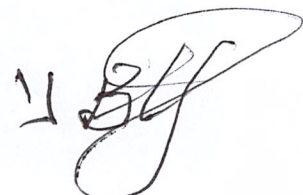


RESOLUTION OF THE SCHOOL GOVERNING BODY OF DALAGUBA SECONDARY SCHOOL

RE: LITIGATION ON ADEQUATE AND DECENT SCHOOL SANITATION

1. On 14/08/2019 at a meeting held at DALAGUBA S.P.S the School Governing Body (SGB) of Dalaguba Secondary School considered the following:
2. The school's lack of usable learner toilets. This has been the case since 2014 when a contractor that was appointed by the Eastern Cape Education Department ("ECDoE") to construct learner toilets disappeared without completing the toilets. As a result, learners have no choice but to relieve themselves under the trees close to the nearby river. This undoubtedly compromises the safety of the learners and violates their right to human dignity.
3. The ECDoE has been made aware of the school's lack of usable learner toilets. Despite being aware, the ECDoE has done nothing to remedy the situation by assisting the school with suitable learner toilets. Of concern is that the School does not appear in the Eastern Cape Education Department published Infrastructure Project list for the 2018/19 financial year. The school is therefore unaware of the ECDoE's plan, if there are any, to provide the learner toilets.
4. Again, more recently – on 21 June 2019, the SGB reached out to the ECDoE through its legal representatives namely, Equal Education Law Centre for assistance with temporary learner toilets. Receipt of our letter was acknowledged by the District Director who undertook to promptly look into the matter and revert. To date, we have not heard from the ECDoE.
5. Having considered and discussed the above, the SGB resolves as follows:
 - 5.1. that the SGB will take all measures necessary, which may include litigation, for its failure to provide the school with proper learner toilets and water provisioning.



5.2. that Equal Education Law Centre is hereby appointed to legally represent the SGB in any further legal steps or actions the SGB elects to take.

5.3. that the chairperson of the SGB is hereby authorized to attest to any affidavit on behalf of the SGB in such litigation, and/or to sign and execute any other document as may be necessary for the purposes of the SGB's involvement in such litigation.

Buyisile Lollis Jaelino

SGB CHAIRPERSON: NAME & SURNAME

Jaelino

[DATE] 14/08/2019

Buyisile Louis Jaelino
+

Chairperson

Mhlekeri Makhende

Fikile Ndamase

Nongxowa

Nosipho Soboyisi

Sekela Nobhala

Nobangile Mlahleni

[Signature]



Handwritten signature or initials.



BLJ



BLJ



15 BLJ



↓ BLJ



BLJ

BL 8 38



Handwritten signature or initials.



BLJ



→ BLJ



Ref: Ms (DALA/sm/CStuurman)

21 June 2019

To: MEC, Eastern Cape Department of Education
Mr Fundile Gade
Per email: nombuyiseko.nkwenkwezi@ecdoe.gov.za

And to: Superintendent, Eastern Cape Department of Education
Mr Themba Kojana
Per email: nomamdla.gobeni@ecdoe.gov.za

And to: District Director, OR Tambo Coastal Education District
Mr Varkeychan Joseph
Email: varkeychan.joseph@ecdoe.gov.za

And to: Circuit Manager, OR Tambo Coastal Education District
Mr Themba Msweli
Email: themba.msweli@ecdoe.gov.za

Dear Sirs,

URGENT PROVISION OF SANITATION AT DALAGUBA PRIMARY SCHOOL

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

Public Benefit Organisation
(Exemption No: 930038683)

Trustees:
Adv Janice Bleazard
Itumeleng Mahabane
Dr Ursula Hoadley
Ntshadi Mofokeng

