



**JOINT SUBMISSION TO THE
SELECT AND STANDING COMMITTEES ON APPROPRIATIONS
ON THE 2020 ADJUSTMENTS APPROPRIATIONS BILL**

**17 JULY 2020
SUBMITTED BY:**

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Overview

Equal Education, SECTION27 and Equal Education Law Centre welcome the opportunity to submit comments on the 2020 Adjustment Appropriations Bill to the Select and Standing Committees on Appropriations (the Committees).

Our submission is structured as follows:

1. In Part 1, we provide an overview and background of Equal Education, SECTION27 and Equal Education Law Centre.
2. In Part 2, we provide a brief summary of the right to basic education and the key points in our submission.
3. In Part 3, we discuss trends in funding for the basic education sector prior to the COVID-19 pandemic.
4. In Part 4, we discuss the 2020 Supplementary Budget and its effects on the basic education sector.
5. In Part 5, we highlight our requests to the Standing and Select Committees on Appropriations regarding transparency, participation and oversight in the budget process.
6. In Part 6, we state our recommendations to the Standing and Select Committees on Appropriations.
7. In Part 7, we summarise and conclude our submission.

Part 1: Background

Equal Education (“EE”) is a membership-based, democratic movement of learners, parents, teachers and community members advocating for the provision of both an equal and quality education in South Africa. EE’s membership base also spans across various provinces including the Western Cape, the Eastern Cape, Gauteng, Limpopo and Kwazulu-Natal.

SECTION27 is a public interest law centre that seeks to develop and use the law to protect, promote and advance human rights. SECTION27’s main areas of work are the rights to health care and basic education, aiming to further substantive equality and social justice.

The Equal Education Law Centre (EELC) is a public interest law centre using legal advocacy to advance an equitable and quality basic education for all. The EELC has specialist expertise in the field of education law and policy, and works closely with EE to advance the core objectives of the social movement.

Part 2: Introduction

Equal Education (EE), SECTION27 and the Equal Education Law Centre (EELC) make this submission to the Committees on the Adjustments Appropriation Bill. We would like to draw the Committees' attention to the alarming deprioritisation of basic education funding in the Supplementary Budget, including the Adjustments Appropriation Bill. We make recommendations and raise questions for the Committees to consider in this regard.

The constitutional right to basic education requires government to provide adequate and accessible basic education to all learners. South African courts, including the Constitutional Court, have elaborated on the right to basic education by stating that it consists of certain core components. These include, among others, safe and sufficient infrastructure,¹ transport,² and school equipment such as textbooks,³ desks and chairs.⁴

Furthermore, the Constitution states that the right to basic education is an immediately realisable right. This means that, unlike many other socio-economic rights, the provision of basic education is not subject to progressive realisation or available state resources. This underscores the importance the Constitution places on basic education as a means of achieving the broader constitutional goals of equality, dignity and freedom.

EE, SECTION27 and the EELC are concerned that the Supplementary Budget⁵ tabled by the Minister of Finance on 24 June 2020 failed to top up the funding available to education departments and schools to cover the additional challenges and cost burdens imposed by the COVID-19 pandemic. Instead, the budget requires departments and schools to reallocate their already overstretched existing budgets to cover these costs. Moreover, a net-cut of R2.1 billion was made to the sector's funding, mainly as a result of the suspension of funding for education infrastructure projects.

¹ Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure (GNR 920 of 29 November 2013, Government Gazette No 3708)

² *Tripartite Steering Committee and Another v Minister of Basic Education and Others* 2015 (5) SA 107 (ECG)

³ *Minister of Basic Education v Basic Education for All* 2016 (4) SA 63 (SCA)

⁴ *Madzodzo and Others v Minister of Basic Education and Others* 2014 (3) SA 441 (ECM)

⁵ South African National Treasury (2020), 'Supplementary Budget Review (2020)'. Available at: <http://www.treasury.gov.za/documents/national%20budget/2020S/review/FullSBR.pdf>

EE, SECTION27 and EELC have raised the alarm in Parliament,⁶ at the United Nations⁷ and elsewhere in recent years that the basic education sector was experiencing serious funding shortfalls. The sector is now facing even greater challenges as schools move to the frontline of learner and community safety without adequate budgetary support.

Unfortunately, these overall funding decisions are a result of the government's commitment to austerity budgeting, which aims to reduce expenditure in many areas of the budget to reduce public borrowing, even in the face of a growing socio-economic crisis. We recognise that the Committees do not oversee fiscal policy; however, we believe it is important for the Committees to note that the decision to fund COVID-19 mitigation and adaptation in the basic education sector from within existing baselines, will have a direct impact on service delivery, which falls within the Committees oversight mandate.

We urge Honourable Members to consider what an appropriate response to this situation should be. The cuts to spending on school infrastructure, maths, science and technology and other critical education programmes will have an impact on the realisation of learners' rights to basic education, both now and in the long term. We urge the Committees to seriously consider the proposals made and questions raised in this submission.

Part 3: Funding for basic education was diminishing before the pandemic

Overall trends in basic education funding

The Supplementary Budget continues a concerning trend of deprioritising funding for basic education in recent years.

⁶ Equal Education et al (2017). Joint Submission on The 2017 Medium Term Budget And Policy Statement (MTBPS). Available here: <https://equaleducation.org.za/wp-content/uploads/2016/07/Joint-CSO-Submission-to-Parliament-on-2017-MT-BPS-1.pdf>

⁷ Joint Submission to the Committee on Economic, Social and Cultural Rights on the occasion of the review of South Africa's first periodic report at the 64th Session, October 2018. Available at: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT_CESCR_CSS_ZAF_32295_E.pdf

Figure 1: Share of national non-interest expenditure⁸ allocated to basic education



Source: National Treasury Budget Reviews and own calculations

Figure 1 above shows that consolidated (national and provincial) spending on basic education has been in relative decline compared to other non-interest expenditures, from a high of 18.7% in 2016/17 to 17.3% in the pre-COVID February 2020/21 budget. The Supplementary Budget significantly accelerates this trend, taking the share of total spending on basic education down to 16.8% for the 2020/21 financial year.

