

TO: Adv Zukile Ntshwanti

Email: NEIAS@dbe.gov.za

**SECTION27 SUBMISSIONS ON THE REGULATIONS ON THE NATIONAL EDUCATION
INFORMATION SYSTEM, 2026
9 OCTOBER 2026**

CONTENTS

I.	INTRODUCTION.....	3
II.	DEFINITION AND SCOPE OF EDUCATION DATA.....	5
III.	ACCURACY, VERIFICATION AND QUALITY ASSURANCE OF EDUCATION DATA	7
IV.	APPOINTMENT, QUALIFICATIONS AND FUNCTIONS OF EMIS OFFICERS AND DATA MANAGERS	10
V.	LEARNER ENROLMENT AND ADMISSIONS DATA.....	11
VI.	THE MASTER LIST OF EDUCATION INSTITUTIONS	12
VII.	CONCLUSION	14

I. INTRODUCTION

1. SECTION27 is a public interest law centre that works to influence, develop, and use the law to further constitutional rights in South Africa. Specifically, SECTION27 uses legal literacy, community mobilisation and empowerment, client engagement, research, advocacy, and litigation to further the right to have access to the right to healthcare services, including reproductive healthcare, and the right to basic education.
2. SECTION27 welcomes the publication of the Draft Regulations on the National Education Information System, 2026 ("Draft Regulations"), issued in terms of the South African Schools Act 84 of 1996 ("SASA"), and the establishment of a national framework for the collection, management, verification and use of education information. Accurate information helps enable the state to identify gaps in the provision of education, allocate resources appropriately, plan for infrastructure and learner demand, and monitor where education services are being delivered effectively.
3. The importance of accurate and verifiable education data is illustrated by SECTION27's work in the *Komape* litigation. The litigation arose from the death of Michael Komape, a five-year-old learner who drowned in a pit toilet at his school in Limpopo in 2014. In 2018, the Limpopo High Court granted a structural order that required the state to plan to eradicate pit toilets in schools in the province and to report to the Court on its implementation.¹
4. The subsequent proceedings revealed problems with the information that the state relied on. The data that was contained in the state's plan was inconsistent with other state datasets.² In 2018, SECTION27 conducted a sample study of 86 schools in Limpopo and found that there were at least 12 schools with unsafe sanitation on school grounds that were not included in the list.³ In 2021, SECTION27 returned to the

¹ *Komape and Others v Minister of Basic Education* [2018] ZALMPPHC 18; also see F Veriava and M Harding, "The Komape litigation-ensuring effective remedies" (2023) 56:1 *De Jure Law Journal* 505-524.

² Above note 1.

High Court seeking an order, declaring that the state's plans were unconstitutional and in breach of the 2018 structural order. The Court found in our favour and ordered the Limpopo Department of Education ("LDoE") to produce a comprehensive list of all schools with pit toilets, alongside an urgent plan to eliminate them and replace them with adequate and safe structures. Despite the 2021 court order, we continued to detect inaccuracies in the information provided by the LDoE from 2022 onwards.

5. We sent numerous letters to the LDoE enquiring about the information provided and requested accurate Education Management Information System numbers and contact numbers of principals. As recently as 2026, we continue to see inaccuracies in the information provided by the department in its reporting on compliance with the *Komape* structural order, raising ongoing concerns about the quality and accuracy of the data.
6. The inconsistencies that we have seen are not merely data-quality problems. The accuracy of the data had direct consequences for whether the state could identify schools that required intervention and whether the state's plan could adequately address the constitutional rights of learners at those schools.
7. The *Komape* litigation provides a practical illustration of the consequences that may arise when education data is incomplete, inaccurate or outdated. It also highlights the importance of institutionalising verification and data-quality processes.
8. We therefore welcome the Draft Regulations recognition of the importance of data quality and establishment of responsibilities for the collection, verification, quality assurance, management and dissemination of education data. Our submission focuses on strengthening the practical operation of the National Education Information System ("NEIS"), particularly in relation to the definition and scope of 'education data'; data accuracy and verification; the capacity and accountability of officials responsible for managing education data; accurate learner enrolment data; and the maintenance of a comprehensive and reliable record of education institutions.

