

THE EDUCATION MONITORING BRIEF

The Equal Education Law Centre (**EELC**) uses legal advocacy, research, and litigation to advance the struggle for equal and quality education and early childhood development in South Africa. The EELC Education Monitoring Brief is a digital newsletter highlighting key legal and policy developments in education and early childhood development and providing the latest updates from parliament and our courts.

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IN THE SPOTLIGHT:

The National Assembly Passes the BELA Bill

On 26 October 2023 the Basic Education Laws Amendment (BELA) Bill was passed by the National Assembly. The BELA Bill, first published six years ago in October 2017, has gone through two rounds of extensive public consultation. It has now been referred to the National Council of Provinces (NCOP) for concurrence and, if passed, will bring the most significant changes to basic education laws in the last decade.

In June 2022, Equal Education (EE) and Equal Education Law Centre (EELC) made joint written and oral [submissions](#) to Parliament on the Bill. We raised concerns and suggested amendments regarding particular provisions, some of which have now been included in the final version of the Bill. Concerningly, the Bill retains multiple clauses that extend jail time for parents, caregivers and any other individual that disrupts school activities or prevents a learner from going to school. This does not address the underlying reason why learners sometimes do not go to school and risks separating children from their caregivers.

On the other hand, the BELA Bill will also provide important clarity on the decision-making powers of School Governing Bodies and the State with regard to learner admissions and language policies – an issue which has unfortunately been left to the courts to develop on a case-by-case basis. Some conservative groups such as AfriForum and the Democratic Alliance have described these amendments as "school capture" and [have expressed their intention](#) to challenge the constitutionality of these provisions in court. However, as McFarlane [states](#),

"Rather than introducing something new, the Basic Education Laws Amendment Bill is just bringing the law in alignment with what cases have already confirmed: the role of school governing bodies is critical, but the State has important and final oversight responsibility to ensure equity."

OTHER DEVELOPMENTS IN THE EDUCATION SECTOR



CIVIL SOCIETY PREDICTS THE ANNOUNCEMENT OF FURTHER AUSTERITY MEASURES IN MEDIUM-TERM BUDGET POLICY STATEMENT

On 21 September, Director General Mweli of the Department of Basic Education (DBE) convened a meeting with interested stakeholders and presented on [cost containment measures](#). These cost containment measures are a part of a larger reduction in social spending across the board and will have severe implications for not only the provision of equitable and quality basic education, but for social services at large.

On 17 October, in the lead up to the Medium-Term Budget Policy Statement set to take place on 1 November, over 100 experts and organisations, including Equal Education Law Centre, signed on to support an [open letter](#) by the Institute for Economic Justice (IEJ) to call on the President and the Minister of Finance to halt all planned budget cuts. In a recently published [research report](#), the IEJ argues that reports that South Africa is standing on the edge of a “fiscal cliff” or “financial crisis” are over exaggerated. The IEJ’s Mncube states, *“In exaggerating a ‘crisis’ National Treasury is able to force through chaotic, dire, and ultimately deadly austerity measures across the board. This will undermine progress made towards realising socio-economic rights by other government departments, stifle economic growth and job creation, and exacerbate the extreme hardship experienced by millions of people for years to come. IEJ research takes the fiscal challenges seriously, but shows how they can be handled in the short term to avoid a social crisis, while putting in place the necessary plans to leverage the budget to achieve sustainable growth.”*



WESTERN CAPE EDUCATION DEPARTMENT ANNOUNCES NEW PUBLIC-PRIVATE PARTNERSHIP TO “FURTHER THE BUSINESS OF EDUCATION”

In the Western Cape Education Departments (WCED’s) most recent move to further private sector involvement in basic education provisioning, MEC Maynier has [announced](#) the introduction of Edu Invest - a public-private partnership initiative with Wesgro. Maynier says the purpose of Edu Invest is to attract private investment into education, specifically low-cost new private schools. He avers that, *“the availability of new school places in independent schools would help to address overcrowding in public schools.”* Wrenelle Stander, CEO of Wesgro, stated, *“Edu Invest reflects Wesgro’s commitment to advancing the business of education.”* For more information on “low fee” independent schools in South Africa, see Van Der Berg’s paper [The Performance of Low Fee Independent Schools in South Africa – What can available data tell us?](#)

In terms of the National Norms and Standards for School Funding, the Minister of Basic Education published a list of schools that may not charge schools fees. For further information, see [Gov N3964, GG49491, 12 October 2023](#).

LAW AND POLICY SUBMISSIONS



CALL FOR PUBLIC COMMENT: DRAFT POLICY ON SOCIAL DEVELOPMENT SERVICES TO PERSONS WITH DISABILITIES

The Department of Social Development has [called](#) for public comments on the [Policy on Social Development Services to Persons with Disabilities](#) (Gov N3966, GG49505, 16 October 2023). The Policy aims to strengthen the delivery of social services to persons with disabilities, particularly those living in rural communities, women and youth, by mainstreaming *“disability issues in all programmatic interventions as well as target investments that will specifically benefit persons with disabilities.”* This requires the DSD to adopt a disability responsive planning, budgeting, monitoring, and evaluation approach. Comments can be emailed to Ms Sophie Molifi at DSDdisabilityservices@dsd.gov.za by no later **Friday, 15 December 2023**.

INTERNATIONAL TREATY BODIES AND UPDATES IN EDUCATION

» UNITED NATIONS COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES RELEASES LIST OF ISSUES FOR SOUTH AFRICA

The Committee on the Rights of Persons with Disabilities has released a list of issues (LOI) prior to submission of the combined second, third and fourth periodic reports of South Africa under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The LOI makes special mention of Ikhwezi Lokusa Special School. On 3 September 2023, [journalists exposed](#) the inhumane conditions at the school, an Eastern Cape boarding school for learners with physical and intellectual disabilities between the ages of 6 and 12 years old. The report showed a school without running water, with broken toilets, children sleeping on brick beds, insufficient supervision with children left alone to wash and care for themselves for hours on end. In addition, there had been multiple accounts of emotional, physical, and sexual abuse. Concerningly, the report was a follow up from a previous investigation in 2018 at the same school. Conditions had only worsened since 2018, despite the National and Provincial Education Department being aware of the egregious rights violations at the school. The LOI requests a report on urgent measures taken to address the human rights violations at the school, to investigate cases of ill treatment and provide effective and timely remedies for ill-treatment of children with disabilities.

Call for input: Human Rights Council Resolution 52/8 on promoting human rights and the Sustainable Development Goals through transparent, accountable and efficient public service delivery

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has published a call for inputs to inform its report on the role of public service delivery in the promotion and protection of human rights and the achievement of the Sustainable Development Goals. The OHCHR seeks information on, amongst others, the institutional and practical challenges and barriers to service delivery; examples of good practice; the extent and impact of corruption; the role of private actors; and enabling policies, legislation and budgets. Inputs may be sent by email to maria.veramendivilla@un.org by **1 November 2023**. More information can be found [here](#).

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