EELC EQUAL EDUCATION LAW CENTRE

LEFT BEHIND BEFORE THEY BEGIN

LAW, FUNDING, AND EQUITY IN GRADER

A REPORT BY EQUAL EDUCATION LAW CENTRE

Left Behind Before They Begin:

Law, Funding, and Equity in Grade R

This report has been drafted and published by the Equal Education Law Centre ("EELC") The EELC is a public interest law centre with a team of activist lawyers and researchers working to advance the struggle for quality and equality in education through legal research, advocacy and strategic litigation.

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Introduction

The inclusion of Grade R as the first compulsory year of basic education marks an important development in South Africa's education landscape. Over three decades, from the 1994 South African Preschool Study Team to the 2024 Basic Education Laws Amendment (BELA) Act, successive governments have affirmed the value of early learning as a foundation for equality and development. The legislative incorporation of Grade R within the definition of "basic education" gives concrete effect to section 29(1)(a) of the Constitution. However, the absence of corresponding fiscal provision has resulted in a situation where the right is recognised in law but not realised in practice. **This report traces the policy and legal evolution of Grade R, examines the funding and implementation gaps that have emerged, and considers their implications for intergovernmental accountability, constitutional compliance, and the coherence of early childhood development (ECD) governance.**

It argues that the failure to allocate funding for Grade R not only breaches the State's duty to make basic education immediately available and accessible but also results in indirect unfair discrimination. Underfunding disproportionately affects learners in under-resourced, predominantly Black and Coloured working-class communities, entrenching existing structural inequalities in access to quality basic education.

The current context also brings to light broader constitutional questions that have relevance beyond Grade R. These include the relationship between legislation and fiscal policy, the extent to which executive *de facto* budgetary discretion can limit rights created by Parliament, and how the separation of powers should function to ensure that socio-economic rights are not recognised in law but denied in practice.

Grade R Trajectory

History of Grade R (1994-2024)

South Africa's Grade R journey reflects more than two decades of policy ambition and long-standing recognition of early learning as central to educational equity. In 1994, the South African Preschool Study Team led by the Centre for Education Policy Development (CEPD), together with the World Bank, recommended a national reception year to improve equity and redress apartheid-era inequalities in access to early learning.[1] This was expressly included in the ruling African National Congress's own 1994 Policy Framework for Education and Training.[2]

The decisive policy anchor was Education White Paper 5 (2001), which envisioned Grade R as the first formal year of schooling, with the goal of universal access by 2010.[3] Although this deadline was missed, the policy spurred significant expansion: provinces began rolling out Grade R through public schools and by subsidising registered community-based ECD centres that provided Grade R.[4] By 2003/2004, Treasury funding for the pilot had been absorbed into provincial budgets, enabling scale up. As Richter and Samuels note:

> ***"Given the inequities in provision of schooling carried over from the apartheid system, the State made a commitment to public funding. The Treasury and the Cabinet were convinced that it would improve the efficiency of the education system by addressing under-age school enrolment, resulting from families trying to access affordable levels of child day care, and that it would reduce grade repetition, estimated at 20% per grade, a significant problem in all low-income countries."[5]***

Over time, participation in Grade R became a common (but not universal) feature in public schools. While multiple surveys and audits point to this rise, the figures are inconsistent across years and sources.[6] Rather than rely on any one number, what is clear is the overall trend: Grade R access through public schools and private ECD centres has made significant strides b etween t he 1 990s and today.

Policy commitments reinforced this trajectory. In 2012, the National Development Plan 2030 reaffirmed the goal of universal Grade R and proposed two compulsory years of preschool.[7] Finally, in 2024, after seven years of development and multiple rounds of public participation, the Basic Education Laws Amendment (BELA) Act amended the South African Schools Act (SASA), making grade R compulsory and including it within the definition of "basic education".[8] This moved Grade R from policy aspiration to a constitutional obligation.

Having established the historical evolution of Grade R, we turn to its changing legal character. The next section examines how Grade R now sits at the intersection of early childhood development and basic education, and how this position affects its governance and funding.

The Transformation of the Right: Grade R Between Basic Education and Early Childhood Development

International Law

The UN Committee on Economic, Social and Cultural Rights gave important guidance on the essential features of education. In its General Comment 13, itself commenting on Article 13(2) of the ICESCR, the CESCR states that all forms and levels of education must

1. R Padayachie and others, 'Report of the South African Study on Early Childhood Development.' (Centre for Education Policy Development/World Bank 1994).
2. 'A Policy Framework for Education and Training. Discussion Document' Johannesburg'.
3. Education White Paper 5 on Early Childhood Education 2001.
4. Wiedaad Slemming, Linda Biersteker and Lora Lake, 'Child Gauge' (Children's Institute, University of Cape Town 2024). See for example the 2024 Child Gauge's assessment of the initial rollout of Grade R, Case 14 at page 160.
5. L Richter and M L Samuels, 'The South African Universal Preschool Year: A Case Study of Policy Development and Implementation' (2018) 44 Child: Care, Health and Development 12.
6. For example, the abovementioned 2024 Child Gauge cites the DBE's own figures indicating 96% of public primary schools offer Grade R. This figure – and the level of enrolment it suggests – is contested, with a 2024 study by the University of Stellenbosch's Research on Socio-Economic Policy (RESEP) Unit indicating significantly lower levels of enrolment in Grade R than all other grades at public schools. See Servaas Van Der Berg and others, 'What SA-SAMS and LURITS Data Tells Us about Education: New Insights from Administrative Data' [2025] SSRN Electronic Journal <https://www.ssrn.com/abstract=5181087> accessed 5 November 2025.
7. National Development Plan 2030 2012 pg 300.
8. Basic Education Laws Amendment Act 32 of 2024; South African Schools Act 84 of 1996.
9. General Comment No. 13: The Right to Education, adopted by the Committee on Economic, Social and Cultural Rights, providing interpretation and clarification of Article 13 of the International Covenant on Economic, Social and Cultural Rights 1999; United Nations (General Assembly). (1966). International Covenant on Economic, Social, and Cultural Rights. Treaty Series, 999, 171.

demonstrate four interrelated and essential features (also known as the four A's): availability, accessibility, acceptability and adaptability.[9]

1. 'Availability' encompasses the provision of sufficient and adequate schools, infrastructure and teachers who are trained and able to support the delivery of education.[10]
2. 'Accessibility' has three dimensions: non-discrimination, physical, and economic. Accessibility, as seen through the lens of non-discrimination, means that education must be accessible to all, including the most vulnerable, in law and fact. Physical accessibility requires designs that do not create physical and architectural barriers and are within a reasonable distance. Economic accessibility means that education must be affordable to all.[11]
3. 'Acceptability' means that the form and substance of education, including curricula and teaching methods, must be relevant, culturally appropriate and of good quality.[12]
4. Finally, 'adaptability' means education must be adaptable to the changing needs of society and communities and respond to the needs of learners within their diverse social and cultural settings. In the context of inclusion, this should, for example, take into account and be responsive to disability and to sexual orientation and gender identity (as well as be responsive to other groups who are marginalised in education).[13]

In addition, there is an extensive framework of international and regional law applicable to both early childhood development and basic education. South Africa is a State Party to numerous instruments. These include the right to development at Article 6(2) of the United Nations Convention of the Rights of the Child (UNCRC),[14] the birth non-discrimination principle at Article 3 of the African Charter on the Rights and Welfare of the Child (ACRWC),[15] and of course the express right to education protected under Articles 13 and 14 (read with General Comments 13, 25 and 21) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) mentioned above, and Articles 28 and 29 of the UNCRC. It should be noted that both Article 14 of ICESCR and Article 28 of the UNCRC compel States Parties to provide free compulsory primary education. Consequently, South Africa's domestic recognition of Grade R as a component of basic (and compulsory) education, through the enactment of BELA, binds it additionally under ICESCR and the UNCRC to provide Grade R for all children.

Basic Education Jurisprudence and Domestic Legislation

Whereas previously Grade R was primarily planned for, regulated, and discussed in the context of ECD, it now forms part of the statutory core of schooling. Consequently, Grade R has been brought into the ambit of South Africa's rich basic education jurisprudence and legislative framework. Bringing Grade R into this framework strengthens children's legal entitlement to reception year schooling and sharpens the state's obligation not only to expand enrolment, but to do so in ways that meet these constitutional standards of equity and quality.

In the last 30 years, South African courts have given concrete meaning to the constitutional right to basic education through a series of landmark rulings. These decisions transformed what was once an abstract legal concept into tangible standards for education provision, effectively setting minimum standards that must be met and must be made possible by the education budget.

In the judgment of *Governing Body of Juma Musjid Primary School v Essay NO ("Juma Musjid")*, the constitutional court established that the right to basic education is immediately realisable, in other words it is not subject to progressive realisation or available resources. The court further held that the right can thus only be limited in terms of *"a law of general application which is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom."*[16] The special nature of this right was no mistake. The goal of the Constitution is to create a society based on the values of human dignity, equality, and freedom.[17] Basic education has been recognised as foundational and essential to achieving this goal of transforming both society and the individual.

10. General Comment 13 at para 6(a).
11. Ibid at para 6(b).
12. Ibid at para 6(c).
13. Ibid at para 6(d).
14. United Nations Convention on the Rights of the Child 1989.
15. African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990).
16. Section 36 of the Constitution of the Republic of South Africa, 1996.
17. Soobramoney v Minister of Health, Kwa Zulu Natal 1998 (1) SA 765 (CC) at para 16.

The courts have determined that the right to basic education is a basket of rights, encompassing more than just access to schooling. It includes specific elements such as proper school infrastructure, textbooks for every learner, adequate classroom furniture, qualified teachers, scholar transport, and school nutrition.[18] **Grade R, now part of the definition of basic education, is a basket in and of itself that contains these key components.**

This new status also reshapes how funding shortfalls must be viewed. South African courts have long cautioned that **while budgets involve complex policy trade-offs, constitutional obligations must drive resource allocation.** This is discussed in greater detail below.