II. DEFINITION AND SCOPE OF EDUCATION DATA

9. The Draft Regulations define 'education data' as "all information relevant to the planning and management of education that is collected, stored and processed by education institutions and education departments, including all information falling within the minimum data fields." SECTION27 welcomes this broad formulation as it recognises that education data should encompass information that is relevant to the planning and management of the education system, rather than being limited to administrative information.
10. However, we submit that the definition should be expanded to provide more clarity on the categories of information that constitute education data to plan, monitor and evaluate the education system. An Education Management Information System ("EMIS") should not merely function as a repository of administrative information. The United Nations Educational, Scientific and Cultural Organization ("UNESCO") and the Global Partnership for Education define an EMIS as an information system "for the collection, integration, processing, maintenance and dissemination of data and information to support decision-making, policy analysis and formulation, planning, monitoring and management at all levels of an education system".⁴ Their guidance further emphasises that an effective EMIS should provide comprehensive, integrated, relevant, reliable and timely information to education leaders, decision-makers and managers at all levels.⁵
11. Similarly, research also views EMIS as more than a data collection mechanism. EMIS can function as a centralised and integrated platform collecting, validating and analysing institutional, financial, academic and human resource information, therefore supporting evidence-based decision-making and educational governance.⁶ Education institutions face increasing difficulty in managing large volumes of data

⁴ C van Wyk and L Crouch, "Guidelines for Data Management and Functionality in Education Management Information Systems (EMIS)" (2020) UNESCO Institute for Statistics, available at <https://emis.uis.unesco.org/wp-content/uploads/sites/5/2020/09/EMIS-Buyers-Guide-EN-fin-WEB.pdf> (accessed 2 October 2026).

⁵ Ibid.

⁶ R Rahmatullah and H Mubarak, "The urgency of education management information system in managing educational institution data" (2025) 3:1 *International Journal of Management, Innovation, and Education*, 013-017.

related to students, staff, curriculum, and finances.⁷ Furthermore, without integrated systems, data fragmentation can lead to duplication, inefficiency, and misinformed policy decisions.⁸

12. The Draft Regulations itself supports this broader definition of education data. Annexure A of the Draft Regulations titled “Minimum Data Fields”, expressly provides that the education data specified in the minimum data fields is “not limited to the minimum list.”⁹ Annexure A includes, among other things, information regarding learners and parents, human resources, curriculum, school finance and asset management, extracurricular activities, school governing bodies and school management reports. The inclusion of an “infrastructure register” under school finance and asset management in Annexure A is significant because it recognises that information concerning school infrastructure forms part of the information required to understand and manage an education institution.

13. SECTION 27 therefore recommends that the definition of education data should expressly recognise that information necessary for the planning, provisioning, monitoring and accountability of education constitutes ‘education data’. This would encompass information that is necessary not only to determine who is participating in the education system, but also where education is provided, the capacity and resources available, the condition in which education is provided, and whether those conditions are sufficient to accommodate learner’s needs.

14. Education data could include more in-depth learner data;¹⁰ infrastructure and facilities data (including the availability, condition and functionality of classrooms, water, sanitation, electricity, accessibility and other essential facilities); and infrastructure project data (including information regarding planning, ongoing and completed infrastructure projects, their status and implementation).

⁷ Ibid.

⁸ Ibid.

⁹ Annexure A of the Draft Regulations on the National Education Information System, 2026.

¹⁰ The learner data would ensure that schools remain within capacity and avoid overcrowding. The Draft Regulations must be read with the Department of Basic Education’s Draft Regulations on Minimum Uniform Norms and Standards for Capacity of Ordinary Public Schools, 2025.

15. Clarifying the scope of 'education data' would help strengthen the Draft Regulations by ensuring that the obligations regarding collection, verification, quality assurance, accountability and publication apply to the information necessary to understand the actual state of the education system.