Yoliswa Dwane
Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

1. We write on behalf of our client, Dalaguba Primary School Governing Body ("the School") situated in Libode.
2. The Equal Education Law Centre (EELC) is a public interest law clinic working to advance the right to education in South Africa. The EELC has been actively engaged in matters around school infrastructure and sanitation in the Eastern Cape, and on the effective implementation of the Regulations Relating to Minimum Uniform Norms and Standards for School Infrastructure (the "Regulations") across the country.
3. Our instruction is that the School does not have usable learner toilets. The School was planned for in the ECDoE infrastructure plans to be provided with proper sanitation during the 2013/14 financial year. A contractor was appointed during [year] to build the toilets for the school but. disappeared from the site before completing the construction of toilets.
4. The reasons for the contractor's failure to complete the construction of the toilets were unknown to the School and the School Governing Body ("the SGB") until a year later when they approached the District Office for clarity. The circuit manager, Mr Msweli, indicated that the former school principal advised the ECDoE, in writing, that the contractor had completed the erection of the toilets and requested the District to release the outstanding funds that were due to the contractor.
5. The ECDoE acknowledged that it accordingly released the funds to the contractor without first inspecting the work of the contractor. As a result, the contractor disappeared without completing the work.
6. On 14 June 2019, the EELC contacted the circuit manager – Mr Msweli, who confirmed the aforesaid information. Mr Msweli informed that the ECDoE is unable to investigate

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Itumeleng Mahabane
Dr Ursula Hoadley
Ntshadi Mofokeng

Yoliswa Dwane
Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

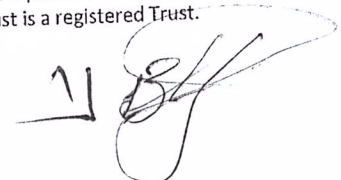
T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.





...this matter because the former school principal who was involved had already resigned and the owner of the construction company had passed away. To date, the school is still without usable toilets.

- 7. Due to the lack of adequate sanitation at the School, learners have no choice but to relieve themselves under the trees close to the nearby river. This undoubtedly compromise the safety of the learners and violate their right to human dignity.
- 8. Regulation 12(1) of the Regulations Relating to Minimum Uniform Norms and Standards for School Infrastructure (the "Regulations") details sanitation norms and standards and specifically states that:

"All schools must have a sufficient number of sanitation facilities, as contained in Annexure G, that are easily accessible to all learners and educators, provide privacy and security, promote health and hygiene standards, comply with all relevant laws and are maintained in good working order."

- 9. Regulation 4 furthermore determines timelines within which the Norms and Standards must be implemented, and states that schools without any form of sanitation must be prioritised. Importantly, regulation 11 provides that all schools must have sufficient water supply which complies with all relevant laws and which is available at all times for drinking, personal hygiene and, where appropriate, for food preparation. The recent judgment of the Bhisho High Court in the case of [*Equal Education v Minister of Basic Education and Others* 2018 (9) BCLR 1130 (ECB)], confirmed by the Constitutional Court, removes any doubt as to the obligations of the government to urgently attend to the fixing of school infrastructure.
- 10. According to the Norms and Standards for School Infrastructure Regulations and the aforesaid judgment, all public schools in South Africa should have been provided with electricity, water and proper sanitation by the end of November 2016.

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:
Adv Janice Bleazard
Itumeleng Mahabane
Dr Ursula Hoadley
Ntshadi Mofokeng

Yoliswa Dwane
Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675
info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

EELC

EQUAL
EDUCATION
LAW CENTRE

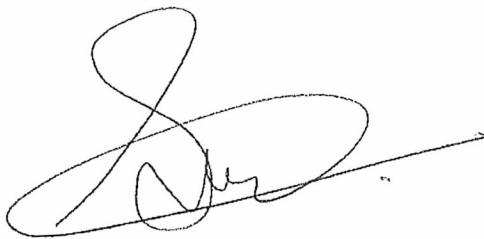
11. Of concern is that despite the lack of sanitation, and the ECDoE being aware of these challenges, the School does not even appear in the Eastern Cape Education Department Infrastructure Project list for the 2018/19 financial year as one that needs to be provided with proper and adequate sanitation.

12. In light hereof, we have been instructed to demand, as we hereby do, that the school

- a) be urgently provided with adequate temporal toilet structures by no later than **Wednesday, 10 July 2019**, and
- b) the ECDoE to provide clearly written plan of how, and by when, will the toilets be replaced by permanent appropriate toilet structures consistent with the Regulations by the aforesaid date.

13. Kindly provide us with your substantive response hereto by no later than **Friday, 28 June 2019**.

Yours faithfully,



EQUAL EDUCATION LAW CENTRE

Email: siphom@eelawcentre.org.za

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:
Adv Janice Bleazard
Itumeleng Mahabane
Dr Ursula Hoadley
Ntshadi Mofokeng

Yoliswa Dwane
Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

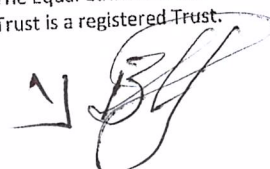
T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.





