

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.



# EDUCATION MONITORING BRIEF

IN THIS ISSUE:

ISSUE 60 | MARCH & APRIL 2026

1.

**IN THE SPOTLIGHT:**

- Parliament Confronts The School Infrastructure Gap
- Draft Regulations on Learner Pregnancy
- Swartruggens Judgment: Learners' Best Interests Prevail After Court-Ordered Consultations

2.

**LAW AND POLICY  
SUBMISSIONS**

- Draft New History Curriculum and Assessment Policy Statements
- Draft Regulations on Management of Learner Pregnancy in Schools

3.

**INTERNATIONAL TREATY  
BODIES Call for INPUT:**

- Women and International Solidarity Report



IN THE SPOTLIGHT:

**PARLIAMENT CONFRONTS THE SCHOOL INFRASTRUCTURE GAP**



Portfolio Committee on Basic Education gave an [assessment](#) of South Africa's school infrastructure crisis in early March 2026, when the Department of Basic Education (DBE) [presented a briefing](#) on infrastructure backlogs, maintenance, and early childhood development strategies. The Committee expressed a concern that civil society has raised repeatedly: the Government is spending far less on school infrastructure than is needed to address backlogs, and the gap is not narrowing.

According to the DBE's own figures, 43 677 additional classrooms are needed to address overcrowding, and 3 523 existing schools have buildings that are considered inappropriate for use. Only 32% of schools have laboratories, 57% have libraries, and 49% have computer centres. A further 9 248 schools have no sports facilities at all. While these figures represent long-standing challenges, Committee Chairperson Maimela noted that members across political parties regularly receive complaints from communities about infrastructure conditions that contradict the picture presented by the DBE in its official reports.

It is estimated that it will cost approximately R227 billion to address the infrastructure backlog, including both new infrastructure and maintenance needs. The DBE stated this would require an annual investment of R57 billion. The Education Infrastructure Grant (EIG) for the 2026/27 Medium-Term Expenditure Framework (MTEF) period stands at R49.9 billion. This is a shortfall of more than R7 billion per year, meaning the sector cannot keep pace with demand, let alone eliminate backlogs by the government's stated 2030 target.



This confrontation in Parliament comes against the backdrop of the broader 2026 national budget, which has drawn criticism from civil society. The [Institute for Economic Justice](#) (IEJ) and [Budget Justice Coalition](#) (BJC) noted that inflation-adjusted spending on education per learner is set to decline by an average of 0.33 per cent over the medium term. The IEJ described the budget as one that prioritises fiscal consolidation over constitutional obligations, with the basic education allocation insufficient to address deficiencies in school libraries, early childhood development (ECD) infrastructure, and teacher-to-learner ratios.

The DBE has acknowledged these challenges and has committed to working with National Treasury on new funding models, though no concrete alternative has yet been presented to Parliament.

For education rights advocates, the March 2026 Committee session underlines what organisations like Equal Education (EE) and the EELC have argued for several years: that austerity budgeting in the education sector imposes a measurable and unconstitutional cost on learners, particularly those in the most marginalised communities.

## THE DEPARTMENT OF BASIC EDUCATION RELEASES DRAFT REGULATIONS ON LEARNER PREGNANCY

The DBE has gazetted new Draft Regulations on the Management of Learner Pregnancy in Schools. The Draft Regulations seek to standardise how schools respond to learner pregnancy and to give effect to existing constitutional and legal protections.

Available data on learner pregnancy continues to show both the scale of the issue and significant limitations in reporting. In a response to a [question](#) by Member of Parliament Sharif in November 2025, the DBE reported persistent underreporting in its Education Management Information System, noting it therefore relies in part on data from the Department of Health on deliveries and terminations of pregnancy among 10–19-year-olds as a proxy indicator.

