Advantages of face-to-face interviews are:

❖ High Response Rate. One of the main reasons why researchers achieve good response rates through this method is the face-to-face nature of the personal interview. Unlike administering questionnaire, people are more likely to readily answer live questions about the subject.

❖ Tolerate Longer Interviews. If a researcher wishes to probe the answers of the respondents, he may do so by using a personal interview approach. Open-ended questions are more tolerated through interviews due to the fact that the respondents would be more convenient at expressing their long answers orally than in writing.

❖ Better Observation of Behaviour. A researcher can benefit from personal interviews because they present a better opportunity to observe the attitude and behaviour of the respondents.

3.9.1.3. Semi-structured interviews

Gray (2004:215) notes that, although the researcher has a list of issues and questions he or she wishes to cover, they may not all be dealt with in each interview. This is so because the probability of changing the order of issues or questions is high. This is usually determined by the direction of the interview. Additional questions may be asked, some of which were not anticipated at the start of the interview. In semi-structured interviews, the participant is required to answer a set of predetermined questions that define the line of inquiry (Maree, 2007:87).

The semi-structured interview allows for probing of views and opinions (Gray, 2004:216). This happens when there is a desire for respondents to expand on their answers. Probing is

a way for the interview to explore new paths which were not initially considered (Gray, 2004:216). In this type of interview it is important for the researcher to not only listen to what the respondent say verbally but also look at body language.

> The strengths of semi-structured interviews are that it allows for probing of views and opinions (Gray, 2004:216). In addition, there is a room to explain or rephrase the questions if respondents are ambiguous. The semi-structured interview has its shortfalls. One of the shortfalls is that inexperienced interviewers may not be able to ask prompt questions. It is easy to be side-tracked by trivial aspects that are not related to the study (Maree, 2008).

Maree (2008:88) suggests that if there is a need to guide the participants back to the focus of the interview, the researcher can use semi-structure interview. Good interviewers are good listeners who do not dominate the interview and understand that they are there to listen.

3.9.2. OBSERVATIONS

Observation is the systematic process of recording the behavioural patterns of participants, objects and occurrences without necessarily questioning or communicating with them (Maree 2013:83-84). It is an everyday activity whereby we use our senses (seeing, hearing, touching, smelling, and tasting) but also our intuition to gather bits of data qualitative data gathering technique where the researcher uses senses to gather bits of data (Maree, 2013:84). In this study, it is used to enable the researcher to gain a deeper insight and understanding of a phenomenon being observed.

The researcher had chosen to use observation because it suits the nature of the study, as it had already been mentioned that the study was going to be done in the form of case study in

the natural setting which is the school. The researcher had planned to observe the attitude and some facial expressions as the interviews were being conducted.

On the other hand, observation has its specific limitations. The researcher must always remember her / his primary role as a researcher and remain detached enough to collect and analyse data relevant to the problem under investigation. Lichtman (2013:222) talking about different roles observers take says that:

> If you are part of the group you observe, or if you become part of the group, you are called a participant observer. Observation usually occur in settings that already exist, like home, educational or work settings, rather than in a contrived setting (Lichtman, 2013:222).

The purpose of observation is to gather data.

3.10. Data collection procedure

The researcher asked (in writing) for permission for access to schools to conduct research from the Department of Education and the principals of the schools in which research was going to be conducted (see Appendices). Permission was granted to the researcher by the Department of Education and school managers to collect data from schools, in writing (see Appendices). Interviews and observation were used to collect data from the SGBs, Principals and pregnant learners of the five selected schools.

After that the researcher arranged times with school SGB and managers to visit the selected schools. The researcher then went to schools to conduct interviews to the chairperson of the SGB and Principal in each school. Interviews were organised as per arrangement with school managers. The researcher first explained the purpose of the study that it was about the

exclusion of the pregnant learners from the school through the SGB learners' pregnancy policy. Participants were given informed consent forms to sign before the interviews started. Participation was voluntary and the participants were told that they had the right to withdraw anytime they wish to and that their identity was protected.

3.11. Data analysis

In this study, the researcher used transcribing, coding, categorizing and theming to analyse data collected from teachers of the schools who were selected by the researcher. This was done to give meaning to the information collected and to make it be easily accessed by the readers interested to the study.

Bless et al (2014:342) say that a core component of qualitative analysis is the process of coding. This is where the text is broken into fragments which share common characteristics. Thus codes can be thought of as categories, and the process of coding involves breaking up the original transcripts and classifying all the fragments into these various categories.

Qualitative data analysis tries to establish how participants make meaning of a specific phenomenon by analysing their perceptions, attitudes, understanding, knowledge, values, feelings and experiences in an attempt to approximate construction of the phenomenon (Johnson & Christensen, 2008:530).

Maree (2013:99) says qualitative data analysis tends to be an ongoing and iterative (non-linear) process, implying that data collection, processing, analysis, and reporting are intertwined and not merely a number of successive steps. Lichtman (2013:248) suggests that making meaning to data, the researcher codes words, phrases, segments, or other portions of text. He continues to say that the researcher begins with a large amount of material, for example, the text of an interview. That material is dissected and categorised into codes. The

codes are reviewed to look for ones that overlap or are redundant (organise and categorise). Conversation verbatim was used and the raw data was used and the raw data was placed into logical, meaningful categories in order to examine them. Coding techniques were used to categorize the responses according to individual point of view. The researcher placed the raw data into meaningful categories in order to examine them in a holistic fashion.

3.12. Research Quality

Research quality in qualitative research is judged in terms of a number of criteria. These include issues of validity, reliability and trustworthiness. When qualitative researchers speak of research validity, they are usually referring to qualitative research that is plausible, credible, trustworthy and therefore defensible (Johnson & Christensen, 2008:275). They refer to reliability as the consistency or stability of the test scores whereas validity refers to the accuracy of the inferences or interpretations you make from the test scores.

3.12.1. VALIDITY

Validity is considered the most important quality of a measured dependent variable or a test score (Suter, 2012:266). That is because validity has to do with whether the instrument used actually measures what it is supposed to measure. Validity is a primary concern of all researchers who gather educational data.

One potential threat to validity is that researchers must be careful to watch out for what is called 'researchers' bias which means obtaining results consistent with what the researcher wants to find (Johnson & Christensen, 2008:275). Continuing with their statement, Johnson and Christensen (2008:275) say that researcher bias tends to result from selective observation and selective recording of information and also allowing one's personal views and perspectives to affect how data are interpreted and how the research is conducted.

There are also other terms associated with research validity in qualitative research such as descriptive validity, interpretive validity and theoretical validity (Johnson & Christensen, 2008:277-278).

Descriptive validity refers to the factual accuracy of the account as reported by the researchers. In other words, descriptive validity refers to accuracy in reporting descriptive information (description of events, objects, behaviours, people, settings, times, places and so forth) (Johnson & Christensen, 2008:278).

Interpretive validity refers to accurately portraying the meaning attached by participants to what is being studied by the researcher. More specifically, it refers to the degree to which the research participants' viewpoints, thoughts, feelings, intentions, and experiences are accurately understood by the qualitative researcher and portrayed in a research report (Johnson & Christensen, 2008:278).

Theoretical validity refers to the degree to which a theoretical explanation developed from a research study fits the data and is therefore credible and defensible. A strategy for promoting theoretical validity is extended fieldwork, which means spending a sufficient amount of time studying research participants and their setting so that you can have confidence that the patterns of relationships you believe are operating are stable and so that you understand why these relationships occur (Johnson & Christensen, 2008:279).

Validity asks the questions such as, 'what does this instrument actually measure?', 'what do the results actually mean?' Unless the researcher can be sure that the measurement techniques are actually measuring the things that they are supposed to be measuring, the results are difficult to interpret (Bless, 2013:229). Validity is concerned what just how accurately the observable measures actually represent the concept in question or whether, in fact, represent something else. In considering the issue of validity, the researcher took the

necessary steps with the development of instrument to ensure validity. The researcher's supervisor first checked the validity of the interview questions to ensure the relevance to the study conducted. This was also to check in case the expected answers might offend someone or might cause any unforeseen problem or in case the answers might embarrass the researcher. All the interviewees were asked the same questions and were given enough time to respond. Follow up questions were asked. The researcher paraphrased the interviewee's responses after some questions. This served to increase validity by checking whether what the interviewer had heard was actually what the interviewee intended to say.

3.12.2. RELIABILITY

Reliability plays a second fiddle to validity because reliability is of little consequence if the measure not a valid one (Suter, 2012:267). He continues by saying that it is a necessary condition for validity in the sense that reliability must be present for validity to exist. Reliability tells how well an instrument is measuring whatever it is measuring.

Maree (2007:147) says reliability has to do with the consistency or repeatability of a measure or instrument and high reliability is obtained when the measure or instrument gives the same results if the research is repeated on the same sample. Delport (2005) defines reliability as referring to the stability or consistency of measurement. It is concerned with accuracy and precision (Cohen, Manion & Morrison, 2000). The lower the degree of error in the instrument, the higher is reliability.

In this study, reliability of the study will be confirmed if the responses from the participants are more or less the same, that is, when coding data, there will be similar themes and conclusions. Reliability in qualitative research is viewed as the relationship between the recorded data and what has actually occurred in the setting being studied (De Vos, 2000). In

order to enhance reliability, all collected data will be analysed and interpreted in a uniform manner in this research.

3.12.3. TRUSTWORTHINESS

Obviously this does not absolve the qualitative researcher of the need to evaluate the quality of research, but in qualitative research this is done in terms of how much trust of the reality under study, or, in other words that they make sense (Bless et al, 2013:236). Suter (2012:276) says that qualitative researchers use different terms to communicate the worth of their measurements and conclusions based on them. Perhaps the most common is trustworthy says Suter, a concept used to refer to both reliability and validity in qualitative research.

Maree (2013:113) describes trustworthiness as the utmost important element in qualitative research. Assessing trustworthiness is the acid test of data analysis. Maree (ibid) mentions some few points that can be used to enhance the trustworthiness of the study, which are:

❖ Using multiple data sources: Using data from different sources can help check findings.

❖ Verifying raw data: During subsequent interviews you may ask participants to verify the data gathered in earlier interviews or during informal conversations with participants you may sound out your initial understandings with them to verify whether your interpretation of what they have shared with you is correct.

❖ Maintaining confidentiality and anonymity: Researchers think that as long as they do not mention names or positions of persons they have achieved confidentiality and anonymity

Suter (2012:276) says that qualitative researchers use different terms to communicate the worth of their measurements and conclusions based on them. He continues by mentioning trustworthy as the most common one, which is a concept used to refer to both reliability and validity in qualitative research.

Bless et al (2013:238) suggest some tools for increasing research trustworthiness as follows:

- ❖ Adequate description of context; which is, detailed descriptions of the researcher, the participants, their relationship, and the context in which they find themselves are essential because qualitative research emphasizes the context in which the study takes place.

- ❖ Concurrent data collection and analysis; meaning, by analysing data as it is being collected might highlight a particular aspect of the investigation that the researcher was not previously aware of. This might mean, for example, adding a question to an interview.

- ❖ Triangulation; method most frequently used to verify and increase the trustworthiness of qualitative research. The purpose of doing this is to show that the results obtained are independent of the methodology used.

- ❖ Methodological verification; this is the process of having other experienced researchers verifying the logic and implementation of each step of the methodology.

- ❖ Ensuring data saturation; the researcher must be able to show that enough data has been collected to reflect the full range and the depth of the topic.

- ❖ Respondent validation; sometimes called member checking or informant feedback is a process whereby the researcher presents the results of a study to the people who provided the original data and asks for their feedback.

- ❖ Use of sufficient verbatim; by including many direct quotations from the original data in research reports, the researcher allows the reader to hear exactly what respondents

said and how the researcher interpreted that information. This is another important characteristic of rigorous qualitative research.

Suter (2012:362) says that many qualitative researchers agree that data trustworthiness, whether collected from direct observations, focus groups, or interviews, is evidenced by the following (Suter 2012:362):

❖ Transferability which refers to evidence supporting the generalization of findings to other contexts – across different participants, groups, situations, and so forth.

❖ Dependability in which qualitative researcher gathers evidence to support the claim that similar would be obtained if the study was repeated.

❖ Confirmability refers to objectivity (neutrality) and the control of researcher bias. Bias in qualitative research is an ever-present concern. Confirmability is also enhanced by consistency with quantitative research findings that reach similar conclusions.

❖ Credibility refers to the believability of the findings and is enhanced by evidence such as confirming evaluation of conclusions by research participants, convergence of multiple sources of evidence, control of unwanted influences, and theoretical fit.

3.13. Ethical considerations

Ethics refers to principles to principles or rules of behaviour that act to dictate what is actually acceptable or allowed (O'Leary, 2005:72). Ethical issues were important since the study would involve human subjects. Walter- Adams (2006) writes that any research which involves other people in some way has ethical implications. Ethics has to do with the applications of moral principles to prevent harming or wronging others, to promote the good, to be respectful and to be fair. Ethical considerations, issues, concerns and questions apply to each stage

and aspect of research process, regardless of the methodologies adopted and the specific methods used (Wellington et al, 2005:104).

