

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case No: 22588/2020

In the matter between:

Equal Education	First Applicant
School Governing Body of Vhulaudzi Secondary School	Second Applicant
School Governing Body of Mashao High School	Third Applicant

and

Minister of Basic Education	First Respondent
MEC of Education, Eastern Cape	Second Respondent
MEC of Education, Free State	Third Respondent
MEC of Education, Gauteng	Fourth Respondent
MEC of Education, KwaZulu-Natal	Fifth Respondent
MEC of Education, Limpopo	Sixth Respondent
MEC of Education, Mpumalanga	Seventh Respondent
MEC of Education, Northern Cape	Eighth Respondent
MEC of Education, North West	Ninth Respondent
MEC of Education, Western Cape	Tenth Respondent

FILING NOTICE

- | | | |
|-----------|--------------------------|---|
| 1. | Date on the roll: | Not available |
| 2. | Document filed: | Affidavit for Seventh Respondent |
| 3. | Filed by: | Office of State Attorney: Pretoria |

Signed and dated at Pretoria this 3rd day of August 2020.



Ms P Khosa
Attorney for Respondent
Office of State Attorney: Pretoria
Ground Floor, SALU Building
No 316 Thabo Sehume Street
PRETORIA
Tel: 012 309 1629/1523
Cell: 067 906 1154/076 951 9352
Fax: 086 4673 908
E-mail: PrKhosha@justice.gov.za

To: The Registrar of the High Court
Gauteng Division
PRETORIA

And to: Attorneys for Applicants
Section 27
First Floor, South Point Corner
87 De Korte Street
Braamfontein
JOHANNESBURG
Tel: 011 356 4100
E-mail: [stevenson@section 27.org.za](mailto:stevenson@section27.org.za)

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case No: 22588/2020

In the matter between:

**Equal Education
School Governing Body of Vhulaudzi Secondary School
School Governing Body of Mashao High School**

**First Applicant
Second Applicant
Third Applicant**

and

**Minister of Basic Education
MEC of Education, Eastern Cape
MEC of Education, Free State
MEC of Education, Gauteng
MEC of Education, KwaZulu-Natal
MEC of Education, Limpopo
MEC of Education, Mpumalanga
MEC of Education, Northern Cape
MEC of Education, North West
MEC of Education, Western Cape**

**First Respondent
Second Respondent
Third Respondent
Fourth Respondent
Fifth Respondent
Sixth Respondent
Seventh Respondent
Eighth Respondent
Ninth Respondent
Tenth Respondent**

AFFIDAVIT

I, the undersigned

JABULANI ROLLAND NKOSI

do hereby declare under oath as follows:

1. I am a major male, appointed as the Acting Head of Department of the Mpumalanga Department of Education, with the address of my office and that of the Department situated at the Ikhamanga Building Government Boulevard Riverside Park, Mbombela.
2. The contents of this affidavit fall within my personal knowledge, unless the



JN

context indicates otherwise, and are to the best of my belief and knowledge both true and correct. I am duly authorised by the MEC of Education, Mpumalanga to depose to this affidavit and, by virtue of my office, I qualify as a witness.

3. The purpose of this affidavit is to comply with the order of the Honourable Court made on 17 July 2020 in paragraph 103 11 of the judgment delivered on the same date, namely, that the MEC must within 10 days file this affidavit this Court under oath, and provide a copy to the applicants, on the plan and programme which the MEC will implement without delay so as to comply with the duties of the MEC, and which address the following matters:

3.1 in respect of each school under the jurisdiction of the MEC, when all of the qualifying learners will receive a daily meal under the NSNP, whether they are attending school or studying away from school as a result of the Covid-19 pandemic;

3.2 what steps the MEC has have taken to achieve that;

3.3 what further steps the MEC will take to implement that plan and programme; and

3.4 when they will take each such step

4. The following steps were undertaken by the Provincial Department to ensure that



all the qualifying learners under the NSNP above continue receiving meals, whether they are attending school or are still studying at home.

4.1 Prior to 17 July 2020, Grade 7 and Grade 12 learners were provided with meals at school by 10h00 as of 08 June 2020. The provision of meals to the group referred to above was preceded by consultations with various stakeholders, which culminated in the adoption by the Provincial Department of what is termed a "Hybrid model".

4.2 The Hybrid model gave effect to the provision of meals to those qualifying learners still at home, which took the form of three different approaches, namely

- learners coming to school to eat;
- learners coming to school to collect cooked meals (pre-packed) and take home,
- learners being provided with food parcels to cook at home.

4.3 Subsequently, phased-in learners (Grade 6 and 11) were also provided with meals at school.

5. The closure of schools on 24 July 2020 resulted in the schools re-activating their plans to provide meals to all the learners as follows:

5.1 During the week of 27-31 July 2020, all learners are at home and were



provided with food parcels.