This is illustrated in the Figure 2.2 provided in the Supplementary Budget Review, which shows that spending on learning and culture⁹ decreases as a share of total government expenditure by -1.3%.¹⁰

⁸ I.e. all government expenditure except debt service costs.

⁹ Which includes Post School Education and Training as well as Arts and Sport.

¹⁰ * Figures may not add up to zero due to rounding.

Figure 2.2 Change in share of expenditure by function, 2020/21*

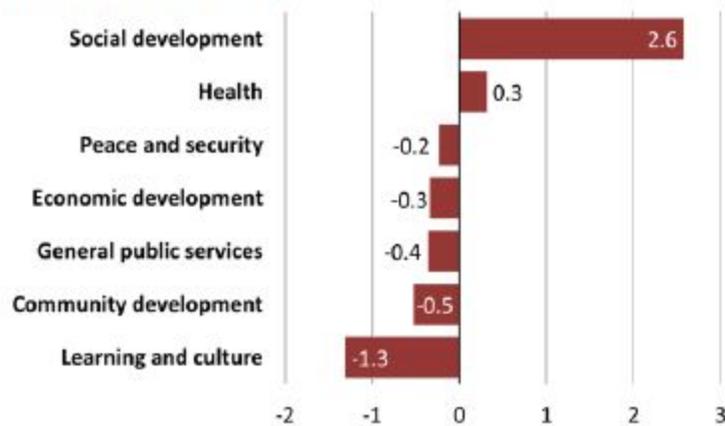
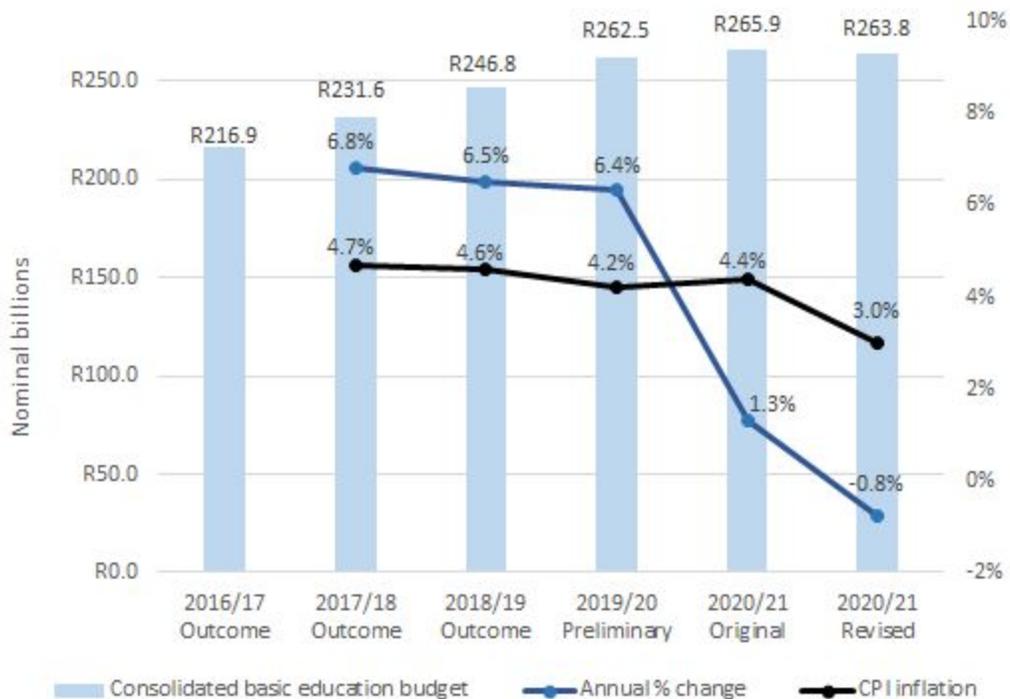


Figure 2 below demonstrates a similar trend in absolute allocations to the basic education sector.

Figure 2: Consolidated basic education budget, annual % change compared to CPI inflation



Source: National Treasury Budget Reviews and own calculations

Figure 2 shows that the rate of growth of basic education funding has been slowing down in recent years, culminating in a nominal annual increase of 1.3%, which translates to a real terms (i.e. below CPI inflation) cut of about -3.1% in the February 2020 budget proposals. The Supplementary Budget deepens this cut so that the basic education budget reduces by about -4%

below inflation in the current 2020/21 financial year compared to the previous 2019/20 financial year.¹¹ This means that, on average, there is less money across the basic education sector to spend on the goods and services that are necessary to deliver a quality basic education.

However, recently published research by Nic Spaull, Adaiah Lilienstein and David Carel¹² shows that education spending per learner has been steadily decreasing in real terms for years, largely unnoticed. This has happened in a context where teacher salaries, which make up the bulk (> 80%) of education spending, have seen above inflation increases and school enrolment has increased due to a rapid rise in birth rates between 2003 – 2008.

Since 2009/10, government has failed to increase departmental budgets (not just education) to fully account for public sector wage agreements. This has created huge funding pressure on provincial education departments in particular, resulting in hiring freezes and the squeezing out of critical non-personnel costs in the budget.

