



Western Cape Forum for Intellectual Disability

WESKAAP FORUM VIR INTELLEKTUELE GESTREMDHEID — IQUMRHU LE NTSHONA KOLONI LOKHUBAZEKO NGENGOQONDO

— ADDING SKILLS • ADDING KNOWLEDGE • ADVANCING RIGHTS —

SUBMISSIONS TO PARLIAMENT

ADVANCING THE RIGHT TO EDUCATION



National Parliamentary Committees have an [oversight function](#) over government departments, such as the Department of Basic Education (DBE).

The WCFID participates in parliament by attending parliamentary meetings and making written and/or oral submissions.

BASIC EDUCATION LAWS AMENDMENT BILL

A missed opportunity to legislate and fund inclusive education and education for children with disabilities

The WCFID made a written submission and requested an opportunity to make an oral submission on the [Basic Education Laws Amendment Bill \(BELA Bill\) \[B2-2022\]](#) in June 2022.

The written submission notes the Bill's silence on inclusive education and education for children with disabilities, and specifically its silence on the right to education of learners with severe to profound intellectual disability. It is silent on the systemic exclusion of learners who attend special care centres (NGOs). This silence undermines the rights of these learners to care, protection, dignity, equality, non-discrimination and education.

It is silent about the relief ordered by the court ([Case 18678/2007](#)) more than 11 years ago on 11 November 2010. The order was brought in terms of, inter alia, Section 29 of the Constitution of South Africa (the right to education), against the Government of South Africa and the Government of the Western Cape.

WCFID recommended that [the Bill](#) should :

- Amend current legislation to allow it to fund and resource organisations such as special care centres that are in fact doing the work of the education department.

BASIC EDUCATION LAWS AMENDMENT BILL – *continued*

- Amend current regulations to increase and expand the current conditional grant for the education of learners with severe to profound intellectual disability at special care centres to align with the education department's mandate to provide education to all learners in South Africa, so that learners and staff at centres have access to appropriate, adequate, accessible and acceptable education, of an adequate quality, including its components, such as:

- Learner transport
- Suitably trained and qualified teachers
- Support staff (including class assistants/carers)
- Remuneration for all centre staff
- Therapeutic services
- National School Nutrition Programme
- Facilities or infrastructure
- WCFID hopes that Parliament will grant its request to make an oral submission to the Committee to support this written submission.

<https://drive.google.com/file/d/1cpEQTBpCi5UT1jtlySmHimJ48vkyfpHc/view?usp=sharing>

SELECT COMMITTEE ON APPROPRIATION

The WCFID called on the Select Committee on Appropriations to hold the national and provincial education department accountable for their failure to exercise their Constitutional, legislative and jurisprudential mandate, including, to:

- Admit learners with disabilities at public schools without exception based on disability; resources; etc.
- Fund and resource inclusive education adequately and appropriately
- Amend current legislation to allow it to fund and resource organisations such as special care centres that are in fact doing the work that the Constitution and the South African Schools Act^[1] demand, as described in the Implementation Matrix, White Paper on the Rights of Persons with Disabilities^[2], until these learners are admitted at public schools. The funding and resource allocation should ensure learners access appropriate education of adequate quality, including all components of education (Case no: 18678/2007).^[3] Legislation should require that the national and provincial education departments conclude Memoranda of Understanding/Agreement in consultation with stakeholders.

<https://drive.google.com/file/d/1I076SSWuaEJxh4whkrI28AjCkO3NRrRz/view?usp=sharing>

SELECT COMMITTEE ON APPROPRIATION - *continued...*

- Immediately amend and expand the current conditional grant for the education of learners with SPID at special care centres to align with the education department's mandate to provide education to all learners in South Africa, so that learners and staff at centres have access to appropriate, adequate, accessible and acceptable access to education, of an adequate quality, including its components, such as:

- Learner transport
- Suitably trained and qualified teachers
- Support staff (including class assistants/ carers)
- Remuneration for all centre staff
- Therapeutic services
- National School Nutrition Programme

<https://drive.google.com/file/d/1I076SSWuaEJxh4whkrI28AjCkO3NRrRz/view?usp=sharing>

PROPOSED AMENDMENTS TO THE ADMISSIONS POLICY FOR PUBLIC ORDINARY SCHOOLS

The WCFID made a submission on the national education department's proposed amendments to the admissions policy for public ordinary schools.

The WCFID is concerned that the proposed amendments will entrench the exclusion of learners from public schools.

<https://drive.google.com/file/d/1ngZqHNI0peFpDcD8OX0R6n13NvP6Aoiu/view?usp=sharing>

PUBLIC HEARINGS ON THE CHILDREN'S AMENDMENT BILL (B18-2020)

The WCFID made an oral submission to parliament at the public hearings on the Children's Amendment Bill.

We recommended that the Bill include a Chapter and clauses on special care centres, especially the funding and resourcing of centres which accommodate learners who are refused admission at public schools.

<https://docs.google.com/presentation/d/1hHAGRjqlsPZe0BBdxFRxqNQna-mcJzv5/edit?usp=sharing&oid=102170632107764596970&rtpof=true&sd=true>

SUBMISSION ON THE CHILDREN'S AMENDMENT BILL (B18-2020)

The WCFID made a submission on the Children's Amendment Bill (B18-2020): 'It is necessary for the Bill to include and define [special care] centres and specify, inter alia, roles and responsibilities of government departments, according to their legal mandates, for the education, dignity and protection of learners and the resourcing of these centres.