- 5.2 During the week of 03-07 August 2020, all Grade 12 learners will be provided with meals at school. Some learners will come to school to eat, but the majority of learners will still be using food parcels.
 - 5.3 During the week of 11-14 August 2020, Grades 7 & 12 will be provided with meals at school. The rest of the learners will still be on food parcels. The status quo shall apply for the week of 17-12 August 2020 as well.
 - 5.4 All returning learners (phased-in) on 24 August 2020 will be provided with meals at school. Those still at home will either go to school to eat or will still be on food parcels.
6. All schools, circuits and districts will submit weekly reports to the MEC.
 7. I attach a copy of Circular 26 of 2020 (annexure "MP 1") as well as of Circular 31 of 2020 (annexure "MP 2"). In addition I attach the NSNP Implementation Plan of the Provincial Department (annexure "MP 3").



Deponent: J R Nkosi

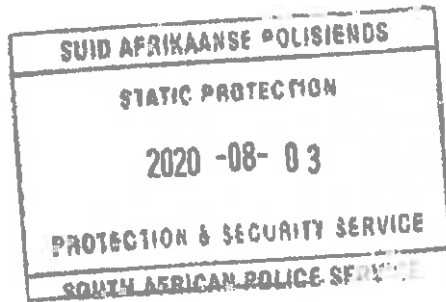
I certify that the Deponent acknowledged that he knows and understands the contents of this affidavit, that he has no objection to the making of the prescribed oath and that he considers this oath to be binding on his conscience. I also certify that this affidavit



was signed in my presence at Nelspruit on this 03 day of August 2020 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, have been complied with.

Mkhabela
SAB
Mkhabela

COMMISSIONER OF OATHS
FULL NAMES: Mkhabela JN
STREET ADDRESS: G. complex Boulevard street
CAPACITY: Bergamb
AREA: Louvelid





Enquiries: Mr. JH Moya
Tel: 013 766 5019
Email: jhmoya@education.gov.za

Circular No. 26/2020

TO : DISTRICT DIRECTORS
CES: CIRCUIT CO-ORDINATION
CES: INCLUSIVE EDUCATION AND CURRICULUM ENRICHMENT
DCES: LIFE SKILLS HIV/AIDS EDUCATION AND NSNP
CIRCUIT MANAGERS
SES: NSNP
NSNP MONITORS
PRINCIPALS OF SCHOOLS

FROM : MR JR NKOSI
(A) HEAD: EDUCATION

DATE : 08 JUNE 2020

SUBJECT : PROVISION OF MEALS TO LEARNERS AS THEY RETURN TO SCHOOLS
POST COVID-19 LEVEL 4

1. Schools will be re-opening on 08 June 2020 following the announcement by the Minister of Basic Education.
2. A phased-in / staggered approach will be applied for the return of learners to schools, starting with Grade 7 and Grade 12 on 08 June 2020.
3. Subsequently, all grades will return to schools as per the schedule in the Government Gazette No. 43372 of 29 May 2020 (see attached Government Gazette).
4. The total number of NSNP beneficiaries in the 2020/21 financial year is 815 533 learners, who must be provided with meals, when at school or even at home.
5. The modus operandi in the provision of meals shall be:
 - 5.1 The Grade 7 and Grade 12 learners who will be attending school from 08 June 2020 shall be provided with meals in class in strict observance of the social distancing protocols.

PROVISION OF MEALS TO LEARNERS AS THEY RETURN TO SCHOOLS POST COVID-19 LEVEL 4

- 5.2 The feeding of the learners referred to above shall take place by 10h00.
- 5.3 In order to provide for the rest of learners who may not physically be attending school, the following should happen:
- 5.3.1 Schools shall implement a differentiated strategy in providing for the learners who reside within walking distance from school, and those that are using scholar transport.
- 5.3.2 Schools shall put their chosen implementation plan in writing and submit to the Circuit Manager for ratification by 15 June 2020.
- 5.3.3 All feeding shall have to start by 09h30 and be completed by 12h00.
6. Schools are encouraged to enlist the assistance of the parents whose children are the main beneficiaries of this programme.
7. Your co-operation in this regard will be highly appreciated.



MR JR NKOSI
(A) HEAD: EDUCATION

DATE: 9/06/2020



Enquiree: Mr. JH Moye
Tel: 013 766 5919
Email: j.moye@mavedu.gov.za

CIRCULAR No. 31 of 2020

TO : (A) CHIEF DIRECTOR: DISTRICT CO-ORDINATION
DISTRICT DIRECTORS
CES: CIRCUIT CO-ORDINATION
CES: INCLUSIVE EDUCATION AND CURRICULUM ENRICHMENT
DCES: LIFE SKILLS HIV/ AIDS EDUCATION AND NSNP
CIRCUIT MANAGERS
SES: NSNP
NSNP MONITORS
PRINCIPALS OF SCHOOLS
ADMIN OFFICERS (DISTRICT NSNP)
SCHOOL GOVERNING BODIES (SGB's)

