



National Council: Amahle Ngobese, Asisipho Mvana, Kholeka Mbalo, Mamaila Teffo, Noncedo Madubedube, Nthabiseng Mashego, Rieta Pilusha, Sibulele Henene, Sindisa Monakali, Sipehelele Qwabaza, Siphosethu Mngqibisa, Tess Peacock, Tracey Malawana, Tsakane Sibuyi, Yana van Leeve, Zanele Modise, Zimbili Mgoqi.

25 June 2019

To: Pamela Majodina
ANC Chief Whip

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CC: Thandi Modise
Speaker of the National Assembly

PER EMAIL: framosana@parliament.gov.za

CC: Adv. Anthea Gordon
Joint Committee on Ethics and Members' Interest
Acting Registrar of Members' Interests

PER EMAIL: agordon@parliament.gov.za

CC: President Cyril Ramaphosa
via Ms. Malebo Sibiyi
Personal Assistant to the President

PER EMAIL: malebo@presidency.gov.za

Dear Chief Whip Majodina

RE: THE WITHDRAWAL OF NOMINATION OF ZUKISA FAKU TO CHAIR THE BASIC EDUCATION PORTFOLIO COMMITTEE

1. The African National Congress (ANC) Parliamentary caucus' recent nomination of Ms Zukisa Cheryl Faku as Chairperson of the Portfolio Committee on Basic Education refers.
2. Equal Education (EE) is a membership-based democratic movement of learners, parents, post-school youth and school-community members working towards achieving quality and equality in the South African education system.

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3. Because of our deep commitment to the urgent realisation of every learner in South Africa's right to access quality education, and South Africa's widely acknowledged failure to realise this right, we are deeply disappointed by Ms Faku's nomination and the clear lack of commitment to basic education that it reflects.
4. At the ANC's 2019 election manifesto launch, President Cyril Ramaphosa stressed that the ruling party would, "...show no tolerance in the fight against corruption and misconduct within the ANC"¹, and that accountability and consequence management would be implemented. Yet, the party's parliamentary caucus saw it fit to nominate someone with a history of fraudulent conduct to chair this committee.
5. Ms Faku's career has been riddled with controversy, from her days as Mayor of Buffalo City Metro. In 2016 Ms Faku was sentenced to three years' house arrest and community service on nine counts of fraud² when the East London Magistrate's Court held that she had abused her position as Mayor of Buffalo City Municipality in 2010, by misusing a municipal credit card to purchase various luxury items during an overseas trip. Ms Faku was found to have unlawfully spent approximately R15 000 to purchase these personal items.³ Former ANC spokesperson, Mr Zizi Kodwa, publicly stated that Ms Faku would immediately cease being an ANC Member of Parliament (MP) and that she would have to serve her sentence.
6. At the time, former ANC Chief Whip, Mr Jackson Mthembu, stated that the party agreed and accepted the judgement regarding Faku's fraudulent conduct. "We agree with the judge in the case that the conduct of comrade Faku... was abusive of her position of trust," Mthembu said.⁴ In addition, Mr Kodwa welcomed the sentence and said it sent a strong message that corruption would not be tolerated in the organisation.
7. In a separate matter, it was alleged that between 2009 and 2010, again while Ms Faku was Mayor of Buffalo City Metro, R15.6 million went to a private firm, Ndodana Consulting Engineers, which she had hired without following a competitive bidding process. It is claimed that no actual work had been done by the firm, which had been appointed to "...provide

¹ Ramaphosa, C., The ANC's 2019 election manifesto, *PoliticsWeb*. 13 January 2019

² Gqirana, T., "Former Buffalo City mayor loses MP job after fraud conviction", *News24*. 28 September 2016.

³ Mukhuthu, Z., "Former East London mayor guilty of credit card fraud", *Sowetan*. 29 March 2016.

⁴ Herman, P., "Corruption won't be tolerated- ANC welcomes Faku fraud sentence." *News24*. 29 September 2016

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technical and management support services to improve BCM infrastructure and service delivery matters..."⁵ The matter landed in the East London Magistrate's Court in 2017, however charges against Ms Faku were dropped the following year.

8. Given the concerning events described above, and in light of the ANC's public statements in this regard, it is unclear how Ms Faku continued or resumed her duties as an MP.
9. Parliament's own Code of Ethical Conduct⁶, which outlines the minimum standards of ethical behaviour that South Africans may expect from public representatives, states that MPs must exhibit selflessness, integrity, objectivity, openness and honesty. The Code also requires that MPs place the public interest above their own, carry out public duties in accordance with constitutional imperatives, and promote and support ethical conduct by leadership and example.
10. The South African Constitution also requires that individuals working in the public administration adhere to high standards of ethical and professional behaviour. In particular, section 195 states that the public administration must be governed by the democratic values and principles enshrined in the Constitution, which include a high standard of professional ethics and accountability.
11. One would expect that individuals nominated to lead MPs in their oversight duties, should exemplify these values.
12. When MPs are shrouded with a record of fraud and corruption, it not only shakes the public's confidence in Parliament, but taints the very integrity of this institution. As such, we are convinced that Ms Faku will not be able to exercise her mandate as a member of Parliament, or as Chair of the Portfolio Committee on Basic Education, in a fit and proper manner.
13. As a social movement, we have an obligation to our members, most of whom are high school learners, to raise our concerns about Ms Faku's nomination. In light of the concerns we have laid out above, we are calling for the following:

⁵ Nini, A., "Faku Fraud Charges Dropped", *Daily Dispatch*. 05 June 2018

⁶ The Code of Ethical Conduct and Disclosure of Members' Interest for Assembly and Permanent Council Member (5th Parliament)

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- 13.1. We call on Chief Whip Majodina and the ANC Parliamentary caucus to withdraw Ms Faku's nomination and elect a capable public servant who has no previous record of criminal activity and will be in a position to carry out the necessary legislative oversight in the basic education sector.
- 13.2. Furthermore, we do not believe Ms Faku is fit to hold Parliamentary office. We call on the ANC to honour its public commitment to combat corruption and to institute the necessary processes to remove her as a representative of the ANC in Parliament.

The ANC and Parliament have a duty to protect the interests of the public, and in this regard, those of learners across South Africa. It cannot be that an individual who has been found guilty of abusing her position is deployed as a Member of Parliament, let alone nominated as chair of a committee that oversees one of the most crucial sectors in the country. Given the importance of this issue, EE members will continue to mobilise to ensure it is resolved.

We look forward to hearing back from you on this urgent matter and request that you respond to us by no later than 5 July.

Yours sincerely,



Ms Noncedo Madubedube
General Secretary, Equal Education




The following organisations stand in solidarity with EE's position and the demands in this matter:

Ahmed Kathrada Foundation
Alternative Information and Development Centre
BottomUp



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Children's Institute, UCT
Equal Education Law Centre
Helen Suzman Foundation
Lawyers for Human Rights
My Vote Counts
Nal'ibali
Open Secrets
Public Service Accountability Monitor
Right2Know
Rural Health Advocacy Project
Section27
Social Justice Coalition
#UniteBehind
Western Cape Forum for Intellectual Disability
Women and Democracy Initiative, Dullah Omar Institute

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