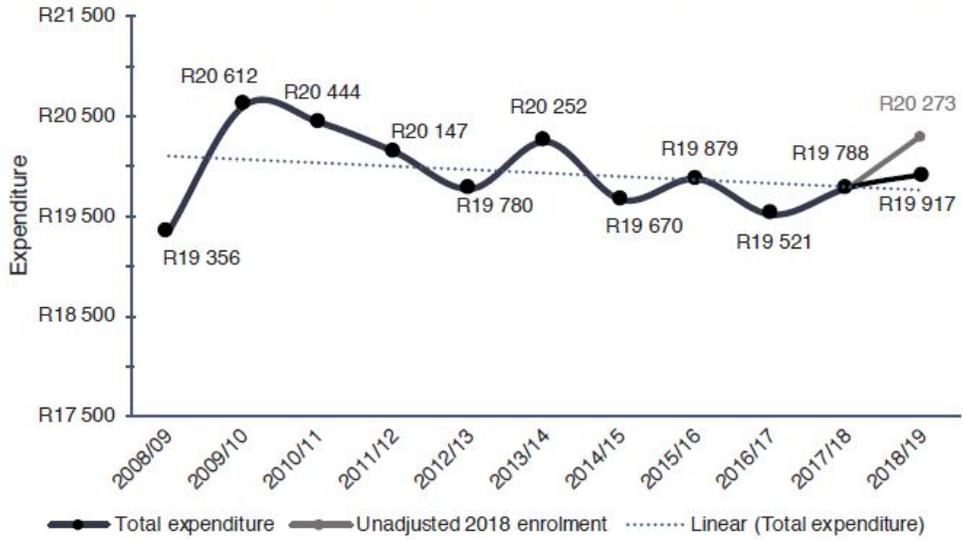
Figure 3 shows that spending on basic education per learner has reduced from R20 612 per learner in 2009/10 to R19 917 per learner in 2018/19, when the value of spending is adjusted using the Basic Education Price Index (BEPI)¹³ rather than average CPI inflation. In other words, when inflation is taken into account, South Africa spent R695 less per child in total in 2018 than it did in 2009.

Figure 3: Real per learner expenditure on basic education from 2008/09 to 2018/19 – 2019 (using real cost drivers from the BEPI and expressed in constant 2017 Rands).

¹¹ The Supplementary Budget Review did not estimate CPI inflation for the current financial year but rather for the current calendar year, so the CPI number for 2020/21 should be considered approximate and as a guide only.

¹² Spaull, N., Lilienstein, A. & Carel, D.(2020), *'The Race between Teacher Wages and the Budget The case of South Africa 2008-2018'*, Available at: <https://nicspaull.files.wordpress.com/2020/06/spaull-lilenstein-carel-2020-the-race-between-teacher-wages-and-inflation-19jun20-1.pdf>

¹³ The Basic Education Price Index (BEPI) accounts for the fact that price inflation in public education has consistently increased at a faster rate than average CPI inflation

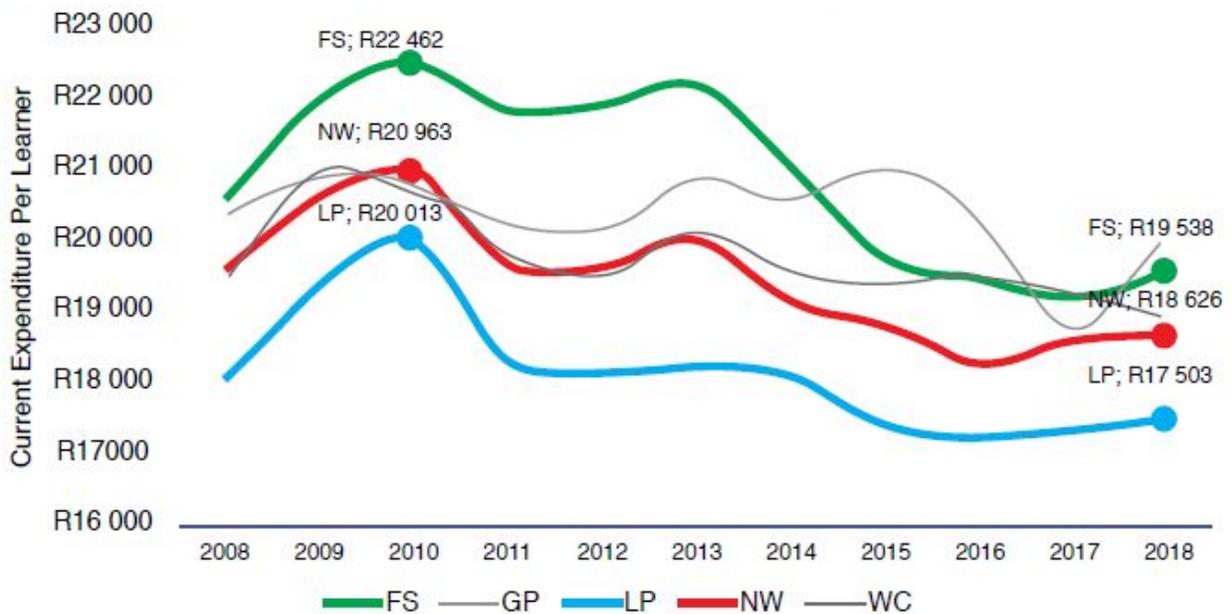


Notes: 1. Deflated using BEPI-Perseal inflation index.

Source: Spuall et. al. (2020), *The Race between Teacher Wages and the Budget The case of South Africa 2008-2018*.

Figure 4 illustrates the trend in five provinces.