EQUAL
EDUCATION
LAW CENTRE

Ref: Ms T Cooper-Bell/ Ms P Moyo/ Sanitation/EC

16 July 2019

To: MEC, Eastern Cape Department of Education
Mr Fundile D Gade
Per Email: ntombentsha.mijikelo@ecdoe.gov.za

And To: Superintendent, Eastern Cape Department of Education
Mr Themba Kojana
Per Email: nomandla.gobeni@ecdoe.gov.za

And To: Chief Directorate: Facilities and Infrastructure Management
Mr Z Mnqanqeni
Per Email: mavis.mazwi@edu.ecprov.gov.za

And To: Director: Infrastructure Planning
Mr Thabang Monare
Per Email: thabang.monare@ecdoe.gov.za

And To: Director: Infrastructure Delivery
Mr Tsepo Pefole
Per Email: tsepo.pefole@ecdoe.gov.za

And To: Head of Department: Eastern Cape Department of Public Works
Adv. James Mlawu
Per Email: buiswa.njiwa@ecdpw.gov.za

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

Public Benefit Organisation
(Exemption No: 930038683)

Trustees:
Adv Janice Bleazard
Itumeleng Mahabane
Dr Ursula Hoadley
Ntshadi Mofokeng

Yoliswa Dwane
Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.



EQUAL
EDUCATION
LAW CENTRE

Dear Sir

DECLARATION OF DISPUTE IN TERMS OF REGULATION 20 OF THE MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL INFRASTRUCTURE REGULATIONS

- 1. We refer to correspondence on behalf of
 - 1.1 Zanovuyo Senior Secondary School dated 22 May 2019;
 - 1.2 Kei Combined School dated 22 May 2019;
 - 1.3 Lalatshe Junior Primary School dated 5 June 2019;
 - 1.4 Zanewonga Secondary School dated 21 June 2019;
 - 1.5 Ngqwara Primary School dated 21 June 2019;
 - 1.6 Dalaguba Primary School dated 21 June 2019;

Which letters are attached hereto for your ease of reference.

- 2. We act on behalf of the abovementioned schools.
- 3. On 19 June we sent follow up letters in respect of the schools listed in 1.1-1,3 above, requesting your response to the aforementioned letters and requested that you furnish us with such response by 2 July 2019. To date we have not received any response to our letters and to our clients' overtures to engage on the urgent sanitation concerns confronted by their schools.
- 4. The EELC, on behalf of the School Governing Bodies of the respective schools have voluntarily undertaken a process under Regulation 20 of the Norms and Standards for Public School Infrastructure Regulations in that they have attempted to initiate a resolution of the issues as defined above. The department has failed to respond meaningfully to the letters addressed to it, which failure is an indication that the department is not interested in settling the matter.
- 5. In light of your non-response to the aforementioned letters, our instructions are to declare a dispute in terms of Regulation 20 of the Norms and Standards for Public School Infrastructure Regulations.
- 6. The dispute relates to the failure of the Department of Basic Education to address the infrastructure concerns that we have communicated to you.



EQUAL
EDUCATION
LAW CENTRE

- 7. As you are aware the Norms and Standards for School Infrastructure Regulations outlaw plain pit latrines and mandate the department of basic education to ensure that schools have adequate and safe sanitation. The department has so far failed to fulfil its obligations for these schools.
- 8. This notification is made on the basis that the EELC, as the intermediary party on behalf of the School Governing Bodies of the abovementioned schools, have attempted to initiate negotiate of a resolution of the dispute and have not been successful in that respect.
- 9. Our clients propose that a meeting be held no later than **2 August 2019**, a period not longer than 15 days at a mutually suitable venue. The nature of the meeting, that is, whether it is a mediation, conciliation or arbitration and the agreement on a facilitator can be determined upon receipt of the Department's undertaking to meet.
- 10. You are requested to communicate your acknowledgement of receipt of this notification and communicate your instructions within five business days, that is by close of business on **23 July 2019**, failing which, our instructions are to approach the High Court for urgent relief.
- 11. It must be expressly noted that education is an immediately realisable right and as such any extensions to any dates mentioned above will not be entertained.