Following legal challenges, the government allocated funds to replace unsafe mud schools with proper buildings and provide electricity, sanitation and other minimum infrastructure standards. In 2020, in response to Equal Education challenging the suspension of school feeding schemes during the COVID-19 lockdown, the High Court ruled that providing nutrition is part of the government's duty to deliver basic education, and the government was forced to provide over 9 million learners with school meals, regardless of whether they were learning from home or at school. Other cases have resulted in provinces being compelled to deliver textbooks and furniture to under-resourced schools. These outcomes demonstrate how constitutional rights and principles do (and should) directly influence budget priorities in the education sector.

Importantly, it is not only courts that give content to the right to basic education, but primarily government and the legislature who give life to the right through the creation of laws and policies. In the *Section27* judgment, Kollapen J held:

> ***"What is relevant, however, in the context of the right, is the narrow question in this application whether the provisions of textbooks is a component of the right to basic education? The answer to this question, in my view, can be found quite easily in the policy statements of the State in respect of textbooks and their relationship to giving effect to the right to basic education."***[19]

In *Minister of Basic Education v Basic Education for All* the Court held:

> ***"I agree with Counsel on behalf of BEFA that the DBE did not only set itself a 'lofty' ideal but that its policy and actions, as set out in the affidavits filed on its behalf, all indicate that it had committed to providing a textbook for each learner across all grades. The content of the section 29(1)(a) right is also determined in the DBE's Action Plan for 2014 – towards the realisation of schooling in 2025. That certainly is what it achieved in pursuit of its own policy in respect of the other 8 Provinces and on its version of events for almost 98 percent of learners in Limpopo."*** [20]

Grade R has not only been deeply embedded as a government policy priority for decades, but government has also deliberately elevated its responsibility to provide Grade R by embedding it within the definition of basic education.

Between Basic Education and Early Childhood Development

Central to the regulatory and fiscal challenges surrounding the provision of Grade R is the fact that it simultaneously forms a core part of both ECD and basic education.[21] This was the case even before the enactment of BELA but is particularly significant since the latter law came into effect. The age range of early childhood is not a subject of universal consensus, but the average age of a Grade R learner – 4 to 5 years – is comfortably part of both the broader[22] and narrower[23] definitional ranges.

18. Centre for Child Law & Others v Minister of Basic Education & Others (National Association of School Governing Bodies as amicus curiae) 2012 (4) ALL SA 35 (EC) at para 32; Madzodzo & Others v Minister of Basic Education & Others 2014 (3) SA 441 (ECM) at para 20; Section 27 & Others v Minister of Education & Another 2013 (2) SA 40 (GNP) at para 25; Tripartite Steering Committee and another v Minister of Basic Education and Others 2015 (5) SA 107 (ECG).
19. Section 27 & Others v Minister of Education & Another 2013 (2) SA 40 (GNP) at para 25 (n 18).
20. Minister of Basic Education v Basic Education for All, 2016 (4) SA 63 (SCA).
21. It is important, of course, to acknowledge that education, in the form of early learning, is one of several interlinked components to early childhood development. These include, at a minimum, the five components identified in the seminal Nurturing Care Framework: health, nutrition, responsive caregiving, security and safety, and early learning. See 'The Nurturing Care Framework for Early Childhood Development: A Framework for Helping Children Survive and Thrive to Transform Health and Human Potential' (World Health Organisation (WHO), United Nations Children's Fund (UNICEF), World Bank Group 2018.
22. For example, seminal Nurture and Care Framework defines early childhood as being from birth to 8 years of age (n. 21)
23. The South African Early Childhood Review, for example, examines the developmental status of children in South Africa under the age of 6 years. See Hall K, Almeleh C, Giese S, Mphaphuli E, Slemming W, Mathys R, Droomer L, Proudlock P, Kotze J, and Sadan M. South African Early Childhood Review 2024. Cape Town: Children's Institute University of Cape Town and Ilifa Labantwana.

At the same time, Grade R is intended as a preparatory and equalising year for children who will enter formal schooling in Grade 1.[24] It is therefore simultaneously both a form of basic education and a critical vehicle for ensuring a child's early development. In this sense, Grade R may be thought of as a bridge between the (necessarily) more play-focused and less regimented programmes designed for earlier childhood years, and the pedagogical emphasis of formal schooling.

Consequently, Grade R is both protected and governed by multiple sets of legislation, policies and State duties under regional and international law, all of which apply variously to ECD and basic education.
It is outside the scope of this paper to list each of the many dozens of relevant laws and instruments. However, some key components of the ECD regulatory framework include:

- The Children's Act 38 of 2005[25]
- The National Integrated Policy for Early Childhood Development (NIECDP)[26]
- The Local Governance: Municipal Systems Act[27]
- The Conditional Grant Framework for the Early Childhood Development Grant
- National Norms and Standards for ECD Programmes and its Related Forms

These are all parts of a highly complex ECD framework, which is characterised by significant overlap and inconsistencies.

It should be emphasised that Grade R has not ceased to be a form of ECD. The vast majority of the ECD regulatory framework applicable to Grade R remains as such, except insofar as there are inconsistencies with, or stronger protections under the basic education framework. For instance, the Screening Identification Assessment and Support (SIAS) Policy[28] provides for the inclusion of children experiencing barriers to learning, but the duties it places on educators and schools providing basic education are significantly higher, more detailed and more tangible than those outlined for ECD service providers. Clause 33 of the SIAS Policy envisages roles for ECD service providers (primarily ECD practitioners) primarily as sources of information which may be important for the inclusion and support of learners, especially for early intervention.[29] It does not, however, place duties on ECD service providers to do so, nor does it place clear or measurable duties on the State to enable its provision.[30] By contrast, Clause 34's outline of educators' roles is matched with detailed and often mandatory processes and reporting forms, found throughout the remainder.[31] In this instance, therefore, the same policy sets higher standards for the provision of inclusive education in basic education than it does for the provision of inclusive ECD services. As a mode of education which is both ECD and basic education, the higher standard would therefore apply.

Despite the complexities resulting from Grade R's simultaneous position in both ECD and basic education regulatory frameworks, one consequence is abundantly clear. **The State no longer has a mere aspiration to provide universal access to Grade R, but a legislated duty. It is in this context that the State's funding failure must be interrogated.**

With this legal framework established, it is equally important to consider why Grade R matters in substantive terms. The next section reviews the evidence on early learning outcomes and the equity gains that motivated the move toward universal Grade R.

Why Grade R Matters: The Evidence and the Equity Promise

A strong body of international evidence shows notable benefits of quality early learning through one year of pre-primary school. In Argentina, for example, one year of pre-primary education increased Grade 3 maths and Spanish test scores by 23% of a standard deviation.[32]

24. Richter and Samuels (n 5).
25. Children's Act 38 of 2005.
26. The National Integrated Policy for Early Childhood Development (NIECDP) 2015.
27. Act 32 of 2000.
28. 2014. Accessible at https://www.education.gov.za/LinkClick.aspx?fileticket=2bB7EaySbcw%3d&tabid=617&portalid=0&mid=2371
29. paras 1-7.
30. Ibid. See for example para 4, which states that most service providers "know these children well and can provide useful information to the receiving school," with no indication of duties to do so, or of State duties to facilitate information sharing.
31. See for example the Support Needs Assessment (SNA) Forms at page 48 of the Policy, which are designed explicitly for use in schools. There is no comparable form provided for ECD practitioners.
32. Samuel Berlinski, Sebastian Galiani and Paul Gertler, 'The Effect of Pre-Primary Education on Primary School Performance' (2009) 93 Journal of Public Economics 219; Marie-Louise Samuels and others, 'Reflecting on an Impact Evaluation of the Grade R Programme: Method, Results and Policy Responses' (2015) 3 African Evaluation Journal 10 pages.

Samuels *et al.* note:

> ***"In Uruguay, children who had attended pre-school had by age 16 completed one more year of education than their siblings who had not, and were 30% less likely to have dropped out, whilst Aguilar and Tansini (2012) found that pre-school attendance was a major factor explaining school performance."*** [33]

Other studies show that emergent literacy and numeracy skills learnt before school strongly predict later achievement.[34] The consensus is clear that quality pre-primary can boost school readiness and have long term impacts on equity:

> ***"Preschool quality has been found to be a significant positive predictor of children's developmental outcomes and subsequent schooling, including in low-income and middle-income countries. A number of features of preschools are associated with quality and subsequent child outcomes, including teacher training, teacher-learner ratios and curriculum."*** [35]

At the same time, the literature also warns that poor quality learning can have little impact or even negative effects, such as poor language development or behavioural problems.[36]

Despite these well-documented benefits, the extent and quality of implementation remain uneven. The next section analyses available data on access and participation to assess the practical reach of Grade R across the country.

The State of Implementation

Enrolment and Access

We have not been able to find reliable data regarding the number of children who:

1. Have no access at all,
2. Have access to unregistered early learning, programmes through ECD centres,
3. Have access to but are paying for Grade R in what would otherwise be a no fee school,
4. The number of learners who are enrolled in Grade R in a school but are being taught by unqualified or underqualified educators, or
5. The number of learners who are enrolled in Grade R in a no fee school, are being taught by a qualified practitioner and are not paying fees.

While enrolment and access data show a high overall percentage of access, there are significant gaps in the data and statistics vary substantially, calling the reliability of this data into question and indicating a possible overestimate of *meaningful* access.