Figure 4: Real per learner expenditure on basic education from 2008 to 2018 in Free State, Gauteng, Limpopo, North West and Western Cape (using real cost drivers from the BEPI and expressed in constant 2017 Rands)



The decrease in real per learner funding has been most severe in Free State (-13%), Limpopo (-13%), North West (-11%) and the Western Cape (-9%).¹⁴

The paper concluded with the finding that:

National government has agreed to higher teacher wages and benefits without budgeting for those increases, and in the process undermined the education system. This has led to a host of unintended consequences. Provincial departments experiencing salary increases that have outpaced their budget increases have attempted to deal with the subsequent fiscal squeeze by implementing hiring freezes and allowing class sizes to rise. Payroll data shows that even after accounting for a small decline in the number of schools, there are -7% fewer principals employed in 2016 compared to 2012. In the three most severely affected provinces the declines in employed Principals, Deputy Principals and HODs range from -13% to -23% when comparing 2012 and 2016.¹⁵

It is crucial that enough funding is allocated to the education sector to fund necessary increases in teacher salaries, without compromising non-personnel expenditure. Government's failure to do this over the past decade is a poor indictment of its commitment to teachers and learners.

Many schools are no longer funded at the minimum per learner threshold

The trend of decreasing overall real per learner funding for basic education also shows up in the fact that some provinces are no longer able to fund schools, including the poorest Quintile 1-3 schools which do not charge fees, at the national minimum per learner threshold established annually by the Minister of Basic Education.

Table 1 below shows that in the current school year, the Northern Cape, KwaZulu-Natal, and Mpumalanga are not meeting the minimum per learner funding threshold of R 1 466 for no-fee (quintile 1-3) schools. KwaZulu-Natal's no-fee schools receive the least amount per learner at only R955, which is significantly below the minimum threshold

¹⁴ Spaul et al (2020) at 33.

¹⁵ Spaul et al (2020) at 3.

Table 1: Per learner allocation for the 2020 school year for quintile 1-3 (no fee), quintile 4 and quintile 5 schools in each province¹⁶

| PROVINCE | NO FEE PER LEARNER ALLOCATION | FEE PAYING PER LEARNER ALLOCATION Q4 | FEE PAYING PER LEARNER ALLOCATION Q5 |
|---|-------------------------------|--------------------------------------|--------------------------------------|
| Gazetted Target per learner amount | R 1 466 | R 735 | R 254 |
| EC | R 1 466 | R 735 | R 254 |
| FS | R 1 466 | R 735 | R 254 |
| GT | R 1 466 | R 735 | R 735 |
| KZN | R 955 | R 522 | R 179 |
| LP | R 1 466 | R 735 | R 254 |
| MPU | R 1 370 | R 692 | R 240 |
| NC | R 1 134 | R 765 | R 354 |
| NW | R 1 466 | R 735 | R 254 |
| WC | R 1 466 | R 1 200 | R 395 |

The minimum per learner funding allocation transferred to schools is meant to cover all non-personnel costs. This includes textbooks, furniture, electricity and maintenance. Funding no-fee schools – where parents or caregivers do not pay school fees – below this minimum amount is particularly worrisome because in most cases there is no other source of funding available.

Basic Education Minister Angie Motshekga’s remarks in a recent response to a parliamentary question¹⁷ imply that underfunded non-fee schools should simply attempt to raise the revenue shortfall themselves by implementing compulsory school fees for learners. This statement shows a disregard of the dire socio-economic contexts in which many of these schools exist, and government’s constitutional responsibilities to fund basic education adequately and fulfil learners’ rights to basic education and equality.

¹⁶ Question NW1089 to the Minister of Basic Education and Ministers Reply, 13 July 2020. Available at: <https://pmg.org.za/committee-question/14011/>

¹⁷ Ibid.

In addition, the disparity in provincial per learner spending exacerbates the historic and systemic inequalities in our national education system and further undermines learners' rights to basic education.

Cuts to infrastructure

The emergence of COVID-19 has amplified the desperate need to boost non-personnel funding and address infrastructure backlogs, including sanitation infrastructure in schools.

The government's inability to address backlogs in the past, especially in township and rural schools has made the decision around returning learners and teachers to schools much more challenging and risky. The substantial cuts to education infrastructure spending proposed in the Supplementary Budget will ensure that these backlogs remain for years to come.

The state of school infrastructure in South Africa continues to be a structural impediment to teaching and learning, and poses a direct threat to thousands of learners and teachers across the country. This threat has been tragically illustrated by the deaths of learners, including Michael Komape and Lumka Mkhethwa.

In response to the many historical challenges with school infrastructure, EE began campaigning for the *Regulations Relating to Minimum Norms and Standards for Public School Infrastructure* (the "*Norms and Standard*") in 2011 and secured a victory when the Minister Motshekga, promulgated the regulations in 2013. Since then, our organisations have been monitoring the implementation of the *Norms and Standards* across the country.

The National Education Infrastructure Management System (NEIMS) report, released annually, has demonstrated that there has been a positive correlation between the promulgation of the *Norms and Standards* and improvement in school infrastructure delivery.

Table 2: NEIMS: School Infrastructure provision (2011 to 2019)

| | 2011 | 2013 | 2016 | 2018 | 2019 |
|----------------------------|--------|--------|-------|------|------|
| No Water ¹⁸ | 2401 | 1772 | 171 | 0 | 0 |
| No Electricity | 3544 | 2925 | 569 | 269 | 169 |
| Pit Latrines ¹⁹ | 11 450 | 10 915 | 9 203 | 8702 | 6089 |

Source: NEIMS Report 2011 - 2019²⁰

The decline in budget allocations toward the provision of school infrastructure has compromised the implementation of the *Norms and Standards*. The two grants which address infrastructure challenges, including backlogs, are the Education Infrastructure Grant (EIG) and the School Infrastructure Backlogs Grant (SIBG), which funds the Accelerated Schools Infrastructure Delivery Initiative (ASIDI) programme.

