

GUIDE TO ACCESSING BASIC EDUCATION IN SOUTH AFRICA: YOUR CHILD'S RIGHTS

EDUCATION IS A FUNDAMENTAL RIGHT

In South Africa, **all children** – including **migrants and refugees** – have the right to basic education. This right is protected by the Constitution and applies regardless of citizenship or documentation.



01.

Your Child's Constitutional Right to Basic Education

- **Everyone has the right** to basic education (Section 29(1) of the Constitution).
- **Not limited by citizenship or documentation** – applies to all, including migrants, refugees, and asylum seekers.
- **Immediately realisable** – government must make it available now, not when resources allow.
- Covers **Grade R to Grade 12** and **Adult Basic Education**.

Refugees and Asylum Seekers:

- Refugees enjoy full protection under the Refugees Act 130 of 1998.
- Asylum seekers enjoy all applicable rights in the Bill of Rights.

02.

The South African Schools Act (SASA) & Admissions

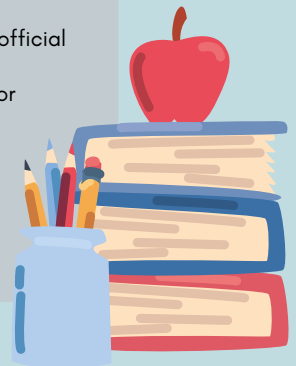
- **Compulsory school attendance** for children aged 7–15 (or until Grade 9).
- Parents or caregivers must enrol children; failure can be a criminal offence.
- **No unfair discrimination** in admissions (Section 5(1) SASA).
- **Phakamisa case (2017)** – undocumented children cannot be excluded from school.

Admission Without Birth Certificates:

- DBE Circular (2020): Schools must admit children even without an official birth certificate.
- Acceptable alternatives: affidavit or sworn statement from parent or guardian with child's details.

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03.

Independent Schools



- Must be **registered with the provincial education department**.
- Operating unregistered independent schools is illegal.
- **Report cards cannot be withheld** for unpaid fees (applies to Grades R-12, public and independent schools).
- Independent schools can exclude for non-payment, but must follow a **fair process** and consider **the child's best interests**.

04.

If Your Child's Right is Violated



- **Gather information** – get full details from the school.
- **Contact the school or district office** directly.
- **Write a formal letter** citing laws and cases.
- **Escalate** to provincial Department of Education if not resolved.
- **Report to education authorities** if still unresolved.
- **Approach the court** – courts can order schools or authorities to comply.

05.

Where to Get Help



- **SECTION27 ADVICE OFFICE**
060 754 0751 | 067 419 6841
adviceoffice@section27.org.za
- **LAWYERS FOR HUMAN RIGHTS**
08000 79614 | 081 716 8791
- **THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION**
011 877 3600 | 011 877 3750

