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21 April 2021

Dear Minister, Director-General and MECs for Basic Education

**PROGRESS REPORTS IN TERMS OF THE COURT ORDER IN EQUAL EDUCATION & OTHERS v MINISTER OF BASIC EDUCATION & OTHERS (22588/2020)**

1. We acknowledge receipt of the affidavits from the Minister, Director-General and MECs of KwaZulu-Natal, North West, Northern Cape and Mpumalanga, filed in terms of paragraphs 103.10

and 103.12 of the judgment in the case of *Equal Education & Others v Minister of Basic Education & Others (22588/2020)*.

2. It is discouraging that these court ordered reports were not received by the 19 March 2021 due date. Instead, they were submitted in an ad hoc manner and as at 20 April 2021, the reports for the Eastern Cape, Free State, Gauteng, Limpopo and Western Cape remain outstanding. This, despite the fact that the due date for the following round was 14 April 2021 - a deadline that has been missed once again.
3. These delays are unacceptable. The actions of the Department of Basic Education (DBE) and provincial MECs undermine the intentions and spirit of the court order and show disregard for the necessary monitoring of the National School Nutrition Programme (NSNP) that must take place to ensure its rollout is ongoing and efficient.
4. While the DG's report - provided for in the previous round of reporting - does set out the number of learners who were accessing meals as at 17 February 2021 and 12 March 2021, absence of provincial reports limits our understanding of the specific challenges provinces face as well as how they plan to address them. Nor can we be certain of the accuracy of the information when the information cannot be verified against provincial reports.
5. Our analysis of those reports which have been received reveal the following:
  - 5.1. Over 1.5 million learners are still not accessing the meals they qualify for in terms of the NSNP.
  - 5.2. During this reporting period, the number of learners accessing meals increased in most provinces, but decreased in KwaZulu-Natal and the Northern Cape.
  - 5.3. As at 12 March 2021, only 95 975 learners in the Northern Cape were receiving meals - 49.7% less learners than the previous reporting period. The Northern Cape Department of Education (NCDoE) reported that due to the heavy rains in February, two districts (John Taolo Gaetsewe and Frances Baard districts), were declared disaster areas resulting in no teaching and learning at schools in those areas occurring because they could not be reached. The report is silent on whether this problem still persists or if the NCDoE is now able to reach the affected learners.

- 5.4. The KwaZulu-Natal report does not provide any detail explaining the decrease in the number of learners accessing meals during this reporting period. As at 12 March, 1 506 810 learners were accessing meals compared to the 1 553 565 learners that were reportedly accessing meals as at 17 February 2021.
  - 5.5. In Gauteng and Mpumalanga, learners who are not attending school for the day or who are on a week of rotation, are able to go to schools to collect meals or are provided with food parcels. We are encouraged by this form of meal provisioning.
  - 5.6. In the Free State scholar transport is being provided to learners who attend farm schools. This too is encouraging.
6. Information from the DG's report states that the number of learners accessing meals in the Eastern Cape has more than doubled since the previous reporting period and that no reports about the suspension of the NSNP have been received.
  7. In a survey conducted by Equal Education (EE) of over 300 learners between 1 and 17 March 2021, the majority of learners (91%) who qualify for the NSNP reported receiving meals when in school. However, the rollout of the NSNP during school rotation days has once again been reported as problematic, as half (50%) of the respondents reported not getting meals on days that they are not in school. This survey was administered in the provinces in which EE is organised, namely, Eastern Cape, Gauteng, KwaZulu-Natal, Limpopo and Western Cape.
  8. We have previously requested that the DBE and Provincial Education Departments (PED's) report clearly on the number of learners accessing meals while at home, and the form in which these meals are provided.
  9. We have also requested in our correspondence with PED's that alternative forms of ensuring learners receive meals while at home be pursued, including:
    - 9.1. the provision of scholar transport for learners to access meals;
    - 9.2. a circular being issued that alerts learners that they can access meals from their nearest school; and
    - 9.3. the provision of food parcels (that could last for a longer period) as opposed to hot meals for learners who are rotating.

10. We request that the DBE and PEDs provide comprehensive reports on their next reporting date, 5 May 2021, which take into account the entire period within which they failed to report and provide an explanation for this failure.
  
11. We will continue to monitor the roll out of the NSNP through engagements with learners, parents and teachers to understand the experiences on the ground so that we may assist PEDs and the DBE in ensuring that all qualifying learners, whether at home or in school, are able to access meals. We urge the DBE and PED's to continue to honour their court ordered obligations and the spirit of the order.

Sincerely,



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