

25 April 2013

**URGENT**

Mrs Hope Helene Malgas  
Chairperson: Parliamentary Portfolio Committee on Basic Education  
c/o Mr L Brown  
Communications: Parliamentary Portfolio Committee on Basic Education

**By e-mail: lbrown@parliament.gov.za**

Dear Mrs Malgas

**Request for an Urgent Hearing: Limpopo Education Crisis**

1. We are writing to you to request an urgent hearing in connection with the ongoing education crisis in Limpopo.
2. SECTION27 is a public interest law centre that seeks to influence, develop and use the law to protect, promote and advance human rights. One of our priority areas is the right to basic education as guaranteed by section 29 of the Constitution. We advocate for the creation of learning environments that are conducive to learning and development. These learning environments include the physical infrastructure of schools, the quality of teaching and the availability of resources such as textbooks.
3. We also write to you on behalf of Quality Education South Africa (“QESA”), a voluntary association based in the Limpopo Province. One of QESA’s core activities is to ensure that learners in Limpopo have access to the materials and infrastructure they require for a quality basic education. QESA was established at a community meeting held in Giyani on 6 October 2012. This meeting was called as a direct response to the education crisis in Limpopo, the details of which are set out below. Community members, primarily from the Vhembe and Mopani Districts in Limpopo, resolved to form a committee to safeguard the interests of learners attending public schools in Limpopo.
4. Since January 2012, SECTION27 has been working on various aspects of basic education in Limpopo. Our involvement in the province started with our application to the North Gauteng High Court to compel the Department of Basic Education (“DBE”) and the Limpopo Department of Education (“LDoE”) to ensure the procurement and delivery of textbooks to schools for the 2012 academic year (“the textbooks case”).

Since our involvement in the textbooks case, we have also started to work on the following issues:

- 4.1. **Sanitation:** the toilets at many Limpopo schools are unhygienic and unfit for use by teachers and learners. Most schools in Limpopo use basic pit toilets. Many of these pits are full and the structures dilapidated. In two of our client schools, the toilet structures have collapsed completely. Some schools have no functioning toilets at all, and both teachers and learners are forced to relieve themselves in the bushes. In addition, most schools do not have handwashing facilities. After we raised these concerns with the DBE in September 2012, we were provided with a plan to address the sanitation backlog in 215 priority schools across Limpopo by 24 July 2013 (“Sanitation Plan”). In terms of the Sanitation Plan, the DBE undertook to provide ventilated improved pit latrines and handwashing facilities, as well as user and maintenance education, to the 215 priority schools. A copy of this plan is attached as “A”.
- 4.2. **Furniture:** following reports of furniture shortages in 2012, we started to engage with the DBE on how it would address these shortages. Our instructions are that the furniture shortages are so severe in some schools that learners bring their own chairs from home, and carry them with them throughout the school day. Other schools operate on a “first come first served” basis, and learners arrive at school as early as 06h00 to ensure that they have a place to sit in class. Those that do not arrive early enough stand during class, sit on the floor, or share desks and chairs with their classmates. In some cases, they have to wait outside the classroom. On 14 December 2012, the DBE provided us with a plan to address furniture backlogs throughout Limpopo (“Furniture Plan”). The Furniture Plan acknowledges that almost 200 000 Limpopo learners do not have desks and chairs, and undertook to address this backlog by no later than 31 March 2013. A copy of this plan is attached as “B”.
- 4.3. **Overcrowding:** schools face enormous challenges with overcrowding and insufficient classrooms. At some schools, there are between 120 and 145 secondary school learners in a single classroom. Where these learners cannot fit into a classroom, lessons operate on a “first come first served” basis. In cases of insufficient classrooms, lessons are conducted outside, where learners are exposed to the elements and cannot easily concentrate.
- 4.4. **Norms and standards funds:** allocations of funding for schools’ operational day-to-day expenses have recently been cut by the DBE and the LDoE, in some cases by as much as 50%. Schools cannot afford to operate on the funding they receive. Some schools depend on contributions from parents, despite being no-fee schools. Other schools buy materials such as paper and stationery on credit, and incur enormous debts.