III. ACCURACY, VERIFICATION AND QUALITY ASSURANCE OF EDUCATION DATA

16. SECTION27 welcomes the Draft Regulations' emphasis on the collection and management of accurate, complete and reliable education data. One of the core objectives of the Draft Regulations is to provide a "structured framework for managing education data in a way that ensures consistency, security, compliance and efficiency for the education sector".¹¹

17. Draft Regulation 12(3)(a) provides that minimum data fields be captured, verified, complete and accurate before submission, while Draft Regulation 12(3)(e) requires the relevant EMIS officer to confirm and approve education data before it is submitted. Furthermore, Draft Regulations 12(5), 12(6) and 12(10) establish responsibilities for the verification, approval, quality assurance and auditing of education data before and after submission. These provisions are important because the usefulness of an EMIS is dependent on the quality of the information that it contains.

18. The Department of Basic Education ("DBE") itself describes EMIS as having responsibility for developing and maintaining an integrated education information system for the acquisition, processing, dissemination and reporting of quality education data.¹²

19. However, SECTION27's experience in monitoring school infrastructure, including through monitoring implementation of the *Komape* court ordered plan, shows that the existence of formal data requirements does not always guarantee that

¹¹ Regulation 2(b) of the Draft Regulations.

¹² Department of Basic Education, "EMIS - Education Management Information Systems" (2026) *Programmes*, available at <https://www.education.gov.za/Programmes/EMIS.aspx> (accessed 6 October 2026).

information is current, accurate, or capable of being independently verified. In conducting verification exercises, we have encountered challenges obtaining updated information from schools, including information concerning the operational status of schools and information regarding the status of infrastructure projects. These practical challenges demonstrate the importance of ensuring that data contained within the education system is subject to meaningful, regular and independent verification. This is especially the case where that data is used for planning, resource allocation and monitoring the fulfilment of constitutional obligations.

20. Existing education infrastructure data has sometimes been affected by outdated information and limitations in the frequency and scope of updates. Researchers have argued that precise and reliable statistics regarding infrastructure backlogs are severely hindered by insufficient reliable information.¹³ This illustrates the risk that a central information system may contain information that is formally captured but no longer reflects the current conditions.
21. SECTION27 further welcomes the addition of Draft Regulation 12(3)(b) which provides that, education departments and institutions must submit all required data within the timeframes prescribed by the DBE, including any annual, quarterly, or ad hoc reporting period (Annexure B). Annexure B lists all information that must be submitted in the required periods, including, learner performance collection. However, it does not provide for the timely update of other details like educators contact details.
22. In 2026, during the verification process in the *Komape* matter, we contacted schools in the Limpopo Province to determine whether pit latrines had been demolished and replaced with new toilet facilities. SECTION27 encountered noticeable and continuous patterns. Certain schools that were called had contact numbers that belonged to retired principals, some of whom had been out of the school for a few years, and one of whom was deceased.

¹³ C Meier and J West, "Overcrowded classrooms—the Achilles heel of South African education?" (2020) 10:1 *South African Journal of Childhood Education* 1-10.

23. In light of our experience, SECTION27 recommends that the data specification should provide for quarterly verification and updating of important educator contact information where necessary. This is to ensure that the DBE has accurate contact details for administrative or communication purposes.
24. The need for ongoing verification is important considering Draft Regulation 13(3) which requires education departments to safely and accessibly store education data that reflects the current education system, as well as historical profiles of the education system. This requires the NEIS to provide a reliable and sufficiently up-to-date picture of conditions in which education is currently being provided. This is particularly important for information that changes frequently, such as learner enrolment, school contact details, infrastructure conditions, availability of facilities and the status of infrastructure projects.
25. SECTION27 therefore recommends that the Draft Regulations:
- a. Require education institutions and education departments to regularly verify key categories of education data to ensure that information captured in the NEIS remains accurate, complete and current;
 - b. Require clear and accessible procedures for identifying, reporting, investigating and correcting inaccurate, incomplete or outdated information;
 - c. Provide for periodic verification of data against information obtained directly from education institutions, particularly where information is subject to frequent change;
 - d. Give practical effect to Draft Regulation 13(3) by requiring information necessary to reflect the current education system to be reviewed and updated at appropriate intervals; and
 - e. Provide a mechanism through which education institutions, officials and, where appropriate, other stakeholders can report information that appears to be inaccurate, incomplete or outdated, with clear procedures for investigating and resolving such reports.