Despite government's public commitments to prioritising infrastructure, both the EIG and the SIGB have seen a downward trend in funding over the last five years.²¹ In 2018, the then Finance Minister Malusi Gigaba announced a R7,2 billion cut to the school infrastructure budget in the national budget over the MTEF..²²

The Committees will also be aware that the basic education sector has been plagued with consistent under-expenditure and poor implementation of infrastructure projects resulting in delays, cost overruns as well as fruitless and wasteful expenditure. SECTION27's [sanitation report](#)²³ illustrated these issues with expenditure in Limpopo, and also recommended that government put in place stronger contracting and accountability measures when it engages in public-private

¹⁸ EE's recent school visits to Limpopo have revealed that there are at least two schools without water

¹⁹ Different types of ablution facilities, including plain pit latrines, on one site

²⁰ Department of Basic Education. *NEIMS Standard Report(s)*. Available:

<https://www.education.gov.za/Resources/Reports.aspx>

²¹ Department of Basic Education (2018). 'Annual Report 2017/2018,' Available at:

https://www.gov.za/sites/default/files/gcis_document/A/dbe-201718-annual-report.pdf.

Department of Basic Education (2015). 'Action Plan to 2019: Towards the Realisation of Schooling 2030'. Available at:

www.education.gov.za/Portals/0/Documents/Publications/Action%20Plan%202019.pdf

²² Equal Education Law Centre (2019), 'A Report on The State of Education : Trends and Issues Characterization the Education Sector Over the Last 5 Years (2014 - 2019).' pg 23 Available at:

<https://eelawcentre.org.za/wp-content/uploads/a-report-on-the-state-of-education.pdf>

²³ SECTION27 (2018). 'Towards Safe and Decent School Sanitation in Limpopo: The Most Fundamental of Dignities'. Available:

<https://section27.org.za/wp-content/uploads/2018/11/TOWARDS-SAFE-AND-DECENT-SCHOOL-SANITATION-IN-LIMPOPO.pdf>

partnerships. This is corroborated by EE’s [implementing agents report](#)²⁴, which recommends better oversight of contractors and implementing agents, who are responsible for the delivery of school infrastructure.

Our research shows that these issues have had an impact on learners' everyday experience at school. The implications of budget cuts have resulted in teacher shortages, overcrowded classrooms, unsafe structures, and a lack of access to basic services such as sanitation, water and electricity in schools. These conditions have an effect on learner outcomes throughout South Africa such as low literacy and numeracy rates, inability of students to meet curriculum requirements, and poor secondary school pass rates.²⁵

Part 4: The 2020 Supplementary budget and implications on basic education

The basic education sector has received no fiscal support to finance its COVID-19 relief efforts and address the unprecedented challenges it now faces. Not only is no additional funding provided, the DBE’s budget has actually been cut by R2.1 billion, as Table 3 illustrates.²⁶

Table 3: DBE main and adjusted budget for the 2020/21 financial year

| | 2020/21 Original / Main Appropriation | Utilisation of unspent funds. Virements & shifts | Suspension of funds | Reallocation of funds | Net change in appropriation | 2020/21 Adjusted Appropriation |
|-------------------------------|---------------------------------------|--|---------------------|-----------------------|-----------------------------|--------------------------------|
| Department of basic education | R25 328 232 | R0 | -R7 245 198 | R5 150 000 | -R2 095 198 | R23 233 034 |

The funding reductions come primarily from longer term projects such as infrastructure and support for maths, science and technology. This is in contrast to the Special Adjustment Budget Guidelines²⁷ issued by the National Treasury in May 2020 which stated that “departments are

²⁴ Equal Education (2018). *Implementing Agents: The Middlemen in Charge of Building Schools.* Available: <https://equaleducation.org.za/wp-content/uploads/2018/11/Equal-Education-Implementing-Agents-Report-November-2018.pdf>

²⁵ Equal Education Law Centre (2019), *A Report on The State of Education : Trends and Issues Characterization the Education Sector Over the Last 5 Years (2014 - 2019)*, Available at: <https://eelawcentre.org.za/wp-content/uploads/a-report-on-the-state-of-education.pdf>

²⁶ Data from Table B.2 of the Supplementary Budget Review and the excel data provided at www.treasury.gov.za/documents/National%20Budget/2020S/excelFormat.aspx#

²⁷ National Treasury (2020), *2020 Special Adjustment Budget Guidelines*, point 2.2. Available at: www.treasury.gov.za/publications/guidelines/2020%20Special%20Adjustment%20Budget%20Guidelines%20May%202020.pdf

required to identify programmes or activities that can be temporarily suspended without negatively impacting the longevity of such programmes.”

These Guidelines go on to say that:

These would typically be programmes or activities that have already been put on hold during the lockdown period, projects where implementation dates could be moved out to the next financial year or projects and spending activities that are not critical to the core service delivery requirements of the department.²⁸

We submit that the bulk of cuts to basic education programmes and the reprioritisations within programmes outlined below affect spending activities that are critical to the core service delivery requirements of the department and will impact the longevity of those programmes.

Furthermore, no new funding means that the DBE and PEDs have to finance their COVID-19 response by reprioritising funds from within their existing budgets. As a result, many schools are now expected to cover their COVID-19 expenditure by cutting funding for ‘non-essential’ items. For many poor schools, where funding barely covers (or in some cases, does not cover) all essentials needed, this is not an option. Schools have been forced to choose between COVID-19 essentials, such as sufficient water and extra desks to ensure social distancing, and paying the electricity bill. In Limpopo, two circulars were released by the Provincial Education Department which instructed schools to use 45% of their budget allocation for COVID-19 related cleaning expenses.²⁹ This was confirmed by Limpopo Education MEC Polly Boshielo, at a Parliamentary briefing last month.³⁰ COVID-19 has put additional strain on many underfunded schools and will have long term consequences on their ability to invest in providing quality education to their learners.

