

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 22588/2020

In the matter between:

EQUAL EDUCATION 1st Applicant

**THE SCHOOL GOVERNING BODY OF
VHULAUDZI SECONDARY SCHOOL** 2nd Applicant

**THE SCHOOL GOVERNING BODY OF
MASHAO HIGH SCHOOL** 3rd Applicant

and

MINISTER OF BASIC EDUCATION 1st Respondent

MEC EDUCATION, EASTERN CAPE 2nd Respondent

MEC EDUCATION, FREE STATE 3rd Respondent

MEC EDUCATION, GAUTENG 4th Respondent

MEC EDUCATION, KWAZULU-NATAL 5th Respondent

MEC EDUCATION, LIMPOPO 6th Respondent

MEC EDUCATION, MPUMALANGA 7th Respondent

MEC EDUCATION, NORTHERN CAPE 8th Respondent

MEC EDUCATION, NORTH WEST 9th Respondent

MEC EDUCATION, WESTERN CAPE 10th Respondent

CHILDREN'S INSTITUTE *Amicus curiae*

**AFFIDAVIT IN TERMS OF PARAGRAPH 103.12 OF THE ORDER OF
COURT: NORTHERN CAPE DEPARTMENT OF EDUCATION**

L.G. G.M.

I, the undersigned,

ONEWANG MOGATLE

hereby declare under oath as follows:

1

1.1 I am a major male, Director of Legal Services of the Northern Cape Department of Basic Education.

1.2 My office is situated at 156 Barklay Road, Kimberley.

1.3 The facts deposed to herein fall within my person knowledge, save where otherwise stated, and are true and correct.

2 The purpose of this Affidavit is to report back to the above Honourable Court in terms of paragraph 103.12 of the Order of the above Honourable Court dated 17 July 2020.

3 In respect of the steps that the Provincial Education Department ("*PED*") has taken, I first of all refer the above Honourable Court to the previous Affidavit filed on behalf of the PED, dated 31 July 2020.

4 I annex hereunto as annexure "**OM1**" the printout of the Excel spreadsheet setting out the number of learners fed during the period 27 July 2020 up and until 26 August 2020.

L.G. OGM

5 I furthermore refer the above Honourable Court to Circular 29 of 2020 issued by the Superintendent-General of the Northern Cape Department of Education, and dated 28 July 2020. The Circular consisting of three pages, and the annexure thereto of two pages, is annexed hereunto as annexure “**OM2**”.


6 Furthermore, in respect of the remainder of the information required:

6.1 I annex hereunto as annexure “**OM3**” the template devised by the Northern Cape Department of Education for feeding of learners at school and not yet phased in;

6.2 I furthermore annex hereunto as annexure “**OM4**” Circular 22 of 2020, dated 17 June 2020, regarding the feeding of all learners both at school and those learners not yet phased in;

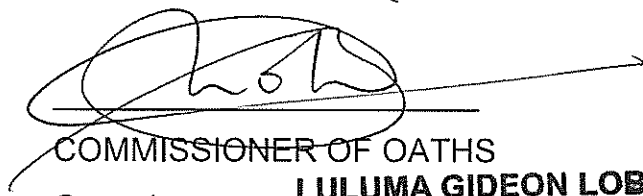
6.3 I furthermore refer to a letter dated 24 July 2020, dealing with the period 27 July – 23 August 2020 when schools were not in sitting, dealing with the feeding of learners, which letter is annexed hereunto as annexure “**OM5**”;

6.4 I also annex hereunto as annexure “**OM6**”, a letter of 24 June 2020, dealing with learners who are not attending schools, and who are residing far away from schools, to receive a food parcel per month.

L. B. 


DEPONENT

SIGNED and sworn to before me at Kimberley on the 27 day of August 2020, the deponent having acknowledged that he/she knows and understands the contents of this affidavit and all the provisions of Act 16 of 1963 and the Regulations promulgated in terms thereof concerning the taking of the oath having been complied with in my presence and within the area for which I have been appointed as Commissioner of Oaths.