IV. APPOINTMENT, QUALIFICATIONS AND FUNCTIONS OF EMIS OFFICERS AND DATA MANAGERS

26. SECTION 27 welcomes the formal recognition of dedicated data-management responsibilities within the education system. Draft Regulations 3(2) requires the DBE, education departments, education districts and education institutions to appoint an official as an EMIS officer. Draft Regulations 5 to 8 assign duties to national, provincial, district and education institutions' EMIS officers. They are responsible for controlling and coordinating the release of education data, ensuring compliance with quality standards, and establishing data verification and record-keeping processes. Furthermore, Draft Regulation 10(a) requires data managers to ensure that education data is accurate, accessible and utilised effectively.

27. However, despite the importance of these functions, the Draft Regulations does not provide clarity on the minimum qualifications, competencies, training and experience that is required for officials appointed to these positions.

28. The effectiveness of the NEIS will substantially depend on the capacity of the officials who are responsible for collecting, verifying, managing, approving and disseminating education data. This is significant because the Draft Regulations assign EMIS officers responsibilities that go beyond administrative data capture to include verification, quality assurance and control of official education statistics.

29. We therefore recommend that the Draft Regulations:

- a. Prescribe minimum competency and qualification requirements for EMIS officers and data managers;
- b. Require education departments to ensure that EMIS officers and data managers have sufficient institutional authority and resources to perform their duties effectively; and
- c. Clarify the accountability of these officials for material inaccuracies or inconsistencies in education data.

V. LEARNER ENROLMENT AND ADMISSIONS DATA

30. SECTION27 welcomes the addition of Draft Regulation 12(1) which stipulates that all education institutions must capture and provide all education data through the EMIS, in accordance with the data reporting obligations specified in sub-regulation (3). Draft Regulation 12(3)(a) stipulates that all education institutions must ensure that all minimum fields (as specified in Annexure A) are captured, verified, complete, and accurate prior to submission. Among other minimum fields, Annexure A includes the requirement for learner and parent information.
31. Matshaka¹⁴ has highlighted the barriers experienced by undocumented learners (whether South African or not) when accessing education through online portals for online admission systems. He notes that such a barrier exists when learners must file online applications for admission implemented in provinces such as Gauteng and the Western Cape.¹⁵
32. Furthermore, Matshaka demonstrates that these systems may create barriers where the completion of an application requires the submission of an identity number or other documentation that parents may not possess. Accordingly, Matshaka recommends that there exists a need for an inclusive approach to admissions, which provides alternatives for applicants who are unable to provide an identity number at the point of application.¹⁶
33. SECTION27 submits that the language of Draft Regulation 12(3)(a) is restrictive in reference to learners who may not possess relevant learner or parent information. In particular, it requires that all minimum fields are “complete”. This requirement may potentially exclude the information of learners who are undocumented and only have unabridged birth certificates or no documents. The minimum field pertaining to learner and parent information does not explicitly list unabridged birth certificates or sworn affidavits in place of no documentation as part of its requirements.

¹⁴ BJ Machaka, “Recent Legal Developments: Reconceptualising Undocumented Children's Access to Basic Education in South Africa” (2025) 28:1 *Potchefstroom Electronic Law Journal* 1-26.

¹⁵ Ibid.

¹⁶ Ibid.

Consequently, this may ultimately result in undocumented learners being excluded due to failure of providing “complete” information.

34. SECTION27 submits that the Eastern Cape High Court has clarified the position for admission of undocumented learners in *Centre for Child Law v Minister of Basic Education*.¹⁷ As a result, the learner and parent information field should extend its requirements to foster inclusion for undocumented learners who may lack the required documents in the list.

35. SECTION27 therefore recommends that, the minimum fields specified in Annexure A should extend their list to include an unabridged certificate or sworn affidavit. These additions will be important in ensuring that undocumented learners are not excluded by the system as a result of their inability to meet the current limited requirements.