Some analyses have used the proportion of public schools that offer Grade R[37] as an indicator of progress, noting that in 2022, 96% of public primary schools offered Grade R. Unfortunately, this is not a reliable indicator of actual access. Because Grade R has not been compulsory, up until recently, there has been no legal obligation for schools and government to meet minimum standards. **So, while schools may offer Grade R on paper, they may not be receiving funds and resources to properly implement Grade R, leaving them without Grade R teachers, and sometimes forced to absorb Grade R learners into higher Grades or make Grade R enrolment conditional on the payment of fees.**

Conflicting enrolment statistics also indicate unreliability. For example, the 2023 General Household Survey Schooling Report notes:

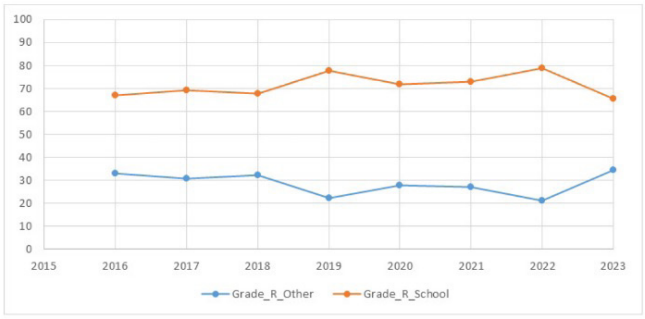
> ***"Figure 17 distinguishes between learners who are attending grade R at an ECD centre (Grade_R_Other) and those attending grade R at a school (Grade_R_School). Ever since 2016, [own emphasis] roughly 70% of Grade R learners are attending a school with the remaining 30% attending a Grade R programme at some other ECD centre or Early learning Institution. With the recent BELA Act making Grade R part of compulsory schooling, it will be interesting to observe any impact on the percentage of Grade R learners attending school-based versus other Grade R programmes."*** [38]

33. Samuels and others (n 32); Samuel Berlinski, Sebastian Galiani and Marco Manacorda, 'Giving Children a Better Start: Preschool Attendance and School-Age Profiles' (2008) 92 Journal of Public Economics 1416; Renato Aguilar and Ruben Tansini, 'Joint Analysis of Preschool Attendance and School Performance in the Short and Long-Run' (2012) 32 International Journal of Educational Development 224.
34. Greg J Duncan and others, 'School Readiness and Later Achievement.' (2007) 43 Developmental Psychology 1428; Janet A Welsh and others, 'The Development of Cognitive Skills and Gains in Academic School Readiness for Children from Low-Income Families.' (2010) 102 Journal of Educational Psychology 43.
35. Samuels and others (n 32); Nirmala Rao, 'Preschool Quality and the Development of Children from Economically Disadvantaged Families in India' (2010) 21 Early Education & Development 167; Lars-Erik Malmberg, Peter Mwaura and Kathy Sylva, 'Effects of a Preschool Intervention on Cognitive Development among East-African Preschool Children: A Flexibly Time-Coded Growth Model' (2011) 26 Early Childhood Research Quarterly 124.
36. Samuels and others (n 32); 'Leseman, P., 2002, "Early Childhood Education and Care for Children from Low-Income or Minority Backgrounds", Paper Presented at the OECD Oslo Workshop, 6–7 June 2002.'
37. Slemming, Biersteker and Lake (n 4).
38. 'The Impact of Basic Education on South Africans: Report on the 2023 General Household Survey' (Department of Basic Education 2025).

However, the 2021 ECD Census report states:

> ***"The primary goal was to provide universal access for five-year-olds to formal Grade R programmes by 2014. Ten years later, 67% of five-year olds were enrolled in Grade R (Jamieson et al, 2011), and by2016, this percentage had increased to an estimated 77% of the population of 5-year-olds in SouthAfrica (Atmore et al, 2019). According to a report by the DBE (2019) using General Household Datafrom 2010 to 2019, the picture in 2019 is more complex. While 87% of 4-6 year olds attended anEarly Learning Programme in 2019, only 54% of 5-year olds were attending Grade R (this figurincludes learners that are repeaters). A substantial proportion (28%) were attending an ECD Centrebut were not enrolled in Grade R."***[39]

Figure 17: Percentage of Grade R learners attending at a School versus at an ECD centre



In addition, until the enactment of BELA, there has been no binding legal obligation for public schools to provide *free* Grade R, and for government to fund this. This creates a critical data gap: even if one were to accept claims that 95%[40] of five-year-old children are enrolled in early learning programmes (assuming these are Grade R programmes), or 97% have access to Grade R,[41] these figures say nothing about how many children and parents have to pay for Grade R in public schools and in ECD centres, when they would otherwise, if the option were available, seek free Grade R in a no-fee paying school.

Another significant concern is that the proportion of 5-year-olds attending an early learning programme is not indicative of the proportion of five-year olds attending Grade R with a registered provider and a qualified Grade R practitioner. **High enrolment percentages mask the presence of unqualified and underqualified practitioners, inadequate or no facilities and resources, and childminding rather than genuine educational provision.**

Further, it is more meaningful to look at the *number* of children *without* access than the percentage of children with. In the context of the immediate right to free quality basic education, even one child without access is too many.

Analysing data from the Education Management Information System, Nonkenge and Gustafsson report:

> ***One striking feature of the data is the relatively low enrolment in Grade R compared to higher grades, which typically have around one million learners. Grade R enrolment stands at fewer than 800 000 learners in public and independent schools, excluding those attending Early Childhood Development (ECD) centres. This highlights the ongoing need to universalise Grade R as a preparatory year before children enter formal schooling in Grade 1.***[42]

The Parliamentary Budget Office estimates the access gap as approximately 200 000 children.[43] The DBE itself, in response to a Promotion of Access to Information Act (PAIA)[44] request sent by EELC in 2025, notes:

> ***"The number of Grade R places required in 2025 is essentially the size of the age 5 cohort in the population. This does not mean that every child should take Grade R in the year in which he or she turns 5, but for planning purposes this approach is adequate. The best estimate the DBE has of the age 5 cohort in 2025 is 940,000. This is the number of births in 2020 according to birth registrations data."***

39. https://datadrive2030.co.za/wp-content/uploads/2022/09/ecdc-2021-report.pdf
40. Child Gauge 2024, General Household Survey
41. World Bank ECD Funding review
42. Nonkenge Kholosa and Martin Gustafsson, 'Basic Education Policy in South Africa: From 1994 to Now' (Economic research Southern Africa 2025) Policy Paper 33. It is important to note here that while the authors distinguish between independent schools and ECD centres, any ECD centre that provides grade R must (even before Grade R became compulsory) register as an independent school.
43. See the Parliamentary Budget Office, 'Presentation on the Division of Revenue Act and Appropriations Act, November' (November 2013) <https://www.parliament.gov.za/storage/app/media/PBO/Budget_Analysis/2024/8-november/13-11-2024/PBO_A_DoRa_and_A_Appropriations_presentation_13_November_2024_SCOA.pdf.>. 2013. It is unclear whether this gap refers to children without access to any sort of provisioning, children without access to Grade R in schools, children without access to Grade R in schools or registered ECD centres, or children without meaningful access.
44. See Annexure A.
45. Servaas Van Der Berg and others, 'The Impact of the Introduction of Grade R on Learning Outcome: Policy Summary, Executive Summary & Evaluation Report' (Research on Socio-Economic Policy (ReSEP), Department of Economics, University of Stellenbosch 2013).
46. ibid.

What About Quality?

South Africa's policy ambition has always been that Grade R would provide an equalising foundation: preparing children from disadvantaged and under-resourced communities for school and narrowing gaps created by apartheid-era legacies.

But, one large-scale evaluation has shown that this promise was not realised. Analyses conducted in 2013 found that Grade R's measurable effects on later learning outcomes were small overall, and virtually absent for children in the poorest schools.[45] In fact, the gains were concentrated in better resourced schools, leading to the conclusion that Grade R has in some cases widened the gap between rich and poor learners.

> ***"The impact of Grade R in South Africa is small and there is virtually no measurable impact for the poorest three school quintiles [. . .] Thus, instead of reducing inequalities, Grade R further extends the advantage of more affluent schools."***[46]

Samuels, Taylor, Van der Berg & Shepherd (2015) later confirmed these findings arguing that the limited impact reflected deep systemic weaknesses rather than problems unique to Grade R. They stated:

> ***"Improving the quality of Grade R, especially in schools serving low socio-economic status communities, thus emerges as a key policy imperative. Recommended responses include professionalising Grade R teachers, providing practical in-service support, increasing access to appropriate storybooks, empowering teachers to assess the development of their learners, and improving financial record-keeping of Grade R expenditure by provincial education departments."***[47]

While these studies were conducted between 2011 and 2013, the funding for Grade R has remained consistent from now to then, and recommended responses to increase quality (e.g. quality teaching) require investment. So, in the absence of more recent evaluations, one might expect that little has changed.

Grade R classes often have under-qualified/unqualified teachers, large class sizes despite the importance of smaller classes in earlier grades,[48] low pay, and insufficient teaching materials.[49] In 2013, government spent roughly a third per learner in Grade R compared to other grades.[50]

In 2025, Nonkenge and Gustafsson report that spending data suggests that Grade R learner funding could be as low as 30% of per learner funding for other grades.[51] As a result, Grade R is sometimes experienced as a "watered-down Grade 1".[52]

Taken together, the picture is stark. Grade R has finally been recognised in law as the first year of basic education - an immediate, unqualified right. But in practice, it has been left to provinces, already buckling under austerity, to deliver with crumbs. Access remains incomplete, classrooms under-resourced, and the quality gap between rich and poor has widened rather than narrowed. Three decades of promises have culminated in a constitutional right without the money to make it real. The gap between the law on paper and the reality in classrooms is now the defining issue for Grade R.

The gaps in access and quality identified above are closely linked to funding shortfalls. The next section examines the fiscal context and presents evidence of the resource constraints that limit the realisation of compulsory Grade R.