COMMISSIONER OF OATHS

Capacity: **LULUMA GIDEON LOBI**
Commissioner of Oaths
Practising Attorney RSA
Full names: **LULAMA LOBI INC.**
28 St Cyprian Street
Physical address: **KIMBERLEY NORTH**

L. G. 

OM I

Province	NUMBER OF LEARNERS FED			Number of Volunteer Food Handlers	Number of service providers	MENU				INFRASTRUCTURE				FUNDING	
	15 January - 18 March 2020	01 June - 27 July 2020	27 July - 30 Sep			Type of food provided to learners	Menu attached Yes/No	Description of food packed package	Transport to school/food	Total number of schools	Number of schools with kitchens	Number of schools with food storage areas	Number of schools with cooking and cleaning areas	2020/21 Allocation (R)	Expenditure as of 30 Sep 2020 (R)
NC	248 871	133 264	188 955	1660	399	Cooked meals (All vegetables, all fruits, all starches, beans, tin fish and UHT milk)	yes	5kg samp, 2.5 beans and 1kg soya or 2x400g of tin fish	There was no designated transport for this activity. Learners used the usual learner transport that transport all learners to school and back in the afternoon	503	389	389	503	R 202 614 000	R 34 675 600
NC															
WC															
Total															

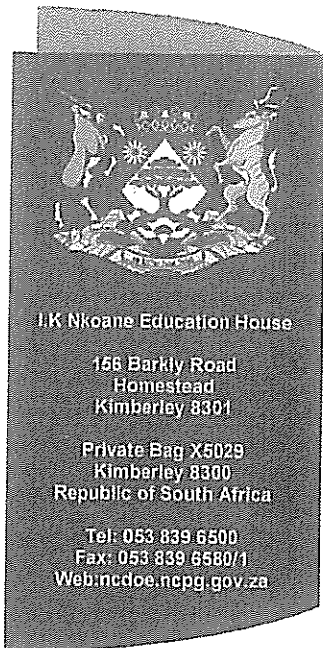
NARRATIVE (A SUMMARY BY DBE)

IMPLEMENTATION PLAN / 2020.21 Business Plan

HOW NSRP WORKS (A SUMMARY BY DBE)

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L. G.



DEPARTMENT OF EDUCATION

Enquiries: District Directors
Date: 28 July 2020
Ref: L.5.4.3.3.3

CIRCULAR: No 29 OF 2020

**TO: DEPUTY DIRECTOR GENERAL
CHIEF DIRECTORS
DISTRICT DIRECTORS
CIRCUIT MANAGERS
LSSS UNIT HEAD
PRINCIPALS
SCHOOL GOVENING BODIES
NSNP OFFICIALS**

FROM: SUPERINTENDENT GENERAL

DATE: 28 JULY 2020

SUBJECT: THE ROLE OF PARENTS/GUARDIANS IN FEEDING LEARNERS DURING THE BREAK PERIOD

The COVID 19 pandemic has allowed all government programmes to be implemented differently. The National School Nutrition Programme (NSNP) is one programme that is currently operating differently to address the scourge of poverty and hunger. On the 23rd June 2020, the president of South Africa Mr. Cyril Ramaphosa announced that schools will be closed from 27 July to 23 August 2020 but the feeding of learners will be continuing at different schools.

Learners are fed both at school and also during break periods. The successful implementation of this programme depend on the cooperation of the parents and guardians of the learners.

L.G.

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This is to allow schools to plan for the packaging and distribution well in advance, for a seamless process during a very difficult time as a result of the pandemic.

Schools will be expected to share a clear and safe distribution plan with all parents/ guardians so as to avoid any misunderstandings.

It must also be noted that the food parcels contents will be based on the NSNP calculation of what is due to each learner per day multiplied by the feeding days per month.