The current ambiguity about coordination, roles and responsibilities of departments undermines the rights of these learners to care, protection, dignity, equality and education.'

<https://drive.google.com/file/d/1YIWxoSu8y9rX8EPoDG47W8eu9JpeY9jn/view?usp=sharing>

DBE ANNUAL REPORT 2018/2019

Posed questions, [WCFID's questions](#), which Education deferred answering to a later meeting of the Portfolio Committee on Inclusive Education.

<https://drive.google.com/open?id=14c3kAYy-moHdHVFrRamNdX-CQg5fCjnJ>

LETTER TO THE PORTFOLIO COMMITTEE ON BASIC EDUCATION

The WCFID urged the Chairperson of the Portfolio Committee on Basic Education and the Committee to instruct DBE to implement our court order. WCFID has repeatedly asserted that the DBE conditional grant does not respond to the court order adequately. WCFID has made [several submissions to parliamentary committees](#) to hold the DBE accountable for the failure to uphold the Constitution of South Africa, The South African Schools Act, their legal mandate to provide education to all children between the ages of 7 to 15; and court orders confirming that DBE is legally mandated to provide various components of education.

https://drive.google.com/file/d/1ap7o-jPoPczsfcWSGwm_Oe6ebA8m_TJR/view?usp=sharing

NATIONAL TREASURY

Recommended a different structure for the grant to respond more directly to the court order, including funding for SCCs; learner transport and funding models.

https://drive.google.com/open?id=1sJF4JcONMU_S6fmo87EjNk6dG7UF8IDz

UNANSWERED QUESTIONS

The DBE is unable to answer WCFID's questions at the meeting on inclusive education. The Chairperson of the Committee instructs DBE to provide a detailed, written response to WCFID's questions.

https://drive.google.com/open?id=1M9S1c9vuRT_RdjuINbmVy9TrdNQgwgTiE

PORTFOLIO COMMITTEE ON BASIC EDUCATION

Requested that the Committee instructs DBE to report on its progress in implementing the legal amendments to enable the implementation of the court order, as promised at the DBE Roundtable on education of learners with SPID (November 2018).

<https://drive.google.com/open?id=1rxV2SnYoJ16dHPv2nqmuoOZFIC1Pn0v3>

FLAWED IMPLEMENTATION OF THE CONDITIONAL GRANT (GRANT)

Made an oral submission to the Select and Standing Committees on Appropriations about Division of Revenue Bill B2: 2018 and B5 2019. We informed the Committees about the limitations of the current grant structure, poor implementation of the grant and made recommendations for using the grant more effectively. We urged the Committees to propose more stringent monitoring mechanisms on DBE's implementation of the grant.

<https://drive.google.com/open?id=12dZh4vvbz13P6JP4oT-SWbJlaYC8UKDQ>

ANNUAL PERFORMANCE PLAN & BUDGET VOTE

E-mailed the Portfolio Committee on Basic Education: DBE Annual performance Plan and Budget Vote 14. We requested that the Committee ask DBE to provide disaggregated data on learners with SPID and their implementation plan for the enrolment of learners with SPID in public school.

https://drive.google.com/open?id=1dC6k40gKraaS_PybeQeyzh83dG8aGssT

DBE'S IMPLEMENTATION OF THE GRANT

Urged parliament to interrogate DBE's progress in implementing the conditional grant. We urged the Committee to focus on the quality of implementation, including provincial underspending of the grant; the assessment of learners and the inclusion of SCC learners on the department's database.

https://drive.google.com/open?id=1JGSI4KYAnsT5X_vkFGgEIWaikmEuozmI

INADEQUATE GRANT

Alerted the Portfolio Committee on Basic Education to the severe limitations of the [conditional grant for the education of learners at special care centres \(SCCs\)](#). We urged the Committee to obtain clarity from the Department of Basic Education (DBE) about how and when it intends to provide education of an adequate quality for Children with Severe to Profound Intellectual Disability.

<https://drive.google.com/open?id=1c33nPlilf-JF4L8u5y3ftrdK90F0Ocak>

LEARNER TRANSPORT CRISES

Appealed to the Standing Committee on Appropriations to hold DBE accountable for its failure to provide adequate transport for learners at special care centres, as ordered by the High Court of the Western Cape (**Case No 18678/200**).

<https://drive.google.com/file/d/1NH0XnDZa8qMLf-lpxP6UArpj0VC013ga/view?usp=sharing>

QUESTIONS & ANSWERS

Members of Parliament hold the Minister and Department of Basic Education accountable by sending written questions to them. Here are some of their questions and the Minister's replies about education of learners with SPID at special care centres and schools. At times, the questions are informed by WCFID submissions.

WRITTEN QUESTIONS	BASIC EDUCATION MINISTER'S WRITTEN REPLY
How will the conditional grant for learners with SPID be spent?	https://drive.google.com/open?id=1IRGcbBAn2t-TeTZ3oOAmrahvED1jAZgI
DBE Audit of special care centres (SCCs)	https://drive.google.com/open?id=1zagxHzL7dXeE5Rr9kaEs4033yDO2U-qV
DBE Database of SCCs	https://drive.google.com/open?id=1dc8WeIHotno8KFo5njix4adn5lsCwvW
Class assistants and support for learners with SPID in schools	https://drive.google.com/open?id=1Oa2UltWVuv7PANYMAjCGyHvhOUTX0I_t
Schools and waiting lists for learners with SPID	https://drive.google.com/open?id=1wlrHULX3U_TBrtTt_4-nqfyAYXKIGvVN6