Yours faithfully

EQUAL EDUCATION LAW CENTRE

Per Email: tarryn@eelawcentre.org.za

Per Email: precillar@eelawcentre.org.za

Copy: Premier of the Eastern Cape
 Premier Mabuyane
 Per Email: Thobela.Mahijana@otp.ecprov.gov.za



EQUAL
EDUCATION
LAW CENTRE

Minister of Basic Education
Minister Motshekga
Per Email: Mabua.S@dbe.gov.za

A handwritten signature in black ink, appearing to be 'Mabua.S', is located in the bottom right corner of the page.

IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE LOCAL DIVISION, BISHO

Case No. _____

In the matter of:

SCHOOL GOVERNING BODY OF DALAGUBA PRIMARY
SCHOOL

First Applicant

SCHOOL GOVERNING BODY OF ZANEWONGA SENIOR
SECONDARY SCHOOL

Second Applicant

SCHOOL GOVERNING BODY OF NGQWARA PRIMARY
SCHOOL

Third Applicant

And

MEC FOR EDUCATION: EASTERN CAPE
SUPERINTENDENT, EASTERN CAPE EDUCATION
DEPARTMENT
MINISTER OF BASIC EDUCATION

First Respondent

Second Respondent

Third Respondent

SUPPORTING AFFIDAVIT

N. B.

A. B.

I, the undersigned,

NOLUNDI BHOBHO

state under oath as follows:

1. I am the Chairperson of the School Governing Body of Zanewonga Senior Secondary School (the "Zanewonga SGB").
2. I am duly authorized to make this application and depose to this affidavit on behalf of the School Governing Body of Zanewonga Senior Secondary School. A resolution of the School Governing Body to this effect is annexed as **NB 1**.
3. The facts contained in this affidavit are both true and correct, and within my personal knowledge unless the context provides otherwise. Where I rely on information conveyed to me by others, I state the source and believe that information to be correct.
4. Where I make submissions of a legal nature I do so on the advice of the Zanewonga Senior Secondary School SGB's legal representatives, whose advice I believe to be correct.

FACTUAL BACKGROUND

5. Zanewonga Senior Secondary School is a co-educational, quintile 1, no-fee, public school located at Gqunqe Agricultural Authority, Centane, Eastern Cape. There are currently about 400 admitted learners from grade 8 to 12.

N.B

A, B

6. The school was established in 1995 by local community members and currently consists of 8 classrooms made of mud structures. In addition to this, temporary structures were erected in May 2018 by the Eastern Cape Department of Education ("ECDoE") as 3 of the 8 classrooms have been rendered unusable due to the structures being dilapidated and falling down.
7. Since the establishment of the school, it has never been maintained or renovated by the ECDoE. As a result, the school is current falling apart – with all the classrooms and toilet structures having leaking roofs and crumbling walls. We attach as annexures **NB 2, 3, 4, 5, 6, 7, 8, 9, and 10.**
8. As mentioned, the classrooms have roofs that leak when it rains, while others have large cracks in the walls which is likely to result in the collapsing of the walls at any time, especially should there be heavy rainfall or strong winds.
9. This concern is justified as in the past the school has been subject to wreckage due to strong winds as happened in 2017 when the school lost three classrooms due to strong winds.
10. It was when the ECDoE was informed about this incident, that they replaced those classes with temporary structures made of asbestos in May 2018.
11. The School witnessed a similar incident towards end of 2017, when two of the buildings housing our learner toilets were destroyed by strong winds. Although the

N. B.

A, B

52

ECDoE was informed about the incident, to date nothing has been done to assist the school. As a result, the school had only one toilet for the entire school with no roof or door. Due to the inaction of the ECDoE, and the pressing need for sanitation infrastructure at the school, the school was forced to fix the roof with their own funds. This however is a temporary fix for which there is no guarantee that it will last.

12. In addition to the above, the school currently has no water supply. In 2017 the ECDoE assisted the school with drilling a borehole, however this borehole was left unfinished and there is no water coming out. The school has been provided with rainwater tanks; however, these are empty and so do not assist the school with the provision of water.

13. Due to the lack of water, the school is forced to purchase water or collect water from the river for drinking and cooking purposes. The river water is untreated and poses a health risk to the learners and staff at the school. The ECDoE has been made aware of the water situation on numerous occasions, but to date has not visited the school in order to assess the situation, nor have they offered assistance to the school, or provided water in any way.

