

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No: 22588/2020**

In the matter between:

<b>Equal Education</b>	<b>First Applicant</b>
<b>School Governing Body of Vhulaudzi Secondary School</b>	<b>Second Applicant</b>
<b>School Governing Body of Mashao High School</b>	<b>Third Applicant</b>

and

<b>Minister of Basic Education</b>	<b>First Respondent</b>
<b>MEC of Education, Eastern Cape</b>	<b>Second Respondent</b>
<b>MEC of Education, Free State</b>	<b>Third Respondent</b>
<b>MEC of Education, Gauteng</b>	<b>Fourth Respondent</b>
<b>MEC of Education, KwaZulu-Natal</b>	<b>Fifth Respondent</b>
<b>MEC of Education, Limpopo</b>	<b>Sixth Respondent</b>
<b>MEC of Education, Mpumalanga</b>	<b>Seventh Respondent</b>
<b>MEC of Education, Northern Cape</b>	<b>Eighth Respondent</b>
<b>MEC of Education, North West</b>	<b>Ninth Respondent</b>
<b>MEC of Education, Western Cape</b>	<b>Tenth Respondent</b>

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**FILING NOTICE**

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Signed and dated at Pretoria this 3<sup>rd</sup> day of August 2020.



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**PRETORIA**

**And to: Attorneys for Applicants**  
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MEC of Education, Mpumalanga  
MEC of Education, Northern Cape  
MEC of Education, North West  
MEC of Education, Western Cape**

**First Respondent  
Second Respondent  
Third Respondent  
Fourth Respondent  
Fifth Respondent  
Sixth Respondent  
Seventh Respondent  
Eighth Respondent  
Ninth Respondent  
Tenth Respondent**

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**AFFIDAVIT**

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I, the undersigned

**ENOCK VUSUMUZI NZAMA**

do hereby declare under oath as follows:

1. I am a major male, appointed as the Head of the Department for the KwaZulu-Natal Department of Education, with the address of my office and that of the Department situated at No 247 Burger Street, Anton Lembebe Building, Pietermaritzburg.
2. The contents of this affidavit fall within my personal knowledge, unless the



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4. The NSNP has been implemented in all schools as from 8 June 2020. As a result, all qualifying learners started receiving meals from 8 June 2020 and this was instructed through KZN NSNP Circular Number 32 of 2020.
  - 4.1 Learners who are phased in and those who are not yet phased in have been provided with food and will continue to be provided with food during the school break.
  - 4.2 The Provincial Department is providing food to approximately 2349 729 learners using a budget of R1 717 512 000.00.
  - 4.3 These are unprecedented times and the Provincial Department is doing all in its powers to make sure that all eligible learners are provided with meals.
  - 4.4 In ensuring that all learners continue receiving meals during the closure of schools until 23 August 2020, a circular was issued and, amongst others, it requires school principals to continuously liaise with service providers regarding delivery of food items to ensure that there is no disruption of the NSNP.
  - 4.5 The plans implemented by the KwaZulu-Natal Provincial Education Department ("*the Department*") are plans which have been taken directly from schools, where schools chose the best suitable option to feed all



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learners: those who phased-in and those who are not yet phased-in.

- 4.6** The attached table below shows a summary of the number of schools providing meals to all learners and the option/s which were chosen by schools. The table shows that 74% of schools chose to provide a cooked meal for learners, 19% are schools who chose the collection of food parcels from school, 5% of schools chose the collection of cooked meals. At the time of preparing the report, 3% of schools had not submitted their forms due to closure of schools as a result of COVID-19 cases.
- 4.7** Therefore, the court order is confirming what the Department is already implementing in the province.
- 4.8** As such, schools are currently implementing detailed plans as directed by the KZN NSNP Circular 32 and KZN NSNP Circular 46 of 2020, in accordance with a video on protocols for kitchen safety measures and in accordance with the NATIONAL SCHOOL NUTRITION PROGRAMME ORIENTATION MANUAL on kitchen safety protocols amid COVID-19 pandemic and guidelines for schools in implementing the programme for all learners.
- 5.** The Department has issued the following circulars with a view to implement the NSNP for all qualifying learners, originally with effect from 1 June 2020 but because of the postponement of the reopening of the schools with effect from



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8 June 2020.