The most recent data provided by the DoH is reflected below. It covers the first and second quarters of 2025, disaggregated by province and age group

PROVINCE	Delivery 10–14 yrs (Q1)	Delivery 10–14 yrs (Q2)	Termination 10–14 yrs (Q1)	Termination 10–14 yrs (Q2)	Delivery 15–19 yrs (Q1)	Delivery 15–19 yrs (Q2)	Termination 15–19 yrs (Q1)	Termination 15–19 yrs (Q2)
Eastern Cape	55	56	12	10	2332	2472	375	469
Free State	20	13	9	10	738	758	134	198
Gauteng	55	50	22	33	2820	3092	683	776
KwaZulu-Natal	85	120	12	13	4962	4943	419	539
Limpopo	50	48	12	13	2445	2593	288	434
Mpumalanga	46	44	3	5	1710	1804	245	271
Northern Cape	7	11	0	0	499	516	31	43
North West	12	16	18	16	1108	1058	176	232
Western Cape	56	54	54	37	1697	1693	346	376
<b>NATIONAL TOTAL</b>	<b>386</b>	<b>412</b>	<b>142</b>	<b>137</b>	<b>18311</b>	<b>18929</b>	<b>2697</b>	<b>3338</b>

Data note: Quarter 1 data was extracted on 10 July 2025, and Quarter 2 data on 21 October 2025

The draft regulations prohibit the exclusion of pregnant learners from school. Learners may remain in school for as long as medically advisable and must be allowed to return as soon as possible after giving birth, with no mandatory waiting period. Schools are required to provide counselling and support to pregnant learners as well as to the fathers of unborn children.

The regulations introduce a mandatory reporting requirement where a learner under the age of 16 is pregnant. In such cases, schools must complete Form 22 and report the matter to the Department of Social Development and the South African Police Service. This requirement reflects existing reporting obligations under the Criminal Law (Sexual Offences and Related Matters) Amendment Act as well as the Children’s Act.





The reporting requirement places additional obligations on school principals and may have significant implications for younger learners. The Department of Basic Education frames mandatory reporting as a child protection measure, not a punishment of the learner. However, critics raise concerns that fear of police involvement may discourage learners from disclosing pregnancies, seeking antenatal care, or remaining in school. This could undermine the very inclusion the regulations aim to protect. Human rights organisations also warn of privacy and dignity concerns, particularly where relationships involve minors close in age. The pregnant learner becomes visible to the reporting system while the male partner may remain unidentified, risking gendered stigma.

The regulations further aim to address the practice of informal exclusion of pregnant learners, sometimes referred to as “quiet expulsions”, by making continued access to schooling an enforceable legal requirement. In doing so, they reinforce learners’ right to basic education and clarify the responsibilities of schools in supporting learner parents. Submissions on the draft regulations are currently open.

## SWARTRUGGENS JUDGMENT: LEARNERS’ BEST INTERESTS PREVAIL AFTER COURT-ORDERED CONSULTATIONS

On 8 April 2026, the North West High Court handed down a judgment in Part A of *Swartruggens Gekombineerde Skool v North West Education Department & Others*, a case in which the Equal Education Law Centre (“the EELC”) intervened as a friend of the court.

The case concerned an application by the school’s governing body to challenge the North West Department of Education’s decision to place 78 English-medium Grade 8 to 10 learners at the school. The governing body argued that the department acted unlawfully by violating the school’s admissions and language policies, exceeding its capacity, and failing to consult the school properly. The governing body sought to have the learners moved to Swartruggens Intermediate School instead, which now operates exclusively as a primary school.

The case is one of the first to test the application of the Basic Education Laws Amendment (BELA) Act, which came into force on 24 December 2024. The BELA Act clarified the authority of provincial education departments in learner placement and school capacity decisions while preserving important consultative roles for school governing bodies. The EELC intervened because the learners and their parents, though cited as parties in the matter, had not been meaningfully included in the proceedings. Many learners and parents only learned about the court case when the EELC reached out to them during consultations. The school’s legal team had argued that proper service was fulfilled by posting a notice on the school noticeboard. Through court-ordered consultations with the affected learners, the EELC brought to the court’s attention that the learners had settled into their current school environment, established social connections within the school community, and expressed a strong desire to remain at their current school. The learners indicated apprehension about being transferred back to Swartruggens Intermediate School.