47. Samuels et al., 2015
48. Kholosa and Gustafsson (n 42).
49. 'Wildeman, R. & Nomdo, C. (2004). Implementation of Universal Access to the Reception Year (Grade R). How Far Are We? Institute for a Democratic Alternative for South Africa (IDASA), Cape Town.'; Van Der Berg and others (n 45); Richter and Samuels (n 5).
50. Van Der Berg and others (n 45).
51. Kholosa and Gustafsson (n 42).
52. Richter and Samuels (n 5); 'Excell, L. (2011). Grade R Teachers' Perceptions of Early Childhood Development and How These Impact on Classroom Practice. University of the Witwatersrand: Unpublished Doctoral Thesis.'

Evidence of Resource Constraints and Underfunding

Some have argued, notwithstanding substantial evidence to the contrary, that provinces possess sufficient budget to implement universal Grade R, and that improved spending efficiency and anti-corruption measures alone would release the necessary funds. While enhanced financial management and reducing corruption are undoubtedly important, relying on these measures as the primary means of funding universal Grade R would be wholly insufficient. It is for this reason that this section provides evidence of the existing resource constraints facing provinces, which hinder and render it nearly impossible to implement universal Grade R without needing to redirect resources and funds from other essential components of basic education.

The Funding Gap: National Treasury's Non-Response to BELA

When the BELA Act was eventually passed in 2024 (after almost a decade of development), the expectation was that the Medium-Term Expenditure Framework (MTEF) would reflect the necessary funding to make compulsory Grade R a reality. That budget line never appeared - not in the spending framework for the next three years, and not in the 2025 Main Budget either. **National Treasury has allocated nothing to universalise Grade R and implement BELA.**

Instead, Treasury suggested that provinces should "use what they currently have," even though provinces derive 97% of their income from national transfers and face mounting deficits after years of fiscal consolidation.[53]

This means provinces must integrate an estimated 200,000 children into the schooling system and increase quality to meet minimum standards without any extra support. For the DBE and Provincial Education Departments, the challenge is not one of policy design but of implementation in an environment of chronic budgetary pressure.

The Context of Austerity: Declining Real Per-Learner Spending

Since 2013, South Africa has pursued a path of austerity, with social spending bearing the brunt of budget cuts. In 2024, the Minister said that 2025 education budgets were projected to be nearly 3% lower in real terms than in 2017, despite a learner population that has grown by almost 300,000 over the last five years.[54] While the basic education budget received slightly more than expected this year, real per-learner spending has continued to decline, especially when measured against education-specific inflation.[55] Infrastructure allocations have also shrunk, with the DBE reporting a 28% decline in real terms since 2017.[56]

The Minister of Basic Education has openly acknowledged the severity of the situation, warning Parliament that *"the very fabric of our children's future is now under threat if we continue on this current trajectory."*[57] The DBE estimates total provincial shortfalls across 2021/22 to 2027/28 at R118 billion.[58] Several Provincial Education Departments are at risk of becoming insolvent this year.[59]

Provinces have already begun cutting back: the Western Cape has reduced its post basket for 2025, while Gauteng faces a R31 billion infrastructure backlog. Nationally, learner-educator ratios are climbing, and several provinces will be unable to afford their existing post baskets within the next three years.[60]

53. This was the response that National Treasury responded with when Equal Education Law Centre asked the Department about Grade R funding during the budget lock-up in 2025.
54. 'Speech by the Minister of Basic Education, Ms Siviwe Gwarube, MP, at the Media Briefing on Budget Cuts Held in Pretoria' (25 September 2024) <https://www.gov.za/news/speeches/minister-siviwe-gwarube-media-briefing-budget-cuts-25-sep-2024>.
55. 'Joint Submission on the Division of Revenue Bill 2025/26' (Equal Education and Equal Education Law Centre 2025) <https://eelawcentre.org.za/joint-submission-to-the-select-and-standing-committees-on-appropriations-2025-26-division-of-revenue-bill/>.
56. (n 54).
57. ibid.
58. ibid.
59. Luke Fraser, 'Critical Government Departments Are Nearly Insolvent in South Africa' BusinessTech (11 June 2025).
60. (n 54).

Even before Grade R became compulsory, consistent budget cuts in education have raised serious concerns about the government's ability to meet minimum standards in basic education. Reduced funding per learner threatens to undermine progress made in areas such as infrastructure development, textbook provision, and school nutrition programmes.[61] The tension between fiscal constraints caused by reduced social spending allocations and the need to uphold minimum educational standards presents a significant challenge for policymakers and education officials.

Grade R Funding Disparities – Infrastructure & Staffing Shortfalls

Against this backdrop, the incorporation of Grade R into basic education creates a constitutional obligation without corresponding fiscal provision.

Existing funding patterns make the gap clear. While the 2008 Grade R funding policy[62] specified that per learner spending should be 70% of that in the other primary grades, actual spending has lagged far behind.[63] According to the World Bank (2022), per learner allocations were as low as 30% of primary grade levels as late as 2021.[64] This discrepancy has contributed directly to quality concerns, with Grade R teachers often underqualified, underpaid, and managing larger classes. Moreover, in the broader fiscal context of real declines in overall education spending alongside rising enrolments, the strain on Grade R has intensified.

There is also little ongoing, detailed reporting on per learner spending across provinces and quintiles, with the most recent comprehensive statistics dating back to 2016.[65] As Nonkenge and Gustafsson note:

> ***"In the current context of real declines in overall public spending on basic education and rising enrolments (DBE, 2024b), the question of whether the burden of reduced spending per learner and larger classes is being spread fairly looms large."[66]***

The infrastructure challenge is equally stark. According to the DBE, a total of 3831 schools still need to be provided with Grade R classrooms. The DBE reported in September 2024:

> ***"To fully comply with the minimum norms and standards for Grade R infrastructure across all schools, the sector requires significant budget injection. In this regard, an application is being finalised for submission to the National Treasury under the Budget Facility for Infrastructure (BFI) to secure additional funding for the construction of Grade R classroom at scale."[67]***

From existing budgets (taking from other vital programmes) provinces have allocated a total of R1.575 billion over the next three years for the provision of Grade R classrooms (12% of the estimated infrastructure spending required for universalisation).[68]

In terms of staffing, there are 12,462 unqualified and underqualified Grade R Practitioners appointed in public schools.[69] These practitioners are paid stipends and are not formally employed under the conditions of service applicable to educators. However, educators who possess the required qualifications to teach Grade R and are already in teaching roles but not yet absorbed into permanent posts will be translated accordingly into available posts, subject to the availability of vacant posts. The absorption of the 12,462 unqualified and underqualified Grade R Practitioners into formal educator posts (through voluntary and government sponsored upskilling) is currently under discussion at the ELRC and HEDCOM.[70] The number of practitioners to be absorbed will also be informed by the total number of Grade R learners enrolled in the system and the Post Provisioning Norms. The cost of personnel accounts for a significant portion of the cost of universal grade R.

The department has identified inadequate funding for the filling of posts at schools to deliver quality grade R as a key risk.[71]

61. 'Joint Submission on the Division of Revenue Bill 2025/26' (n 55).
62. National Norms and Standards for Grade R Funding 2008.
63. Kholosa and Gustafsson (n 42).
64. 'World Bank (2022). South Africa Public Expenditure and Institutional Review for Early Childhood Development. Washington.'
65. Kholosa and Gustafsson (n 42).
66. ibid.
67. See Annexure A.
68. Ibid.
69. Ngcobo, Mr SL, 'Question NW2362 to the Minister of Basic Education, Parliamentary Monitoring Group' <https://pmg.org.za/committee-question/27778/>.
70. ibid.
71. 'Annual Performance Plan 2025/26' (Department of Basic Education).

Other Implementation Challenges & the Impact on ECD Providers

Regulatory Overlap and Complexity

Grade R has always been positioned as a bridge - between early childhood development and formal schooling, between home and classroom, between play and structured learning. Yet the legal and regulatory frameworks around it often make it less of a bridge and more of a bureaucratic bottleneck.

Historically, Grade R was delivered in two main settings: schools and community-based ECD centres. BELA brought Grade R under the ambit of the SASA, with all its governance structures, SGBs, and curriculum requirements. ECD centres, on the other hand, operated under the Children's Act and ECD subsidy regime. These two systems are now forced to collide. For schools, the challenge is downward extension. Most primary schools were not designed with five-year-olds in mind - their classrooms, playgrounds, sanitation facilities, and even timetables are geared towards older learners. Teachers may not be trained in early childhood pedagogy, yet they are expected to deliver play-based learning within a school culture that prizes discipline and academic assessment.

For ECD centres, the challenge is upward compliance. Many centres run quality Grade R classes, but now face uncertainty about whether their provision will be recognised as "schooling." The landscape is significantly reshaped for ECD providers and practitioners as well. Many centres rely on grade R classes as a core offering to attract enrolments and sustain their operations.[73] However, the shift to a formal schooling framework threatens to marginalise them if funding, training, and infrastructure support is concentrated in schools. Practitioners, often trained in developmental and play-based approaches, face pressure to align with formal teacher qualification requirements, despite their valuable expertise in early learning. The ECD sector must navigate shifting expectations around registration, funding, and curriculum alignment. Without clear regulatory harmonisation and transitional support, ECD centres risk exclusion or marginalisation, even when they are delivering strong outcomes.

Instead of making Grade R a smooth bridge, policy incoherence risks turning it into a contested space where schools, ECD centres, parents, and provincial departments all struggle to navigate overlapping rules.