14. On 6 May 2019, the learners protested by blocking the road to the school. It was raining on that day and the water was flooding the classrooms. The learners were demanding that the department attend to the school to fix the classrooms. As a result of that protest, the circuit manager met with the learners and advised that the ECDoE would be building new classrooms but gave no timeline.

N. B

A. B

15. On 21 May 2019, 7 parents went to the office of the Premier of the Eastern Cape to demand that the school be fixed. The next day members of the Premier's office attended to the school, but since then and despite follow up, there has been no further correspondence from the Premier's office or from the ECDoE.

16. On 21 June 2019, our legal representative forwarded a letter to the ECDoE. To date neither our legal representatives nor the SGB have received any feedback to this letter and the demands contained therein.

17. On 16 July 2019, our legal representatives declared a dispute and initiated correspondence to try and resolve this matter through an alternative dispute resolution ("ADR") process. Similarly, the Department has failed to respond to this request.

18. As a result, the state of the sanitation infrastructure and the provision of water to the school remains the same.

19. The failure of the Department to act is in direct violation of the constitutional rights to education, health, dignity, a safe environment, and the rights of the child, as discussed in the founding affidavit of 15 August 2019 to which this affidavit is attached.

20. In light of the above, we seek relief in terms of the abovementioned founding affidavit.

SIGNED at CENTANE on this 16 day of AUGUST 2019.

N. B

A. B

N. A. Bhocho

NOLUNDI BHOBHO

THUS SWORN TO AND SIGNED before me at CENTANE on this the 16
day of AUGUST 2019 by the deponent who acknowledges that she knows
and understands the contents of this affidavit and she has no objection to taking the
prescribed oath and that he/she considers the oath as binding on his/her conscience.

7111961-2
[Signature] CS
ANNI A
COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
DETECTIVE
2019 -08- 16
CENTANE
SUID-AFRIKAANSE POLISIEDIENS

RESOLUTION OF THE SCHOOL GOVERNING BODY OF ZANEWONGA SECONDARY SCHOOL

RE: LITIGATION ON SAFE AND DECENT SCHOOL INFRASTRUCTURE

1. On 15/08/2019 at a meeting held at ZANEWONGA SIS, the School Governing Body ("SGB") of Zanewonga Secondary School considered the following:
2. The state of Zanewonga Secondary School's ("school") infrastructure. The school is mainly made of mud structure with asbestos temporary structures that were recently construct by the Eastern Cape Department of Education ("ECDoE"). Since establishment, the school had never been maintained and/or renovated by the ECDoE. As a result, the school is currently falling apart. The classrooms have roofs that leaks when it rains. Some of the classrooms have alarming cracks on the walls which could collapse anytime. This undoubtedly means that learners and educators are not safe.
3. The school currently has one pit latrine toilet for the entire school with no roof and a door. The toilet is unsafe but learners have no choice but to make use of this unsafe and dehumanising toilet to relieve themselves.
4. Water supply is problematic as the school does not have municipal water supply and/or boreholes. The school has to rely on rainwater tanks and make use of untreated rainwater for school nutrition.
5. On 21 June 2019, the SGB reached out to the ECDoE through its legal representatives, Equal Education Law Centre ("EELC") for assistance with safe temporary classrooms and learner toilets. To date, we have not heard from the ECDoE and the state of the school's infrastructure remain unchanged.
6. Having considered and discussed the above, the SGB resolves as follows:

N.B.

A.B.

6.1. that the SGB will take all measures necessary, which may include litigation, for its failure to provide the school with safe classrooms, as well as safe learner toilets, and water provisioning;

6.2. that Equal Education Law Centre is hereby appointed to legally represent the SGB on this litigation.

6.3. that MRS N. A BHOBHO of the SGB is hereby authorized to attest to any affidavit on behalf of the SGB in such litigation, and/or to sign and execute any other document as may be necessary for the purposes of the SGB's involvement in such litigation.

ALBERTINA N. BHOBHO

SGB CHAIRPERSON: NAME & SURNAME

[DATE]

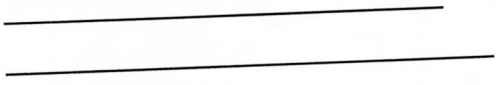
~~N.A. Bhobho~~

~~AB~~

~~Mdamba~~

M.B.

A.B



N.B.

A.B

8/13/2019



Ni B.

A.B



N.B.

A.B