The court considered the feedback from learners presented in the EELC’s report and ruled that it was not persuaded that removing the learners from their current school was appropriate or in their best interests. Instead, the court found that the solution lies in compelling the North West Department of Education to take immediate steps to address safety risks at the school. This would allow learners to remain in a familiar environment while ensuring the school is safe and conducive to learning.

The court acknowledged in its judgment that proper service to the parents and guardians of the affected learners was of utmost importance, as they are directly affected by proceedings that could have a profound impact on their family lives and their children’s education. The case highlights the importance of ensuring that learners and their families are properly informed about legal proceedings that affect them, and that courts hear from learners before making decisions about their education.



# CONFERENCE CALL FOR SUBMISSIONS



## Call for Submissions: 22nd Education and Development Conference

The 22nd Education and Development Conference invites submissions for presentation in Bangkok, Thailand, from 5 to 7 March 2027. The conference focuses on education, sustainable development, and policy innovation. Submission categories include research papers, research in progress, case studies, and workshops. Abstracts should be 150 to 250 words and must be submitted in English through the online form. Submissions undergo double-blind peer review. The abstract deadline is **10 January 2027**. More information can be found [here](#).

## LAW AND POLICY SUBMISSIONS

### Call for Comment: Draft New History Curriculum and Assessment Policy Statements

The Department of Basic Education has published draft amendments to the History Curriculum and Assessment Policy Statements for Grades 4 to 12 and is inviting public comment. The amendments represent a shift towards a more African-centred curriculum. The draft CAPS documents are available for Grades 4 to 6, Grades 7 to 9, and Grades 10 to 12. A public comment template is also available to guide submissions. Comments can be emailed to Florence Modipa at [modipa.f@dbe.gov.za](mailto:modipa.f@dbe.gov.za) by no later than **19 May 2026**. More information can be found [here](#).

### Call for Comment: Draft Regulations on Management of Learner Pregnancy in Schools

The Department of Basic Education has published Draft Regulations on Management of Learner Pregnancy in Schools, 2026, and is inviting public comment. The regulations set out how schools must support pregnant learners and ensure their continued access to education. Comments can be emailed to Adv. Zukile Ntshwanti at [LearnerPregnancyRegz@dbe.gov.za](mailto:LearnerPregnancyRegz@dbe.gov.za) by no later than **24 May 2026**. More information can be found [here](#).



# INTERNATIONAL TREATY BODIES

CALL FOR INPUT:

## Women and International Solidarity Report

The United Nations Independent Expert on human rights and international solidarity is seeking submissions to inform a report on women and international solidarity, to be presented to the 81st session of the UN General Assembly in October 2026.

The report examines the role of women as solidarity actors and State commitment to guaranteeing women's rights to equality, non-discrimination, and inclusion. The consultation seeks information on constitutional and legislative protections for women's equality, women's participation in intersectional solidarity actions addressing social justice and civil rights, investment in women's organizations that address exclusion and inequality, and whether governments counter hate speech and gender stereotyping against women.

The Independent Expert is also interested in whether girls and youth are provided with leadership education on how to participate in civic actions, community organizations, and other forms of democratic engagement addressing solidarity concerns.

This consultation has relevance for South Africa's education sector, as it addresses leadership education for girls and youth in schools, how educational institutions counter gender stereotyping, and the role of young women in solidarity movements that often intersect with education advocacy and learner rights.

Submissions of 2000 to 4000 words must be received by **31 May 2026** and should be emailed to [hrc-ie-solidarity@un.org](mailto:hrc-ie-solidarity@un.org). More information can be found [here](#).



EQUAL EDUCATION  
LAW CENTRE

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[www.eelawcentre.org.za](http://www.eelawcentre.org.za)

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