

MARCH
2024


BELA BILL

CYPSA PRESENTATION



MANDATORY GRADE R





It is estimated that DBE would need to expend R12 billion to implement this provision. It is unclear where the already struggling education system, where basic provisions such as sufficient classrooms in good repair, the provision of textbooks, stationery and safe ablution facilities and ailing National School Nutrition and learner transport programmes are yet to be addressed, will source the required funding to make these changes. Existing challenges to the Constitutional right to a quality basic education should first be adequately addressed, prior to implementation of mandatory Grade R.



**R12 BILLION ESTIMATED COST TO
IMPLEMENT**

DEFINITION OF HOME EDUCATION

NEEDS TO BE EXPANDED

There is a need to expand this definition to include grandparent, relative, guardian and care giver teaching and home schooling itself should be included and clearly defined based on consultation with the home-schooling sector. Scenarios other than teaching by biological parents must be permissible, to prevent a scenario where a request to home school is denied based on the relationship of the individual who will teach to the child. A request to home school a child should not be denied as the environment does not meet with the current definition of home education.



12 MONTH PRISON SENTENCE CAUSING NON-ATTENDANCE

Clause must be inserted to make explicit provision for an exemption from criminal sanctions for learner non-attendance based on religious beliefs and morals based conscientious objection



Allows no room for parents or caregivers who conscientiously object to their children attending classes which contain sexual content (CSE) or content which violates their religious beliefs and moral values. Parents who wish to protect their children from such inappropriate curriculums and sexually graphic learning material may be arrested and imprisoned, because they kept their children out of such lessons where mandatory. Clause must be inserted to make explicit provision for an exemption from criminal sanctions for learner non-attendance in such circumstances, and provisions should be incorporated into the sections of the Bill dealing with mandatory attendance to allow for conscientious objectors.

**PARENTS CANNOT REMOVE CHILDREN
FROM SEXUALLY EXPLICIT (CSE)
CLASSES**

**PRISON SENTENCE
CAUSING NON-
ATTENDANCE (OTHER
THAN OWN CHILDREN)**

Requires a specific exception included to exclude a grandparent, relative, guardian or care giver in whose care the child is, and conscientious objection should be allowed in this scenario also. The previous provision refers only to a parent and the results of 2(b)(a) and (b) would be that no one other than a biological parent could object to attendance of a class or classes on the grounds detailed above.







Centralized
Admissions Policy

CENTRALIZED CONTROL







The Bill seeks to centralize this competency with the Heads of Provincial Departments (HODs). The administrative burden on the HOD to approve every admission policy in the province would be immense and impractical and can lead to abuse of power. Such centralization of power could in practice bypass the system of checks and balances on government power, and these provisions run the risk of arousing suspicions of a threat to Constitutionality. The Bill provides that admission policies must be in line with the Constitution. This gives the impression of an attempt to bring all admission policies at all schools in line with a single, centrally dictated and enforced “constitution” which is to be adhered to by all, which is strikingly like the aims of the recently proposed PEPUDA Amendment Bill yet couched in another form. Appropriate mechanisms already exist for dealing with rare cases where a school might discriminate against a learner, which can be applied whilst at the same time taking into consideration the provisions of the Constitution. However, it is certain that provincial HODs cannot preside over both the appeals and implementation authority as allowed for in the Bill, as these processes would then lack independence.

LACK OF INDEPENDENCE

CENTRALIZED CODE OF CONDUCT

ATTEMPT TO BRING CODES
OF CONDUCT IN LINE WITH
CENTRALIZED
CONSTITUTION





Codes of conduct adopted by schools must be in line with the Constitution and must consider diverse cultural beliefs and religious observances. This gives the impression of an attempt to bring all codes of conduct in line with a single, centrally dictated and enforced “constitution” which is to be adhered to by all and seems strikingly like the provisions of the recently proposed PEPUDA Amendment Bill in another form. It is possible that a Christian school, for example, may no longer be able to determine and adopt its own code of conduct based on Christian and biblical values and request that learners, and parents of learners, wishing to attend the school concerned accept and submit themselves to such a code of conduct. Allows for the requirement of an exemption clause for learners to be exempted from requirements of a code of conduct based on just cause shown. This may allow for a scenario where, for example, a learner wishes to attend a Christian school but wishes to adhere to a lifestyle or religion not in line with a Christian ethos and biblical values, and where the school may be compelled to allow them to do so.

**CENTRALIZED CONSTITUTION FOR
ALL SCHOOLS?**

WITHDRAWAL OF SGB FUNCTIONS & POWERS




The Bill creates a significant withdrawal of the functions of governing bodies and ultimately places these functions and decision-making powers in the hands of provincial Heads of Department. However, school SGBs are usually made up of parents, traditional leaders, local leaders and businessmen and community members with knowledge of the community, its members and the learners attending their school themselves and who are therefore best equipped to make decisions in relation to the running of the school and the well-being of their learner.

