

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO: 31213/20

In the matter between:

**CENTRE FOR CHILD LAW**

Applicant

and

**MINISTER FOR BASIC EDUCATION**

Respondent



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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** the applicant intends to apply to the above Honourable Court on **Tuesday, 4 August 2020 at 10h00** or as soon thereafter as counsel for the applicant can be heard, for an order in the following terms:

1. The forms and service provided for in the Uniform Rules are dispensed with and this matter is heard as an urgent application in terms of Uniform Rule 6(12).
2. Reviewing and setting aside or declaring invalid the directions published on 23 June 2020 in terms of Regulation 4(5) of the Regulations made under the Disaster Management Act 57 of 2002 by the Minister for Basic Education ("the Minister") in Government Gazette 43465 ("the Directions") to the extent that:
  - 2.1. The Directions fail to provide guidelines for learners with physical disabilities, intellectual disabilities, epilepsy, and severe to profound intellectual disabilities ("the excluded categories");
  - 2.2. Paragraph 9 of the Directions:

- 2.2.1. does not cater for the readiness of hostels which provide education to learners in the excluded categories;
- 2.2.2. provides that hostels must close in their entirety and no learner may be permitted on the premises of a hostel once it exceeds the number of learners who can be accommodated while observing the social distancing rules; and
- 2.2.3. makes no provision for additional infrastructure capacity to be provided to hostels which cannot accommodate their ordinary numbers of learners while observing social distancing rules.
- 2.3. The Directions refer to and incorporate the DBE Guidelines to set the standards for hygiene at schools, hostels and offices, but fail to provide measures designed to ensure the health and safety of learners with disabilities at those schools, hostels and offices;
- 2.4. Paragraph 8(8) of Directions fails to provide guidance to the Heads of Department to ensure that learners with disabilities who are not able to return to school are provided with appropriate learning and teaching support material, assistive devices and therapeutic support.
3. Remitting the Directions and to the extent that the Directions make reference to the DBE Guidelines, the DBE Guidelines, that are impugned in paragraphs 2.1 to 2.4 above to the Minister to cure the defects in the impugned Directions and DBE Guidelines within three (3) weeks of the grant of this order.



4. Directing that during this period of remittal, the Minister must publish draft revised Directions and DBE Guidelines for public comment and consider those comments before issuing amended Directions and revised DBE Guidelines.
5. Directing that the Minister pays the costs of this application, including costs of two counsel.
6. Further or alternative relief.



**KINDLY FURTHER TAKE NOTICE** that if you intend opposing this application you are required to:

- (a) notify the applicants' attorney, in writing, by **17h00 on MONDAY 20 JULY 2020** that you intend to oppose this application and to appoint an address (including an email) at which you will accept notice and service of all process in such proceedings;

File your answering affidavit, if any, together with any relevant documents in answer to the allegations made by **17h00 on MONDAY 27 JULY 2020**;

- (b) In the event that these time periods are complied with, the applicant will file its replying affidavit by **12h00 on THURSDAY 30 JULY 2020**.

**TAKE NOTICE FURTHER** that the accompanying affidavit of **ANJULI LEILA MAISTRY** together with annexures thereto, will be used in support of this application.

**KINDLY FURTHER TAKE NOTICE** that the applicant has appointed the offices of **Equal Education Law Centre** whose details are set out below as their attorneys of record in this

matter, and will accept notice and service of all processes in these proceedings at the address (including the email address) set out below.

Kindly enrol this application on the urgent roll accordingly.

**SIGNED AT PRETORIA ON THIS 17<sup>TH</sup> DAY OF JULY 2020.**




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**EQUAL EDUCATION LAW CENTRE**

Applicant's Attorneys  
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8 Mzala Street  
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Cape Town

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**C/O CENTRE FOR CHILD LAW**

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Ref: Anjuli Maistry



**TO: THE REGISTRAR**  
HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

**AND TO: MINISTER FOR BASIC EDUCATION**  
First Respondent  
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c/o:  
State Attorney, Pretoria  
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