FROM : MR JR NKOSI
(A) HEAD: EDUCATION

DATE : 24 JULY 2020

SUBJECT : PROVISION OF MEALS TO LEARNERS DURING COVID-19 LEVEL 3
LOCKDOWN AND BEYOND

1. All public schools will be closing as of 27 July 2020, following the announcement by the President of the Republic of South Africa in the evening of 23 July 2020.
2. The closure of the schools referred to above translates to four weeks (27/07/2020-21/08/2020) of which 19 days are NSNP feeding days as per the revised 2020/21 feeding calendar.
3. During this period and beyond, all schools are expected to continue providing meals to all learners listed as NSNP beneficiaries.
4. This directive is in line with the Court Judgement dated 17 July 2020, issued by Justice Potterill in the High Court of South Africa (Gauteng Division, Pretoria)

PROVISION OF MEALS TO LEARNERS DURING COVID-19 LEVEL 3 LOCKDOWN AND BEYOND

5. School principals and School Management Teams (SMT's) are therefore directed to re-activate their plans, which were designed in response to Circular No. 26 of 2020 to ensure that learners are provided with meals (without fail), either through cooked meals or food parcels.
6. District managers (including Circuit Managers) are expected to submit detailed weekly reports on the implementation of this directive. (attached is the template to be used for reporting purposes)
7. This directive will remain in force until further notice.
8. Your co-operation will be highly esteemed.



MR JR NKOSI
(A) HEAD: EDUCATION

DATE: 24/07/2020





NSNP IMPLEMENTATION PLAN DURING COVID-19 LOCKDOWN

NO. OF SCHOOLS: 1564		NO. OF NSNP BENEFICIARIES: 915 533				
NO.	ACTION TAKEN	NO. OF SCHOOLS	NO. OF LEARNERS	TIME-LINE	PROGRESS	COMMENT
1	Trained volunteer food handlers (VFH)	1564	5273 VFH	From 12 May to 26 June 2020	Food handlers trained on hygiene and COVID-19 protocols	COVID-19 protocols observed
2	Provision of meals for learners at school (Grade 7 and 12) with effect from 08 June 2020	1564	124 904	08 June 2020 On-going	Learners received cooked meals by 10h00	Provision of meals commenced on 08 June 2020. Hot nutritious meals served by 10h00
3	Consulted with District NSNP management teams, circuits and schools.	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	08 June 2020	Hybrid model adopted	Two scenarios analyzed and context taken into account in deciding model best suited for the Province
4	Issued Circular NO. 26 of 2020 whereby each school had to design own plan on how to provide meals to the learners at school and those at home	1564	N/A	09 June 2020	Schools developed implementation plans and submitted to circuit managers (as directed) for ratification	Schools implemented their own plans after approval by Circuit Managers
5	Analysed school plans	344 schools provided with cooked meals 1220 schools provided with pre-packed meals	393 671 learners provided with cooked meals 521 862 learners received pre-packed food	17 June 2020	Schools plans analysed and schools following different models categorized.	Inconsistencies in the number of learners coming to schools for purposes of receiving meals due to menu offered.


 10/1

NSNP IMPLEMENTATION PLAN DURING COVID-19 LOCKDOWN

6	Provision of meals to learners still at home (learners fetching cooked meals from schools) with effect from 22 June 2020	1564	268 566 (exclude Grade 7 and 12)	22 June 2020	Learners received meals	Arrangements made by schools to provide meals to learners who are still at home. Gert Sibande providing food parcels to learners because of scholar transport challenges.
7	Provision of food parcels to learners still at home with effect from 22 June 2020	1564	521 862	22 June 2020 On-going	Learners received food parcels.	The majority of schools opted for food parcels due to scholar transport challenges as well as adoption of COVID-19 safety measures.
8	Provision of food to phased in learners (Grade 6 and 11) with effect from 06 July 2020	1564	138 165	6 July 2020 On-going	Learners received food at schools	Provision of meals commenced on 06 July 2020 for grade 6 and 11.
9	Monitoring of NSNP implementation: - NSNP monitors based at District level - Provincial monitoring team doing spot checks	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	On-going On-going	Schools change provision plans to adjust to their situations 26 NSNP monitors submit monitoring reports weekly Provincial team spot checks the	26 monitors allocated 2 schools per day Provincial monitoring team do spot checks at least once a week

[Handwritten signature]

[Handwritten initials]

NSNP IMPLEMENTATION PLAN DURING COVID-19 LOCKDOWN

10	FURTHER STEPS					provision of food to learners	
10.1	Issued Circular NO. 31 of 2020 whereby the implementation of the Court judgement is emphasized	1564	N/A	24 July 2020	All 1564 received Circular No 31.	Schools to comply with directive.	
10.2	Communication with relevant stakeholders	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	24 July 2020 On going	District, Circuits and schools (including SGB members) consulted	Continuous advocacy through various media houses.	
10.3	Districts circuits and schools report weekly and Head Office submit report to MEC weekly as well.	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	27 July 2020	On-going	School to supply report on the template attached	
10.4	Weekly feeding summary developed and sent to schools to enable bi-weekly reporting	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	Friday	On-going	Schools to comply with directive.	
10.5	Develop a schedule for submission of reports for districts to enable bi-weekly reporting.	1564	915 533 (591150 primary, 322391 secondary and 1992 special school learners)	Tuesday after the Friday submission of schools.	On-going	Schools to comply with directive.	

(Handwritten mark)