**PARENTS AND COMMUNITY LEADERS
KNOW OUR CHILDREN AND THEIR
NEEDS BEST**

HOME EDUCATION

**BEST INTERESTS OF THE
CHILD PRINCIPLE
VIOLATED AND PARENTAL
RIGHTS BEING ERODED**

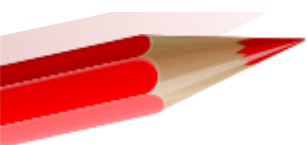





Home schools now face additional registration requirements and increased financial burdens as parents must now source and fund assessors. It was indicated at public participation events that this focus on homeschooling is to ensure that no homeschooled learner “slips through the cracks.” However, it is not clear why there is such a focus on home schooling when the education system itself is currently failing and a large proportion of learners who enter grade 8 fail to progress through to matric and where many schools are unsafe for learners and teachers alike. An official should not be able to override a parent’s decision to homeschool and it should not be necessary for a parent to apply for permission from the state to homeschool their child should they wish to do so.

The Department cannot determine whether homeschooling is in the best interests of the child as provided for in the Bill, and it is the parent who knows their child best that must make this determination. It is a fundamental principle of international education law that the parent has a prior right to choose the kind of education a child receives, and the Bill makes significant inroads into that right and seeks to undermine parental authority.

**PARENTS NOT STATE MUST CHOOSE
BEST FORM OF EDUCATION FOR THEIR
CHILD**



As has been said, “a government has never given birth to a child.” Should a parent be unable to comply with the requirements for homeschooling their child, their child will be forced to enter the mainstream education system which is currently characterized by an overall lack of resources, rampant drug and alcohol abuse, poor teacher-to-learner ratios, violence and intimidation, teenage pregnancy, theft, and sexual assault perpetrated by learners and even teachers, high failure and dropout rates, as well as exposure to an imported sexually explicit CSE curriculum. It is unclear how it can be alleged that to remove a learner from one-on-one tuition, in a safe environment, and under the supervision of a child’s parent or caregiver and to subject them to these conditions can be said to be in the best interest of any child. The Minister should not have such a broad scope in making regulations on home education and should at a minimum only be able to make regulations “in consultation with” home schoolers. However, it has been brought to CYPISA’s attention that the Minister acknowledged during a PCBE meeting that the DBE has to date neither conducted, nor does it possess, any research on home education within the South African context, whilst the need for research on home education was already acknowledged in the Department’s internal documents in 2015.

**HOME SCHOOLING SECTOR NOT
ADEQUATELY CONSULTED**


CYPSA is also aware that accurate and adequate research is a fundamental prerequisite for a credible Socio-Economic Impact Assessment; without which, a credible Socio-Economic Impact Assessment cannot be done; and therefore, the SEIA developed by the DBE alongside this Bill is fundamentally flawed. It is CYPSA's understanding that research was in fact provided to the DBE by the Pestalozzi Trust, yet this research was not considered and did not subsequently reflect in the final SEIA. CYPSA believes it would be irresponsible for the Bill to proceed with no proper evaluation of the potential impact and possible unintended consequences of this Bill having been conducted.

**CREDIBLE SOCIO-ECONOMIC IMPACT
ASSESSMENT (SEIA) NOT COMPLETED**




**CLOSURE & MERGING
OF SMALL SCHOOLS**

**MAY LEAD TO NON-ATTENDANCE
& INCREASED TRAVEL
EXPENSES**



Determinations to merge and close smaller schools by the Department are provided for. The Department may decide to close or merge primary schools with less than 135 learners and secondary schools with less than 200 learners. Likely increase in the distance that many learners must travel to reach school, will result in an increase in the cost of transport for parents sending their children to schools further away from home, and may even result in children not attending school at all due to the distance they are required to travel. Such smaller schools and home and private schools are normally better run, better disciplined and produce better results. The best interest of the learner (child) principle will be violated by forcing learners from smaller schools who learn in a safer environment which is conducive to success into a failing education system characterized by, an overall lack of resources, rampant drug and alcohol abuse, poor teacher-to-learner ratios, violence and intimidation, teenage pregnancy, theft, and sexual assault perpetrated by learners and even teachers, high failure and dropout rates, as well as exposure to the sexually explicit CSE curriculum.



**MAY VIOLATE BEST INTERESTS OF
CHILD PRINCIPLE**

CENTRALIZED PROCUREMENT OF STUDY MATERIALS


WHOSE VALUES, BELIEFS & WORLDVIEWS?

A central committee will be established to decide on curriculum matters and allows for “centralized procurement of identified learning and teaching support material for schools.” Who will sit on this committee? What are their values, beliefs, and worldviews? How this will influence the identification of suitable materials which will then be disseminated centrally to all learners within the education system? One thinks of the new CSE curriculum which has been imported from overseas and which contains sexually explicit themes and content foreign to South African cultural norms. SGBs in consultation with parents must identify suitable teaching materials.




LANGUAGE POLICY





Disempowering SGBs from determining schools' language policies could be exploited to target single language and mother tongue education schools (such as Afrikaans medium schools). It is impractical for HODs to approve language policies of all schools in a province within the required timeframe. Provides that where it is determined by the Department that a school must adopt an additional language, adequate resources for the successful adoption and implementation of the additional language must be provided. Unclear where these additional resources will be acquired within an educational system that already suffers from a chronic lack of financial and material resources. Such provisions could border on a potential violation of the rights of individuals to use the language and to participate in the cultural life of their choice, as enshrined in s30 of the Constitution, and runs the risk of appearing as a veiled attack on certain language and cultural groups.



**THREATENS LANGUAGE & CULTURAL
RIGHTS (S30 OF CONSTITUTION)**



WE THANK
YOU

CYPSA | UMPHAKATHI
OKHATHAZEKILE