



Comments on Draft Amended Directions			
Name of Department:	Department of Basic Education		
Matter: (Title of Legislation)	Department of Basic Education amended Directions regarding the re-opening of schools and measures to address, prevent and combat the spread of COVID-19.		
Contact Person:	Adv S Misser	Due Date for comments:	20/05/2021
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Introduction

1. The below comments have been prepared by Equal Education (“EE”) and the Equal Education Law Centre (“EELC”), with regard to the draft amendments to the Department of Basic Education (“DBE”) Directions regarding the re-opening of schools and measures to address, prevent and combat the spread of COVID-19 circulated on 19 May 2021 (“Amended Directions”).
2. EE is a movement of learners, post-school youth, parents and community members who strive for quality and equality in the South African education system. EE engages in a broad range of activities including campaigns rooted in public action and mobilisation, supported by rigorous research and policy analysis.
3. The EELC is a registered law clinic. Its staff of social justice lawyers specialise in education law and policy, through conducting legal research and advocacy, community lawyering and public interest litigation. EELC’s overriding goal is to use the law to ensure the realisation of every learner’s right to equitable, safe and quality basic education regardless of the learner’s circumstances.

Comments:

Clause in Amended Directions	EE & EELC’s Comments	EE & EELC’s Recommendations

5A.1	<p>While we note the DBE’s argument that high school learners are at a greater risk of contracting and spreading COVID-19; if high schools are able to adhere to all necessary health and safety requirements, it is advisable for them to return to the normal timetabling model to enable access to education and avoid further disruptions.</p> <p>Under-resourced schools that are not able to accommodate learners safely must be prioritised with regard to support as they will be more severely prejudiced by the proposed amendments. There is accordingly a need for greater oversight and a need to include an express duty on HOD’s to prioritise those schools which are unable to return to normal timetabling with additional resources to support their return to normal timetabling as soon as possible.</p>	<p>Clause 5A.1 should be amended to include reference to high schools that are able to adhere to all necessary health and safety requirements which amendment would then be consistent with sections 16(3) and (4) of the current Directions.</p>
5A.2	<p>This clause is confusing and must be clarified. In addition, this clause appears to unnecessarily duplicate the provisions of Clause 16 (3) and (4) of the consolidated directions. This needs to be resolved.</p> <p>We do also note that despite the provisions of Clause 16 (3) and (4) the DBE has in the 2021 academic year communicated that all schools should be making use of rotational and alternative timetabling models. This had added to confusion around these provisions.</p>	<p>The EELC proposes the following wording: “Schools permitted to return to the normal timetabling model in terms of clause 5A.1 must, where practicable, maintain a social distancing measure of at least one meter and must comply with the minimum health, and safety measures on COVID-19, as contemplated in these Directions and the Regulations.”</p>

5A.3	Schools should be able to utilise all appropriate venues to enable teaching and learning, with due regard to the safety of learners and all other school staff.	The EELC proposes the following wording: “Where practicable, teaching and learning may be conducted outside the confines of a classroom, provided that all health and safety measures on COVID-19, as contemplated in these Directions and the Regulations are adhered to and the safety of learners is ensured.”
5A.4	It is not necessary to distinguish primary schools. All schools must utilise all available rooms or spaces at the school to prevent overcrowding in a classroom.	The EELC proposes the following wording: “All schools must utilise all the available rooms or spaces at the school to prevent overcrowding in a classroom and adhere to safety protocols.”
5A.6	<p>We are concerned that schools are selecting timetabling models without proper oversight and justification.</p> <p>The rights of learners to access education is paramount and the Amended Directions must be drafted to ensure that where schools indicate that they are unable to return to the normal timetabling model, there is sound justification. Sufficient safeguards must be put in place to ensure learners can access education and are not being kept out of school unnecessarily.</p> <p>We are concerned that under resourced schools will be more severely prejudiced by the proposed amendments. There is accordingly a need for greater oversight and a</p>	<p>The EELC proposes the following wording:</p> <p>“5A.6 The HOD is required to provide all reasonable support to enable schools to safely return to a normal timetabling model.</p> <p>A school that is unable to return to the normal timetabling model and continues with the timetabling model as contemplated in Direction 16 must:</p> <p>(i) inform the Head of Department within seven days from the date of publication of these Directions.</p> <p>(ii) set out the steps taken to return to a normal timetabling model and provide reasons for the decision to</p>

	<p>need to include an express duty on HOD's to prioritise those schools which are unable to return to normal timetabling with additional resources to support their return to normal timetabling as soon as possible. Overcrowding remains an issue in many under-resourced and rural schools in particular. It is important that these schools are given particular support. A register of schools will also assist in ensuring that there is oversight and that schools are assisted.</p> <p>We are also concerned that the lack of oversight has led to some schools not returning to normal timetabling despite being able to. This has had a huge impact on both learners' right to education and to family units, particularly in disadvantaged homes. This has also negatively impacted learners' access to the National School Nutrition Programme.</p>	<p>adhere to a differentiated timetabling model.</p> <p>If the HOD is satisfied with the reasons provided by the school and, notwithstanding support from the Provincial Education Department, it is deemed necessary for a school to adhere to a differentiated timetabling model, approval must be provided by the HOD to the school in writing within seven days from the date of notification by the school.</p> <p>The HOD is required to maintain a register of all schools timetabling models and where schools have been unable to return to a normal timetabling model, reasons must be provided therefore.”</p>
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