

**Board:** Prof Mary Metcalfe, Prof Crain Soudien, Zackie Achmat, Nathan Geffen, Doron Isaacs, Dr Peliwe Lolwana, Prof Paula Ensor, Graeme Bloch, Sean Feinberg, Andiswa Kolanisi, Ntuthuzo Nzomo, Phatiswa Shushwana, Ntsikelelo Dlulani.

### RESOLUTION OF THE BOARD OF EQUAL EDUCATION

At a meeting held on 11 December 2011, the board members of Equal Education (EE) resolved to instruct the Legal Resources Centre (LRC) Grahamstown Office to institute legal action against the relevant departments and office bearers of the National and Provincial Governments of the Republic of South Africa.

The legal action arises out of the failure of the Department of Basic Education (DBE) to provide emergency infrastructure to Mwezeni Senior Primary School, Menziwa Senior Secondary School and Mkanzini Junior Secondary School (the schools) to enable them to function and fulfill their mandate, and the Minister of Basic Education's (the Minister) failure to promulgate minimum norms and standards for school infrastructure in terms of section 5A of the South African Schools Act 84 of 1996 (SASA).

The decision to institute legal action in this matter comes after numerous discussions by the Board about critical need for national minimum norms and standards for school infrastructure and the continuing negative impact that the failure to adopt these regulations is having on thousands of learners and teachers across South Africa. In the spirit of constructive engagement with the DBE EE has since the beginning of 2010 sent numerous letters to the Department requesting that the Minister of Basic Education adopt the regulations for minimum norms and standards for school infrastructure in accordance with the power vested in her in terms of SASA. EE also discussed this matter with the Minister of Basic Education during a meeting with her at Parliament in February 2011 (where members of this Board were present). Over the past two years the Minister as well as other officials in her Department have consistently indicated that she will be adopting national minimum norms and standards for school infrastructure in terms of section 5A of SASA. Such reassurance was given during the abovementioned meeting with the Minister; in numerous other communications from her/her Department; as well as in the

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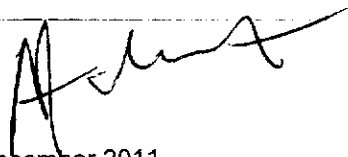
National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (June 2010). Despite these commitments the Minister has still failed to adopt the said regulations.

It was only after a period of more than 2 years of engagement with the Minister and her department, and after numerous commitments and deadlines for the adoption of the minimum norms and standards for school infrastructure having been missed that the Board has resolved to initiate legal action in this regard.

The purpose of the legal action is to, inter alia, obtain a Court Order declaring that the Minister's failure to pass regulations which prescribe national minimum uniform norms and standards for school infrastructure constitutes a breach of the constitutional right to a basic education of the learners as provided for in section 29(1) of the Constitution and the statutory duty imposed in terms of section 5A of the Schools Act; and directing the Minister to pass regulations which prescribe national minimum uniform norms and standards for school infrastructure in terms of section 5A of the Schools Act.

The meeting further resolved that Yoliswa Dwane is authorized to sign all necessary legal documents to institute this legal action and in furtherance thereof.

Zackie Achmat  
Chairperson of the Board of Equal Education



11 December 2011



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