VI. THE MASTER LIST OF EDUCATION INSTITUTIONS

36. SECTION27 welcomes the addition of Draft Regulation 12(8), which provides that the DBE must maintain and publish the Master List for all education institutions as per the Master List Standard as published in Government Gazette No. 35526. A comprehensive and accurate Master List is fundamental to an effective education system. The existing Master List Standard already recognises the importance of completeness, requiring all education institutions in a province to be included on the provincial Master List, whether they are open or closed, functional or non-functional.¹⁸ It also requires changes to records to be capable of verification through an audit trail.¹⁹ Draft Regulation 12(8) allows for information that is accurate, transparent and consistent. In particular, it addresses the existing challenge of independent schools that are not registered with the DBE.

37. Section 46 of the SASA explicitly provides that no person may establish or maintain an independent school unless it is registered by the Head of Department. Although this

¹⁷ 2020(3) SA 141(ECG).

¹⁸ Paragraph 4.1 of *Master List of Institutions Providing Education Services* GN 573 in GG 35526 of 17 July 2012.

¹⁹ Ibid at paragraph 4.3.

is what the law provides, many independent schools continue to operate despite not being registered, leaving parents and learners vulnerable. It has been reported that parents, especially in Gauteng, may resort to independent schools not based on preference,²⁰ but because they seek to avoid overcrowded classrooms or to secure education for their children when public school options feel limited.

38. Speaking at a media briefing in Johannesburg, MEC of the Gauteng Department of Education, Lebogang Maile stated that officials visited 61 schools who were suspected of operating unlawfully between January and September of 2025. From the 61 schools visited, 32 were served with closure letters. The MEC advised that “Parents also have an important role to play. They should check a school’s registration before paying fees and should contact the DBE if they suspect that an institution may be operating illegally”.²¹

39. In light of the MEC’s statement, Draft Regulation 12(8) is particularly relevant, because it not only allows for the maintaining of the Master List, but the publishing of it. This fosters transparency, in that parents who are vulnerable and seeking schools for their children can resort to the published list for verification purposes prior to paying school fees or requesting admission.

40. The Draft Regulations should build on the existing requirements of the Master List Standard outlined in Government Gazette No. 35526 by ensuring that it is updated regularly and independently verifiable. This is particularly important in light of the existence of unregistered or informal education institutions and the need for the state to have an accurate understanding of the number and location of institutions that provide education.

²⁰ Takudzwa Pongweni, “Crackdown on unregistered Gauteng schools intensifies as fallout mounts for families” (2026) *Daily Maverick*, available at <https://www.dailymaverick.co.za/article/2026-09-20-crackdown-on-unregistered-gauteng-schools-intensifies-as-fallout-mounts-for-families.md> (accessed 6 October 2026).

²¹ SABC News “GP Education says it’s intensifying its crackdown on illegal schools”, (2026) *SABC News*, <https://www.sabcnews.com/sabcnews/gp-education-says-its-intensifying-its-crackdown-on-illegal-schools/> (accessed 6 October 2026).

41. Therefore, SECTION27 welcomes Draft Regulation 12(8) as it allows for accurate information on the number and location of schools. Accurate information regarding the location, number, functionality and registration status of education institutions is necessary in order to understand the actual demand for education infrastructure and services, identify gaps in provision, and support effective resource planning. We therefore recommend that the Draft Regulations:

- a. Require the Master List to be updated annually, to ensure that it remains accurate and current;
- b. Require the Master List to be verified annually against provincial records and information obtained directly from education institutions;
- c. Where appropriate, require the Master List to identify the registration status and operational status of education institutions; and
- d. Establish mechanisms where the members of the public and education institutions can report inaccurate or missing information for verification and correction.

VII. CONCLUSION

42. The Draft Regulations establish a framework for a coordinated NEIS. However, the effectiveness of the NEIS will ultimately depend on whether the information captured within the system is accurate, current, verifiable and accessible to those responsible for planning and delivering education services.

43. SECTION27's experience in monitoring schools demonstrates that information contained in official systems cannot always be assumed to reflect current conditions at school-level. The Draft Regulations should therefore place greater emphasis on the mechanisms through which the accuracy and currency of information will be maintained.

44. We would welcome the opportunity to make oral submissions and to engage further on these issues. Should you require further information, kindly contact:

Teri Brown at Teri@section27.org.za; or

Nthompho Tovhakale at Tovhakale@section27.org.za.