

The Story of the **Metro East Case**

In search of a school place for all in the Western Cape



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EELC

EQUAL
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Our victory

Securing a school place for over 220 learners

At the beginning of the 2022 school year, several parents approached the EELC law clinic, because schools in their areas such as Khayelitsha and Kraaifontein had turned them away telling them that they were oversubscribed (full) and that there was no space for their children.

The parents told EELC lawyers that when they went to the Metro East Education District looking for help, they were turned away and told by district officials that schools were full and that they must wait until next year to apply for school.

EELC lawyers tried to get the Metro East Education District and the Western Cape Education Head of Department (WCED) to find places for the learners, but the WCED were silent and didn't respond to any of EELC's letters.

Worried that the learners did not have schools and that the second term of school had started, on **27 May 2022**, the EELC urgently went to court, together with six parents asking the court for the immediate placement of seven affected learners.

Because EELC's lawyers knew that there were other learners in Metro East who were also sitting at home without schools, we also asked the court to order the WCED to put announcements in local newspapers and radio telling parents to report to the district office for placement.

On 03 June 2023 we won a victory! The judge ordered the WCED to place the learners in schools immediately, with a catch-up plan and support.

In an affidavit filed by the Department in November 2022, they said that because of the court case, more than 220 learners got placement in schools in the Metro East District.



The Metro East District includes Khayelitsha, Kraaifontein, and Kuils River. The Metro East Education District offices are situated in Kuils River. Parents traveling from areas such as Khayelitsha and Kraaifontein need to take two taxis to visit the offices.



Fashion Week a space

Members of EELC, Bongani Makhanya, who is also a radio presenter at Radio 702, said for years the fashion week had been held in Khayelitsha. They made the decision to have it in the area to give more visibility and expand their footprint in the local community. It will be important that they step outside their comfort zone and that they do not cater for Khayelitsha designers only but offer a platform for emerging models and designers. The idea through the fashion week is to give designers a platform to launch the careers of their designers and models and boost the industry while helping designers to view new fashion trends. Makhanya said a key message of the fashion week is to give designers a platform to view new fashion trends. Makhanya said a key message of the fashion week is to give designers a platform to view new fashion trends.

Church takes firm stand against gender

Reverend Ndebele Gijana, said when women and children are abused, they kill the pain and desire to create a platform for victims to talk openly about their experiences. We have a huge responsibility as the church to provide social cohesion and support. We need to create a safe space for victims to talk openly about their experiences. We have a huge responsibility as the church to provide social cohesion and support. We need to create a safe space for victims to talk openly about their experiences.

Makuqatshelwe: Abazali kunye/okanye abanonopheli kwiSithili i-Metro East Education District

Kucelwa bonke abazali kunye/okanye abanonopheli abanabafundi abangafakwanga ezikolweni kwi-Metro East Education District ukwenza ukayeka wokufunda ka-2022 bathethe ne-CDC yeSithili zipaqingela iintsuku ezili-10 zesi sазiso.

Abazali kunye/okanye abanonopheli baya kunika i-Ofisi yeSithili amawebhu ayintusa kunye/okanye ikopi eziphikisiweyo zamawebhu ayimfuneko okwamkela kwabafundi ezikolweni okanye amawebhu alolu hlobo njengoko iSithili sinokwafana.

iSithili i-Metro East Education District Office, e-Belhar Road, ngase-Nooienfontein Road, e-Kuils River.

ICANDELO LOKWAMKELWA KWABAFUNDI LESIBE I-WCED

Trying to fix a systemic issue

The story of the seven learners is something EELC's lawyers know very well. At the beginning of each year, many parents and learners approach our daily legal walk-in clinic because they do not have a place in school.

Because of financial or other family circumstances beyond their control, they have to make 'late applications'.

Even though 'late applications' are allowed by the WCED policy, sometimes applicants go through many problems and either don't get a place in school or wait for a long time to get a school.

Often parents are told that schools are oversubscribed (full). Other times the district offices and schools don't communicate well about available spaces.



The EELC's goal is to:

- try and help to stop this from happening at the beginning of every year;
- hold the WCED accountable for the failure to comply with their legal duty to make sure there is a school place for every learner within the Metro East District; and
- ensure there are adequate plans and processes to assist parents and caregivers who make late admission applications.