McNamee and Bridges (2002:8) say that ethics is an immediate relation between the individual person and moral values, without the mediation of social group as a source of either understanding or motivation. A code of ethics is concerned with the right, not the good (McNamee & Bridges, (2002:101). Bless et al (2013:31) when talking about the respect for participants' rights and dignity say that, no research project should in any way violate participants' legal and human rights when participants are recruited. An important part of protecting people's dignity is understanding and respecting of their culture. Ethical behaviour represents a set of moral principles, rules, or standards governing a person or a profession. To be ethical is to do well and avoid evil (Lichtman, 2013:51). Johnson and Christensen (2008:101) define ethics as the principles and guidelines that help us uphold the things that we value.

There are three basic approaches that people tend to adopt when considering ethical issues (Johnson and Christensen, 2008:101), namely, deontology, ethical scepticism and utilitarianism.

The deontological approach takes the position that ethical issues must be judged on the basis of some universal code, (The root of the word is the Greek word "deon", which means "duty" or "obligation"). Certain actions are inherently unethical and should never be performed regardless of the circumstances.

A person using ethical scepticism would argue that concrete and inviolate moral codes such as those used by the deontologists cannot be formulated. According to this approach, an ethical decision must be a matter of the individual conscience, and the researcher should do what he or she thinks is right and refrain from doing what he or she thinks is wrong.

The third approach to assessing ethical issues is that of utilitarianism. This position maintains that judgements regarding the ethics of a particular research study depend on the consequences that study for both the individual research participant and the larger benefit that may arise from the study results.

Bless et al (2013:28) mention that research ethics places an emphasis on the humane and sensitive treatment of research participants, who may be placed at varying degrees of risk by research procedures. It is the researcher's responsibility to ensure that his or her research is ethically conducted. In fact before a single participant is contacted, the researcher must ensure that the research plan can pass an ethical evaluation.

The participants were properly informed about the purpose of the research, the methods of instruction which they would be subjected to and the need for the voluntary participation. The researcher was responsible for protecting the rights and welfare of the participants in the study.

Ethical considerations mentioned by various authors are as follows:

3.13.1. PERMISSION

Permission to visit schools was sought from and granted by the Department of Education. The researcher got the letter from his supervisor (see Appendix A) requesting the permission to conduct a research. He took it to the Department of Education, so as to ask permission to conduct research in schools together with the one that was written by the researcher.

He again wrote to the principals of the schools asking permission where the researched was to be conducted. Individual Principals of the selected schools were approached and they authorised the conduct of the study in their schools. Permission was granted by school managers in writing to the researcher to conduct research in their schools. It was only after

granting of explicit and written permission that the researcher proceeded with data collection in identified schools.

Bless et al (2013:35) call this asking of permission: obtaining access to research participants by means of gatekeepers. This means that sometimes it may be necessary for a researcher first to approach a gatekeeper like school or educational authorities before approaching participants directly to participate in a study.

McNamee and Bridges (2002:23) refer to gatekeepers as those who give access to a research field. Their role may be in allowing investigators into a given physical space, or it may go further in granting permission for research to be conducted in a particular way.

3.13.2. INFORMED CONSENT

Informed consent means agreeing to participate in a study after being informed of its purpose, procedures, risks, benefits, alternative procedures, and limits of confidentiality (Johnson & Christensen, 2008:109). Before a person can participate in a research study, the researcher must give the prospective participant a description of all features of the study that might reasonably influence his or her willingness to participate.

One of the most important principles in the codes of ethics is informed consent. It is one of the critical issues in research and it requires that respondents to be fully aware of the consequences that result from research (Konza, 2001:1). He continues by suggesting that informed consent is seen to be one of the ethical issues in research.

Participants in research need to be told what they are letting themselves in for before they make a decision to co-operate. Individuals participating in a research study should be informed of the nature of the study and may choose whether or not to participate (Lichtman, 2013:53), and they will not be coerced into participation. There are situations in which

informed consent may not be possible. It becomes more difficult to obtain consent from minors or individuals who do not have a clear understanding of written English or those who are mentally disabled or emotionally fragile (Lichtman, 2013:53). Minors are presumed to be incompetent to make decisions and cannot give consent. Consent has to be obtained from parents (or minor's legal guardian) after they have been informed of all features of the study that could affect their willingness to allow their children to participate. Once consent has been obtained from minor's parent or guardian, assent must be obtained from the minor (Johnson & Christensen, 2008:112). This means that the minor has to agree to participate in the research after being informed of all the features that could affect his or her willingness to participate. Informed consent is one of the critical issues to make sure that participants are informed, to the extent possible, about nature of the study (Lichtman, 2013:54).

Obtaining informed consent implies that adequate information is given about the goal of the investigation and procedures to be followed during the investigation. The possible advantages, disadvantages and dangers, to which the respondents may be exposed, as well as credibility of the researcher, are to be communicated to potential subjects or their legal representatives (Babbie, 2006:205). The researcher sought informed consent from participants in the study. A consent form was designed and participants were asked to complete it after the purpose of the study and conditions of participation were explained to them (see Appendix F for educator consent form). SGBs were first reluctant to participate in interviews about the learners' pregnancy policy formulated by them. This changed when the researcher explained the purpose of the study and how anonymity and confidentiality would be guaranteed.

The researcher explained that the study was for academic purposes and that the findings were important in the improvement of curriculum planning and development. All participants

signed the consent form and were told that they could withdraw from the study at any time since participation was voluntary.

Up to this far, Johnson and Christensen (2008:114-117) had mentioned some other forms of consent, namely, informed consent and minors as research participants (already mentioned in the above information), passive and active consent, additional consent and also something on deception.

3.13.2.1 Passive versus Active Consent

Active consent involves consenting to participate in a research study by signing a consent form. The parent of the minor would read the consent; either gives or refuses consent, and return the consent form to the researcher. Passive consent is a process whereby consent is given by not returning the consent form. Parents or legal guardians return the consent form only if they do not want their child to participate in the research.

3.13.2.2 Additional consent

Additional research studies that are conducted within the confines of a school system require cooperation of a variety of individuals such as SGB, teacher, principal, pregnant learner, pregnant learners' parents and these individuals must give their approval to the study which means that informed consent must also be received from them.

3.13.2.3 Deception and Debriefing

Under the principle of informed consent, research participants are supposed to receive information about the purpose and the nature of the study. Sometimes providing full disclosure of the nature and purpose of the study will alter the outcome and invalidate the study. In such instances, it is necessary to mislead or withhold information from the research participants. In other words it is necessary to engage in deception to conduct a valid study (Johnson & Christensen, 2008:116).

The American Education Research Association (AERA) Guiding Standards explicitly states that deception is discouraged unless it is necessary for the integrity of the study. If deception is used, the reason for deception should be explained to the participants in the debriefing session held after the study has been completed (Johnson & Christensen, 2008:116).

Bless et al (2013:34) agree with AERA by stating that deception causes many ethical problems and if used, safeguards must be employed. The most common safeguards are:
The researcher needs to ensure that the deception poses no serious or long-term risks.

❖ The researcher needs to explain the true nature of the deception to the participants in a debriefing, which occurs once all the data has been gathered.

❖ The debriefing should counter any lingering misconceptions, possible discomfort or risk that may have been generated by the deception.

Debriefing should be done with care to ensure that participants are not left with bad feeling or doubts about themselves based on their performance in their study. Debriefing refers to a post study interview, in which all aspects of the study are revealed, any reasons for deception are explained, and any questions the participant has about the study are answered. Johnson and Christensen, 2008:117) has pointed out that debriefing should meet the two goals of dehoaxing and desensitizing. Dehoaxing refers to informing the participants about any deception that was used in the study and explaining the reasons for its use. Desensitizing refers to helping the participants during the debriefing interview, deal with and eliminate any stress or other undesirable feeling that the study created, as might exist if you are studying cheating behaviour or failure. One of the tactics used by experimenters is to point out that the participant's behaviour or feeling was normal and expected. In this study there was no deception made and the consent forms were signed by the participants.

3.13.3. RIGHTS OF PARTICIPANTS

The AERA ethical standards explicitly state that research participants have the right to withdraw from a study at any time, unless otherwise constrained by their official capacity (Johnson & Christensen, 2008:117). Special consideration should be given to the minors and their freedom to dissent. The Ethical Standards for Research in Child Development states that the child's freedom to choose not to participate should be respected. No research project should in any way violate participants' legal and human rights when participants are recruited. An important part of protecting people's dignity is understanding and respecting their culture (Bless et al, 2013:31). Participants have a right to take part or to withdraw anytime they want to do so. They were provided with an explanation that they had the opportunity to terminate their participation at any time with no penalty.

3.13.4. CONFIDENTIALITY AND ANONYMITY

Information obtained from the participants has to be held confidential; no one should have access to individual data or the names of participants except the researcher. A system to link names to data, if used, can be destroyed. The researcher met with participants in order to brief them on the purpose of the study, reasons and benefits for their participation and the right to participate or not.

Any individual, group or organisation participating in the research study has a reasonable expectation that its identity will not be revealed (Lichtman, 2013:53). Identifying information should be removed from researcher's records. Permission from the participants to make public information that might reveal who they are or who the organisation is should be asked from the participants. Caution must be used in publishing long verbatim quotes.

The AERA ethical standards state that, the research participants have the right to remain anonymous and the confidentiality of both the participants and the data must be protected (Johnson & Christensen, 2008:118). Johnson and Christensen (2008:119) define privacy as controlling other people's access to information about a person. Respecting the privacy of research participants is at the heart of the conduct of ethical research. Anonymity, according to Johnson and Christensen (2008:119) is an excellent way of protecting privacy because anonymity means that the identity of the participants is not known to the researcher. Confidentiality is the other means that researchers use to protect the privacy of the research participants. Confidentiality refers to an agreement with the research investigators about what may be done with the information obtained about a research participant (Johnson & Christensen, 2008:119).

The participant is entitled to expect that information provided to the researcher will not be given to anyone else and will be treated in a confidential manner (Lichtman, 2013:53). The researcher needs to be much more sensitive to information that you obtain from minors and others who may be in a vulnerable condition.

3.13.5. HARM TO PARTICIPANTS

The most important and fundamental issue confronting the researcher is the treatment of the research participants (Johnson & Christensen, 2008:105). Qualitative research is an ongoing and evolving process, with the data collection process it is more like a friendship connection between the participant and the researcher.

Lichtman (2013:52) says that there should be a reasonable expectation by those participating in a research study that they will not be involved in any situation in which they might be harmed. It is best to safeguard against doing anything that will harm the participants in a study.

Bless (2013:29) talk about non- maleficence which they say is the most basic principle of research which the participants suggest that participants must not be harmed by participating in the research. They continue saying that it is important to note that harm may occur intentionally or unintentionally during the course of research. If a particular research procedure produces unpleasant effects for participants, the researcher should have the firmest scientific grounds for conducting it.

3.13.6 RAPPORT AND FRIENDSHIP

Once participants agree to be part of a study; the researcher develops rapport in order to attract them disclose information (Lichtman, 2013:54). Lichtman continued by saying that, researchers should make sure that they provide an environment that is trustworthy; at the same time, they need to be sensitive to the power that they hold over participants. Researchers need to avoid setting up a situation in which participants think that they are friends with a researcher.

3.13.7 INTRUSIVENESS

Intrusiveness can mean intruding on participant's time, intruding on their space, and intruding on their personal lives (Lichtman, 2013:54). As a researcher design a research study, he or she ought to be able to make a reasonable estimate of the amount of time participation will take. As it was the case with this study, the researcher had to indicate time to be spent with each participant in the letter asking permission to conduct a research from the Department of Education and also time for visit per school. So the researcher had to arrange for relevant time with the principals of the schools to consult the SGB and learners.

3.13.8 INAPPROPRIATE BEHAVIOUR

The researcher will not engage in conduct of a personal or sexual nature. Researchers might find themselves getting too close to the participants and blurring boundaries between themselves and others (Lichtman, 2013:55). If a researcher thinks he or she is getting too

close to the participants, he or she has to back off and remember that he is a researcher and bound by the code of conduct to treat participants with respect.

3.13.9 DATA INTERPRETATION

Misleading statements should be avoided. Researchers should be aware of admonitions to interpret data conservatively and go beyond what numbers or facts show (Lichtman, 2013:55). She also believes that a researcher is expected to analyse data in a manner that avoids misstatements, misinterpretations or fraudulent analysis and that a researcher has a responsibility to interpret his or her data and present evidence so that others can decide to what extent the interpretation is believable. Bless et al (2013:35) when referring to ethics in analysis and reporting say that researchers are not allowed to change their data or observations. They continue saying that the fabrication or falsification of data is a very serious ethical transgression.

3.13.10 DATA OWNERSHIP AND REWARDS

The researcher owns the work generated (Lichtman, 2013:55). Some researchers chose to archive data and make them available through data banks. Bless et al (2013:36) suggest that when research results are published, it is important that participants not be identified by name or in any other way that would make it possible for them to be identified. Parry and Mauthner 2004 in (Lichtman, 2013:55) suggested that because qualitative data might be a joint construction between researcher and respondent, there are unique issues related to confidentiality, anonymity and consent.