Teacher Qualification Issues

SACE Registration

All teachers in schools are required to register with the South African Council of Educators (SACE) before they may be employed as educators at either public or independent schools. This requirement is set out in the SACE Act and reinforced in SASA.[74] Registration serves as a professional licence, confirming that an educator is suitably qualified, has met ethical standards and has been screened against criminal and misconduct records. This requirement extends to Grade R teachers employed at ECD centres. Because Grade R is formally recognised as the first year of the foundation phase and thus of basic education, teachers employed to deliver Grade R at an independent school (such as would be the case with ECD centres offering Grade R that have to register as an independent school) fall within the definition of educator in terms of SASA and must register with SACE. Whilst the SACE Act makes provision for the registration of ECD practitioners, the qualification requirement for the registration of Grade R teachers is significantly higher – requiring a professional teaching qualification such as a BEd, or a PGCE.

For ECD centres and schools, ensuring that Grade R teachers are registered with SACE is not only about compliance, it is also about safeguarding learners, maintaining professional standards, and ensuring that teaching in this crucial foundational year is recognised within the broader education system.

Upskilling, Salaries and Funding

The questions around upskilling are critical: will it apply only to public school practitioners? What about practitioners in ECD centres? How will these practitioners be integrated into the Post Provisioning

72. Constitution of the Republic of South Africa 1996.
73. ECD Census 2021 suggests that approximately one third of ECD sites offer Grade R. See 'ECD Census 2021 Report' (Department of Basic Education).
74. South African Schools Act 84 of 1996.

Norms for 2026? These are not merely administrative details - they determine whether experienced ECD practitioners are recognised and supported, or pushed to the margins.

Registration Requirements

When an ECD centre wishes to offer a recognised Grade R programme, it cannot simply continue operating as just an ECD site. As mentioned, Grade R forms part of the formal schooling system and is legally recognised as the first year of foundation phase. This means that any institution wanting to provide Grade R must register as an independent school with the relevant provincial education department. The registration process involves meeting minimum standards relating to governance, infrastructure, curriculum, and teacher qualifications. These requirements are designed to safeguard the rights of learners and ensure that the quality of education provided is on par with that of public schools, as is required by the Constitution and by SASA. Importantly, registration is not merely a compliance exercise, it is a mechanism that allows learners in Grade R to transition smoothly into Grade 1 with their prior learning formally recognised within the education system. For ECD centres, this shift can be both an opportunity and a challenge. On the one hand, registration opens doors to legitimacy and recognition; on the other hand, it often requires significant adjustments in operation, pedagogy, and administration to meet school-level standards.

In addition, the reality for ECD centres is that they will now not only have to register as an ECD programme as required in terms of the Children's Act so as to offer services for children below Grade R age, but will now have to register as an independent school with their provincial education department as required by SASA. Registration barriers impact ECD centres serving working-class and poor communities most severely. These centres - often unregistered or informally operating - face the steepest compliance challenges despite serving the children most in need of quality Grade R provision. The regulatory complexity thus becomes another layer of discriminatory impact, where structural barriers systematically disadvantage already marginalised communities. This underscores the importance of support, capacity building, and policy clarity to enable ECD providers to make the transition successfully.

Independent School Funding and ECD Subsidy

Once registered as an independent school, the door opens to another important question: Funding. Under SASA, registered independent schools may apply for government subsidies. This is further detailed in the Norms and Standards for School Funding.[75] These subsidies are not automatic, nor are they guaranteed for every independent school. Provincial departments assess applications against specific criteria including such factors as compliance with regulations, quality standards, financial sustainability, and the extent to which the school serves learners from less advantaged communities. It is therefore clear that even though a registered ECD centre offering a registered Grade R could theoretically unlock and receive a government subsidy, the process is neither simple nor immediate. ECD centres must first navigate the compliance and registration hurdles and then demonstrate eligibility under the subsidy framework. Access to the subsidy then often depends on provincial priorities and available budgets. Provincial education departments generally use a sliding scale linked to the socio-economic profile of the school and its learners to calculate the subsidy paid to the independent school. In other words, an independent school, and in this case the ECD centre, that serves learners from low-income families would qualify for a higher percentage subsidy than an independent school serving more affluent communities.

The Risk of Redirection

If ECD centres are providing quality Grade R, there is a real possibility of redirecting learners out of ECD centres into public schools - even when those public schools are under-resourced and unable to deliver quality early learning. This would be a tragic irony: dismantling what works in pursuit of what should work, but does not.

Pedagogical Issues

The core promise of Grade R was never simply more schooling. It was to give children, particularly from under-resourced backgrounds, a year of structured, play-based early learning that would prepare them for the rigours of formal schooling. Yet in practice, this

75. National Norms and Standards for School Funding, Notice 2362 of 1998.

promise has often been undermined. Several studies have found that Grade R classes are frequently run as mini-Grade 1s, with rote teaching, overcrowded classes, and very little of the play-based pedagogy that international research shows to be most effective. [76] Teachers are often under-qualified, underpaid, and unsupported.[77] In many schools, Grade R is physically located in prefab classrooms, reinforcing the sense that it is an "add-on" rather than an integral part of the foundation phase. The problem is compounded by underage enrolment.[78] One of the very reasons Grade R was introduced, as Richter notes, was to curb the phenomenon of underage children being placed in Grade 1 - parents, facing the cost of private ECD, opted for the free option of early enrolment into Grade 1, even if their child was not developmentally ready.[79] Today, we see a similar problem at the Grade R level. General Household Survey data, though imperfect, suggests that many underage children are being placed in Grade R.[80] This undermines pedagogy, stretches teachers, and makes it harder to deliver a developmental programme tailored to five-year-olds.

Is There a Duty to Fund Rights?

In the case of qualified rights and questions of resource availability, inquiries often hinge on the question of whether a right has been violated. However, when it comes to unqualified rights, considerations of resource availability do not factor into the question of whether the right has been violated but rather link more to the question of whether a limitation is justified in terms of a section 36 limitations analysis.[81]

While most jurisprudence on resource constraints emerges from cases dealing with qualified rights, these principles remain relevant to basic education matters, albeit with even stricter scrutiny given the unqualified nature of the right, because they speak to the broader budgetary obligations of government. In these cases where resource constraints have been raised by the state as a defence, three main principles have arisen.

First, while there must be reasonable policy formation, there must also be reasonable policy implementation and effective implementation requires at least adequate budgetary support.[82]

In determining what adequate budgetary support means, the *Blue Moonlight* judgment held that budgets should follow the constitutional obligations of a state functionary.[83] In *Institute for Economic Justice and Another v Minister of Social Development*, the High Court rejected the State's argument that they had not budgeted for the full roll out of the Social Relief of Distress grant to all eligible recipients:

> ***It is unthinkable why the government and National Treasury in particular should not plan and budget accordingly in order to fulfil its obligations in terms of the Constitution. There is no rational basis for the government budgeting for only 10.5 million successful applicants when the estimated number of people who qualify for the SRD grant is more than 18.3 million.[84]***

The *NAWONGO* judgment provides a practical example of how to prove inadequate funding. In this case, Non-Profit Organisations that provided social services showed the court exactly how much money they needed to deliver their services compared to how much funding they received.[85] This concrete evidence of the funding gap convinced the court that the government's subsidy policy was unconstitutional, specifically because it was not providing enough money to fulfil its obligations.

These matters show that when challenging government funding, a stronger case can be made if one can point to a specific policy and show how much money is needed. In the instance of Grade R, one can point to a binding legislative provision *and* show how much money is needed using the costing that was tabled alongside the BELA Act.

The second principle is that resource constraints must be tested properly - the State must put up convincing and specific evidence to substantiate its claims. High level reports of inadequate fund[86] and vague hypotheticals of increased costs are insufficient.[87] Importantly, resource constraints must be demonstrated with reference to the overall resourcing of the state:

77. ibid; 'Wildeman, R. & Nomdo, C. (2004). Implementation of Universal Access to the Reception Year (Grade R). How Far Are We? Institute for a Democratic Alternative for South Africa (IDASA), Cape Town.' (n 49); Van Der Berg and others (n 45).
78. 'The Impact of Basic Education on South Africans: Report on the 2023 General Household Survey' (n 38); Van Der Berg and others (n 6).
79. Richter and Samuels (n 5).
80. 'The Impact of Basic Education on South Africans: Report on the 2023 General Household Survey' (n 38).
81. Constitution of the Republic of South Africa 1996.
82. Government of the Republic of South Africa v Grootboom 2001 (1) SA 46 (CC).
83. Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd 2012 (2) SA 104 (CC).
84. Institute for Economic Justice and Another v Minister of Social Development (071891/2023) [2025].
85. National Association of Welfare Organisation and Non-Governmental Organisations v Member of the Executive for Social Development, Free State [2010] JOL 26056 (FB).
86. Mahlangu v Minister of Labour 2021 (2) SA 54 (CC).
87. Khosa v Minister of Social Development 2004 (6) SA 505 (CC).

> ***A final consideration will be the relevant human and financial resource constraints that may hamper the organ of state in meeting its obligation. This last criterion will require careful consideration when raised. In particular, an organ of state will not be held to have reasonably performed a duty simply on the basis of a bald assertion of resource constraints. Details of the precise character of the resource constraints, whether human or financial, in the context of the overall resourcing of the organ of state will need to be provided [own emphasis].***[88]

Government (National Treasury, in particular) has only made *general* assertions about limited state resources, and not specifically and expressly addressed or provided evidence for the decision to not fund the universalisation of grade R.

Engo endorsed the specificity requirement but also requires that a government department provide evidence that they have made a proper business case to try and increase funding, particularly through negotiating with Treasuries.[89] In the *Engo* judgment the organ of state could not evidence that they had made a case to Treasury for additional funds and thus the court rejected their defence. Similarly, in *Madzodzo*, the Eastern Cape Department of Education could not substantiate that they had tried to increase funding through intragovernmental channels available to them, even though they were aware of what the increased costs were going to be for meeting new demands.[90] This matter also confirms that resource constraints cannot arise from an organ of state's own administrative shortcomings. In the context of Grade R, the Department of Basic Education has engaged[91] and plans to continue to engage[92] with National Treasury regarding the need for additional funding, although more tangible evidence of this could be provided.