5.1 KZN NSNP Circular Number 32 of 2020

5.2 KZN NSNP Circular Number 46 of 2020

6. The Department has also prepared;

6.1 a training video, and

6.2 an orientation manual for the NSNP on kitchen safety protocols amid COVID-19 pandemic and guidelines for schools implementing the programme for all learners.

7. As part of ensuring implementation that all eligible learners are fed to also comply with the court order, the Department implemented the options recommended by Department of Basic Education which were designed to feed all learners. Accordingly:

7.1 information captured in the Attached table confirm that all learners in the Province are provided with food as required by the court order;

7.2 the Department has collected forms from schools which are the primary source of plans for each school to provide food to all learners;




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- 7.3 the Department has collated and captured information of these school plans into spreadsheets for each district wherein each school is captured with a chosen options/plans to feed all learners;
- 7.4 the reports, extrapolated from feeding registers, indicate that a decent percentage of targeted learners (phased-in and not yet phased-in) are receiving meals;
- 7.5 the variance of 4% of learners who are not accounted for, is due to absenteeism and decision by parents not to send their children back to schools in fear of contracting the virus.
8. Furthermore, as part of ensuring implementation that all eligible learners are fed to also comply with the high court order, the Department has introduced the following tools:
- 8.1 a revised summary of the feeding register for completion by schools which is now two-fold, namely a section for reporting on learners fed in the Grades phased-in and and a section for reporting on learners fed in Grades not yet phased-in;
- 8.2 a district-based monthly reporting spreadsheet wherein the district is able to capture (sourcing from the summary of the feeding registers) the number of learners fed per school against the approved enrolment.



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9. It is anticipated that this excel reporting spreadsheet, with the technical assistance of the FUEL Trust (a non-government organisation), should enable that the districts capture information on each month of the quarter (e.g. July, Aug, Sep) and then the spreadsheet is able to automatically average the summary for the quarter in sheet four of the template.
  
10. While it would be ideal that the feeding information per school is submitted or accessible on regular basis during a month (for example daily or weekly), this would require an advance technological/ automated system due to the large number of schools covered by the NSNP but the problem is the rural nature of the Province with most schools far part and not in close proximity to the district/circuit offices.
  
11. Therefore, the feasibility of reporting on accurate information of learners fed is based on the following premise:
  - 11.1 Most of the NSNP information, including summary feeding registers are submitted manually (mostly physical drop off) where directly at district or circuit office.
  
  - 11.2 Schools reliably and timeously submit summaries of their feeding registers to the district at least at the end of each feeding month, which must be submitted together with the monthly claims from service providers.


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11.3 These summaries must then be captured and processed by the districts before it is received by the Department, causing an inevitable systemic delay.

  
Deponent: E V Nzama

I certify that the Deponent acknowledged that he knows and understands the contents of this affidavit, that he has no objection to the making of the prescribed oath and that he considers this oath to be binding on his conscience. I also certify that this affidavit was signed in my presence at Durban on this 25 day of June 2020 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, have been complied with.

  
COMMISSIONER OF OATHS  
FULL NAMES:  
STREET ADDRESS:  
CAPACITY:  
AREA:


**W.A. MPANZA & ASSOCIATES**  
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DISTRICT	No. of Schools	No. of learners	No. of Schools:					Outstanding
			OPTION 2 Learners come to school to receive a cooked meal	OPTION 3 Parents come to collect a cooked meal on behalf of learners	OPTION 4 Collect food parcels at school by learner	OPTION 5 Collect food parcels at school by parent	Other	
AMAJUBA	218	128149	179	19	15	5	0	0
HARRY GWALLA	424	138277	86	7	18	310	3	0
ILEMBE	401	159572	399	0	2	0	0	0
KING								
CETSHWAYO	614	247343	542	19	20	17	16	0
PINETOWN	377	258520	186	14	39	48	4	86
UGU	432	181762	373	10	24	25	0	0
URGUNGUNDLO								
VU	456	195733	249	19		188	0	0
UMKHANYAKUDE								
UMILAZI	535	234932	364	112	34	24	1	0
UMZINYATHI	484	173321	418	43	15	8	0	49
UTHUKELA	422	189889	303	5	107	6	1	0
ZULULAND	729	258364	695	0	0	34	0	0
TOTALS	5344	2349729	3936	257	306	678	43	136
		%	74%	5%	6%	13%	1%	3%

1.

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