3.13.11 APPROPRIATE REFERRAL

The researcher must always anticipate the case that research participants' well-being (psychological, emotional, physical and/or social) may be compromised, after a traumatic experience such as social turbulence or displacement. Processes need to be put in place to

manage any negative consequences should they occur. This is most commonly done by arranging appropriate referral to a counselling centre, social work agency or medical facility.

3.13.12 REPORTING BACK TO PARTICIPANTS

The researcher must present the results of every study to the research participants in a form that is easily understandable. Factors such as participant's home language, culture and education level must be considered (Bless et al, 2013:35). Bless et al, (2013:35) also suggest the following principles of ethical research:

Non-maleficence: The most basic principle of research is that participants must not be harmed by participating in the research. It is important to note that harm may occur intentionally or unintentionally during the course of a research study. If a particular research procedure produces unpleasant effects for participants, the researcher should have the firmest scientific grounds for conducting it.

- ❖ Beneficence: The principle of beneficence requires social and behavioural researchers to conduct research that is effective and significant in promoting the welfare of people.

- ❖ Autonomy: The principle of autonomy incorporates the freedom of individual's actions and choices to decide whether or not to participate in research. The principle of informed consent is of paramount importance. The principle of autonomy can, however, affect the generalizability of the results in the sense that people who agree to participate in research may differ from the many others who do not volunteer. This is known as volunteer effect.

- ❖ Justice: The principle of justice is based on the belief that all people should be treated equally. People should not be discriminated against in research on the basis of race, gender, disability, income level or any other characteristic.

- ❖ Fidelity: The principle of fidelity implies faithfulness and keeping promises or agreements, specifically between the researcher and the participant. Thus, engaging in deception or breaching confidentiality in an ethical violation that infringes on a participant's rights. Respect for participants' rights and dignity is necessary to ensure that the dignity and self-respect of participants is always preserved. An important part of protecting people's dignity is privacy and respect of their rights.

CAHPTER FOUR

DATA PRESENTATION AND DATA ANALYSIS

4.1. Introduction

This chapter presents analyses, and interprets the qualitative data collected during this study. An interview strategy was used to collect data from SGB members, principals, departmental officials, educators, pregnant learners and pregnant learners' parents.

The aim of this chapter was to present the results of analysis of data on the reasons for the exclusion of pregnant learners from school through the pregnancy policy formulated by the SGB.

The analysis in this study is grounded in the theoretical understandings of policy validity assumption, policy strategy assumption and policy impact model, which emerged during the review; and reflect the findings of interviews which were used as face-to-face data collection strategies with research participants.

The researcher was able to gather primary data directly from the research participants, and interviewees were 'tape recorded' as mentioned in the previous chapter. The interviewer focuses on listening and responding to the interviewee. The tape–recorded data was analysed through notes taken while listening to the recorded interviews. Holding interviews which were transcribed into themes became relevant to the findings. The data collected was based and formulated in line with the following research questions:

❖ What are the reasons for the exclusion of pregnant learners from school by the School Governing Body pregnancy policies in South Africa?

❖ How can exclusion of pregnant learners be justifiable in South African public and independent schools?

- ❖ What are the possible challenges to the rights of excluded pregnant learners?

- ❖ What are the possible solutions of solving the problems of SGB pregnancy policies, and how can these policies accommodate pregnant learners?

- ❖ What are be the alternative legal instrument to address the exclusion of pregnant leaners from school?

The above questions were answered by the respondents. Furthermore, personal journals of the respondents were also used to study their experiences and feelings towards the exclusion of pregnant learners from school. Each respondent took part in the research voluntarily. In order to optimize the results on how pregnant learners were excluded using the school-based policies, Department of Education assisted in providing additional information. However, errors in the data were identified and filled by going back to the respondents to collect additional data and also seek clarification on explanation that were not clear. The data collected was organized in files and reflections were made and written to show what the researcher had learnt from the data. The last step was the classifying and interpretation of the information collected into themes and sub-themes to uncover the main issues regarding the remedy to the exclusion of the pregnant learners from school.

The interviewed respondents are identified as follows:
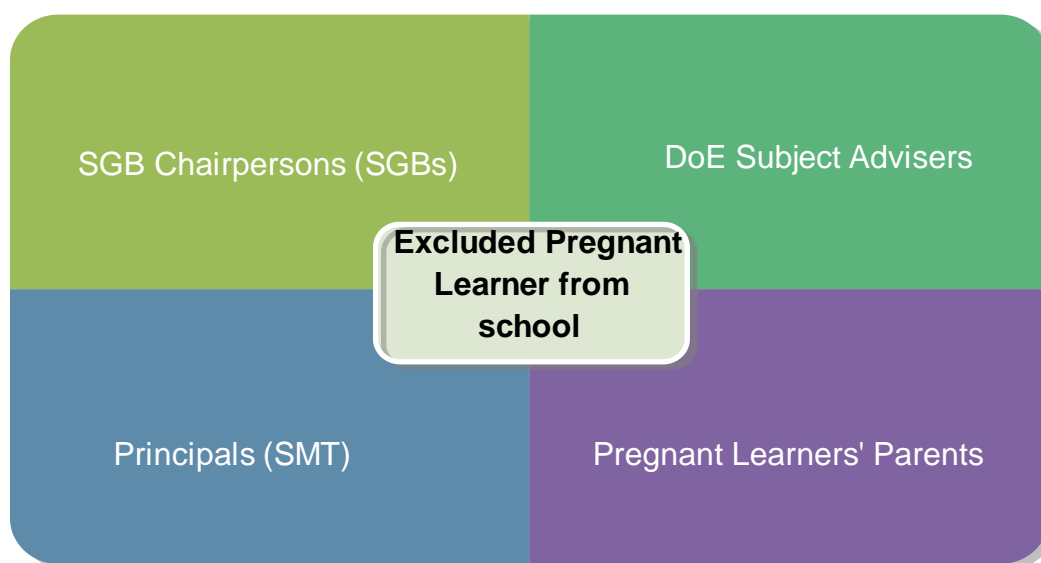
Figure 6: Relationship between respondents

4.1.2 BIOGRAPHICAL AND DEMOGRAPHIC INFORMATION OF THE RESPONDENTS

The schools where this study was conducted are situated in East London metropolitan city, in the Eastern Cape. The researcher analysed and synthesized the data obtained from respondents through interviews and open-ended questions. Data was collected through interviews from 19 respondents in total, comprising: 3 School Governing Body members, 3 school principals, 2 departmental officials, 3 educators, 5 pregnant learners from the schools (ranging age from 16 to 19 years) and 3 pregnant learners' parents. Respondents gave their views on the subject matter (reasons for the exclusion of pregnant learners from school) and themes relating to the research question.

The primary purpose of this study is to determine the reasons for the exclusion of pregnant learners from school by School Governing Body pregnancy policy. The study was engineered by the increasing number of pregnant learners being excluded from school using school-based policy formulated by SGB. Obviously this has negative consequences such as the disruption of academic progress and it increased girls' dropout rates from school. School managers often see these pregnant learners as being unable to cope with their school work together with other school activities.

The findings presented in this research should be regarded as on-going narrow outcome and contextualized. A semi-structured interview has specific questions that elicit open-ended responses. This form of interview enables the researcher to concentrate on and highlight the respondents' views and perceptions. One advantage of the semi-structured interview is that the same question on specific concepts can be asked from all the participants.

4.1.3. PROFILE OF THE RESPONDENT- SCHOOL GOVERNING BODIES

The profiles of the respondents SGB will be presented in the form of a table. Three SGB chairpersons were interviewed from three different schools. Due to ethical reasons, the real names of the respondents will not be used. The names that appear in the following tables, and throughout this study, are just pseudonyms.

Table 4.1: Profiles of the School Governing Bodies

Location	Name	Age	Gender	Qualification	Position
School A	R Ngambu	68	Male	B.A. Degree	Chairperson
School B	M Stofile	54	Male	Diploma	Chairperson
School C	G Majova	62	Male	B.ED.(Hons)	Chairperson

School A, the chairperson of the SGB who took part in this research is a parent governor member of the SGB. Mr Radu Ngambu claimed to be a retired principal from public school, a 68 year old male, who had gathered years of experience in school policies. His highest education qualification is Bachelor of Art degree from Rhodes University.

School B, in the same vein, he is the chairperson of the SGB in the school. He revealed that he has been the chairperson of the school governing body for four years. Mr Masibonge Stofile is a 54 year old middle age man. His highest education qualification is Diploma degree.

In School C, the researcher also approached the chairperson of the SGB to assist in providing solution to the problem of exclusion of pregnant learners from school. Mr Garba

Majova is 62 years old. He revealed that he is a retired educator. He bagged Bachelor of education degree from the former University of Port Elizabeth.

4.1.3.1. Demonstration of SGB Interview

The first part of the interview determined the demographic information of the respondent. The rest of the interview was divided into six sections which answered different parts of the main research question.

MAIN RESEARCH QUESTION
- What are the reasons for the exclusion of pregnant learners from school by the School Governing Body pregnancy policies in South Africa?
- How can exclusion of pregnant learners be justifiable in South African public and independent schools?

SUB RESEARCH QUESTIONS
- What are the possible solutions of solving the problems of SGB pregnancy policies, and how can these policies accommodate pregnant learners?
- What are the possible challenges to the rights of excluded pregnant learners?

ALTERNATIVE REMEDY
- What are the academic support instruments or programme that can be put in place to assist pregnant learners?
- What are the alternative instruments to address the exclusion of pregnant leaner from school?
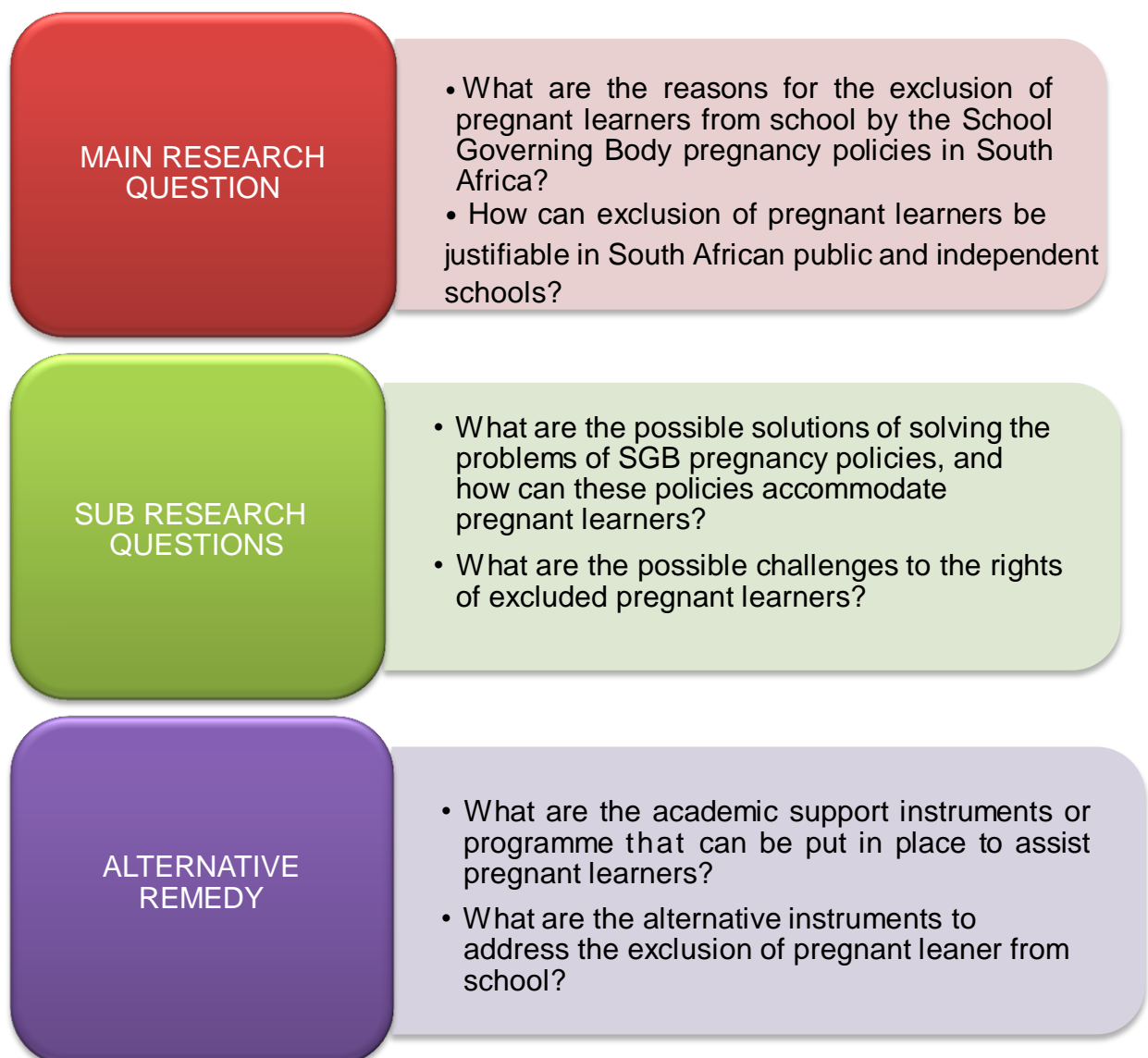
Figure 7: Open ended questions for Interview with SGB Chairpersons

The aim of interviewing the SGB was to understand their perspectives on the exclusion policy at school. The assumption was that SGBs had the knowledge and the reasons for the formulation of the exclusion policy. The rest of the questions were divided in a similar fashion to the principal, DoE officials, pregnant learners and their parents. Some questions were slightly altered to accommodate the different roles the officials play in education.