Third, the principle of non-retrogression. Professor Sandra Liebenberg argues that South African courts have confirmed that the principle of non-retrogression is part of South African law in the *NSNP* case.[93] Liebenberg notes:

> ***"[T]he scaling back of any measure that advances the progressive realisation of socio-economic rights would, in principle, fall within the scope of the non-retrogression doctrine. This would encompass both the erosion of legal protections as well as budgetary allocations that improve people's access to the relevant rights."*** [94]

Non-retrogression requires that at all costs, organs of state should try to avoid cutting back on what they have already provided the public with, but in instances where it is unavoidable, a much higher justification is required. This is especially so in the instance of the retrogression of an immediately realisable right and children's rights. The underfunding of Grade R (and the absence of funding for the universalisation of Grade R) will have a significant impact on other educational programmes, as PEDs divert funding from other vital education programmes like scholar transport and school infrastructure. The impact of this will almost inevitably be felt by existing learners in Grades 1 to 12, and their access to the most basic components of the right to basic education.

Rankin states:

> ***The UN CESCR's General Comment 19 on The Right to Social Security provides a helpful indication of what factors would need to be considered to justify a retrogressive measure. Some of these considerations are of a more procedural nature. For example, courts must consider if the State offered those affected by the retrogressive policy the opportunity to participate in their policy formulation process and whether the State ensured the policy was reviewed independently at a "national level". Other considerations require courts to engage more substantively with the retrogressive measure. For example, courts must consider if the measure is "directly or indirectly discriminatory", whether it will have a sustained or unreasonable impact on the right in question, and whether it deprives individuals of a certain "minimum essential level" of such a right [own emphasis].***[95]

If government is forced to take backward steps, it is required to put in place measures to protect vulnerable and marginalised groups, and to ensure that these groups are not disproportionately impacted.

88. Rail Commuters Action Group v Transnet Ltd t/a Metrorail 2005 (2) SA 359 (CC), para 88.
89. Engo v Premier of Free State Province [2020] JOL 47491 (FB).
90. Madzodzo v Minister of Basic Education 2014 (3) SA 441 (ECM).
91. 'Annual Performance Plan 2025/26' (n 71).
92. See Annexure A
93. Equal Education v Minister of Basic Education 2021 (1) SA 198 (GP) paras 46-48.
94. 'S Liebenberg "Austerity in the Midst of a Pandemic: Pursuing Accountability through the Socio-Economic Doctrine of Non-Retrogression" (2021) 37 SAJHR 181 191-192.'
95. 'C Rankin "The Adjudication of Budgetary Decisions in Socio-Economic Rights Litigation" LLM Thesis, University of Stellenbosch (March 2024)'.

Rankin argues that reducing socio-economic policy funding constitutes indirect discrimination as it disproportionately impacts vulnerable groups reliant on state support.[96] In the instance of Grade R, this is pertinent considering research suggests that low quality provisioning, particularly for children in under resourced areas, has in fact widened the inequality gap. The budget therefore perpetuates, if not exacerbates, existing patterns of educational disadvantage.

While budget cuts appear neutral, they primarily affect those unable to access private alternatives, creating discrimination based on poverty - a ground recognised in the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)[97], as confirmed by *Social Justice Coalition v Minister of the Police*[98]. In addition, poverty and race in South Africa are still inextricably linked, with Black and Coloured South Africans disproportionately affected.[99] Discrimination based on poverty is thus strongly linked to discrimination based on race.

Courts apply heightened scrutiny when equality intersects with socio-economic rights, as demonstrated in *Khosa*[100] and *Mahlangu*[101]. **The absence of funding for universal Grade R specifically discriminates against Black and Coloured children from working class backgrounds and intersects with the right to basic education. The nature of the discriminating provisions is severe, limiting the essential minimum entitlements of the right to basic education, and the impact on the dignity of learners is also substantial.** Basic education is a multiplier right, described as "primordial and integral to the human condition" by Justice Moseneke.[102] [103] The introduction of the Abidjan Principles states:

> ***"Human rights treaties consistently frame education as integral to the full development of the human personality and a sense of dignity and self-worth, as well as being indispensable to the promotion of peace, democracy, environmental sustainability, citizenship, and for realising other human rights. The right to education is based on the premise that a "well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence", while recognising that education is also an enabler and multiplier right serving as "the primary vehicle by which socially and economically marginalised adults and children can lift themselves out of poverty" (UN Committee on Economic, Social and Cultural Rights, General Comment 13, para. 1)."*** [104]

For these reasons, it is our view that the absence of funding for the universalisation of Grade R constitutes indirect unfair discrimination in contravention of PEPUDA. Establishing indirect discrimination reveals either state oversight regarding impacts on vulnerable populations or deliberate disregard of these consequences.

The principle of non-retrogression requires that where backward steps cannot be avoided, the state must protect vulnerable and marginalised groups from disproportionate impact. No such protective measures have been put in place. To the contrary, the absence of funding ensures that the burden falls heaviest on those least able to bear it: children in under-resourced communities whose families cannot afford private alternatives.

The budget process also does not meet the procedural standard for justifying retrogression. Public participation in the budget has historically been sparse - with short public comment periods, very little attempt to engage those most affected through public hearings and accessible information, and, outside of rejecting the budget in 2025, little evidence to suggest that recommendations made in written and oral submissions have been included in a budget. Therefore, it is reasonable to assume that communities most affected by the failure to fund Grade R universalisation were not meaningfully represented or heard in budget deliberations. Further, it also results in the deprivation of the minimum essential level of the right, both in access and quality.

While the duty to fund rights lies with the State as a whole, it is Parliament that gives practical effect to this duty through the budget. The next section considers

96. ibid.
97. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.
98. Social Justice Coalition v Minister of Police 2019 (4) SA 82 (WCC).
99. Gregory Houston, Modimowabarwa Kanyane and Yul Derek Davids, Paradise Lost: Race and Racism in Post-Apartheid South Africa (BRILL 2022) <https://brill.com/view/title/62345> accessed 5 November 2025.
100. Khosa v Minister of Social Development 2004 (6) SA 505 (CC). (n 78).
101. Mahlangu v Minister of Labour 2021 (2) SA 54 (CC). (n 77).
102. Federation of Governing Bodies for South African Schools v Member of the Executive Council for Education, Gauteng & Another 2016 (4) SA 546 (CC) at paras 1 and
103. Applicant Heads of Argument, Equal Education v Minister of Basic Education 2021 (1) SA 198 104. (GP) paras 46-48. (n 84).
104. The Abidjan Principles on the Right to Education 2019.

Parliament's constitutional responsibilities and how they relate to the funding of Grade R.

Parliament's Duty to Pass a Budget (that Funded Grade R)

It is a common, and understandable, misconception that the budget belongs to the National Treasury. However, like any other law, the budget is tabled before and passed by Parliament.[105]

The Constitution grants both national and provincial legislatures substantial powers to amend proposed budgets and other Money Bills[106] (including revenue/tax raising Bills). This authority represents a fundamental democratic check and balance - the Constitution limits the ability to table Money Bills at the national and provincial levels respectively to the Minister of Finance and the MEC's of Finance, and legislature oversight is designed to counterbalance this by ensuring the executive remains accountable to the people through their elected representatives and public participation processes.

Despite these powers existing since 1996, they have rarely been exercised in practice and national and provincial legislatures have, up until 2025, largely functioned as "rubber-stamping institutions."[107] Arguably, the result is that National Treasury has a disproportionate power to determine South Africa's budget with little interference from the legislature.

Muller argued that *"There is a view from both politicians and government officials that any legitimate concerns about budget allocations or revenue raising could be resolved through behind-the-scenes political channels rather than through formal exercising of Parliament's authority."* [108]
Parliament is the public's primary formal channel to respond to national budget proposals, so limiting public participation or pre-emptively rejecting the possibility of amendments fundamentally undermines government accountability.

The reluctance to amend or reject a budget has stemmed from several factors, including political dynamics where the dominant party controls both the legislature and executive and limited technical capacity among members of parliament.[109] The introduction of a national coalition government (addressing the issue of dominant party control) changed this dynamic in 2025, where South Africa saw its first rejected budget. However, limited technical capacity amongst members of parliament remains a challenge and may be why Parliament chose to outright reject the budget instead of amending it.

Despite increased engagement with the budget in 2025, Grade R was not a priority for Members of Parliament. Equal Education and Equal Education Law Centre made four written and oral submissions to the National Council of Provinces (NCOP) and National Assembly (NA), outlining concerns about a lack of funding for Grade R universalisation.[110] During Parliament's debate on the budget that funds provinces, only one political party reflected on the need for the budget to allocate Grade R funding to provinces. The budget was then subsequently passed.

To understand Parliament's role fully, it is necessary to outline how the national budget is structured and approved. The following section summarises the budget process and identifies the points at which funding decisions affecting Grade R are made.

The Budget Process

Chapter 13 of the Constitution sets out broad parameters for the management of public finances. This includes section 216, which establishes the authority of National Treasury and mandates that legislation be introduced to prescribe how public finances should be managed – this legislation is primarily the Appropriations Act and the Division of Revenue Act (and the amended versions thereof tabled in October with the Medium-Term Budget Policy Statement).[5] The Appropriations Act divides the budget across national government departments, and the Division of Revenue Act (DORA) divides revenue across the three spheres of government. The DORA is where Grade R funding would have been reflected, had it been allocated.

