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The Minister of Basic Education
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3 August 2011

The MEC for Education (Eastern Cape)
Mr Mandla Makupula
Steve Vukile Tshwete Education Complex
Zone 6, Zwelitsha
Facsimile: 040 654 1861

cc: The Superintendent General (Department of Education)
Adv Modidima Manny
Steve Vukile Tshwete Education Complex
Zone 6, Zwelitsha
Facsimile: 040 608 4249

Dear Minister Motshekga

EMERGENCY RELIEF FOR EASTERN CAPE SCHOOLS, AND PROMULGATION OF MINIMUM NORMS & STANDARDS FOR SCHOOL INFRASTRUCTURE

1. We act for Equal Education and for the Infrastructure Crisis Committees of Menziwa Senior Secondary School (Menziwa SSS), and Mwezeni Senior Primary School (Mwezeni SPS).
2. Menziwa SSS and Mwezeni SPS are public schools as contemplated in Chapter 3 of the South African Schools Act 84 of 1996.

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3. The immediate cause of this letter is the unsafe and crisis conditions that currently exist at these two Eastern Cape schools.

4. Briefly, the conditions at the schools are as follows:

4.1. Menziwa SSS, in the King Sabata Dalindyebo Municipality, was struck by a tornado on 20 December 2010, and was further damaged by a heavy storm in March 2011. Each of its five shutterboard classrooms, which were built approximately 16 years ago and were intended as temporary structures, lack significant portions of their walls. Heavy metal gutters dangle from classroom roofs, and electrical wiring is exposed in many classrooms. Teachers and learners receive no protection from the elements, resulting in illness and high absenteeism. Approximately two weeks after the tornado struck, the principal of Menziwa SSS reported these conditions at the Mthatha District office of the Department of Education. He reported the subsequent storm telephonically on the day that it occurred, to the responsible Education District Officer. It is now more than seven months since the first instance of severe damage to the school infrastructure. The matter has not been addressed.

4.2. Mwezeni SPS, in the Mbashe Local Municipality, was severely damaged by heavy rains during January and February 2011. As a result, portions of the five mud structure classrooms that house Grades R through 4 have collapsed. The remaining classrooms are extremely unstable, and are in imminent danger of collapsing upon the learners. Deep cracks are visible in the walls that support the school, and the foundations of the walls are also damaged. The school has submitted numerous letters and made verbal requests to both the Circuit Manager and the District office following upon the damage. Six months later, these dangerous conditions remain.

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5. The conditions at these schools give rise to the following results:
 - 5.1. They pose an immediate risk of grave physical injury to the learners.
 - 5.2. They result in a breach of the constitutional right of the learners to a basic education. Poor school infrastructure has a direct impact on the quality of education and on learner performance. There is a duty on the state to provide adequate school infrastructure, as part of its obligation to fulfill the right to basic education.
6. We are aware that the MEC for Education in the Eastern Cape shares responsibility for addressing this situation, and he is therefore copied on this letter.
7. One of the reasons for the existence of this state of affairs is that there are no norms and standards for school infrastructure prescribed by regulation which are binding on provincial governments.
8. Section 5A of the South African Schools Act authorises you to promulgate minimum norms and standards for school infrastructure. Your Department has repeatedly acknowledged the importance of national minimum norms and standards for school infrastructure in relation to learner outcomes. In the *National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment*, you acknowledged the link between poor school infrastructure and learner performance. You committed the government to the promulgation of minimum norms and standards for school infrastructure by the end of the 2010/2011 financial year (31 March 2011). This deadline passed four months ago. No promulgation has taken place.

9. As you are aware there are schools, not limited to the two which are identified in this letter, which are in an actual or potential crisis situation as a result of the poor condition of the infrastructure. In order to comply with the requirements of the Constitution, the promulgated norms and standards need to make special provision for such schools.

10. In order to protect the rights of the children at the two schools, to promote the rights of all learners at public schools in South Africa, and to ensure compliance by the State with its duties in this regard, our clients request the following from you and the MEC as a matter of urgency:

10.1. That adequate emergency structures and other appropriate relief be provided forthwith to the schools mentioned above;

10.2. That a reasonable plan be adopted and implemented without delay for the swift provision of adequate emergency structures to other schools in similar circumstances; such plan be made known to the LRC and our clients;

10.3. That you advise in writing why you have not promulgated minimum norms and standards for school infrastructure; and

10.4. That you undertake to promulgate minimum norms and standards for school infrastructure without further delay, and indicate to the LRC and our clients when this will be done.

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- 11. We are instructed that if we do not receive a satisfactory response within 14 days of receipt of this letter, we are to initiate legal proceedings in order to protect the rights of the learners at the abovementioned schools, and at other schools where the infrastructure does not meet the standard necessary to facilitate effective education.

Yours faithfully



LEGAL RESOURCES CENTRE

Per: **CAMERON MCCONNACHIE**