4.1.3.2. The composition of the SGB

The composition of governing bodies is similar in most countries, comprising parents, teachers, community representatives and the principal. In Zimbabwe, there is also a representative of the academic support or non-teaching and teaching staff. In general terms, the composition of governing bodies in South Africa matches this norm. There are major provisions for school governing body in SASA.

- SASA provides for parents' governor
- South Africa provides for learner membership in secondary schools;
- Parents constitute a majority of the governing body in South Africa;
- The governing body chair must be a parent governor;
- Co-opted members do not have voting right in South Africa governance structure.

The Act recognises learners as an important group of stakeholders, as well as the need to include them in the decision-making process in public secondary schools. The recognition and representation are probably attributable to the fact that learners played a major role in ensuring that South Africa became a democratic country. Their exclusion from these governing bodies would therefore be contrary to the very democratic ethos for which so many learners strived for (Phakoa & Bisschoff, 2001:1).

At school A, B and C, the School Governing Body was similar in the composition.

Table 4.2 School Governing Body Composition

SGB MEMBERSHIP	ROLE IN GOVERNANCE	YEARS IN SGB
Chairperson	Chair-Head of governance	Seven
SMT Head	Principal-Head of Management	Twelve
Educators	Minutes taking	Five
Parents	Elective representative	Three
Learners Representative	Elective representative	Eight months

4.1.3.3. The role of the governing body

The governing body's functions are set out in section 20 of the Schools Act. To govern efficiently and effectively a governing body must be able not only to make rules for good governance, but also to have the capacity (and will) to implement these rules in the school situation and enforce them in cases of learner misconduct by means of specific disciplinary measures provided for in the code of conduct (Guidelines for the consideration of governing bodies in adopting a code of conduct for learners, 1998; Visser, 2000:147-150). A governing body must always act in the name of the school and is therefore under a legal obligation to act in the best interests of the school (Schools Act, section 15 and 16). This implies that when the governing body acts in the name of the school, it also incurs legal responsibilities on behalf of the school, but the school, as the juristic person, will ultimately be liable for the legal consequences (e.g. damages) resulting from the governing body's conduct (Schools Act, section 60; *Ferdinand Postma Hoërskool v Die Stadsraad van Potchef- stroom*, 1999). When a governing body acted ultra vires ("beyond its authority") and causes prejudice to the pregnant leaner, it may well incur legal liability in its private capacity (i.e. not as official representative of the school).

A court may instruct the guilty governing body to rescind her decision of excluding the pregnant learner.

SGB member's involvement in developing school policies in public schools

It was revealed by the entire three SGB chairpersons that they were deeply involved in the exclusion policy documented for the school with the help of legal experts. Pregnant learners' school policy governs the interaction and learners behaviour in the school. Parent and learners are the parties mostly affected by this policy and must often ensure compliance and give articulation to the policy. If parents and learners do not have input into the learners pregnancy policy they cannot be expected to take ownership and responsibility of the policy.

4.1.4 PRESENTATION OF DATA THROUGH INTERVIEW

Data was collected in five schools using semi-structured interviews. The interviews were guided by the main research question and four sub research questions which were stated earlier in the demonstration of SGB interview. Themes emerged from the responses of the respondents from schools in which the research was conducted.

Before the respondents could be asked to comment on the reasons for the exclusion policy I wanted to ascertain if they were aware of the existence of anti-exclusionary policy form the Department of Education. Therefore, with regard to this issue three themes have been identified, namely, (a) responses on the awareness of the existence of anti-exclusionary policy that was legislated for pregnant learners (b) the respondents' perceptions of the contents of this policy and (c) responses on whether the policy should be abolished or not.

4.1.4.1. The reasons for SGB policy that exclude pregnant learners from school

SGB chairperson (Mr Radu Ngambu) stories reveal that learners' pregnancy at school continues to be built within a framework of shame, disgrace and concerns about the moral integrity of broader society. Reflecting on his arguments, he disclosed that the pregnant learner who continues to attend school is raised as a child and yet has illustrated her adult capacity to reproduce, thus destabilising the normative adult-child binaries, which appears contrary to the integral responses of educational authorities.

It is within this context that SGB pregnancy policy discourses started to emerge in school as a matter of concern. In this qualitative interview with the chairperson of the governing council, he revealed that he is well aware that the government policy expected them to be supportive of such pregnant learner, but the school values reflected their underlying disapproval of accommodating such learners and disagreement with the policy.

The chairperson lamented that the deterioration of the morals in South African society is the root cause of incessant learners' pregnancy in our schools.

> I also think that this sort of thing has soaked into all aspects of our society –
> from government level down and today everything is acceptable, we are no
> more strict about what is right and what is wrong – all the wrongs are now
> acceptable, that is why we are having the problems that we are having.
> There are no morals anymore. (SGB Chairperson, School A, East
> London).

The state and its relatively new policies, which are supportive of the sexual and reproductive rights of young people, was criticised for actively encouraging 'moral

degeneration', both regarding sexual practices and for undermining 'normal' family and maternal responsibilities:

> … the government's policy states that after child birth, a learner has to return to school to carry on with her studies; this somehow promotes pregnancy because the learner knows that after child birth, she'll go back to school as usual and she will not suffer the consequences of having a child and raising one (emotional response from the chairperson).

Learners' pregnancy at school is therefore entangled within the regulatory discourses about what young people should or should not do. Respondents drew on religious and moralistic discourses to articulate their concern about the deconstruction of traditional lines of authority.

> I cannot accept a school child being pregnant and in school. Coming from the old school of thought, a modern teacher may accept that but I can't accept that. From a religious background, our teachings do not accept that kind of thing. If we accept it, what kind of message are we sending out to the other learners? It is OK to get pregnant because we allow you in school and everything is fine … As a teacher we also have to watch what we say and how we treat these learners … but there is a fine line. You are still a youngster and I am still the teacher, a senior person. (Female teacher, School B, EL)

The chairperson clarifies the discrepancies between national policy script and the moral discourse of teachers. Implicit in the policy is an acceptance that pregnancy may happen at school and that pregnant learners should be protected from severe discrimination and institutional prejudice that have prevented them from continuing their education successfully in the past. To continue at school with a pregnant body, and to return to school, possibly still breastfeeding and now parenting as well, requires actively discarding

such a discourse of shame. Particularly, the chairperson was referring to a teacher talk that pregnant learners are 'contaminating' elements. Those pregnant learners at school were constructed as 'infectious to' and 'polluting of' other learners. The rationalisation that such learners would inevitably provide a negative role model for others and necessarily influence others will serve as an accolade to legitimise the conduct of pregnant learners as soon as their pregnancy became visible.

In this study, SGB chairperson is expected to have deep understanding in the normative notions about when it is appropriate to be sexually active and when to be a parent. He expressed contradiction about accepting the agency of young women enshrined in the human rights framework, if it means that they may illustrate their right to be sexually active. Thus, even while teachers were aware that pregnancy could be the result of sexual abuse and linked to poverty and other disadvantage, they appeared to assume pregnancy as a show of sexual maturity.

4.1.4.2 Respondents answers on the alternative to the problem of exclusion of pregnant learners from school

The notion that pregnant learners does not belong to school was evident in interviews with chairpersons of the school governing bodies. They expressed that the presence of pregnant learners was clearly discomforting, constructed as reflecting 'badly' on the school.

> Let me be honest … it looks nasty, you know … grade twelve learners with
>
> a big tummy in the school with small kids, grade eight learners you know,
>
> didn't look pleasant at all. (Principal, School B, EL)

The oft-quoted argument that the school does not have facilities for child-bearing, implying the improbable conclusion that schools cannot be an antenatal centre or a clinic. Hence, the rationale for the exclusion of pregnant learner as soon as their pregnancy is evident is

a necessity. Some pregnant learners voluntary stop attending classes as soon as other learners notice their pregnancy.

The researcher proceeded to ask for the possible solutions or alternative(s) to the problems of exclusion of the pregnant learners. A firm response from Mr Stofile, this narrative also highlights the way in which female teachers may serve as agents in policing young women's respectability and morality, taking responsibility for ensuring subscription to 'proper' femininity. What appears common is that the school authorities (as opposed to the pregnant learners) make the decisions about when learners should leave school, and it seems that decisions are in the interests of 'sanitising' the school from 'bad press', rather than the interest of the pregnant learners (paraphrased). On the other hand, it is evident that pregnant learners themselves would rather continue to attend until they feel it is necessary to withdraw from school. Pregnant learners find themselves caught between their own academic needs (to attend as much school as possible) and the demands of the school to avoid the 'disruption' the learning process due to their advanced state of pregnancy or in the early stage of being nauseous.

The chairperson referred to the government policy on MPMLP that the policy stipulates that the learner may not return to school in the same year in which the baby is born, but the content failed to specify the period or stage when the pregnant lea rner may leave before giving birth. In this case, the choice of pregnant learner is shaped by responses of school authorities, which is generally lack of sympathy and perceive pregnancy as an intrusion in a space that 'should not' accommodate such learners.

4.1.4. PROFILE OF THE RESPONDENT- PRINCIPALS

The profiles of the principals are presented on table 4.3. Three principals were interviewed from three different schools. Due to ethical reasons, the real names of the principals will not be used. Principals are responsible for the management structure of the schools to give direction to both academic and administrative running of the school.

Table 4.3: Profiles of the School Principals

SCHOOL	PRINCIPAL'S NAMES	QUALIFICATION	EXPERIENCE IN EDUCATION
School A	Mr A Governder	B. Ed. (Hons)	27 years
School B	Mr T Fredrick	B.A. (Hons); M.A.	25 years
School C	Ms Z Ncetani	Dip. Ed.	12 years
All entire schools are based in East London urban area.			

In School A, the deputy principal is responsible for handling learners' code of conduct, including learners pregnancy related issues. The principal of school A, as well as the deputy were interviewed. Principal A Mr Governder has 27 years' experience in education management and policy, and was appointed as principal four years ago. He has a Bachelor (Honours) degree in education management. The deputy principal has been in his post for eight years and has a total of 32 years in teaching. He has a BComm degree and a diploma in higher education.

Principal B Mr T Fredrick has 25 years' teaching and management experience in education and has been the principal of the school for six years. He has Bachelor (Honours) degree in Curriculum Education and Master of Arts in language communication. His deputy has been in her position for ten years and has spent 22 years in teaching service.

Principal C Ms Zondeki Ncetani has been a principal of her school for 12 years. She holds a diploma certificate in adult education. She has no formal training in education management or education law.

The researcher inquired from the principals if they have proper knowledge of education law to interpret government legislations related to learners' pregnancy policy. According to section 16 A of Schools Act (Basic Education Laws Amendment Act, No. 15 of 2011) provided that (1) (a) The principal of a public school represents the Head of Department in the governing body when acting in an official capacity and (f) must inform the governing body about policy and legislation (own emphasis). In order to make meaningful decisions that affect the rights of pregnant learners, a principal needs specialised knowledge with regards to education management theory.

4.1.4.1. Interview with the Principal

The following questions were asked based on the research questions of the study. Refer to annexure D.

Researcher: The learners' pregnancy policy in South Africa (SA) allows the pregnant learners to continue with their schooling until such time they feel unfit to do so. What are the reasons for the exclusion of pregnant learners from your school? Your comments on this?

Principal: I think the reason for exclusion of pregnant learners is for safety reasons, because complications can occur while the learner is at school.

Researcher: How do you feel about the presence of pregnant learners in your schools? Do you agree that SGB policy in your school that excludes a pregnant learner is inconsistent with SA Constitution? Please your thoughts about these?

Principal: I feel bad because I believe that she is not well and not supposed to be in a school environment. I know that the policy is inconsistent with section 9 (1) of the constitution but we cannot tolerate pregnant learners at school.

Researcher: Does your school have an exclusion policy on learners who fall pregnant while at school? If yes, what in your opinion on this exclusion policy?

Principal: Yes, once pregnancy of a learner is obvious, we invoke exclusion policy against the learner, as well, we talk to the parents of pregnant learners.

Researcher: In your opinion do you think it is better for pregnant learners to continue with their schooling throughout their pregnancy? Or do you think they should stay at home until they give birth? Give reasons for your answer.

Principal: No! The pregnant learner should give space for serious students who want to learn rather than the child who want to engage in adult activities.

Researcher: Do you think pregnant learners deserve support academically from parents, educators and other learners? How can this be achieved? Please provide answer.

Principal: Teachers are in school to teach not to cure pregnant learners. This cannot be achieved unless the government introduces nurses or mid-wives in schools.

