



Briefing Paper 337

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SCHOOL INFRASTRUCTURE NORMS AND STANDARDS

1. Introduction

During the Apartheid-years where you attended school was largely determined by your race. Today, it is determined by where your parents can afford to send you. This often makes the difference between attending a school with a laboratory, a library, sport facilities, electricity and flushing toilets, and having to share a desk and using a pit lavatory. Attending a poorer, under-resourced school often also means that learners have an uphill battle in acquiring a decent basic education.

In 2008, the education department, under the direction of Minister Naledi Pandor, acknowledged the direct link between educational outcomes and poor infrastructural conditions, and published draft national minimum norms and standards for school infrastructure. However, it was only five years later, after many court appearances and sustained pressure from civil society, that the department finally published draft regulations to enforce these norms and standards.

This briefing paper will explore the issues surrounding the debate on school infrastructure and the events leading up to the publication of the draft regulations.

2. The Legal Framework

Section 29(1) (a) of the South African Constitution guarantees everyone the right to a basic education. This right is elevated above most of the other socio-economic rights in that it is immediately realisable; it is not made subject to the qualifiers such as 'progressive realisation'

and 'within the state's available resources' that characterise other socioeconomic rights like health, welfare and housing.¹

Section 5A of the South African Schools Act 84 of 1996 provides the legal basis for the establishment of norms and standards for school infrastructure. It requires that the minister must develop minimum norms and standards for basic infrastructure in, but not limited to, the following areas: classrooms, electricity, water, sanitation, libraries, laboratories, sport and recreational facilities, electronic connectivity, and perimeter security. Furthermore, in Section 58C it creates a mechanism to ensure accountability: it requires provincial heads of department to report annually on their compliance with the norms.

3. The Story So Far

When the 2008 draft of the national norms and standards for school infrastructure was published, the mood among education activists was buoyant; government was finally getting serious, it seemed, about eradicating the school infrastructural legacy of decades of 'bantu education' policy. However, despite the Constitutional imperative and the provisions of the Schools Act, no regulations were ever published to enforce the actual implementation of the 2008 draft.

The next step took place under the present minister, Angie Motshekga, who published a 'National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment' in 2010. Hope flared again that this document, along with the draft norms and standards, would serve as the roadmap for

addressing the infrastructural backlogs in schools. Together, these two documents spelt out the benchmarks for the provision of infrastructure at schools, and how provinces should go about planning and budgeting for school infrastructure.

That the regulations for the norms and standards were sorely needed is glaringly obvious. In the 2011 National Education Infrastructure Management System (NEIMS) Report (published by the Department of Basic Education) the enormity of the infrastructure backlog is abundantly clear. Of the 24 793 public ordinary schools:

- 3 544 were without any form of electricity, while a further 804 schools had an unreliable electricity source;
- 2402 were without any water supply, while a further 2611 schools had an unreliable water supply;
- 913 lacked any ablution facilities, while 11 450 schools were still using pit latrine toilets;
- 22 938 did not have stocked libraries, while 19 541 did not even have a space for a library;
- 21 021 were without any laboratory facilities;
- 2 703 did not have any fencing; and
- 19 037 did not have a computer centre, while a further 3 267 had a room designed as a computer centre, but were not stocked with computers.

In addition, more than 400 schools in the Eastern Cape were classified as 'mud-schools', many of them consisting of mud walls and bare corrugated-iron roofs.

Despite the statistics revealed in its own report, the DBE only proceeded to publish draft regulations for the norms and standards after sustained pressure from civil society, including litigation by the non-governmental organisations Equal Education and Section 27. After publishing a much-criticised draft in early 2013, the DBE published a reworked and markedly improved version for public comment in September 2013. While acknowledging the improvements, most commentators argued that the timeframes for implementation indicated that the minister was not serious about eradicating the infrastructure backlog.

For example, the draft regulations propose that provinces be allowed between 10 and 17 years to comply with the regulations. Provincial education departments are given 10 years to provide basics such as electricity, water and sanitation, while the deadline for equipping schools with libraries, laboratories and sport facilities is set at 2030. In addition, there is much concern that implementation has been couched with qualifiers such as 'as far as reasonably practical'. This is contrary to what the Constitution says, and it gives the impression of creating a fallback for government if it fails to comply with the given timeframes.

Another criticism of the draft regulations is that they fall well short of the proposals contained in the 2008 document. For example, the earlier version determined the catchment zone of a school as having a 3km radius. Where pupils had to walk longer distances, schools would have to be built closer to homes, or transport would have to be provided. Furthermore, the 2008 document also prohibited the use of building materials such as mud and corrugated iron, since it deemed these to be unsafe. It also required schools not to be located next to sewage plants and taxi ranks.² None of these proposals are contained in the September 2013 version.

4. Responses to the Criticisms

One of the DBE's original responses to its critics was that the infrastructural demands (as proposed in the 2008 document) were unachievable and unaffordable, hence the initial reluctance of the DBE to bind the State to provide the infrastructure as proposed. This position was supported by the Democratic Alliance leader, Helen Zille. She argued that the 2008 norms and standards approach would have cost the State billions to implement; billions, she argued, that would have to have been diverted away from strategies designed to address other crucial educational needs, such as teacher training. Thus, according to Ms Zille, the subsequent draft regulations (a much watered-down version of the 2008 document) are a much more sensible approach as they seek to address 'inadequate infrastructure by enabling innovation and partnership'.³

For its part, the DBE argues that, far from resting on their laurels, they have in fact been trying to address the infrastructural needs of schools. It claims that through its Accelerated School

Infrastructure Development Initiative (Asidi), it has already replaced some of the mud schools, connected 147 schools to electricity; linked 188 schools to sanitation services; and provided 156 with water.

While it is commendable that the DBE is starting to make a small dent in the infrastructure backlog, the Asidi programme is fraught with challenges. In his 2013 report on the DBE, the auditor-general flagged the poor management of the Asidi programme⁴, noting that it was under resourced since no consideration had been given to what the resource requirements would be to run the programme usefully. He further noted

that the DBE had under spent on the programme, resulting in a failure to achieve its objectives.

5. Conclusion

It is clear that in order for learners to reach their full potential, schools must enjoy a minimum standard of infrastructure and equipment. It is also clear these should be provided as soon as possible – South Africa’s children cannot wait another 17 years. It is time government put our money where it matters most – in securing the future of our children.

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¹ *Governing Body of Juma Masjid Primary School and another v Essay N.O (2011) and Section 27 and 2 Other v Minister of Education and Others (2012)*

² Faranaaz Veriava (2013): *Progress delayed by loopholes and double-digit deadlines*. Mail & Guardian Online.

³ Helen Zille (2013): *Angie and I*. Politicsweb, 5 August 2013.

⁴ Bekezela Phakathi (2013): *Nomembe notes poor handling of school plan*. Business Day Online.