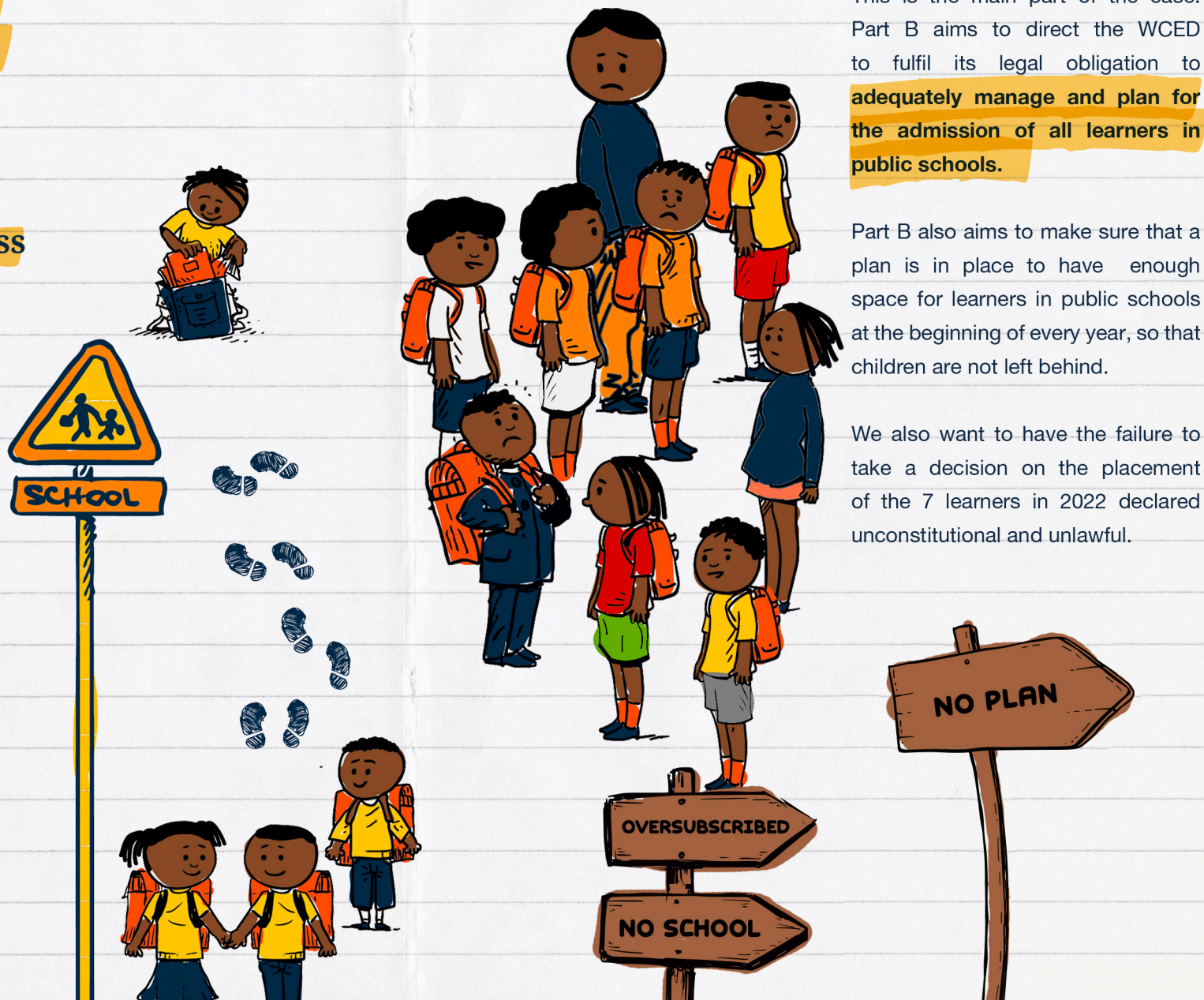
An oversubscribed school is one which is full, and which has received applications for placement which are higher than the number of spaces the school can accommodate.

The review application

A review application under the Promotion of Administrative Justice Act (PAJA) means that someone is using a legal process to challenge a decision made by a government official.

Because Part A of the case was urgent, the court did not consider the systemic issues which EELC has raised. These will be considered in Part B of the Metro East matter. Like Part A, Part B of the case is also going to be heard in the Western Cape High Court.

Part B will address the longstanding crisis of unplaced learners in the Western Cape, in particular in the Metro East District.



This is the main part of the case. Part B aims to direct the WCED to fulfil its legal obligation to **adequately manage and plan for the admission of all learners in public schools.**