I _____ Parent/ guardian of _____

Attending school at _____ who is in grade _____

i) Need the NSNP meal and will make sure my child goes to school for collection during break periods of cooked meal or a food parcel.	SIGNATURE: _____ DATE: _____
ii) My child will not go to school during break period to collect NSNP meal or food parcel.	SIGNATURE: _____ DATE: _____

Witnessed by (name): _____

Principal's signature: _____

Date: _____

MONITORING AND EVALUATION

Schools are to ensure that this circular is signed and filed for audit purposes. Signatures of parents will make it easier for schools to know how much to cook for and use the MRR calculator more effectively.

Schools are also expected to submit their monthly performance and financial report to districts by the 3 August 2020 to the district office.



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District based Monitors will utilize the revised monitoring tool which includes COVID-19 prescripts as well as the model for feeding the number of phased in learners from 03 August 2020.

Kind/Regards

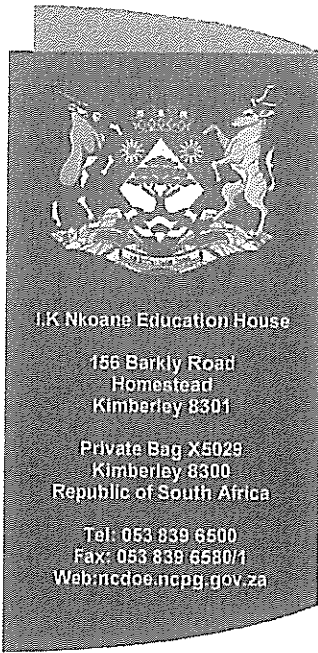


MR. G. T. PHARASI
SUPERINTENDENT – GENERAL

Date: 2020/07/30



L. G. 



DEPARTMENT OF EDUCATION

Enquiries: Mr H.H. Esau
 Date: 28 July 2020
 Telephone: 053 839 6500

NORTHERN CAPE PLAN AND PROGRAMME FOR FEEDING LEARNERS DURING BREAK PERIOD

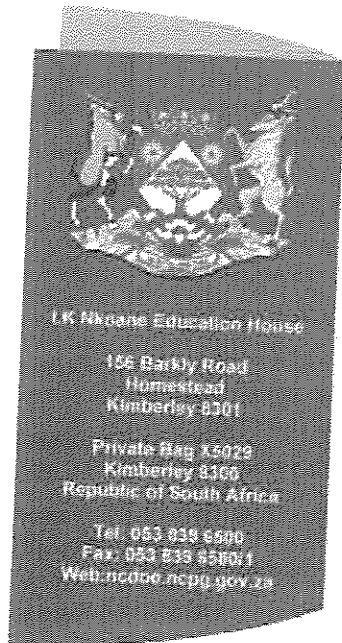
PROPOSALS TO FEED LEARNERS DURING THE BREAK PERIOD	ACTIVITIES	DATE OF IMPLEMENTATION
1. Writing a circular(28 of 2020) to remind school principals, SMT's Educators and all support staff to report daily at school so as to prepare and cook for learners during the break period	1. All schools and stakeholders received the circular including the circular 22 of 2020 That all NSNP schools already on the 17 June 2020	27 July 2020
2. Flyers reminding all NSNP schools to collect cooked meals and a food parcel	1. Flyers distributed in all social medium platform 2. Cluster meetings to be held at districts where schools SMT"s will be addressed	28 July 2020 03 August 2020
3. Circular written to request individual parent/guardian to permit or deny their children to collect meals at school.	1. Advocacy driven by schools to formalize and demonstrate the importance of feeding of learners during the break period	30 July 2020



L. G. . *[Signature]*

PROPOSALS TO FEED LEARNERS DURING THE BREAK PERIOD	ACTIVITIES	DATE OF IMPLEMENTATION
4. Community announcement on local radio stations	1. Communication unit to liaise with radio stations (this will be the second announcement, the first announcement was done on the 19 to 23 June 2020)	30 July 2020
5. National Media announcement by the minister of Basic Education on the COVID update platform chaired by Minister in the presidency Mr Jackson Mthembu	1. All MEC'S for education and all Heads of all the 9 provincial education departments to elaborate more and answer province specific questions	02 August 2020
6. Daily advertisement of feeding learners during the break period on national television	1. DBE to liaise with the national television station	03 August 2020

L.G. 