105. As noted below, there are three components of the budget. The Fiscal Framework is not a law, even though binding once passed by Parliament. The Appropriations Act and the Division of Revenue Act are laws.
106. While Parliament can amend budgets, the Constitution does recognise that amending the budget is different to amending other legislation, and thus requires Parliament to have passed a law outlining how budgets can be amended. This law is the Money Bills Amendment Procedure & Related Matters Act No. 9 of 2009.
107. Sean Muller, 'Fiscal Oversight by Parliament and Provincial Legislatures' (Public and Environmental Economics Research Centre, University of Johannesburg).
108. ibid.
109. ibid.
110. 'Joint Submission on the Division of Revenue Bill 2025/26' (n 55).

Overall, the budget comprises three main components: the Fiscal Framework which determines the total expenditure, revenue and borrowing, the Appropriations Act, and the Division of Revenue Act.

While the Constitution strictly limits the power to table money Bills at the national level to "the Cabinet member responsible for national financial matters"[6] and at the provincial level to "the member of the Executive Council who is responsible for financial matters in the province",[7] government departments are actively involved in deliberations and negotiations throughout the year and these deliberations inform the development of the budget.

The national budget process follows a structured sequence that creates distinct intervention points for legislative oversight. Notably, the fiscal framework is not legislation but is still binding once passed. The fiscal framework and the DORA have significant impacts on provincial budgets, and therefore the time periods for oversight at the national level substantially impact those at the provincial level.

First, Parliament's finance committees, in both the NA and the NCOP must consider the fiscal framework within 16 days of the Budget being tabled (or as soon as reasonably possible thereafter). This framework establishes overall revenue, expenditure, and borrowing levels. Public hearings must be held.

Next, within 35 days of the fiscal framework being adopted (or as soon as reasonably possible thereafter), Parliament must pass the Division of Revenue Bill (DoRB), which determines allocations to provinces. The DoRB is considered by the NA and NCOP's respective Appropriations Committee. The DoRB must be considered **after** the fiscal framework has been passed.

Provincial legislatures have input through the National Council of Provinces. Each province provides negotiating and voting mandates on the Division of Revenue Bill. Importantly, the division of revenue across the spheres of government must satisfy a number of criteria, outlined in s214(2) of the Constitution. Criteria include **"the need to ensure provinces are able to provide basic services and perform functions allocated to them"** and **"obligations of provinces in terms of national legislation."**

Treasury tries to meet these requirements through the use of an equitable share formula, which relies on official estimates of relevant variables – such as population and school enrolment – at the provincial level. It is unclear, and unlikely, the data used for the school enrolment component of the equitable share included the number of Grade R learners that had to be brought into the system.

Finally, Parliament has four months (or as soon as reasonably possible thereafter) to consider the Appropriations Bill, which details national departmental allocations. The Appropriations Bill is given more time for consideration because the sector specific portfolio committees are required to engage with the details of departmental budgets.

Key to this sequence is that decisions at each stage place restrictions on decisions as later stages. When Parliament passes the fiscal framework, they are in essence determining what is a "responsible level of total expenditure".[111] Therefore, once the fiscal framework is passed, any amendments to the DoRB or Appropriations Bill must be made within the constraints of the fiscal framework. This means that if Parliament wants to amend the DoRB or Appropriations Bill to increase expenditure in a programme/sector, it must find the money in the already approved total amount of national government expenditure. This would require coordination between committees, especially when money is reallocated from one vote (department) to another.

This sequence is paradoxical: the total budget is fixed before expenditure priorities can be scrutinised for adequacy. If Parliament finds that a spending priority (or duty, in this case) like Grade R universalisation is under-resourced or unfunded during DoRB consideration, amendments are limited within the fixed fiscal ceiling, precluding reconsideration of whether the framework itself is sufficient.

Other Opportunities for Legislative Oversight and Engagement with the Budget

Outside engaging with the three components of the

111. Muller (n 98).

budget as discussed above, parliament has other opportunities to influence budget allocations and priorities. First, the Money Bills Act requires portfolio committees of the National Assembly to compile Budget Review and Recommendation Reports (BRRRs). These reports assess the performance of departments and make recommendations to the relevant department's Minister and the Minister of Finance. The following years budget must respond to these recommendations.

In addition to this, the medium-term budget policy statement in October, tabled alongside the adjusted budget, sets out the proposed spending for the next three years (the Medium-Term Expenditure Framework, or "MTEF"). The MTBPS is a policy document, not a piece of legislation and therefore does not require approval, amendment or rejection by the legislature. However, the Money Bills Act does require relevant committees to report on the MTBPS and these reports can include recommendations. This provides legislatures with an indication of the executive's future policies and spending priorities. Through Committee engagements with the MTBPS, they can in theory influence the budget before it is drafted.

Committees had in fact made recommendations to National Treasury on Grade R before the 2025 main budget:

> ***THE STANDING COMMITTEE ON APPROPRIATIONS ON THE DIVISION OF REVENUE AMENDMENT BILL That both the Minister of Finance and the Minister of Basic Education ensure that National Treasury provide, and the Department of Basic Education provide a comprehensive report to Parliament on both the financial implications and the overall government strategy in funding and fully implementing the BELA Act.***

National Treasury responded:

> ***The Department of Basic Education, as the department bringing the Basic Education Laws Amendment Act (2024) to Parliament, is required to provide the costing and financial implications of the legislation as per section 35 the Public Finance Management Act. The department presented this information to the Portfolio Committee on Education in 2023 and 2024. The Department of Basic Education is compiling the regulations mapping the implementation of the act by provinces. Funding the implementation of the act will form part of the normal budget process at national and provincial level."***[112]

To summarise, when the Committee on Appropriations requested a plan from National Treasury and the DBE to fund the BELA Act, Treasury responded that it was waiting on the DBE to create regulations before it would provide funding. The only cost implication of implementing BELA was with regard to Grade R. While the DBE is in the process of developing regulations to implement the BELA Act, none of them are in relation to Grade R, so it is unclear why Treasury would wait for the DBE to develop regulations on unrelated matters before they fund Grade R universalisation.

The Parliamentary Budget Office: An Underutilised Resource

The Money Bills Act established the Parliamentary Budget Office (PBO) to provide independent, objective analysis to enhance Parliament's fiscal oversight capacity. With a mandate to monitor unfunded mandates, analyse budget documents, and advise on amendments, the PBO represents a significant potential resource for addressing issues like the Grade R funding gap. The Money Bills Act specifically notes that one of the PBO's functions is the "monitoring and reporting on potential unfunded mandates."[113]

The PBO's effectiveness depends on both its institutional capacity and independence - the PBO remains relatively small compared to similar institutions internationally. Unfortunately, due to capacity constraints, the PBO has been limited in their ability to interrogate systemic sectoral issues and have therefore not done very much work on Grade R as an unfunded mandate in the 2025 budget process.

Did Parliament Have a Duty to Pass a Budget Funding Grade R Universalisation?

We argue that Parliament had a duty to pass a budget that funded Grade R universalisation and subsequently contravened that duty.

107. South African Schools Act 84 of 1996.
108. National Norms and Standards for School Funding, Notice 2362 of 1998.

First, Parliament enacted the BELA Act with full knowledge of implementation costs. It has been established that the fiscal implications were known, documented, and placed before Parliament at each stage of deliberation. Second, as established above, there exists a clear duty to fund basic education. The jurisprudence establishes that budgets must follow constitutional obligations. Grade R, now formally part of basic education under section 29(1)(a), falls within this immediately realisable right.

Second, as established above, there exists a clear duty to fund basic education. The jurisprudence establishes that budgets must follow constitutional obligations. Grade R, now formally part of basic education under section 29(1)(a), falls within this immediately realisable right.

Third, we have also established that provinces lack the fiscal capacity to implement universalisation independently. Provinces have neither the fiscal autonomy nor available resources to absorb 200,000 additional learners while improving quality to meet minimum standards. **The suggestion that provinces can reallocate existing funds is inconsistent with the evidence of sustained budgetary pressure and declining real per-learner spending.**

Fourth, if provinces cannot fund Grade R universalisation, then it is left to Parliament to do so, specifically through the Division of Revenue Act. Parliament did not do this – it passed a budget that allocated no additional funding for Grade R universalisation, rendering SASA partly unimplementable and contravening PEPUDA. This budget, itself a law of general application, now operates as a limitation on the right to basic education and in contravention to PEPUDA, infringing on the right to equality. A law of general application may limit constitutional rights only where the limitation is *"reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom."* This requires consideration of several factors:

1. ***Nature of the right:*** Basic education is an immediately realisable and multiplier right. The intersection of this right with the right to equality and the right to dignity further strengthens its importance.
2. ***Importance and purpose of the limitation:*** The absence of funding has not been expressly articulated by Parliament or National Treasury, with shifting excuses across consecutive budgets.[114] If the purpose is fiscal consolidation, no evidence has been provided that that government is unable to afford implementation with reference to the overall resourcing of the State.
3. ***Nature and extent of the limitation:*** the limitation is severe. It limits multiple rights and renders a statutory entitlement effectively unenforceable for thousands of children. For those who do access Grade R, the limitation manifests as provision sometimes falling so far short of minimum quality standards that it may not constitute provision at all.
4. ***Relation between the limitation and its purpose:*** Even accepting fiscal constraint as a legitimate concern, the complete absence of additional funding bears no reasonable relationship to any stated purpose. The BELA Act does not require government to fund Grade R from scratch, but build on decades of existing work, already existing infrastructure, and the progress already made.
5. ***Less restrictive means:*** The decision to provide zero additional funding while maintaining the legal obligation represents the most restrictive option available. No evidence suggests that less restrictive alternatives were meaningfully considered.

