

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: Thousands of Learners Without a School as Western Cape and Gauteng Face School Admissions Crises



Even though schools in the Western Cape and Gauteng reopened on 17 January, thousands of learners, largely in under-resourced areas with overcrowded schools, are without a school and are unable to unlock the most basic component of their Constitutional right to access education. Hundreds of caregivers in search of a school for their children queue daily outside already “oversubscribed” schools, overwhelmed education district offices, and the provincial education department (PED) offices. EELC’s Khayelitsha-based walk-in law clinic has been inundated and overwhelmed with parents and learners desperately seeking assistance and guidance.

For many years, EELC has been advocating for the improvement of policies and regulations relating to admissions and, in particular, late applications. For more information on the causes of the school admissions crisis and our specific recommendations, you can read our media statement [here](#).

On 24 January, Equal Education learner and parent members in Gauteng and the Western Cape [picketed](#) outside the Benoni and Metro East Education District offices respectively, to demand the immediate admission of all unplaced learners in the provinces. Parents and learners expressed their frustration at the ineffective school application and appeal processes, schools illegally withholding report cards due to non-payment of fees and of ‘voluntary’ contributions, and lengthy distances that some learners will have to travel to the schools they were allocated. On 29 January, some of the parents of unplaced learners who joined the picket successfully secured a place for their children at a school, but many learners are still unplaced.

OTHER DEVELOPMENTS IN THE EDUCATION SECTOR



NCOP GETS READY TO HOLD ORAL HEARINGS ON THE BASIC EDUCATION LAWS AMENDMENT 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 and if passed, will bring the most significant changes to basic education laws in the last decade. It was referred to the National Council of Provinces (NCOP) for concurrence and the Select Committee on Education and Technology, Sports, Arts and Culture and the NCOPs deadline for public comment closed on 31 January. Oral hearings are set to take place soon.

In June 2022, EE and 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. We have made a [submission](#) to NCOP highlighting this and other outstanding issues.

General Notice 1914 of 2023: Minister Motshekga announces that the period for 2024 School Governing Body (SGB) elections will be from 1-31 March 2024, and that newly elected SGBs will assume their responsibilities from the moment they are declared to be freely and fairly elected SGB members.

KwaZulu-Natal Provincial Gazette 2645 PN 642 of 18 January 2024: The KwaZulu-Natal Department of Education releases a Resource Targeting List for 2024/2025 for Public Ordinary Schools. This is a list in which the Provincial Education Department outlines key characteristics of schools, like quintile status and fee status, that will impact the amount of funding they receive

LAW AND POLICY SUBMISSIONS



CALL FOR COMMENT: FINANCE MINISTER GODONGWANA INVITES SOUTH AFRICANS TO SHARE THEIR SUGGESTIONS ON THE BUDGET

The Minister of Finance, Mr Enoch Godongwana, will deliver the National Budget Speech on **21 February 2024**. The Minister argues that the budget allocation aims to strike a balance between growing the economy and supporting the vulnerable amid limited resources. This is, however, in the context of many years of cuts to social spending, including basic education, which has had devastating consequences on the realisation of the right to basic education.

The Minister invites South Africans to share their suggestions on the Budget. Views may be submitted on:

- Municipal finances
- Spending priorities of government
- Addressing a large budget deficit
- Stabilising state-owned entity finances
- Managing the energy crisis
- Tax revenues
- Debt sustainability

Comments can be submitted to National Treasury using [this link](#) by no later than **Sunday, 11 February 2024**. More information can be found [here](#).

INTERNATIONAL TREATY BODIES AND UPDATES IN EDUCATION

» UNCRC REVIEWS THE STATE OF CHILDREN'S RIGHTS IN SOUTH AFRICA

On 24 and 25 January, the Committee on the Rights of the Child reviewed the state of children's rights in South Africa at the [95th Session](#) and discussed to what extent South Africa met its obligations under the United Nations Convention on the Rights of the Child.

South Africa came under close scrutiny. For example, the chairperson observed that, if children are the future of the country (as the government acknowledges they are), they should be exempt from “fiscal tightness”. The fact that they're not makes South Africa's position “contradictory”.

This review was part of a reporting cycle in which South Africa must report to the Committee every five years on its progress regarding the fulfilment (or non-fulfilment) of its human rights obligations under the Convention. The Committee based the session discussions on South Africa's State report, the government's written replies to the Committee's list of issues, civil society reports, information shared during the pre-session engagements with civil society and children, and other relevant documentation.

In line with Article 12 of the CRC on giving due weight to the views of children in matters affecting them, Equal Education Law Centre and Equal Education learner members (“Equalisers”) submitted a joint report to supplement the information provided in South Africa's State report. Amongst others, our report noted issues such as:

- Barriers to birth registration and documentation, and consequences for access to education
- Discrimination against learners on the basis of sexual orientation and gender identity
- The prevalence of corporal punishment, bullying, and violence in schools
- Inadequate access to nutrition
- The rights of children with disabilities to access education, and in particular the [human rights abuses at Ikhwezi Lokusa Special School](#) in the Eastern Cape
- Universal access to free Early Childhood Development services
- Learner pregnancy
- Watch the first session [here](#) and the second session [here](#).

» CALL FOR INPUT: OHCHR REPORT ON HOW CLIMATE CHANGE CAN HAVE AN IMPACT ON THE REALIZATION OF THE EQUAL ENJOYMENT OF THE RIGHT TO EDUCATION BY EVERY GIRL

The UN High Commissioner for Human Rights is calling for input to inform a report on how climate change impacts the realisation of the equal enjoyment of the right to education of girls, highlighting how the realisation of the right to girls' education can contribute to the climate change agenda. Issues to be addressed in submitted inputs include:

- The most important barriers for girls to their equal enjoyment of the right to education;
- Concrete measures taken to respond to the barriers faced by girls;
- The most important existing gaps and challenges in education to empower all girls to contribute to the climate change agenda; and
- Concrete measures taken to empower all girls through education to contribute to addressing climate change.

Inputs may be sent by e-mail to ohchr-registry@un.org with Aydan.figaroa@un.org in CC by **1 March 2024 18h00 CEST**. More information can be found [here](#).



CALL FOR INPUT: OHCHR STUDY ON SOLUTIONS TO PROMOTE DIGITAL EDUCATION FOR YOUNG PEOPLE AND TO ENSURE THEIR PROTECTION FROM ONLINE THREATS

The UN High Commissioner for Human Rights is conducting a study into the solutions to promote digital education for young people and ensure their protection from online threats. To inform the study, the High Commissioner requests input from all relevant stakeholders, including civil society and representatives of youth organisations. The report aims to explore:

1. The legal and policy framework concerning the human rights of young people and digital education and protection from online threats;
2. The main gaps and challenges concerning digital education for young people and their protection from online threats; and
3. Good practices of solutions to promote digital education for young people and to ensure their protection from online threats.

Inputs may be sent by email to ohchr-registry@un.org, with helen.griffiths@un.org in CC by **2 February 18h00 CET**. For information may be found here.

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