Researcher: Are you aware that policy on management of learners' pregnancy requires the teachers to assist the pregnant learners with their school work while they are on maternity leave. What are your views on this?

Principal: Teachers were not trained to nurse pregnant learners. This cannot be achieved unless the government introduces proper training nurses in the school to help teachers. I think it is unfair on teachers who are already overloaded.

Researcher: What are the possible solutions to the difficulties encountered by pregnant learners and their parents from the SGB pregnancy policy?

Principal: I think schools should focus to those policies that promote education and not interfere in family matters

Researcher: What do you think can be the alternative to the exclusion policy formulated by SGB?

Principal: I think the issue is a family affair and must be left to families to sort out. Families must be given a space to deal with the issue. Pregnant learner should go home.

Researcher: Is there anything else you want to share with me on the subject?

Principal: I think some of the social issues are better addressed through customs.

Researcher: I thank you sir, your input is really appreciated. Enkosi (thank you)

4.1.4.2. The challenges faced by the School Governing Body for Compliance to the Government Pregnant Learners' Policy (MPMLP)

In good governance practices, it is generally accepted that a governance structure would determine policies and strategies of an organisation or a corporate entity, whereas the implementation of these policies and strategies is the function of the executives of that organisation or entity. In the school setup, the governing body is responsible for determining policies, while the principal and other educators must implement them. The Department of Education pregnancy policy places responsibility on the school team to assist pregnant learner in their academic work.

Most of the respondents felt that the DoE policy poses a challenge on the SGB and SMT as people who have to ensure the smooth running of the school. The main challenges that were cited was the extra workload of the educators caused by the presence of pregnant learners in school, having to convince the educators to assist learners who are on maternity leave, and the concern that educators do not have midwifery skills.

SGB Chairperson in School A,

> "…the policy makers have shifted the burden of being responsible for
>
> pregnant learners to the teachers. The teachers are the ones who have to

deal with pregnant learners. This is adding on the workload of the teachers

which is already too much…

Some issues were raised regarding the challenges facing educators and governing members on daily basis at school.

A. Educators' lack of clinical training

Ms Zondeki Ncetani the principal of school C highlighted that there are no medical facilities to cater for the pregnant learners as instructed by the government.

 The government must revisit the policy of pregnancy in schools because

as you are here at school, there is no educator that is trained….. they are

the ones who told us that we must accept kids that are pregnant at school.

So therefore if we are given those kids we must be given proper training as

to guide them…. I just want to put more emphasis on saying that the

government must revisit its policies, educators have to be trained for that

particular task and make sure that the background of our learners is taken

into consideration, because sometime they fall pregnant because they are

abused in their homes.

B. Pregnant learners' attitude and behaviour

In responding to this issue, the educators cited the challenge of behaviour or attitude of pregnant learners and not knowing what kind of punishment to administer to a pregnant learner when or if the need arises. All educators have reported that the pregnant learners are generally cheeky, grumpy and lack discipline. The educators also reported that usually there is no problem before pregnancy; this behaviour manifests itself after the school child fall pregnant. In a study conducted by Chigona and Chetty (2007) pregnant learners were also reported to display a negative attitude and bad behaviour in class.

"…Sometimes the pregnant learner becomes cheeky and moody, a

behaviour that was not there before she got pregnant.…" (Hove, an educator in School B).

On the issue of punishment, Ms. Sodlaka, an educator in School B, remarked:

"There are challenges like when you have to decide on the form of punishment that would be suitable for a pregnant learner…You have to ask yourself first if this will not affect the pregnant learners' health and that of her unborn child."

None of the educators interviewed indicated that they did not have a challenge while teaching a pregnant learner. The major challenge cited by the educators is the bad attitude and behaviour of pregnant learners.

4.1.5. PROFILE OF THE RESPONDENT- DOE SUBJECT ADVISER

The aim of interviewing the officials of the Eastern Cape Department of Education (ECDoE) was to understand their perspectives on the reasons for the school-based policy that exclude pregnant learners from school. The assumption was that the officials had the knowledge, qualifications and experience to support principals with valuable information regarding how policies is formulated and implemented, in particular SGB policy that exclude a learner from school due to pregnancy reason. The semi-structured interviews conducted with the officials of the ECDoE were divided into eight sections. In the first part of the interview, officials' biographical information, their qualifications relating to education management, as well as their experience were established.

The rest of the questions were divided in a similar fashion as those asked in the principals' interviews. Some questions were slightly altered to accommodate the different role the officials play in education.

Table 4.4 Profile of subject adviser

DoE OFFICIALS	NAME	QUALIFICATION	DUTY & YEARS
A	Mr S Swazi	Dip; BA (Hons); M.Ed.	Circuit manager & 31
B	Mr M Pongoma	Grade 12 Matric	PA (HOD) & 26

Department official A completed a diploma in primary education in 1981. He has 31 years' experience in education. He completed a BA degree which was followed by an honours degree in psychology and later, a master's degree in education management. Mr Swazi has 10 years' experience as a principal and seven years as a circuit team manager.

Department official B has a matriculation certificate and has attended short courses in education. He has been employed by the ECDoE for the past 26 years and work at Head office in Bisho. For the past 14 years he has been working exclusively at the office of the Head of Department on recommendation for the expulsion of learners.

4.1.6. PROFILE OF THE RESPONDENT- PREGNANT LEARNER

The researcher interviewed three pregnant leaners that were excluded from school through the SGB policy. As indicated previously, three pseudonyms were used for the sake of anonymity of the respondents.

Table 4.5 Profile of pregnant learner

SCHOOLS	NAME	GRADE	AGE	ASPIRATION
School A	Ms N Dhula	11	17	Nurse
School B	Ms T Kelani	12	18	Social Worker
School C	Ms B Jombile	12	18	Lawyer

Respondent 1 was born on 13 July 1999. She was excluded from school last year (2016) when she became pregnant. Presently, she is repeating grade 11 (2017) after her mother took over the responsibility of nursing the baby boy she gave birth to. She was inspired by her cousin to be a qualified nurse.

Nosiphiwo Duala responses to open ended question (Annexure D)

Answer to Q1. A child has a right to education, being chased away from school just because you are pregnant doesn't make sense, I mean how the school is affected. Chasing a learner that is pregnant away from school is being inconsiderate and selfish.

Answer to Q2 (a) It was embarrassing because it happened in the presence of other learners.

(b) Not at all, I was never consulted; they just gave me a letter telling me that I cannot be a mother and a learner at the same time.

Answer to Q3 (a) They didn't treat me well at all, example, my life orientation teacher always talked badly of pregnant people. He made me feel horrible and even sometimes other learners would give me funny looks.

 (b) Learners treat pregnant learners' very bad and they always say things that hurt.

 (c) My parents supported me even though they are disappointed but they never wanted me to lose hope.

Answer to Q4 School community should be supportive and treat pregnant learners fairly because they didn't plan to fall pregnant, some were raped so judging others won't make them better. So the community should support them.

Answer to Q5 No it has not changed because I make sure that I submit my schoolwork on time so that I can focus on other things.

Answer to Q6 When I'm not at home I start missing school and the company of other learners. I get very lonely with nothing to do.

Answer to Q7 Learners should be allowed to continue with their studies even if they are pregnant, that doesn't change anything.

4.2. ANALYSIS OF QUALITATIVE DATA FROM INTERVIEW

4.2.1 Introduction

This section sets out to analyse the data that was collected in this study. The aim is to interpret the data so as to find the meaning thereof. Literature will be used to back up some of the arguments that may come up during the discussions. It was critical to establish how SGB perceive and understand the requirements of exclusion and how they apply those requirements when making decision to exclude a pregnant learner from school. This study revealed that the manner in which SGBs and principals deals with legal issues display their inexperience in education law.

Three SGBs of secondary schools were chosen as participants to obtain perspective on the reasons to exclude a pregnant leaner from school. Three principals and two departmental officials of Eastern Cape were also interviewed because of the expertise in education and to give the solutions to pregnant learners' exclusion.

4.2.2. CONTRADICTION OF THE SGB PREGNANCY SCHOOL-BASED POLICY WITH THE DoE POLICY ON PREGNANT LEARNERS

The Bill of Rights states clearly that every child has a right to education and therefore every child of school age deserves to be at school during school hours (Constitution of the Republic of South Africa, 1994). The democratic government is also committed to gender empowerment and to ensure that all children of school going age, especially girls, have access to education (Department of Education, 2005). Therefore, the pregnant learners in this case are supported and protected by the Bill of Rights, which is Chapter 2 of the Constitution. Obviously, the responses of the Department of Education's official were contrary to that of the SGB, to clarify the reasons for the exclusion of the pregnant learners from school while South African law forbade discrimination in terms of pregnancy. The study revealed that both SGB and SMT were aware of the existence of the policy that allows for the pregnant learners in public schools.

The study also revealed that parents in the SGB never discussed the exclusion of pregnant learners' policy with the members of the SMT in their meetings. This also shows that parents are not playing their roles as governors mandated by the legislation (Mncube, 2009). DoE official directed the study to consult the government legislation of MPMLP to protect the pregnant learners which school-based policy violates. What Mncube (2009) has established in his study about the role played by parents in the SGB is that sometimes the parents are not given a chance to be involved in decision making. Decisions are taken by the school principal and the SMT (ibid). It has been noted that parents are sometimes not taken seriously by the school principal and educators, they are undermined.

The study has shown that the learners who took part in this research were not aware of the existence of the government policy that protects their interests; they were only informed about school-based policy that excludes them. An implication is that the school principal and the educator did not inform the learners about the government policy; it was never discussed with them. The department officials perceive this school-based policy as unnecessary and violate the constitutional rights of the learners.

4.2.2.1. ABSENCE OF ENGAGEMENT AND CONSULTATION BEFORE EXCLUSION

Quoting verbatim from Tandile a grade 12 learner of school B,

> ……..I was not consulted at all, they gave me a letter to bring my parent the following day, telling me that I cannot be a mother and a learner at the same time…

The research revealed that there was always break down of communication between the school management and the pregnant learners' parent before the exclusion of the child. Responding to a question, a parent revealed her annoyance against the approach used by the school governance to exclude her daughter from school.

> ……. I was called by the school to inform me about my child pregnancy, and to disclose the school decision to exclude my child for the remaining period of her pregnancy. This was high disturbing because my child is very diligent in her academic work, but deny access to school because of pregnancy that is family matter……it is unfair!!!!!!

The law required any administrator who is exercising public power or performing public functions to consult before taking a decision that will adversely affect the rights of any person (PAJA: 3).

4.2.2.2 The implications of exclusion on the pregnant leaners

In this study all educators were against assisting pregnant learners with their school work and succumbed to the SGB exclusion policy. The educators do not see themselves teaching learners who are not within the school premises. They reportedly do not see the possibility of that happening mainly because of the time constraints. Prior studies have noted that the educators are not willing to go that extra mile when it comes to assisting the learners who are on maternity leave (Ruppel, 2009). This is in contradiction with what the MPMLP policy had set out to achieve. When the policy that allows the pregnant learners were promulgated, the assumption was that the girls would receive adequate support from their teachers (Chigona and Chetty, 2008). Pregnant learners are reportedly ill-disciplined according to most of the educators who participated in this research.   It has been established by some of these educators that this behaviour only manifests itself during the period of pregnancy. Usually before the pregnancy there is no problem with the learners' behaviour. It has been noted that this behaviour of the pregnant learners has a bearing on how they are sometimes treated by the educators. As mentioned in the literature review, in justifying the negative attitude of educators towards pregnant learners, some educators say that they are retaliating for the bad behaviour and negative attitude of the pregnant learners themselves (Chigona and Chetty, 2008).

All the educators in this study have also indicated that a majority of pregnant learners display the most bad attitude and behaviour compared to other learners who were not pregnant. In a study by Runhare (2010) one parent had mentioned that it is not easy to discipline a pregnant girl even at home, so it must be a very difficult task for the educators to discipline a pregnant learner.

The findings in this study indicate that generally the academic performance of a pregnant learner drops when she is instate. This has been reported by all educators who participated in this study. Some of the reasons for this, according to the principals and educators, include the tiredness of pregnant learners, their absenteeism from school and inadequate time to focus on their studies because of the demands of the baby, therefore exclusion is a necessity in that situation. The pregnant learner who took part in this research mentioned that her academic performance had dropped since she got pregnant but she always tried to focus. She gave reason of discrimination as a basis for inability to cope with her study. A strong relationship between absenteeism or exclusion of pregnant learners and their poor academic performance has been reported in the literature. Some studies have indicated that exclusion of pregnant learners will in turn results in them failing at the end of the year (Mpanza, 2006 and Chigona, 2007).

However, contrary to the above findings, it has been noted that there are some cases where the academic performance of learners is not affected by the pregnancy. Even in this study (Nosipiwo) one of the pregnant learners confirmed this when she mentioned that her academic performance now that she is pregnant is better than before because she wanted to proof a point to her parents and educators. The studies have shown that some pregnant learners actually do display an improved performance in their studies (Zellman, 1981, Mpanza, 2006, Shaningwa, 2007). This proves that they are now more serious about their studies than ever before and now they eager to achieve their goals (ibid).

