

**IN THE EASTERN CAPE HIGH COURT, BHISHO
(REPUBLIC OF SOUTH AFRICA)**

CASE NO. _____

In the matter between:

EQUAL EDUCATION	First Applicant
AMATOLAVILLE PRIMARY SCHOOL	Second Applicant
and	
MINISTER OF BASIC EDUCATION	First Respondent
MEC FOR EDUCATION: LIMPOPO	Second Respondent
MEC FOR EDUCATION: EASTERN CAPE	Third Respondent
MEC FOR EDUCATION: FREE STATE	Fourth Respondent
MEC FOR EDUCATION: GAUTENG	Fifth Respondent
MEC FOR EDUCATION: KWAZULU-NATAL	Sixth Respondent
MEC FOR EDUCATION: MPUMALANGA	Seventh Respondent
MEC FOR EDUCATION: NORTHERN CAPE	Eight Respondent
MEC FOR EDUCATION: NORTH WEST	Ninth Respondent
MEC FOR EDUCATION: WESTERN CAPE	Tenth Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the Applicants intend to make application, on a date to be allocated by the Registrar, for orders:-

1. Declaring that regulation 4(5)(a) of the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure, 2013 (No. R. 920 in *Government Gazette 37081* of 29 November 2013) ('the Regulations') is inconsistent with the Constitution, the South African Schools Act 84 of 1996 ('SASA'), and the order granted on 11 July 2013 by Dukada J in the above Honourable Court under case number 81/2012, and is accordingly unlawful and invalid;
2. In the alternative to paragraph 1 above, reviewing and setting aside regulation 4(5)(a) of the Regulations;
3. Declaring that regulation 4(3)(a) read with regulation 4(1)(b)(i) of the Regulations requires that all schools and classrooms built substantially from mud as well as those schools and classrooms built substantially from materials such as asbestos, metal and wood, must within a period of three years from the date of publication of the Regulations, be replaced by structures which accord with the Regulations, the National Building Regulations, SANS 10-400 and the Occupational Health and Safety Act 85 of 1993;
4. Striking out the word 'entirely' wherever it appears in regulation 4(3)(a); alternatively, striking out the phrase 'schools built entirely' wherever it appears in regulation 4(3)(a), and replacing it with the words 'classrooms built entirely

or substantially’;

5. Declaring that regulation 4(3)(b) read with regulation 4(1)(b)(i) of the Regulations is to be read as requiring that all schools that do not have access to any form of power supply, water supply or sanitation, must within a period of three years from the date of publication of the Regulations, comply with the norms and standards described in regulations 10, 11 and 12 of the Regulations;
6. Declaring that regulation 4(2)(b) of the Regulations requires that all current plans in relation to the schools and projects contemplated in paragraph (a) must, as far as reasonably practicable, be implemented in a manner which is consistent with the Regulations, and that all future planning and prioritisation in respect of these schools must be consistent with the Regulations;
7. Declaring that Regulations 4(6)(a) and 4(7) are invalid to the extent that they do not provide for the plans and reports to be made available to the public;
8. Directing the Minister to amend the Regulations to provide that the plans and reports submitted in terms of regulations 4(6)(a) and 4(7) of the Regulations must be made publicly available within a stipulated period of their having been submitted to the Minister, which period must be reasonable;
9. If it is found that the making of the Regulations was administrative action, then in respect of the relief sought in paragraph 2 above, varying the 180 day time limit contained in section 7(1)(b) of the Promotion of Administrative Justice

Act 3 of 2000, and extending it to the date of institution of this application.

10. Directing the First Respondent to pay the costs of this application;
11. Directing that any of the Second to Tenth Respondents who opposes this application is to pay the costs, jointly and severally with the First Respondent;
12. Granting the Applicants such further and/or alternative relief as this Court may deem fit.

TAKE NOTICE FURTHER that the accompanying affidavits of **YOLISWA DWANE, IVAN MENTOOR, NOMBELELO BARNES, LUNATHI MAHOBE, ISAAC RAMROCK, TOBEKA TONI, APHELELE MGIDI, NOMATHUSE DANIEL, MNTUNDINI SAPHEPHA, GIBE ZUKHANYE** and **ZUBAKAZI NJEMLA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed **C/O SQUIRE SMITH & LAURIE, 44 Taylor Street, King Williams Town** as the address at which they will accept notice and service of all documents and process in these proceedings.

TAKE NOTICE FURTHER that if any of the Respondents intends opposing this application, they are required:

- (a) To notify the Applicants' attorney in writing within 1 month of service of the application, and (i) to appoint in such notice an address within 15 kilometres of the

office of the Registrar of this court at which they will accept notice and service of all documents in these proceedings, and (ii) to provide their postal, facsimile and electronic mail addresses where available; and

- (b) within thirty days after they have given notice of their intention to oppose the application, to file their answering affidavits, if any.

If no such notice of intention to oppose is given, the application will be made on the 26th of JULY 2016 at 09h30 or such time as counsel may be heard.

DATED at CAPE TOWN on this day of 18 MAY 2016.

**THE EQUAL EDUCATION
LAW CENTRE**

Attorneys for the Applicants

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TO: THE REGISTRAR

Eastern Cape High Court

Bhisho

And to: **The State Attorney**

Attorneys for First Respondent

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And to: **The State Attorney**

Attorneys for the Second Respondent

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And to: **The State Attorney**

Attorneys for the Third Respondent

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And to: **The State Attorney**

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Bloemfontein

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And to: **The State Attorney**

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And to: **The State Attorney**

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And to: **The State Attorney**

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And to: **The State Attorney**

Attorneys for the Eighth Respondent

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Kimberly

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And to: **The State Attorney**

Attorneys for the Ninth Respondent

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Mnabatho

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And to: **The State Attorney**

Attorneys for the Tenth Respondent

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