This comes at a time when the pandemic is exposing the devastating consequences of persistent school infrastructure backlogs. The DBE’s COVID-19 response is burdened by its legacy of service delivery failures coupled with decreased funding allocations over a number of years.

Education as a frontline department

²⁸ Ibid.

²⁹ Limpopo Department of Education COVID19 Circular No 02 of 2020 (11 May 2020) Ref No 13/5/10/1 and Limpopo Department of Education COVID19 Circular No 03 of 2020 (13 May 2020) Ref No 13/5/10/1.

³⁰ Government of South Africa (2020). ‘Minister Briefing on School Re-opening to the NCOP 25 June 2020.’ Available at: <https://www.youtube.com/watch?v=0UGvQYMHjVg&list=UU-JR9Vog8LwxPCxKwgjeRpQ&index=26>

In a presentation to the Committees on Basic Education on 7 July 2020, the Chief Financial Officer of the DBE stated that the department had received explicit instructions from National Treasury that:

- (1) basic education is not considered a “COVID-19 frontline department”;
- (2) that it is therefore considered a “donor department” within which funding should be sacrificed to support COVID-19 frontline departments; and therefore
- (3) that the DBE was required to cut its budget, for the purposes of the COVID-19 special adjustment, by an amount of R5 billion.³¹

Through discussions, this was ultimately reduced to a mandatory **reduction** required of DBE of R2.1 billion. In stark contrast, the South African National Defence Force and South African Police Services, deemed to be frontline services, saw a combined **increase** in funding of R6.7 billion in the Supplementary Budget.³²

We urge members of the Committees to reconsider the position that education is not a “frontline department” during a pandemic such as this. Schools can and should be considered as sites of support for the Departments of Health in a national COVID-19 prevention response.

They are crucial sites for ensuring the safety of learners, schools, and communities. The education sector serves millions of children every day. Its tens of thousands of teachers should be considered frontline workers. Schools are fundamentally important public spaces where, in the normal course, over 9 million learners receive a daily nutritious meal, which is essential for their health and effective learning. Schools have the potential to be used as sites for distribution of personal protective equipment, education of communities on the importance of masks, handwashing, and social distancing, as well as distribution of other essential information for combating the pandemic. Cuts to the basic education sector hamstring its ability to fulfill these potentially central roles in the public health campaign against COVID-19.

Cuts to infrastructure

The Supplementary Budget cuts overall national funding to school infrastructure grants by a net R1.7 billion. This includes:

- a R2.2 billion reduction of the EIG,

³¹ Joint Meeting: Portfolio Committee on Basic Education & SC on Education & Technology, Sport, Arts & Culture 7 July 2020, ‘DBE, SACE, Umalusi 2020/21 special adjustments budget; with Minister.’ Available at: <https://pmg.org.za/committee-meeting/30580/>

³² National Treasury (2020). *2020 Supplementary Budget Review*, pg 16, available at: <http://www.treasury.gov.za/documents/National%20Budget/2020S/review/FullSBR.pdf>

- a R600 million reallocation from the EIG to the SIGB for the provision of temporary water supplies to schools,
- a R60 million reduction of the SIGB.
- and a further R4.4 billion is reprioritised within the EIG in order to provide financing for the DBE’s COVID-19 response.

The Supplementary Budget Review says that “Provinces will reallocate these funds to ensure a safe environment for learning and teaching ... includ[ing] the provision of clean water and soap, additional mobile classes to ensure smaller classes, the daily cleaning of classrooms and screening of learners and teachers, and the provision of personal protective equipment and sanitiser.”³³

The R4.4 billion cut from the EIG is one of the largest reprioritisations in the entire Supplementary Budget. It highlights the scale of the challenge confronting provincial education departments and schools, and starkly illustrates the extent of the damage to the full realisation of the right to basic education caused by the decision not to classify education as a frontline service and provide additional funds.

Since provinces are almost completely dependent on national grants to fund their school infrastructure requirements, the defunding of the EIG means that only R4.3 billion of EIG’s original budget is left to be used for planned infrastructure projects and maintenance this financial year. To accommodate these reductions, provinces will delay starting new infrastructure projects and will use the remaining funding to honour existing contracts and for the provision of essential school maintenance and upgrades.

Table showing changes to education infrastructure grant funding

| ‘000 | Funds added | Funds cut | Net Change |
|-------------------------------------|-----------------------|---------------------------|--------------------|
| EIG | 0 | (2 221 000) ³⁴ | (2 221 000) |
| SIBG | 600 000 ³⁵ | (60 000) | 540 000 |
| Total infrastructure funding | 600 000 | (2 281 000) | (1 681 000) |

Source: [Supplementary Budget Review 2020](#)

³³ National Treasury(2020),, *Supplementary Budget Review*, p.68. Available at:

<http://www.treasury.gov.za/documents/National%20Budget/2020S/review/FullSBR.pdf>

³⁴ Brackets around a figure indicate that it is a *negative* change - here, 2 221 000 has been shifted out of the EIG.

³⁵ This money was cut from the EIG and allocated to the SIBG. Therefore, it does not reflect new funding being allocated to emergency infrastructure delivery.

The enhanced sanitation measures at schools are largely based on temporary solutions while the funds allocated to address the systemic inequalities in school infrastructure and service delivery have been withdrawn. This approach threatens a severe step backwards for the long term achievement of quality basic education for all. Not only will this delay the achievement of safe school infrastructure and adequate service provision for all schools, it will also have economic ramifications for businesses, workers and communities, especially in townships and rural areas, who will lose much needed work and income opportunities as a result of the cancelled and postponed projects. This will further delay the economic recovery from COVID-19 and the lockdown.