Another interesting finding is that even though the majority of respondents indicated that they are aware of the policy from the Department of Education that allows pregnant learners to remain in public schools, they indicated that they do not know what to do about the existence of the exclusion policy on learner pregnancy in their schools. It has been established when reviewing the literature that the SGB's policy on management of learner

pregnancy does not exist at completely in independent schools in South Africa and America. (Zellman, 1981; Runhare, 2010; Nkani and Bhana, 2010). The non-existence of exclusion policy in independent school tolerates positive staff attitudes about learner pregnancy to develop.

Most respondents have indicated that the presence of pregnant learners in class affects other learners. Some of the examples put forward to support this notion were that some learners spend time trying to find out news or information about pregnancy from the pregnant learner instead of using that time for their studies. It has also been reported that sometimes the pregnant learners become sick and move in and out of the classroom trying to attend to this sickness. This in turn disturbs other learners as they find it hard to concentrate on the lesson when there is someone moving up and down in class.

The majority of educators have indicated that the SMT is faced with the challenge of convincing the educators to assist learners who are on maternity leave with their school work. This is a challenge as the educators have already mentioned that they are not prepared to do that as their duty is to teach learners who are within the school premises. In a study by Mpanza (2006) it has been noted that teachers are not willing to go the extra mile, like making alternative arrangements for the pregnant learner to cover curriculum at home. School C principal admitted that in their school there is no arrangement for the pregnant learner who is on maternity leave to catch up with the rest of the class (Chigona and Chetty, 2007). This poses another challenge for the SMT as it is obvious that if these learners do not get tuition while they are on maternity leave, then they are going to fail at the end of the year. The challenge here is that the schools are expected to produce a good pass rate at the end of the year but if things continue this way, that will not be possible (Nkani and Bhana, 2011). The schools know if they do not produce good results, they will have to face the wrath of the Department of Education.

There has also been a complaint from the educators that they were only trained to be educators and not midwives. They do not have the necessary skills to deal with learner pregnancy and anything that could result from it. In a study by Mpanza (2006) some educators have argued that the lack of training and equipment to help pregnant girls creates a negative attitude to the government pregnancy policy that allows pregnant learners at school. Basically, this section is to analyse the data gathered through open-ended questions interviews.

4.2.3. FORMULATING AND ENSURING THE IMPLEMENTATION OF SCHOOL BASED PREGNANCY POLICY

In interviewing certain members of the SGB, observing parents and SGB meetings and analysing minutes of the SGB, the researcher was able to discover what the parents SGB members do when they are tasked with policy related matters. Both SGB members and non SGB parents reported that one of the most important SGB roles is to formulate school policies. It was consensually agreed that the role of SGB in planning for the governance by the central authorities had been delegated to the community and the SGBs in executing their tasks represent the community.

Even though the SGB members revealed that the role of the SGB is that of formulating school policies, their responses differed from respondent to respondent regarding what this role entails. In ensuring the implementation of school pregnancy policy, the chairperson testified that he encourages other SGB members to stick to the decisions that have been taken in the meetings. Furthermore, he reported that he visits the school to learn from the principal if there are any problems. However, this report was not supported by any other parent SGB member and there was nothing in the minutes that supported it. However, one of the SGB parent members seemed to be unaware of this internal school-based

pregnancy policy. Perhaps, the reason for this is her level of education and the fact that she is older than sixty years.

4.2.4. CONCLUSION

This chapter established the different opinions of the research participants on the centered theme of the research as indicated in the introduction section of this chapter. There were different perceptions for the reason to formulate school-based policy that exclude the pregnant learners in public schools. A number of issues were clarified, such that the pregnant learners' exclusion cannot be justified in new South African democratic era. SGBs, SMT, educators, parents and other learners failed to reach a common ground on the issue of exclusion. There were controversies on whether pregnant learners should be allowed for a period of months or be allowed until they give birth. Also, different opinions on whether the policy that excludes pregnant learners in public schools should be kept or stopped.

The analysis of the data proves that there were greater percentages that are against the exclusion of pregnant learners from pursing their academic goal. The challenges faced by the school governance and school management about the increase in the number of pregnant learners were also discussed and different opinions were expressed. When analysing the findings, each research question was discussed separately and all the themes that emerged from each research question were also analysed.

CHAPTER FIVE

FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

This chapter discusses the research findings presented in Chapter four using appropriate themes that reflect the outcomes of this study. The objective is to provide knowledge and possible outcomes to the main research questions. The researcher has argued that there are various factors that contribute to the decisions of SGBs towards the exclusion of pregnant learners from schools. Chapter 4 of this research discussed the responses of the participants pertinent to the main research question that focused on the reasons for the exclusion of pregnant learners from school using school-based policy. Interviews were held with SGB chairpersons, school principals, educators, parents, learners and education officials in three secondary schools in East London Metro. The study revealed that pregnant learners were not given any opportunity to be represented at the discipline hearing or panel, they were just given letter to stop coming to school. The argument put forward by the respondents is the evidence that supports the investigation for this study.

The purpose of chapter five is to present the critical overview and the reflections on the main findings of the study. The recommendations based on the findings, the conclusion and suggestions for further studies are also discussed in this chapter.

5.2. Alternative to exclusion of the pregnant learners

While South African legislations prevents pregnant learner from being discriminated against at school, there is still significant evidence to suggest that pregnant learners are asked to leave school during their pregnancies. The study revealed that exclusion of

pregnant learner has done more damage to the pregnant girl than the reasons of workload and indiscipline submitted by the school authority. According to University of Fort Hare general prospectus,

> 11.2 A pregnant student may be permitted to remain in residence up to 34
>
> weeks of pregnancy, as prescribed in the policy for pregnant students.
>
> 11.3 No student will be permitted to stay with a child in a student residence.

All parents interviewed were willing to take the responsibility of taking care of the baby in order to assist their pregnant child. Measures for the prevention and management of learners pregnancy (MPMLP) provides that learners may request or be required to take a leave of absence from school, including sufficient time to address both pre- and post- natal health concern. "No pre-determine period is specified for this purpose, since it will depend entirely on the circumstances of each case".
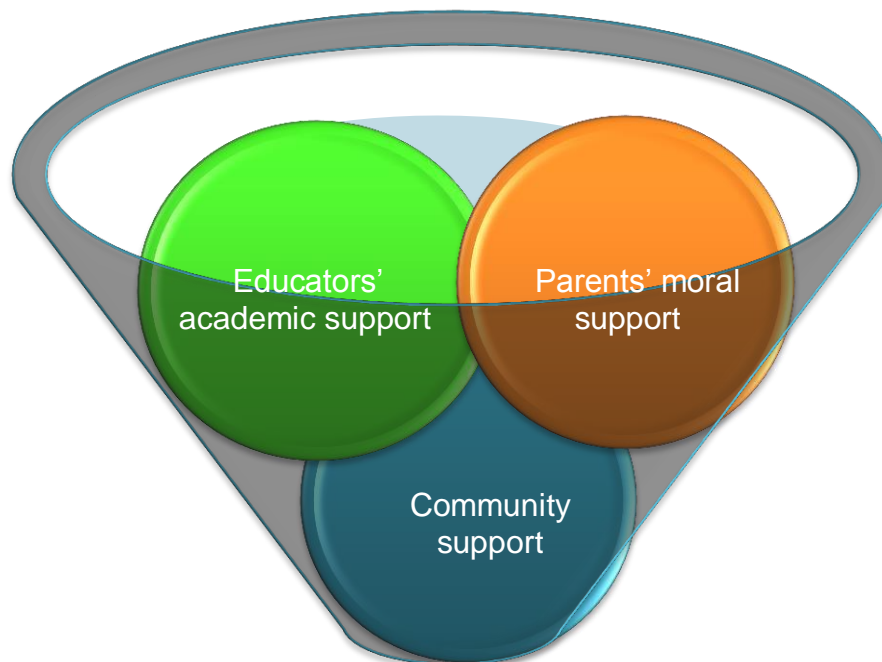

Figure 8. Stakeholders supports instead of exclusion

As well, pregnant learners interviewed were also prepared to continue with their studies until they are unfit to do so, rather than compulsory exclusion by the school.

5.2.1. ENGAGEMENT AFTER STAGE 3 OF THE PREGNANCY

The third trimester of pregnancy starts about 28 weeks and lasts until birth. The research shows that if a pregnancy does not develop any complication at first and second trimester, there is high possibility the third trimester will be less complicated (Van Eijk, 2007). Meaning, a pregnant learner that show no sign of complications at school for this period, it may be unreasonable to exclude such innocent learner. The respondents lamented that they were not consulted before the exclusion process. The principal will call the parents to hand over the letter of exclusion. The department expressly rejected the notion of exclusion of pregnant learners from school through the policy of the prevention and management of learners' pregnancy (MPMLP). The department's inclusive approach is to outline the commitment to provide education opportunities for learners who experience barriers to learning, or who are at risk because of the inability of the education and training system to accommodate their special learning needs.

The department of education mandated the governing body to involve in strategies to eliminate learners' pregnancy. Also, required SGBs to involve parents after consultation with the learner involved, in confidential manner (MPMLP: 10).

5.2.2. INVOLVEMENT OF PARENTS WITH ACADEMIC ASSISTANCE

It is absolutely important that parents or guardians takes responsibility to ensure that as far as possible pregnant child receives her class tasks and assignments during any period of absence from school, and that all completed tasks and assignment are returned to the school for assessment. The parents interviewed are willing to stand-in for their child's academic assistance. The research shows parents are the safety net for their children. The greatest 'resource' any classroom teacher can utilise is the parents. Parents have a

fundamental responsibility to ensure that their pregnant child is at school and her homework is done.

5.3 Strategies to eradicate learners' pregnancy from school

Through this investigation the researcher realised that learners are aware of the consequences of getting pregnant while schooling, as they are taught the consequences of pregnancy through Life Orientation learning area at school. The Department of Education suggested that the route of conscientising the mind of learners is a great tool to use in discouraging the leaners from unprotected sex. Another strategy identified by the respondents is the ability of different education stakeholders to speak the same language of condemning this immoral attitude. In this study, school principal, parents, and district officials stated that learners pregnancy is an indicator of carelessness, low morals and values, poverty, lack of parental guidance as well misbehaviour as contributing factors contribute towards school girl pregnancies.

The SGB members revealed that the policy of retaining learners in schools when a learner is pregnant is not easy for the school, since it portraits a negative image to other learners to see a pregnant learner moving around the school with a big tummy. The learners themselves revealed that they are not free, they wear jackets even in summer. Tolmay (2010) states that although, theoretically girls who are impregnated while schooling are free to continue and or return, but in practise they are stigmatised or blatantly expelled, and seldom complete their education. Most learners revealed that abstinence and use of condom are the best options to prevent pregnancy and they encouraged other girls to use them.

From the interviews, the researcher concluded and recommends that schools with a low rate of learners' pregnancy could inform and share their intervention strategies with other schools with high rates of learners' pregnancy. Through the interview it became clear that full parental involvement is essential. This view was submitted by Chigona (2007) about the involvement of parents in children's day to day activities.

5.3.1. THE CODE OF CONDUCT

A code of conduct is a legal document and must be drafted within the broader parameters provided by the supreme Constitution. Code of conduct promotes proper and good behaviour and sets standards for positive discipline. However, it also deals with negative discipline (e.g. unacceptable behaviour and conflict) and provides measures to deal with such incidents. Disciplinary measures are therefore devised to promote and maintain a well-disciplined school environment and, simultaneously, prohibit and punish unacceptable conduct through measures that also encourage the culprits to improve their behaviour (Van der Bank, 2000:310-315). The objectives of the departmental guidelines are to give effect to the constitutional values, democratic principles and a human rights culture in the school situation (Guidelines, 1998:1.3, 2.3).

The governing body must consult with the learners, parents and educators of the school before adopting a code of conduct. The drafting procedure and final adoption of a code of conduct constitute a process in which all the stakeholders have to be consulted. This participatory process is reflective in nature and a prime example of democracy in action: a democratic, transparent and responsible process, as illustrated by the Constitution in sections 16, 32, 33, 34, and 195, to name but a few. There must be consultation with learners, parents and educators, although the governing body is not compelled to accept their advice. However, it will obviously adopt a code of conduct that is acceptable to the

stakeholders and in the best interests of the school and all its learners (Visser, 2000:146-147). It is the governing body (as the representative of all the stakeholders) that finally adopts the code of conduct not one of its members (e.g. chairperson) or some of SMT members (e.g. principal, educator or parent representatives).

5.3.2. SCHOOL PARENT GOVERNORS' KNOWLEDGE OF THE LEGISLATIONS THAT IMPACT ON SCHOOL GOVERNANCE

The study reveals that the majority of rural school parent governors have poor knowledge of the legislations that impact on school governance. The study found out that rural school parent governors did not agree with the statement the pregnant girls should be allowed to learn until they give birth, despite the fact that Section 9 of the Bill of Rights prohibits unfair discrimination directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, etc. Furthermore, the study discovered that the majority of the rural school parent governors were opposed to the stipulation in the Bill of Rights that people belonging to a religious community may not be denied their rights to establish, join and maintain their cultural or religious associations or bodies. Additionally, no person may be denied his right to practice his culture or religion with other members of that cultural or religious community. The study in conclusion, found that the majority of the rural school parents agreed that learners must attend religious morning assembly in school, despite the stipulation in the South African Schools Act that the attendance of religious observances in a school is free and voluntary. These findings are of great concern to school governance as the knowledge of these pieces of legislations by parent governors in South Africa has been a great assistance.