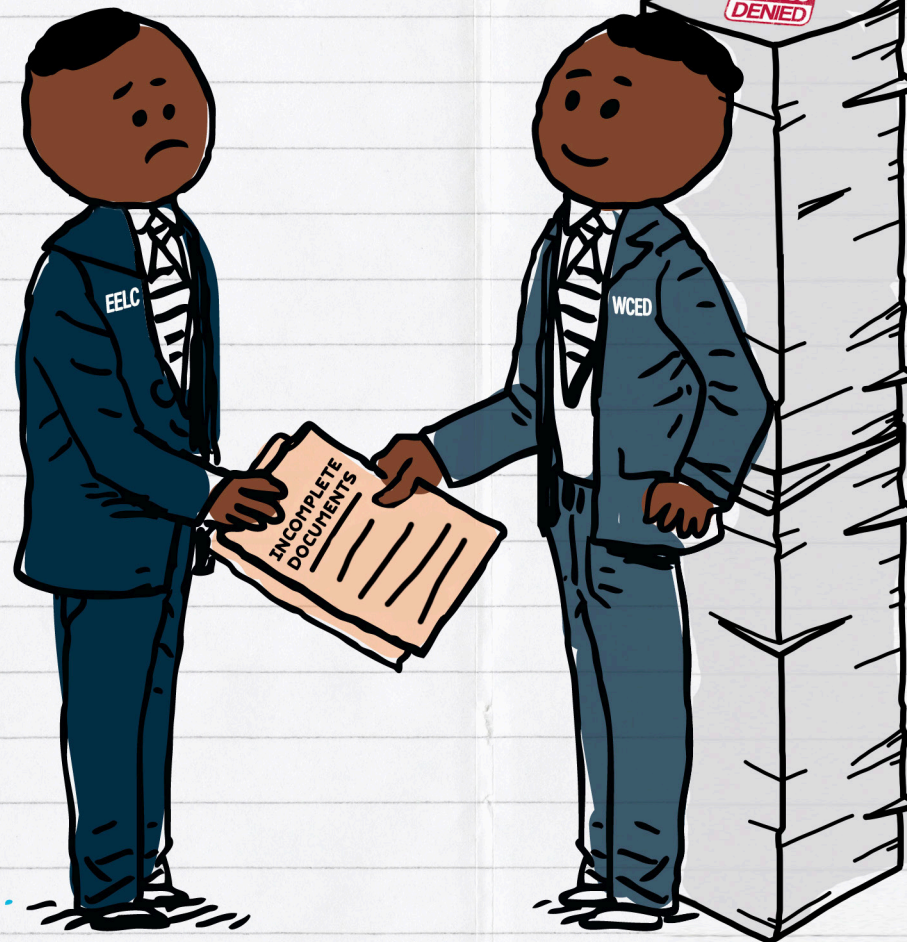
Part B also aims to make sure that a plan is in place to have enough space for learners in public schools at the beginning of every year, so that children are not left behind.

We also want to have the failure to take a decision on the placement of the 7 learners in 2022 declared unconstitutional and unlawful.

A fight to obtain documents from the WCED

Part B is a review of the district and WCED's failure to take a decision regarding the placement of the learners in 2022. As part of the court proceedings, and in preparation for Part B the WCED had to provide us with a complete record of documents and the reasons for their decision in terms of Rule 53 of the Uniform Rules of Court. However, the WCED failed to provide this information and gave us an incomplete record, with little to no explanation of how this information relates to the parents and learners we represent. We told this to the WCED and requested information that, in our view, is relevant to the court proceedings.

The WCED still refused to provide the requested information and **on 19 April 2023, we were forced to go back to court to fight for the information.** Part of what we asked from



the court was that the WCED provide us with a complete record of information relating to, among other things, the allocation of resources in the Metro East District, school capacity in the Metro East District, and a report of an investigation they allege to have undertaken regarding the failure to place the learners.

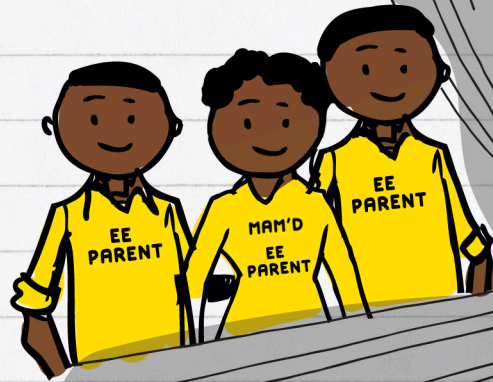
Following strong opposition in court from the WCED, on **Monday, 08 May 2023, the WCED was ordered to provide us with this information within 10 days [Due on 22 May 2023]**. This information is important because it will help the court to make a decision on the systemic issues in Part B. It will inform both us and the court what factors were at play at the time that the district failed to assist our clients and other similarly placed learners.

On Friday, 19 May (a day before the information was due to be delivered) the WCED filed an application for leave to appeal the court's decision.

The quest in the Metro East matter has been delayed to deal with the appeal. It is worrying for the EELC that the WCED continues to refuse to provide documentation and information which we believe should be publicly available. **We believe this is an attempt to avoid scrutiny and accountability.**

It is our hope that the appeal will confirm the order and that the WCED acts openly and transparently in accordance with their constitutional obligations and play open cards with the court, the EELC and Metro East parents.

Judge Baartman in her judgment noted that “only the record sought [by the EELC] can shed light on what transpired”.



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