In conclusion, Parliament did have a duty to pass a budget that funded Grade R universalisation and is in breach of its duty for not doing so. However, while the legal responsibility rests squarely with Parliament, in practice the outcome reflects the *de facto* authority of the National Treasury in determining budget priorities. This concentration of fiscal power within the executive has far-reaching implications for democratic oversight, the separation of powers, and the rule of law - issues the next section will examine in greater detail.

114. From conditional funding dependent on regulations, deferring costs to 2026 or suggesting provinces must use their own resources.

Consequences: Governance, Rights, and Development

Parliamentary Authority vs Executive Veto

Parliament, exercising its democratic mandate, decided that Grade R should be compulsory. That decision carried enormous weight: it transformed what had long been a policy aspiration into a statutory entitlement. But, this democratic choice has been quietly undone by the Executive. Treasury's refusal to allocate funds has meant that the law exists on paper but cannot be implemented in practice. The effect is a back-door veto - not exercised openly through political debate, but silently, through the budget.

This creates a serious constitutional tension. The separation of powers doctrine holds that Parliament makes law, the executive implements it, and the courts ensure compliance. But here, the executive has used *de facto* fiscal discretion to overrule Parliament's law. This is a dangerous precedent: it signals that laws may bind citizens (who face sanctions if they fail to comply), but not government itself.

And this is not just a schooling problem. Unfunded mandates are a threat to all socio-economic rights provision. Each time an unfunded mandate goes unchecked, the certainty with which people can trust in laws and in future funding promises diminishes. For example, there is now widespread movement towards legislating an explicit right to ECD, in part because this would create provision obligations on the State. But, those obligations only have a meaningful effect if government can be relied upon to provide the necessary funding and resources for implementation. What is unfunded for Grade R today may very likely be unfunded for ECD tomorrow. In this way, Treasury's effective veto does not just weaken Grade R, it undermines the credibility of the entire legislative project to expand and entrench early childhood rights.

Conclusion

Three decades of promises have brought us here: a constitutional right without the resources to make it real, a regulatory maze without clear pathways, and a pedagogical vision without the support to achieve it.

This report has shown that while the BELA Act has made Grade R a compulsory component of basic education, the State has not provided the corresponding fiscal measures required for implementation. This disconnect between law and funding undermines the constitutional duty to make basic education immediately available and accessible under section 29(1)(a). It further places provinces in an untenable position.

The analysis demonstrates three core points. First, that the failure to fund Grade R constitutes a breach of the State's constitutional and statutory obligations. Second, that this failure gives rise to indirect unfair discrimination, as the consequences fall disproportionately on learners in under-resourced, predominantly Black and Coloured working-class communities, entrenching inequality in educational access. Third, that the omission exposes structural weaknesses in South Africa's fiscal and governance arrangements, where a timorous parliament and *de facto* executive budgetary discretion can effectively override legislative commitments.

Together, these findings point to broader constitutional concerns that extend beyond Grade R. They raise important questions about the relationship between legislation and fiscal implementation, the accountability of the Executive to the Legislature in budget processes, and the mechanisms required to ensure that rights recognised in law are realised in practice. Aligning legislative intent with fiscal p lanning i s therefore essential not only for the implementation of Grade R, but for the credibility of South Africa's broader socio-economic rights framework.

Our recommendations are as follows:

1. Secure dedicated funding for Grade R universalisation

- National Treasury must include the estimated R17 billion in the next budget cycle, with clear ring-fencing for Grade R implementation, potentially in

the form of a conditional grant.

- The DBE, together with PEDs, must establish transparent reporting mechanisms for per-learner spending across provinces and quintiles
- PEDs must prioritise funding to bring per-learner spending to at least the legislated 70% of primary grades (currently at around 30%)

2. Create a unified regulatory pathway for ECD centres offering Grade R

- The DBE must establish clear timelines and transitional support for centres navigating the registration process
- The DBE must ensure registration requirements are proportionate and do not inadvertently exclude quality providers

3. Comprehensive practitioner support across both sectors

- The DBE and Department of Higher Education and Training (DHET) to extend upskilling and qualification programs to practitioners in both public schools and ECD centres offering Grade R
- The DBE, DHET, SAQA and SACE to create clear pathways for ECD practitioners with valuable early childhood expertise to meet SACE registration requirements without losing their pedagogical strengths
- The DBE must establish fair salary scales that recognise Grade R teaching as specialised early childhood work

4. Protect and strengthen play-based pedagogy

- The DBE to develop quality assurance frameworks that emphasise developmental appropriateness over “mini-Grade 1” approaches
- The DBE and PEDs address underage enrolment systematically to allow proper developmental programming
- The DBE must work together to reform teacher training curriculum with DHET

5. Address infrastructure systematically

- National Treasury to fast-track the Budget Facility for Infrastructure application for the remaining 3,831 schools needing Grade R classrooms
- Provincial Education Department’s to eEnsure new infrastructure is designed for five-year-olds (appropriate toilets, play spaces, furniture)
- Provincial Education Department’s to sSupport ECD centres with infrastructure upgrades where needed

6. Establish clear lines of responsibility

- The DBE to create provincial coordination mechanisms to prevent regulatory gaps or conflicts
- The DBE to ensure parents have clear information about their rights and options
- National Treasury to amend the Public Finance Management Act to include provisions that address instances where legislation is tabled with costings, subsequently passed and then unfunded.

7. Strengthen monitoring and evaluation

- The DBE to conduct updated quality evaluations (the most recent comprehensive data is from
- 2013) The DBE to track whether Grade R is narrowing or widening equity gaps
- The DBE to monitor whether compulsory status is being enforced equitably across socio-economic groups

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Annexure A – PAIA Request Response

RE: REQUEST FOR INFORMATION REGARDING THE IMPLEMENTATION PLANS FOR GRADE

We hereby make an application in terms of section 18(1) of the Promotion of Access to Information Act 2 of 2000. I am attaching PAIA Form 2 in support of our application.

ITEM	DBE RESPONSE
1. The implementation plans which the DBE have formulated to ensure widespread and universal access to grade R at public schools in South Africa in line with BELA.	Grade R classes were part of ordinary public schools long before the South African Schools Act 84 of 1996 was amended on 24 December 2024. The Sector is currently strengthening the infusion of Grade R through the Monitoring of Learner Admission Policies to ensure that Grade R is included in all Primary Schools' Learner Admission Policies. Provinces were requested to have grade R implementation plans submitted to the DBE. Reports are in place. Provinces reported on the state of readiness to the Portfolio committee on Basic Education during a meeting held on 08 July 2025 in Cape Town. The Department will be holding a scheduled learner admissions meeting on 20 August 2025, where grade R preparations will be an agenda item. The Department will be conducting school readiness monitoring in October 2025 and early January 2026 with grade R preparations being part of the monitoring tool.
2. The number of learners that will require a place in grade R in 2025.	The number of Grade R places required in 2025 is essentially the size of the age 5 cohort in the population. This does not mean that every child should take Grade R in the year in which he or she turns 5, but for planning purposes this approach is adequate. The best estimate the DBE has of the age 5 cohort in 2025 is 940,000. This is the number of births in 2020 according to birth registrations data. It should be noted that a spike in births is suspected to have occurred starting in late 2020 as a result of the pandemic. Thus the 940,000 figure is slightly higher than what would be expected without this spike. The 940,000 figure does not take into account either child mortality nor grade repetition in Grade R, but these are relatively small factors
3. The budget that has been allocated to ensure that grade R is fully accessible to all learners who will be required to attend, including in it the budget allocated for educators, age-appropriate infrastructure and learner and teacher support material (“LTSM”).	The Department has developed a national catalogue for Grade R, where provinces, Districts and Schools procure materials. Budgets for these resources are included in the norms and standard funding. Over and above these resources, the Department develops, prints and distribute Grade R workbooks to all public ordinary schools. In terms of Infrastructure: The sector has allocated a total of R 1.575 billion over the 2025 MTEF period for provision of Grade R classrooms.

4. How many public schools in South Africa already have grade R classrooms with age-appropriate infrastructure, LTSM, and qualified teachers.	The number of schools that are receiving Grade R workbooks is **15 804** The catalogue is made available to all public schools. In terms of Infrastructure: Out of the 14 848 primary and combined schools offering Grade R, 11 017 have been provided with classrooms, meaning a total of 3 831 schools still need to be provided with Grade R classrooms.
5. Whether there is sufficient classroom space, qualified teachers, and age -appropriate infrastructure to accommodate all learners that will require a grade R place as of January 2025 or whether more classroom space will be required.	The sector ensures that all newly constructed schools include age-appropriate Grade R facilities. In addition, a dedicated Grade R Additions Programme has been established to expand access at existing schools. Where existing infrastructure permits, the sector is converting available classrooms into Grade R-compliant facilities by equipping them with the necessary resources. These include fenced playgrounds, and appropriate sanitation facilities. To fully comply with the minimum norms and standards for Grade R infrastructure across all schools, the sector requires significant budget injection. In this regard, an application is being finalised for submission to the National Treasury under the Budget Facility for Infrastructure (BFI) to secure additional funding for the construction of Grade R classroom at scale. **Qualified teacher** The requirements and procedures for assigning Grade R positions are presently being finalised by the Department. This is a step in the formalisation of Grade R post distribution. For a while, the Department will continue to use the current Grade R post structure. Posts will continue to be assigned to schools in accordance with their needs until the norms and standards are completed. Approximately 7000 Grade R Practitioners who lack full teaching qualifications will be retained by the Department. This group of teachers has been in the field for a long time before Grade R became compulsory. It is the proposal that they enhance their qualifications over a set period of time, and they will be retained. This will be accomplished with financial assistance and agreements with specific universities and other organisations. Only qualified teachers will be assigned to newly formed positions or to attrition-related replacements.

	The Department is certain that there will always be a supply of BEd graduates to cover any open positions in the external supply of qualified Grade R teachers.

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