DEPARTMENT OF EDUCATION

Enquiries: Mr H.H. Esau
Date: 17 June 2020
Ref: L5.4.3.3.3
Contact details: 053-839-8911

CIRCULAR: No 22 /2020

**TO: DEPUTY DIRECTOR GENERAL
CHIEF DIRECTORS
DISTRICT DIRECTORS
CIRCUIT MANAGERS
LSSS UNIT HEAD
PRINCIPALS
SCHOOL GOVENING BODIES
NSNP OFFICIALS**

FROM: SUPERINTENDENT GENERAL

DATE: 17 JUNE 2020

SUBJECT: FEEDING OF ALL LEARNERS BOTH AT SCHOOL AND NOT YET PHASED IN

In accordance with the State of Disaster pronouncement of the President on 15 March 2020, schools were closed from 18 March 2020 and should have reopened on 14 April 2020. The national lockdown was further extended on 26 March 2020.

On 19 May 2020, the Minister of Basic Education addressed a media briefing that schools would reopen on 01 June 2020. Based on some logistical challenges and delay of delivery of PPE's in some schools, the minister announced that schools will open on the 08 June 2020 for grade 7 and grade 12.

Feeding started in all schools that opened on the 8 June 2020. All learners in grade 7 and grade 12 should receive cooked meals by 10:00. However a need was identified to feed all learners both at school and at home.



L. B.

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OUTLINE OF FEEDING MODEL FOR LEARNERS NOT YET PHASED IN JUNE TO AUGUST 2020

Funds for all learners were transferred to school on the 05 June 2020. Schools decided on two models of feeding,

- Providing learners with pre packed cooked meals for collection at school,
- Provision of a food parcels once a month

Schools are advised to prepare meals for learners that resides near the school (walking distance) with cooked meals to take home.

To avoid food poisoning, learners are to be fed in disposable foam packs.

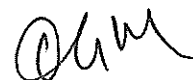
Schools are to follow the following guide to provide learners not yet phased in with pre - packed cooked meals from the 22 June 2020 as per the updated school calendar:

GRADE	COMBINED SCHOOL	SECONDARY SCHOOL	PRIMARY
R	09:30- 10:00		09:30- 10:00
1 and 2	10: 00 – 10:30		10: 00 – 10:30
3 and 4	10:30 – 11:00		10:30 – 11:00
5 and 6	11:00 – 11:30		11:00 – 11:30
8 and 9	11:30 – 12:00	11:30 – 12:00	
10 and 11	12:00 – 12:30	12:00 – 12:30	

Provision of food parcels will ONLY be for learners not receiving cooked meals. The contents and prize of the food parcels will be communicated to schools
The following is a guide to provide learners not yet phased in with food parcels once (1) a month.

GRADE	TIME	Date
R	12:30 - 13:30	25 June 2020
1 and 2	12:30 - 13:30	25 June 2020
3 and 4	12:30 - 13:30	26 June 2020
5 and 6	12:30 - 13:30	26 June 2020
8 and 9	12:30 - 13:30	29 June 2020
10 and 11	12:30 - 13:30	29 June 2020

L. G.



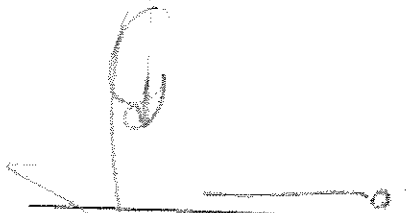
MONITORING AND EVALUATION

Schools are to complete and submit the attached feeding template to the district office on a daily basis.