The reality is that to rural school SGBs, this still remains a wishful thinking, despite the fact that these legislations are undoubtedly the critical bedrock of school governance in the

new democratic dispensation in the South Africa schools. In order for schools to be effective and well-managed, public school SGBs need thorough training on the implementation of the precincts of the legislations that impact on school governance such as the Bill of Rights, South African Schools Act, the school constitution, admission policy, pregnancy policy, religious policy, code of conduct for learners, and so forth. The importance of these legislations cannot be overemphasized as they ensure that SGBs have more involvement in day-to-day school governance matters. It is, therefore, imperative that training programs for SGB chairperson need to be initiated and that these should focus on interpreting and implementing the legislations impacting on school governance, thereby guiding SGBs in matters related to their roles and responsibilities, policy making, vision building, school management, and school development.

Public school SGBs need to understand the significance and the scope of their duties and they should be able to interpret these legislations and apply principles as contained in the legislations to a particular situation. It is hoped that, after training, the chairperson will come to an understanding of a democratic approach to school governance.

5.4 Findings based on research questions

The main objective for carrying out this study was to interview the various participants to gain first-hand information and to conceptualise the reasons for the exclusion of pregnant learners from school by policies formulated by SGB, while this SGB conduct is indeed contravening the provisions of the South African Constitution.

> ❖ *What are the reasons for the exclusion of pregnant learners from school by School Governing Body pregnancy policies in South Africa?*

As discussed above, any administrative reason(s) that affect the rights of any person must meet the requirements of the provision of the legislation involved (PAJA: 3). In other

words, administrative action must be lawful, reasonable and procedurally fair (section 33 of the constitution). Any decision that fall short of these requirements can be reviewed in the court of law.

It is crucial for the SGB to acquire the following information in order to make the right decision:

i.   a learner profile that consist of

- ➢ an academic profile and progress report of the learner,
- ➢ an absence and school attendance record, and
- ➢ a social skills report of the learner

ii.   the input of the social worker at school or a counsellor

iii.   the parents' engagement and consultation

iv.   the learner's knowledge of which rule was broken;

v.   the learner's side of story and consultation

vi.   the personal circumstances of the learner

As part of restorative approach, it is important that the school governance base their decision on legal requirements rather than norms and values.

- ❖ *How can exclusion of pregnant learners be justifiable in South African public and independent schools?*

With regard to this issue, two themes have been identified. The first theme is the respondents' views on whether fundamental rights of the pregnant learners are supported by the educators, parents and other learners. The second theme is whether the pregnant learners deserve academic support from educators, parents and other learners. Most respondents have indicated that pregnant learners do get support from educators, parents and other learners. This support can either be in the form of extra classes, looking after

the baby by the mother of pregnant learner when she is at school or even peers staying after school to assist the pregnant learner. All the respondents consensually agreed that exclusion of pregnant learners from school violates the fundamental right to education and conflict with the constitution. Hence, the evidence presented shows that this action could not be justifiable in the present South Africa democratic society.

❖ *What are the alternative legal instrument to address the problem of exclusion of pregnant learner from school?*

The majority of the respondents believed that an exclusion of a pregnant learner is not the best option for the future of the young girl. This means that there is a need for appropriate measures to deal with learners' pregnancy rather than exclusion. The following were the alternatives suggested by the respondents:

(a) SGB can grant leave of absence after 28 weeks of the pregnancy, with the help of parent to assist the child to fetch all the required tasks, assignments, projects, controlled tests etc. and return them to respective teachers.

(b) The respondents also suggested the Department of Education can liaise with the Department of Health to provide assistance to visit the schools regularly, in order to monitor the development of the pregnancy of the learner.

(c) Also, the principal suggested that SGB should constitute a special committee consisting of health professionals and specialists to assist and advice on alternative methods to explore in special cases.

(d) Majority of the respondents reach a consensus that exclusion is not the best option because of negative (psychological) effect on the pregnant learner. Exclusion should be avoided at all costs. Pregnant learners should not be discriminated against.

5.4.1. CONSULTATION: A KEY FACTOR OF ADMINISTRATIVE ACTION

All administrative actions must have a reasonable effect. This means that the decision taken (i.e. the decision to suspend or expel, and its consequences) must be reasonable under the circumstances. One of the important questions here is whether this action is justifiable?

The decision taken by the administrator (e.g. disciplinary committee or chairperson) usually involves a discretion to determine on the basis of the facts of the case (e.g. an interpretation of the legal rules and the defence presented by the accused) whether suspension or expulsion is the appropriate decision. Discretionary powers cannot be exercised outside the boundaries of what would be justifiable and reasonable, taking into account the facts and circumstances of the case. It, therefore, involves a balancing and counterbalancing of facts and circumstances to determine what is reasonable and justifiable, and what an appropriate or suitable decision would be in the case. In order to achieve this, the following steps are crucial:

At the end of the hearing, after proper attention has been given to all the relevant legal sources (i.e. places where legal rules on learners' pregnancy are found) and fair procedures were followed (e.g. appropriate time allowed to the learner to defend herself), the administrator must consider the limitation clause (section 36 of the Constitution). The limitation clause directs the decision-maker on how and to what extent the rights and interests of the pregnant learner may be limited in order to restore legal balance. It therefore, offers a lawful procedure on when and how to limit rights. If this procedure is not followed, the limitation may be regarded as an unlawful infringement of the pregnant learner's right to be at school and receive an education. Factors to be considered include:

• the nature of the right involved;

- the importance of the purpose of the limitation;

- the nature and extent of the limitation;

- the relation between the limitation and its purpose;

- whether there are less restrictive means to achieve the purpose (Malherbe, 2001:65; Bray, 2000:29-34).

The objective of the administrator in excluding a pregnant learner from school may be seen as violation of fundamental rights and such decision may be unreasonable and unjustifiable in an open and democratic society which is based on fundamental values such as human dignity, equality and freedom.

5.5 Conclusion and Recommendation

Reflecting back my thoughts on the controversial issue of excluding the pregnant learners from school, I discovered that numbers of policy makers and public officials lacks capacity to understand the legal requirements of the office. This study has been examining the reasons why SGB formulate a school-based policy that excludes pregnant learners from school. Of great importance, the research participants have contributed their sentiments regarding this issue; the findings have produced an increased understanding into the perceptions held about the issue of exclusion of pregnant learners from school.

To safeguard institutional security and school governance integrity, the implementation of the policy of the Department of Education on learners' pregnancy is non-negotiable. All the school stakeholders should be well informed about it so that they know what is expected of them. The indication of resistance by the governing body to implement DoE policy will be interpreted as insubordination to the authority. Though, the findings show that there are some school stakeholders who are not really aware of the contents of this policy, and this could be the reason for their negative attitude towards the pregnant learners.

Most importantly, this study discovered that, Department of Education needs to re-introduce social worker back to the schools, to provide counselling services to the young ones. As well, some stakeholders suggested that Department of Health can also come to the assistance of these powerless pregnant learners by providing necessary medical assistance on regular basis. According to MPMLP, pregnant learners are classified as children with special needs. Hence, educators need to understand dual roles that Department of Education placed them (educator and parent).

Lastly, it is important that stakeholders should agree that 'moving forward is better than drawing backward and building is better than destroying'. Exclusion of learner due to pregnancy can serves as beginning of the end of that particular learner, based on the realities of the South African society.

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University of Fort Hare

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Tel: +27 (0) 43 704 7221 • +27 (0) 43 704 7216 • Fax: +27 (0) 86 628 2153
Email: nsibeko@ufh.ac.za • aboysen@ufh.ac.za

University of Fort Hare
Together in Excellence

8 March 2016

TO WHOM IT MAY CONCERN

Dear Sir/Madam

REQUEST FOR ETHICAL CLEARANCE: MR. B.J. SEIDU

STUDENT NO.: 200903063

This document serves to confirm that:

1. the above student is registered for M.Ed. at this university;

2. The research proposal for his master dissertation was approved by the Faculty Research & Higher Degrees Committee.

In order to apply for ethical clearance at this university, the student is required to attach an ethical clearance letter from a relevant body/person in the institutions where the members of his sample are located.

May I request your cooperation and support to the student.

Thank you

Professor E.O. Adu **PhD**
Email: eadu@ufh.ac.za
Cell: 084 925 1948

APPENDIX B: ETHICAL CLEARANCE FROM THE UNIVERSITY OF FORT HARE

University of Fort Hare
Together in Excellence

ETHICAL CLEARANCE CERTIFICATE
REC-270710-028-RA Level 01

Certificate Reference Number: ADU161SSEI01

Project title: **Examining the exclusion of pregnant learner from school through the School Governing Body (SGB) Pregnant Policy.**

Nature of Project: Master in Education

Principal Researcher: Bamidele James Seidu

Supervisor: Prof E.O Adu
Co-supervisor: N/A

On behalf of the University of Fort Hare's Research Ethics Committee (UREC) I hereby give ethical approval in respect of the undertakings contained in the above-mentioned project and research instrument(s). Should any other instruments be used, these require separate authorization. The Researcher may therefore commence with the research as from the date of this certificate, using the reference number indicated above.

Please note that the UREC must be informed immediately of

- Any material change in the conditions or undertakings mentioned in the document
- Any material breaches of ethical undertakings or events that impact upon the ethical conduct of the research

The Principal Researcher must report to the UREC in the prescribed format, where applicable, annually, and at the end of the project, in respect of ethical compliance.

Special conditions: Research that includes children as per the official regulations of the act must take the following into account:
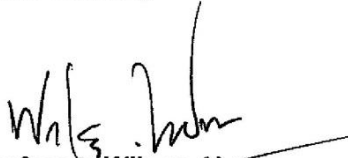
Note: The UREC is aware of the provisions of s71 of the National Health Act 61 of 2003 and that matters pertaining to obtaining the Minister's consent are under discussion and remain unresolved. Nonetheless, as was decided at a meeting between the National Health Research Ethics Committee and stakeholders on 6 June 2013, university ethics committees may continue to grant ethical clearance for research involving children without the Minister's consent, provided that the prescripts of the previous rules have been met. This certificate is granted in terms of this agreement.

The UREC retains the right to

- Withdraw or amend this Ethical Clearance Certificate if
  - Any unethical principal or practices are revealed or suspected
  - Relevant information has been withheld or misrepresented
  - Regulatory changes of whatsoever nature so require
  - The conditions contained in the Certificate have not been adhered to

- Request access to any information or data at any time during the course or after completion of the project.

- In addition to the need to comply with the highest level of ethical conduct principle investigators must report back annually as an evaluation and monitoring mechanism on the progress being made by the research. Such a report must be sent to the Dean of Research's office

The Ethics Committee wished you well in your research.

Yours sincerely

Professor Wilson Akpan
Acting Dean of Research

02 February 2017

APPENDIX C: PERMISSION TO CONDUCT A RESEARCH FROM DEPARTMENT OF EDUCATION, EASTERN CAPE

Province of the
EASTERN CAPE
EDUCATION

STRATEGIC PLANNING POLICY RESEARCH AND SECRETARIAT SERVICES
Steve Vukile Tshwete Complex • Zone 6 • Zwelitsha • Eastern Cape
Private Bag X0032 • Bhisho • 5605 • REPUBLIC OF SOUTH AFRICA
Tel: +27 (0)40 608 4773/4035/4537 • Fax: +27 (0)40 608 4574 • Website: www.ecdoe.gov.za

Enquiries: B Pamla   Email: babalwa.pamla@ecdoe.gov.za   Date: 05 April 2017

Mr. Bamidele James Seidu

P.O. Box 1005

East London

5201

Dear Mr. Seidu

PERMISSION TO UNDERTAKE A MASTERS THESIS: EXAMINING THE REASONS FOR THE EXCLUSION OF PREGNANT LEARNERS FROM SCHOOL THROUGH THE SCHOOL GOVERNING BODY (SGB) PREGNANT POLICY

1. Thank you for your application to conduct research.

2. Your application to conduct the above mentioned research in five selected schools and the Provincial Office of the Eastern Cape Department of Education (ECDoE) is hereby approved based on the following conditions:

    a. There will be no financial implications for the Department.

    b. Institutions and respondents must not be identifiable in any way from the results of the investigation.

    c. You present a copy of the written approval letter of the Eastern Cape Department of Education (ECDoE) to the Cluster and District Directors before any research is undertaken at any institutions within that particular district.

    d. You will make all the arrangements concerning your research.

    e. The research may not be conducted during official contact time.

    f. Should you wish to extend the period of research after approval has been granted, an application to do this must be directed to Chief Director: Strategic Management Monitoring and Evaluation.

