

OPEN LETTER TO THE MINISTER OF BASIC EDUCATION FROM CENTRE FOR CHILD LAW, CALS, EE, EE
LAW CENTRE, SECTION 27 AND LRC

21 June 2012

Dear Minister Motshekga and Director-General Soobrayan,

We write to you as a group of civil society organisations deeply concerned about the significant problems facing the Department of Basic Education that stand in the way of ensuring every learner's Constitutional right to education. In the recent past, we have represented learners, school governing bodies, crisis committees, and other non-governmental organizations in litigation against your Department. Our aim with this letter is to respond to the press conference held by you on Friday 15 June 2012 in which you denied there was a crisis in education and to indicate that our litigation against your department is not for any reason other than the urgent need to address critical lapses in the administration of education in this country.

The difficulties the Department and education system face are manifold, including:

- the appalling state of school infrastructure at township and rural schools across the country, especially in regards to sanitation;
- the lack of norms and standards for school infrastructure;
- the critical shortage of desks and chairs in schools throughout the nation;
- the failure to combat the rise of sexual violence and corporal punishment in schools;
- the non-delivery of workbooks and textbooks to thousands of learners across the country;
- the lack of access to libraries, particularly where this means that home language texts cannot be accessed.
- the failure to revise the national policy on learner pregnancies;
- inadequate public school funding and the placement of schools in inappropriate quintiles, directly impacting the school's funding;
- the failure to provide learner transport in accordance with policy;
- the failure to issue norms and standards regarding admission policy;
- the delivery of education related services to children being interrupted through problems with tenders;
- the lack of any discernable success in the Department's section 100(1)(b) intervention in Limpopo and the Eastern Cape, where substantial problems remain in school nutrition, scholar transport, and textbook delivery;
- the failure to implement the 2012 post provisioning in the Eastern Cape, leaving many schools without enough educators; and
- the lack of a pro-poor teacher post-provisioning scheme, meaning a failure to draw quality teaching into township and rural schools, and the lack of training, support and accountability for teachers in these schools.

Based on our collective experience working in the education sector, we believe that these problems and more, the magnitude of which represent a catastrophic failure in the public education system, are a direct consequence of the government's failure to adequately deal with long-standing systemic issues. Many of these issues are a direct result of poor administration by district offices, which are either unresponsive to the needs of the schools or lack the administrative capacity to attend to those needs.

Many of the problems plaguing the Department began prior to your tenure as Minister of Basic Education. Post-apartheid South Africa inherited an education system beset by deeply entrenched inequality. Yet, 18 years since the right to education was constitutionally entrenched many of the

structural inequities remain, some of which are outlined above. The non-delivery of services, endemic to the Departments of Education and their district offices, disproportionately impacts the poor and under-privileged, deepening racial and social inequality. Today only those who can afford to buy quality education receive it. This is not what the Freedom Charter intended and as you will no doubt appreciate this state of affairs has profound and continuously deepening negative ramifications for the majority of learners who are black and poor. We intend no exaggeration by stating that the long term effect of the failure of the government to address the structural imbalances in the provision of education is to consign an entire generation of young black South Africans into a life of poverty and inequality.

We appreciate that there are no simple solutions to these problems, but as representatives of civil society we could no longer stand by and witness the continued violation of the right to education in this country. The right to education should be immediately realisable as it is not subject to qualification. An integral component of the Bill of Rights, the right to education is fundamental to resolving the structural legacy of apartheid. It is within this context, and as a matter of last resort, that we have initiated litigation against the Department where other means of engagement have failed to secure an adequate response to the problems outlined above.

We therefore invite you, Minister, to convene an urgent meeting of the relevant role players, including the signatories to this letter, to discuss a sustainable strategic plan which moves beyond litigation to address the immediate and long term systemic failures in the provision of the right to education. This meeting should identify short and long-term interventions that will ensure the continuation of services and processes that must be implemented to resolve the many systemic barriers to the provision of education in this country. While we believe that the problems besetting the education sector can best be resolved outside of legal processes, we do not rule out litigation as a means to securing the right to education should circumstances demand this.

We urge you to fulfil your Constitutional obligation, in an open and transparent manner, to take the steps necessary to address the massive inequalities in the provision of education and to prevent the complete collapse of the public education system. We look forward to further engagement with you and welcome any opportunities to be involved in finding workable solutions.

Yours sincerely,

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