Schools are also expected to submit their monthly performance and financial report by the 3 July 2020 to the district office.

District based Monitors will utilize the revised monitoring tool which includes COVID-19 prescripts as well as the model for feeding the number of phased in learners from 22 June 2020.

Kind Regards

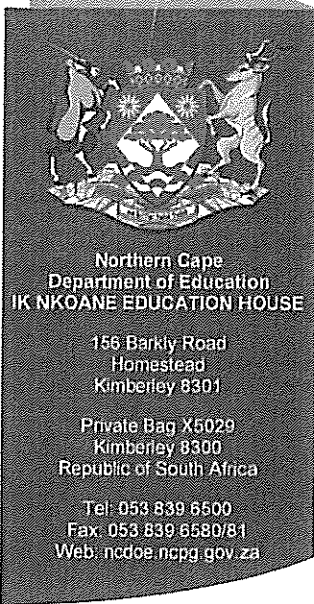


MR. G.T. PHARASI
SUPERINTENDENT – GENERAL

Date: 2020/06/18

L. G.





DEPARTMENT OF EDUCATION

Enquiries: District Directors
Ref No: L2.1.8
Date: 24 July 2020

**TO: DEPUTY DIRECTOR-GENERAL
CHIEF DIRECTORS
DIRECTORS
DISTRICT DIRECTORS
CIRCUIT MANAGERS
PRINCIPALS OF PUBLIC ORDINARY SCHOOLS
SCHOOL GOVERNING BODIES
EDUCATOR UNIONS**

CIRCULAR NUMBER: 27/2020

BREAK IN SCHOOLING FROM 27 JULY 2020 UNTIL 23 AUGUST 2020

As you know, the President of the Republic of South Africa, announced on 23 July 2020 that Cabinet has taken a decision that all public schools will take a break for four weeks from Monday, 27 July 2020 until 23 August 2020 and reopen on 24 August 2020.

It should be noted that this break in schooling does not apply to all grades, nor for all educators and non-teaching staff.

School Management Teams (SMTs) must make the necessary arrangements to comply with the Court Order for the feeding of learners. To ensure compliance with COVID-19 Health protocols, screeners and non-teaching staff must report for duty.



L. B.

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It should also be noted that the break for teachers and learners of Grade 12 will only be for one week from **27 July 2020 to 31 July 2020**. This implies that teachers and learners of Grade 12 will return to school on **3 August 2020**. It should be noted that all screeners and non-teaching staff (as determined by the Principal) will also return to school on **3 August 2020**. Principals must please ensure that Grade 12 learners and their parents/guardians are informed that all Grade 12 learners **must** be at school every school day from **3 August 2020**.

A two week break will be allowed for teachers and learners of Grade 7 from **27 July 2020 until 7 August 2020**. This implies that for teachers and learners of Grade 7 will return to school on **10 August 2020**. It should be noted that all Screeners and non-teaching staff as determined by the Principal will also return during this period.

The return of other grades from **24 August 2020** will be communicated in due course when the decisions have been made by the Department of Basic Education.

Educators, non-teaching staff and learners remain on duty at home and will remain at home but must avail themselves when required to do so by the Principal, District Director or Head of Department. However, any educators and non-teaching staff member required at school when Grade 12 and Grade 7 learners are at school, as determined by the Principal, must be at school.

All educators and non-teaching staff must return to school from Monday, **17 August 2020**, to prepare for the additional grades that will return the following week.

As indicated by the President, the National School Nutrition Programme (NSNP) will continue to operate during the break, so that learners or their parents can collect food from schools. School Management Teams (SMTs) should ensure that the NSNP continues for learners at school and learners at home during the break under safe and orderly conditions to avoid being in contempt of court.

Parents, teachers and learners are urged to continue with school work during this break. Schools must make arrangements with parents/guardians for learners to get work or materials from the school for them to remain fully engaged during the break. Schools should also give the learners work as they collect food or when they leave on 24 July 2020.