National School Nutrition Programme

Equal Education, SECTION27 and the Equal Education Law Centre have been campaigning for the National School Nutrition Programme (NSNP) to be immediately reinstated in full to reach all children who were benefiting from this critical intervention prior to the lockdown.

Despite the need to find - and fund - alternative arrangements for providing the much needed nutritious meals to learners this year, the NSNP was not allocated any additional funds in the Supplementary Budget. Instead, R50 million of existing funds from the programme were reprioritised to provide for COVID-19-necessitated sanitation measures in the preparation and distribution of meals. In the Supplementary Budget, this R50 million is justified as having been saved while 20 000 schools were closed during the lockdown, and NSNP meals were not provided. Put differently, money was “saved” while children who should have been receiving a meal a day went hungry. The North Gauteng High Court has confirmed that a failure to roll out a nutritious meal a day to eligible learners, irrespective of whether they are learning at home or at school, is a retrogressive measure and an egregious infringement of children’s rights to education and basic nutrition.³⁶ The full value of the NSNP grant must be used for food or food preparation, pursuant to purpose of the grant, including any cynically termed “savings” made while children went hungry during lockdown. In order to ensure proper fulfilment of the rights to basic education and nutrition, the NSNP grant must be supplemented to account for additional needs imposed by COVID19 - these needs cannot be met at the expense of the purchase of food.

The extent to which the protracted economic downturn has drastically increased food insecurity for many children and their families is becoming impossible to ignore. The [NIDS-CRAM studies](#) show a marked rise in poverty and hunger levels in households since April 2020, due to the lockdown precipitated by COVID-19.³⁷ The studies found that 47% of households ran out of

³⁶ *Equal Education and others v Minister of Basic Education and others* (Case no 22588/2020) 17 July 2020

³⁷ Spaul et al (2020). ‘NIDS-CRAM Wave 1 Synthesis Report: Overview and Findings.’ Available at: <https://cramsurvey.org/reports/>

money to buy food in the past month, 15% of children were regularly going hungry and 8% of households with children reported that their child had experienced hunger in three out of the past seven days.

In a survey conducted by EE during the lockdown, learners across five provinces, namely Eastern Cape, Gauteng, KwaZulu-Natal, Limpopo and Western Cape, identified a similar lack of access to food as a key issue affecting them during the lockdown period. The Equaliser³⁸ survey painted a devastating picture: of almost the 400 learners we spoke to, 37% indicated that they are not able to access enough food while schools are closed. The vast majority (82%) said they usually receive a meal at school during school term, yet only 9% of these learners had received a food parcel from the government since the schools closed.

We urge the committees to consider the need to provide additional funding to the NSNP programme to cover new COVID-19 related sanitising and safety needs, so that funding that would normally be used for the purchase of food is not reduced.

Maths Science and Technology funding:

Under the Supplementary Budget, R30 million in the Maths, Science and Technology grant has been reprioritised. This reprioritisation will result in planned teacher training being scaled back or cancelled for 2020. Instead, provinces will use these reprioritised funds to implement catch-up programmes for over 50 000 learners, targeting Maths, Science and Technology. This will include the provisions of ICT-related solutions such as the procurement of tablets for learners, laptops for teachers, and data bundles.

Cuts to and reprioritisation within the HIV/AIDS (Life Skills) grant:

The grant used to fund the delivery of comprehensive sexuality education (CSE) and other critical health messaging in schools has been cut by R60 million.³⁹ Of the remaining grant funds, R40 million has been reprioritised to pay for the printing and distribution of learning support material on how to prevent the spread or contraction of COVID-19.⁴⁰ While such a measure is a critical public health effort, it comes at the expense of the training of teachers for the newly established Comprehensive Sexuality Education 'scripted lesson plan' programme crucial to the delivery of sexual and reproductive health messaging to adolescents. CSE has proven results in promoting safer sexual behaviours, and any delay in the delivery of HIV-prevention and sexual and

³⁸ Equal Education's high school going members

³⁹ National Treasury (2020), *Supplementary Budget Review*, pg 41. Available at: <http://www.treasury.gov.za/documents/National%20Budget/2020S/review/FullSBR.pdf>.

⁴⁰ Ibid, pg 68.

reproductive health messaging to adolescents may result in a spike of new sexually-transmitted infections among young people.

Part 5 : Transparency, Participation and Oversight in the Budget Process

Departmental savings due to COVID-19

In advance of the tabling of the Supplementary Budget, Equal Education, SECTION27, Equal Education Law Centre and the Public Service Accountability Monitor requested information from the National Treasury and DBE including the DBE's budget submission and narrative report. We attach two letters of request to this submission for the Committees' reference. In summary, our request asked for the following information:

- Details regarding how the DBE budget has been prioritised in order to cater to the novel and urgent needs of COVID-19. In particular, we note the substantial reprioritisations of the school infrastructure grants, and the material impacts these will inevitably have. We seek to understand these in the context of the DBE's budget as a whole.
- Further information regarding which areas of the DBE budget will be targeted for departmental savings.
- We seek further information on what DBE understands to be the impacts of its reprioritisations. In particular, we wish to know whether school repair and maintenance will be affected and whether the DBE has developed a costed COVID-19 adjustment plan.
- We seek details on what alternative sources of funding have been considered for to fund the DBE's response to COVID-19. This is even more important given National Treasury's understanding of education as a "donor" to the frontline departments, rather than as a frontline department itself.

We were not given access to this information prior to the tabling of the Supplementary Budget. Given the importance of the principles of transparency, accountability and meaningful public participation in our Constitution and our law, it is essential that adequate opportunity and information be received by relevant stakeholders, to empower meaningful substantive engagement, before decisions are finalised.