- 4.5. **General infrastructure challenges:** many Limpopo schools are in a dilapidated state, with leaking roofs, holes in the floor and broken windows. At Jaji Secondary School, the leaks in the roof allow rain in to the point that teachers and learners carry umbrellas in class. The DBE undertook to address this, but has to date taken no steps to do so.
5. During the week of 8 April 2013, we visited 19 Limpopo schools to monitor the progress by the DBE and the LDoE in addressing these issues. We were extremely discouraged by what we observed in schools:
- 5.1. Despite affidavits filed by the DBE with the North Gauteng High Court on 12 October 2012 and 14 December 2012 indicating that textbook delivery is complete, there are still significant shortages of textbooks in 12 schools that we have been in touch with. This includes CAPS textbooks for the new syllabus introduced in Grades 4, 5, 6 and 11 this year, as well as CAPS textbooks for Grades 1, 2, 3 and 10. This is in breach of a court order granted by Kollapen J on 4 October 2012. It is also inconsistent with the confirmation made by the DBE under oath that textbook delivery was complete. We attach as annexure **“C”** a letter of demand that has been addressed to the DBE and the LDoE in relation to these shortages. Our intention is to return to court should these shortages not be addressed urgently.
- 5.2. Implementation of the Sanitation Plan was on track in only one school, where materials have been delivered and construction has commenced. While there has been progress in the remaining schools, this is significantly behind schedule. When we visited these 19 schools, most of them were not even aware of the existence of the Sanitation Plan. Two schools that do not have functioning toilets were not included on the Sanitation Plan. We are concerned that not all schools in desperate need of sanitation facilities are included on the Sanitation Plan.
- 5.3. None of the schools we visited had received any furniture from the DBE or the LDoE. It also became apparent that the Furniture Plan does not accurately reflect the furniture shortages in Limpopo. Seven schools we visited are not included on the Furniture Plan despite experiencing furniture shortages. Two schools that were included on the Furniture Plan have had their furniture shortages under-recorded. We are concerned that the Furniture Plan does not accurately record the furniture needs of all Limpopo schools.
- 5.4. Overcrowding in classrooms, and shortages of classrooms, continue to be enormous problems. We continue to receive reports of learners not being able to attend lessons because there is no space for them in the classroom, or concurrent lessons being forced to be held only on alternate days, because there are not enough classrooms to accommodate both lessons at the same time.

- 5.5. Schools cannot afford to operate on the allocations they receive for their operational day-to-day expenditure. Some schools continue to receive contributions from parents, but even where they do they cannot afford basic requirements such as chalk, paper and electricity.
- 5.6. Infrastructure at schools is dilapidated and in a state of disrepair. At Tshianane Secondary School, portions of the roof and windows were blown off by strong winds in January 2013. The DBE has refused to repair these. There has also been no progress in relation to the problems experienced at Jaji Secondary School, referred to above.
6. This summary illustrates a collapsing education system that requires urgent attention. There are continued breaches by both the DBE and the LDoE of learners' rights, which breaches intensify with the passage of time.
7. As well as breaches of substantive obligations such as the provision of textbooks, sanitation facilities and furniture, the DBE and LDoE are failing to communicate effectively with schools and respond to their needs. We were assured that a thorough audit was conducted in preparing the Sanitation Plan and the Furniture Plan. However, the needs of many schools are not accurately reflected on these plans, and most schools are not even aware of their existence.
8. In some instances, incorrect information such as the state of textbook delivery has been provided to the public by the DBE and the LDoE, with the result that we are often not aware of challenges in the education system. This is intensified by allegations by principals and teachers that officials in both the DBE and their LDoE have threatened disciplinary proceedings against them if they report the challenges they face.
9. In terms of section 55(b) of the Constitution, the National Assembly and its Portfolio Committees have a constitutional mandate to ensure that all executive organs of state are held accountable to them and to the South African people; and to maintain oversight of the exercise of national executive authority, including the implementation of legislation. Under section 92(2), *"Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions."*
10. Oversight on the part of Parliament focuses specifically on the implementation of laws; the application of budgets; strict observance of laws of Parliament and the Constitution; and the effective management of government departments. The goals of such oversight are to detect and prevent abuses of power; to prevent illegal and unconstitutional conduct on the part of the government; to protect the rights and liberties of citizens; and to hold government accountable for the expenditure of taxpayers' money.
11. We recognise that the obligations of the LDoE would ordinarily be a provincial matter. However, the LDoE was placed under administration in December 2011, under section

100(1)(b) of the Constitution, and the Minister of Basic Education became the responsible member of the National Executive to ensure the realisation of the LDoE's obligations. This was confirmed in *Centre for Child Law and others v Minister of Basic Education and others* [2012] 4 All SA 35 (ECG), and before that in *Ex Parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution of the Republic of South Africa, 1996* 1996 (4) SA 744 (CC). As such, the Parliamentary Portfolio Committee on Basic Education has direct oversight obligations in relation to the Limpopo Education crisis,

12. We accordingly request an urgent meeting with you so that we can take you through these issues in more detail. The purpose of this meeting is to request an opportunity to make oral submissions to the Parliamentary Portfolio Committee on Basic Education relating to the continuing education crisis in Limpopo, in an attempt to work towards the meaningful realisation of learners' basic education rights.

13. For further information please contact Nikki Stein by phone on 011 356 4118 or 082 528 7232, or by e-mail on [stein@section27.org.za](mailto:stein@section27.org.za).

14. We look forward to hearing from you.

Yours sincerely

Mark Heywood  
Executive Director  
SECTION27