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10 January 2011

Ms H Malgas, MP
Portfolio Committee on Basic Education
P O Box 15
Cape Town
8000

Submitted Electronically: lbrown@parliament.gov.za

ATTENTION: MR L A BROWN

Dear Mr Brown

**CALL FOR WRITTEN SUBMISSION:
BASIC EDUCATION LAWS AMENDMENT BILL**

In response to the request for comment dated 30 November 2010 on the Basic Education Laws Amendment Bill, SAQA herewith submits its comments for your consideration.

Should you have any further queries to the comments offered in the attachment, please do not hesitate to contact:

Mr J S Samuels
(Deputy Executive Officer)

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Yours faithfully

**J SAMUELS
DEPUTY EXECUTIVE OFFICER**

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SAQA'S MISSION

"To ensure the development and implementation of a National Qualifications Framework that contributes to the full development of each learner and to the social and economic development of the nation at large"

COMMENT ON BASIC EDUCATION LAWS AMENDMENT BILL

Amendments made in general

It is welcomed that Bill aligns relevant laws such as the National Education Policy Act (1996) with SA Schools Act (1996); Employment of Educators Act (1996); SACE Act (2000); and GENFETQA Act (2001) with the new education dispensation that came about in 2009 with the establishment of the Department of Basic Education.

In particular, the following changes are welcomed:

- the determination of norms and standards after the Minister of Basic Education consulting with the Minister of Finance;
- strengthening the legal process regarding upholding an appeal of a learner expelled from school;
- the change from *student* to *learner*;
- the definition of *loan* and protection of school and State against unwarranted expenditure;
- specialised focus on talent of learners;
- additional functions of the principal to include participation in both the executive and financial committees;
- training of governing bodies;
- prohibiting political activities during school times;
- identification of schools that may not charge school fees;
- liability of the State for damages;
- changes to the Employment of Educators Act to align it with the new dispensation;
- South African Council for Educators Act to include promotion of in-service training of educators at the request of their employers and payment thereof; and
- the General and Further Education and Training Quality Assurance Act to differentiate between the administration, powers and functions of the Minister of Basic Education (with Department and Director-General) and the Minister of Higher Education and Training (with Department and Director-General).

Unfair discrimination in respect of the official languages

The Basic Education Laws Amendment Bill proposes to insert a new section 6B to ensure that governing bodies guard against unfair discrimination in respect of the official languages that are offered as subject options in the curriculum. The objective being to ensure that all official languages are treated equally and that schools cannot use language as a basis for discriminating against learners. The insertion of section 6B will strengthen section 6 (2) and (3) of the Act which reads:

Section 6 (2): *"The governing body of a public school may determine the language policy of the school subject to the Constitution, this Act and any applicable provincial law."*

Section 6 (3): *"No form of racial discrimination may be practiced in implementing policy determined under this section."*

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The intention of the proposed changes to ensure non-discrimination is welcomed. However, the practicability of the proposal needs to be questioned. The following questions need to be raised:

- will Government support schools financially to offer all 11 languages as requested by learners? The learner choice has a bearing on staffing, facilities and other resources.
- how would learner choice be balanced with economy of scale? Is learner choice upheld in spite of economies of scale even if there are only one or two learners in a class?
- how does this section impinge on the school's language of teaching? If learners have the right to determine what is offered at a school, they certainly have the right to determine the language they wish to be taught in?

It seems that the proposed Section 6B should protect both learners and schools from possible unfair/impractical practices.