



THE IMPLICATIONS OF THE “OGOD” JUDGMENT:

A Guideline for Public Schools, and Religious Practitioners and Organisations working into Public Schools

On 28 June 2017, the Johannesburg High Court delivered judgment in the case of **OGOD vs Laerskool Randhart & Others**. In terms of the Court order, it is illegal for a public school:

- 1) *“To promote or allow its staff to promote that it, as a public school, adheres to only one or predominantly only one religion to the exclusion of others; and*
- 2) *To hold out that it promotes the interests of any one religion in favour of others”.*

Since the judgment affects all 24,000+ public schools in South Africa, it is important to understand its practical implications - and in particular the fact that it does NOT prohibit religious observances per se.

WHAT IS ALLOWED?

Most importantly, the Court confirmed that **religious observances** (which has a broad meaning and includes, for example, reading of Scripture, singing of religious songs, prayer times, Scripture Union activities, religious dress and dietary customs, etc.) **may take place at public schools**, subject to the following **three conditions**:

1. They must take place in terms of **rules established by the School Governing Body (SGB)**.

This means that if a public school does not currently have rules regarding the conduct of religious observances, the SGB should establish such rules (ideally through a process of consultation, and taking into account that South Africa is a diverse society where people – including learners – hold to different religious beliefs). These rules may (have to) be revised from time to time.

The “OGOD” judgment suggests that, in addition to ensuring that religious observances take place on an equitable basis and freely and voluntarily, the rules should also cover the situation where religious practitioners or organisations work into the school.

It is important that religious practitioners and organisations enquire into, or be made aware of, the rules (including the alternative arrangements made for learners of other faiths; and the measures put in place to ensure that attendance at religious observances is always free and voluntary), thus ensuring compliance with the law.

2. They must take place on an **equitable** basis.

This means that a public school must act even-handedly and fairly in relation to learners of different religions (or no religion at all), taking into account that we live in a diverse society where there should be space for all to practise their religious beliefs (including in public schools).

What this will look like may vary from one school to another, and even within one school from time to time – depending, amongst other things, on the learner make-up, needs, etc. of the school. (Again, this is something for the SGB to work out on grassroots level).

Importantly, although some schools may choose to go this route, the judgment does not oblige public schools to conduct “multi-faith” religious observances, for example, by reading (in one session, or on a rotational basis) from different religious texts in school assembly; praying a “universal” prayer; having a “moment of silence”, etc.

3. Attendance must be **free and voluntary**.

This means that every learner has a choice whether or not to attend a religious observance, and should not be made to feel any (direct or indirect) pressure to attend. It is advisable to clearly and continuously communicate to learners that they have a choice, and are under no obligation to attend.

Further importantly, the Court did NOT find that it is illegal for public schools to request learners to state (for purposes of ensuring equitable treatment, and free and voluntary attendance) what particular religion they associate with, if any at all.

WHAT IS NOT ALLOWED?

In terms of the judgment, no public school may promote (externally to the public, or internally in the school) one religion over another, or hold itself out as exclusively or predominantly Christian, Jewish, Muslim, Buddhist, atheist, etc.

This means that any public school that currently has “single faith branding”, should (through its SGB) take steps to revise its branding, thus ensuring compliance with the law.

**NOTE: This document is intended to serve as a general guideline only, and it may be wise to obtain legal advice particular to the school or religious organisation in question.*

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