Much emphasis has been placed on the budget reprioritisations being possible due to departmental savings from COVID-19 impacts (activities which could not be performed due to physical restrictions). However, it is clear from this submission that many budget reprioritisations have been made at the cost of the long-term fulfilment of the right to basic education, rather

than due to simple savings. While some such tradeoffs may be inevitable in times of crisis, it is essential that these tradeoffs are discussed and debated openly and publicly, and that the public has unfettered access to information and assumptions which underpin them.

Early and uninhibited access to information on which key budgeting decisions are based is essential for the public, civil society and these committees to adequately and impactfully engage with these decisions. We therefore call on the committees to support a call for improved transparency of rationale, and underpinning documents, in advance of the tabling of the budget.

Revised infrastructure plans

Equal Education, SECTION27 and Equal Education Law Centre request that the Committees call for revised school infrastructure plans from the DBE. Efficient and effective allocation and expenditure of departmental funds during COVID-19 will require an increased focus on planning and budgeting. Any revised infrastructure plan must stem from a needs-based assessment of the current state of school infrastructure. This should include information on the state of infrastructure in each province, the long term impact of infrastructure cuts to school infrastructure, and learner safety.

In addition we request information on what criteria the DBE used to determine which infrastructure projects to cancel or postpone due the cutting and reprioritisation of funds.

Active oversight role of the Appropriations Committee during a period of austerity

We recognise that the Committee is under pressure to ensure that this Appropriation Bill passes rapidly through the house to enable spending on the COVID-19 response. In some cases this is spending which has already happened or is happening in response to the state of disaster and pandemic crisis.

However, we do wish to draw the Committees' attention to what we consider to be very worrying trends in basic education funding, and ask the Committee to consider what interventions are necessary to halt this trend between now and the October Adjustments Budget and the February 2021 budget.

Even in 2018, a UN Committee Review of SA's fiscal and other policies on socio-economic rights was raising the alarm:

that the State party [South Africa] has introduced austerity measures to relieve the debt level without defining the timeframe within which such austerity measures should be

re-examined or lifted. It is concerned that these measures have resulted in significant budget cuts in the health, education and other public service sectors, and that they may further worsen inequalities in the areas covered by the Covenant rights and even reverse the gains made, particularly in the health and education sectors.⁴¹

The Committee went on to recommend that government increase the level of funding to basic education. Yet the Supplementary Budget proposals do the exact opposite, taking more funds away from the sector and proposing to do the same next year and the year after that.

The Appropriations Committees has a role to play in holding the National Treasury, Cabinet and line departments to account for these decisions. As we head into an MTEF planning process, key decisions will be made on whether to pursue further cuts to basic education and other socio-economic rights. We urge the Committee to pay close attention to these discussions, discourage further cuts and ensure that peoples' views on this process are put forward in whichever way is possible.

Part 6 : Recommendations

Section 195 of the Constitution states that public administration must be governed by South Africa's democratic values and constitutional principles. These include the progressive realisation of socio-economic rights and the immediate realisation of the right to basic education, the maintenance of high ethical standards and the efficient and effective use of public resources. It is against the backdrop of these rights and values that Equal Education, SECTION27 and Equal Education Law Centre make the following recommendations to the Committees:

1. Advocate for the basic education sector to be deemed a **frontline service** in the fight against COVID-19.
2. Advocate for the basic education sector to **receive additional funds** to support and enable its COVID-19 response, including funds from the fiscal relief package.
3. Demand that **minimum per learner funding thresholds are met** for the remainder of the 2020 school year, especially to no-fee schools. We request that the Committees prioritise this issue and provide increased oversight of provincial education departments.

⁴¹ UN Committee on Economic, Social and Cultural Rights (2018), *Concluding Observations on South Africa*. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2fCO%2f1&Lang=en.

4. Demand that National Treasury implements a **system to monitor provincial COVID-19 expenditure**. National Departments have no ability to monitor the effectiveness of COVID-19 expenditure. This leaves it largely at the discretion of provinces and opens doors for mismanagement of relief funds. We ask that the Committees request National Treasury to put oversight measures in place.
5. **Consider the need to provide additional funding to the NSNP programme** to cover new COVID-19 related sanitising and safety needs as well as the likely increased need resulting from the socio-economic challenges brought about by the COVID-19 pandemic and lockdown.
6. **Advocate against the deprioritisation of school infrastructure**. In particular, we request that the Committees ensure that sufficient funding is provided to the SIGB and the EIG for long term infrastructure projects.
7. Support advocacy calling for **improved transparency** of rational, assumptions and underpinning documents, early in the budget decision-making process, so that tradeoffs which affect rights fulfilment are adequately and meaningfully participative.
8. **Monitor key decisions in the lead up to the MTEF planning process**, discourage further cuts and ensure that peoples' views on this process are put forward in whichever way is possible.

Part 7 : Conclusion

The realisation of the right to basic education is foundational to achieving an equal and free society. COVID-19 has brought unprecedented challenges to the basic education sector while it is still attempting to overcome historical and systemic inequalities. Now more than ever, it is vital that we ensure that learners' right to basic education is not jeopardised. This will entail a renewed commitment by government to prioritise the rights of learners. A key way to achieve this is to acknowledge the role that schools are playing in ensuring community safety by deeming it a frontline department and ensuring that it receives additional funding from the COVID-19 fiscal relief package.

Equal Education, SECTION27 and Equal Education Law Centre acknowledge the vital role that the Committees play in the allocation and oversight of government funding. Due to a pattern of mismanagement of funds in the basic education sector it is essential that sufficient oversight of both national and provincial education departments are conducted. COVID-19 has brought with it an increased importance to ensure that funds are prioritised and efficiently spent.