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PGDP
EASTERN CAPE

Ikamva eliqaqambileyo!

g. Your research will be limited to those institutions for which approval has been granted, should changes be effected written permission must be obtained from the Chief Director: Strategic Management Monitoring and Evaluation;

h. You present the Department with a copy of your final paper/report/dissertation/thesis free of charge in hard copy and electronic format. This must be accompanied by a separate synopsis (maximum 2 – 3 typed pages) of the most important findings and recommendations if it does not already contain a synopsis.

i. You present the findings to the Research Committee and/or Senior Management of the Department when and/or where necessary.

j. You are requested to provide the above to the Chief Director: Strategic Management Monitoring and Evaluation upon completion of your research.

k. You comply with all the requirements as completed in the Terms and Conditions to conduct Research in the ECDoE document duly completed by you.

l. You comply with your ethical undertaking (commitment form).

m. You submit on a six monthly basis, from the date of permission of the research, concise reports to the Chief Director: Strategic Management Monitoring and Evaluation

3. The Department reserves a right to withdraw the permission should there not be compliance with the approval letter and contract signed in the terms and conditions to conduct research in the ECDoE.

4. The Department will publish the completed Research on its website.

5. The Department wishes you well in your undertaking. You can contact the Director, Ms. NY Kanjana on the numbers indicated in the letterhead or email nykanjana@live.co.za should you need any assistance.

NY KANJANA
DIRECTOR: STRATEGIC PLANNING POLICY RESEARCH & SECRETARIAT SERVICES

FOR SUPERINTENDENT-GENERAL: EDUCATION

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Ikamva eliqaqambileyo!

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APPENDIX D: UNIVERSITY INFORMED CONSENT FORM

NAME OF APPLICANT

<<Approved   >>

University of Fort Hare
Together in Excellence

Ethics Research Confidentiality and Informed Consent Form

Please note:

This form is to be completed by the researcher(s) as well as by the interviewee before the commencement of the research. Copies of the signed form must be filed and kept on record

(To be adapted for individual circumstances/needs)

Our University of Fort Hare / Department is asking people from your community / sample / group to answer some questions, which we hope will benefit your community and possibly other communities in the future.

The University of Fort Hare / Department/ organization is conducting research regarding ...**Learners' Pregnancy**... We are interested in finding out more about ....**Solutions to learners' pregnancy**....... We are carrying out this research to help ....**South Africa society**.... (*adapt for individual projects*)

Please understand that you are not being forced to take part in this study and the choice whether to participate or not is yours alone. However, we would really appreciate it if you do share your thoughts with us. If you choose not take part in answering these questions, you will not be affected in any way. If you agree to participate, you may stop me at any time and tell me that you don't want to go on with the interview. If you do this there will also be no penalties and you will NOT be prejudiced in ANY way. Confidentiality will be observed professionally.

I will not be recording your name anywhere on the questionnaire and no one will be able to link you to the answers you give. Only the researchers will have access to the unlinked information. The information will remain confidential and there will be no "come-backs" from the answers you give.

The interview will last around (X?) minutes *(this is to be tested through a pilot).* I will be asking you a questions and ask that you are as open and honest as possible in answering these questions. Some questions may be of a personal and/or sensitive nature. I will be asking some questions that you may not have thought about before, and which also involve thinking about the past or the future. We know that you cannot be absolutely certain about the answers to these questions but we ask that you try to think about these questions. When it comes to

answering questions there are no right and wrong answers. When we ask questions about the future we are not interested in what you think the best thing would be to do, but what you think would actually happen. (*adapt for individual circumstances*)

If possible, our organisation would like to come back to this area once we have completed our study to inform you and your community of what the results are and discuss our findings and proposals around the research and what this means for people in this area.
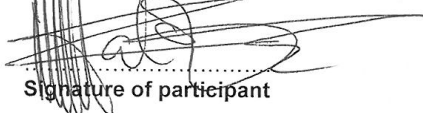
INFORMED CONSENT

I hereby agree to participate in research regarding **Examining the Reasons for the Exclusion of Pregnant Learner from School through the School Governing Body (SGB) Pregnancy policy**. I understand that I am participating freely and without being forced in any way to do so. I also understand that I can stop this interview at any point should I not want to continue and that this decision will not in any way affect me negatively.

I understand that this is a research project whose purpose is not necessarily to benefit me personally.

I have received the telephone number of a person to contact should I need to speak about any issues which may arise in this interview.

I understand that this consent form will not be linked to the questionnaire, and that my answers will remain confidential.
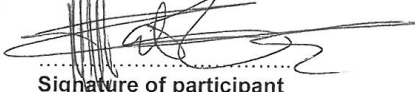
I understand that if at all possible, feedback will be given to my community on the results of the completed research.

....
Signature of participant

Date:.....30 – 01 – 17 .

I hereby agree to the tape recording of my participation in the study

....
Signature of participant

Date:.....30/01–/17 .

Document approved by UREC: 11 August 2011, V01

APPENDIX E

INFORMED CONSENT FORM FOR PARENTS/GUARDIANS

RESEARCH CONDUCTED BY: BAMIDELE JAMES SEIDU

I write to request your consent to interview your child about her perceptions for the reasons of her exclusion from school due to her pregnancy. I am a student at the University of Fort Hare and the research is in fulfilment of the degree Master of Education.

Participation in this research will be entirely voluntary. The participants in this research will be free to choose not to participate. Should they choose to participate, they are free not to respond to any question they do not wish to respond to, or can withdraw at any time without the consequences of any kind. The participants will remain anonymous in the study and the raw data from interviews will remain confidential.

In terms of the ethical requirements of the University of Fort Hare I now invite you to complete the form below as an indication of your voluntary acceptance for your child to take part in this research:

I…………………………………………………………………………………………. voluntarily give consent for my child to participate in the study researching the reasons for the exclusion of pregnant learners through the SGB pregnancy policy. I fully understand the procedures of the study as explained to me. I am aware that my child is under no obligation to participate in this study and may withdraw at any time without negative consequences to her.

Signature of the parent/guardian …………………………………..

Date   ………………………………….…

Signature of the researcher   …………………………………..

Date   …………………………………………………….

APPENDIX F
INFORMED CONSENT FORM FOR SGB CHAIRPERSON

RESEARCH CONDUCTED BY: BAMIDELE JAMES SEIDU

I write to request your consent to interview you about your perceptions on the reasons for the exclusion of pregnant learners at your school through SGB pregnancy policy. I am a student at the University of Fort Hare and the research is in fulfilment of the degree Master of Education.

Participation in this research will be entirely voluntary. As a participant in this research you will be free to choose not to participate. Should you choose to participate, you are free not to respond to any question you do not wish to respond to, or can withdraw at any time without the consequences of any kind. As a participant you will remain anonymous in the study and the raw data from interviews will remain confidential.

In terms of the ethical requirements of the University of Fort Hare I now invite you to complete the form below as an indication of your voluntary acceptance to take part in this research.

I……………………………………………………………………………………… voluntarily consent to participate in the study researching the reasons for the exclusion of pregnant learners through the SGB pregnancy policy. I fully understand the procedures of the study as explained to me. I am aware that I am under no obligation to participate in this study and may withdraw at any time without negative consequences to me.

Signature of the chairperson (SGB)   …………………………………………..

Date   ………………………………………

Signature of the researcher   …………………………………………..

Date   ………………………………………

INFORMED CONSENT FORM FOR PRINCIPALS OF SCHOOLS

RESEARCH CONDUCTED BY: BAMIDELE JAMES SEIDU

I write to request your consent to interview you about your perceptions on the reasons for the exclusion of pregnant learners at your school through SGB pregnancy policy. I am a student at the University of Fort Hare and the research is in fulfilment of the degree Master of Education.

Participation in this research will be entirely voluntary. The participants in this research will be free to choose not to participate. Should they choose to participate, they are free not to respond to any question they do not wish to respond to, or can withdraw at any time without the consequences of any kind. The participants and the school will remain anonymous in the study and the raw data from interviews will remain confidential. This research will not in any way affect the tuition times and other programs of the school.

In terms of the ethical requirements of the University of Fort Hare I now invite you to complete the form below as an indication of your voluntary acceptance to take part in this research.I……………………………………………………………………………………… voluntarily consent to participate in the study researching the reasons for the exclusion of pregnant learners through the SGB pregnancy policy. I fully understand the procedures of the study as explained to me. I am aware that I am under no obligation to participate in this study and may withdraw at any time without negative consequences to me.

Signature of the Principal   …………………………………….

Date   ……………………………………

Signature of the researcher   …………………………………….

Date   …………………………………….

APPENDIX H
INTERVIEW SCHEDULE FOR SGB CHAIRPERSON

1. The learners' pregnancy policy in South Africa (SA) allows the pregnant learners to continue with their schooling until such time they feel unfit to do so. What are the reasons for the exclusion of pregnant learners from your school? Your comments on this?

2. How do you feel about the presence of pregnant learners in your schools? Do you agree that SGB policy in your school that excludes a pregnant learner is inconsistent with SA Constitution? Please your thoughts about these?

3. Does your school have an exclusion policy on learners who fall pregnant while at school? If yes, what in your opinion on this exclusion policy?

4. Drawing from your experience as SGB chairperson,

   (a) Do you think exclusion policy has reduced the rate of pregnant learners?

   (b) What are your thoughts about pregnant learners exclusion policy which Department of Education refuses to accept?

5. In your opinion do you think it is better for pregnant learners to continue with their schooling throughout their pregnancy? Or do you think they should stay at home until they give birth? Give reasons for your answer.

6. Do you think pregnant learners deserve support academically from parents, educators and other learners? How can this be achieved? Please provide answer.

7. Have you noticed the percentage of pregnant learners who returned back to school after they gave birth? Please clarify.

8. Do you aware that policy on management of learners' pregnancy requires the teachers to assist the pregnant learners with their school work while they are on maternity leave. What are your views on this?

9. What are the possible solutions of solving the problem of SGB pregnancy policy encountered by pregnant leaners and their parents?

10. AS the SGB chairperson, would you say the policy should be kept or stopped? Please give reasons for you answers.

11. What do you think can be the alternative to the exclusion policy formulated by SGB?

12. Is there anything else you want to share with me on the subject?

Thank you for your participation.

Yours in education,

Bamidele James Seidu (M. Ed. student)

APPENDIX I
INTERVIEW SCHEDULE FOR PARENTS

1. The learners' pregnancy policies in South Africa allow the pregnant learners to continue with their schooling until such time they feel unfit to do so. Are you satisfied with the reasons given by the school to exclude your daughter from school due to pregnancy? Your comments on this?

2. What were your thoughts when you learnt that your daughter who was still studying fell pregnant?

3. In your opinion do you think it is better for pregnant learners to continue with their schooling throughout their pregnancy? Or do you think they should stay at home until they give birth? Give reasons for your answer.

4. Do you think pregnant learners deserve support academically from parents, educators and other learners? Please clarify how this can be done.

5. If you had your way, would you say the pregnant learners' exclusion policy should be kept or stopped? Give reasons for your answer.

6. Was there consultation and meetings with the school governance and management before your daughter was excluded for the pregnancy?

7. What are the possible solutions to learners' pregnancy rather than exclusion from school?

8. Is there anything else you want to share with me on the subject?

Thank you for your participation.

Yours in education,

Bamidele James Seidu (M. Ed. student)

APPENDIX J
INTERVIEW SCHEDULE FOR THE PREGNANTLEARNERS

1. The learners pregnancy policy in South Africa allow the pregnant learners to continue with their schooling until such time they feel unfit to do so, but some schools formulate policy that excludes pregnant learners from school. What are your comments on this?

2. When you look back,

   (a) How did you feel to be excluded from school due to pregnancy reason?
   (b) Were you given any opportunity to be heard before the exclusion?

3. From your experience,

   (a)How did the educators treat you when you were pregnant? Explain with example.

      How did this make you feel?

   (b) How do other learners treat pregnant learners?

   (c) How do parents treat pregnant learners?

4. What do you think the school community should do in future to support pregnant learners?

5. Has there been any change to your school performance before you got pregnant, during pregnancy or after given birth? If yes, how

   (a) Academic Performance (home work; tests; tasks, examination)

   (b) Extramural activities

   (c)Social life

6. What are some of the difficulties you are facing in school generally now that you decide to continue or stop schooling when you got pregnant? Give reasons for your answer.

7. Is there anything else you want to share with me on the subject?

   Thank you for your participation.

Yours in education,

Bamidele James Seidu (M. Ed. student)

CERTIFICATE

Lydia Weight
NTSD English Specialist
SACE No: 11135129

E-mail: lydiaweight@gmail.com

Pinpoint Proofreading Services

40 Ridge Rd

Kloof

Durban

3610

6 June 2017

TO WHOM IT MAY CONCERN

This is to certify that I, Lydia Weight, have proofread the document titled: EXAMINING THE REASONS FOR THE EXCLUSION OF PREGNANT LEARNERS FROM SCHOOL THROUGH THE SCHOOL GOVERNING BODY (SGB) PREGNANCY POLICY by Mr. B.J. Seidu. I have made all the necessary corrections. The document is therefore ready for presentation to the destined authority.

Yours faithfully

L. Weight