L. G.



Parents and learners are also encourage to tune into radio and television programs to access learning opportunities. The Read to Lead programme should also be used to support learners during the break.

It should be noted that the closure of public schools apply to all public schools and only the above-mentioned grades will attend school during the break.

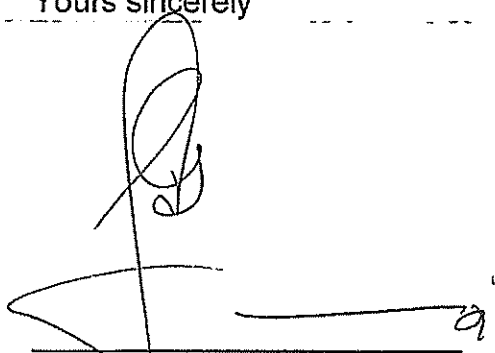
Schools should note that that a further delivery of COVID-19 hygiene essentials will continue during the break and principals are requested to ensure that someone is available to receive these deliveries if required. Principals must provide the name and the cellphone number of the relevant person to their Circuit Manager.

The Department would also like to appeal to communities to protect schools during the break to prevent theft and damage of the school buildings. Schools must liaise with SAPS and local Community Policing Forums to assist with the monitoring of the school during the break.

Principals, educators, non-teaching staff and learners are encouraged to continue to implement the health and safety measures that include, washing of hands with soap and water, sanitizing, social distancing and wearing of masks at all times.

I would like to thank all school-based staff for their service and hard work during this stressful time.

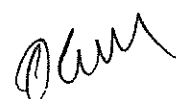
Yours sincerely

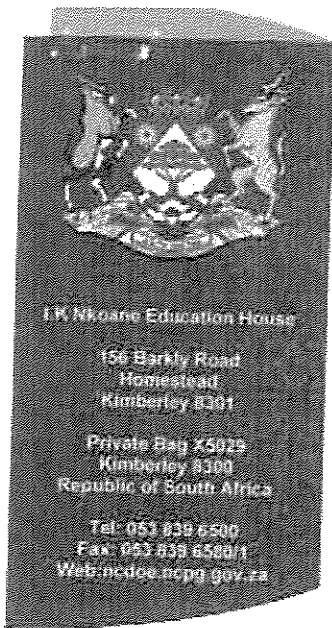
A handwritten signature in black ink, appearing to be 'G.T. Pharasi', written over a horizontal line.

MR. G.T. PHARASI

HEAD OF DEPARTMENT: EDUCATION

L.G.

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DEPARTMENT OF EDUCATION

Enquiries: N V. Mlambo Izquierdo – Rodriguez
Contact No: (053) 839 6682
Reference: S4 2.3.1
Date: 24 June 2020

**TO: DISTRICT DIRECTORS
CIRCUIT MANAGERS
NSNP UNIT HEADS
NSNP OFFICIALS
SCHOOL PRINCIPALS
EDUCATORS
SCHOOL GOVERNING BODIES**

FROM: DIRECTOR: LEARNERS SOCIAL SUPPORT PROGRAMMES

SUBJECT: FEEDING FOR LEARNERS NOT YET PHASED IN

In accordance with the state of Disaster pronouncement of the President on the 15 March 2020, schools were closed from the 18 March 2020 and should have re-opened on the 14 April 2020. The national lockdown was further extended on the 26 March 2020.

On the 08 June 2020 grade 7 and 12 learners returned to schools and are being fed cooked meals by 10h00 on a daily basis. However a need was identified to feed learners not yet phased in residing far away from schools, by providing them with food parcels once a month.

The following food items were identified:

- 5kg Samp and 2,5kg Beans

OR

- 2 X 400g Pilchards and 1kg Soya Mince

Your cooperation will be highly appreciated.

Regards


H.H. ESAU

CHIEF DIRECTOR: SCHOOL MANAGEMENT, ADMINISTRATION AND SUPPORT



