

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

u
3/6/22

CASE NO.: 5186/2022

CAPE TOWN: FRIDAY 3 JUNE 2022

Before the Honourable Mr. Justice Gamble

In the matter between:

EQUAL EDUCATION LAW CENTRE

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First Applicant
Second Applicant
Third Applicant
Fourth Applicant
Fifth Applicant
Sixth Applicant
Seventh Applicant

and

HOD: WESTERN CAPE EDUCATION DEPARTMENT
DIRECTOR OF THE METRO EAST EDUCATION
DISTRICT
MEC FOR EDUCATION, WESTERN CAPE

First Respondent
Second Respondent
Third Respondent

ORDER OF COURT

Having heard counsel for the applicants and the respondents the following relief
is granted:

PENDING THE FINAL DETERMINATION OF THE RELIEF SOUGHT IN PART B OF THE NOTICE OF MOTION HEREIN IT IS ORDERED THAT:

1. The first and second respondents shall place the learners whose names appear on Annexure A hereto in schools for the 2022 academic year within five (5) days of this order.
2. The first and second respondents shall take all reasonable and necessary steps to place learners similarly placed to those referred to in paragraph 1 above and who remain unplaced and whose names do not appear on Annexure A and who may become known to the first applicant in schools for the 2022 academic year.
3. The first and second respondents shall, within 7 (seven) working days of this order, issue a notice to be broadcast on local radio stations and published in local newspapers circulating in the Metro East Education District, calling on all parents and/ or caregivers with unplaced learners in the Metro East Education District for the 2022 academic year to approach the District Office of the second respondents within 10 (ten) days of the notice.
4. The parents and / or caregivers of the learners referred to in paragraphs 1 and 2 above shall furnish the respondents with the original and / or certified copies of the required admission documentation or such other documentation as the respondents may require. Where a parent/caregiver does not have the relevant documents, steps must be taken to allow the

parent / caregiver to provide alternative proof of identity such as a sworn affidavit or sworn statement deposed by the parent / or caregiver.

5. The first and second respondents shall take the remedial steps referred to in Annexure B hereto in respect of the learners referred to in paragraph 1 above to assist the learners with academic, psycho-social support and a catch-up plan.
6. The first and second respondents shall take appropriate remedial steps in respect of the learners referred to in paragraph 2 above in their endeavours to assist the learners with academic, psycho-social support and a catch-up plan.
7. The remedial steps referred to in paragraphs 5 and 6 above shall include all reasonable steps, and must, where appropriate, include the various remedial steps referred to in Annexure B hereto.
8. Without derogating from the foregoing, the remedial plan referred to in paragraph 7 above shall include the following steps to be undertaken by the first and second respondents:
 - 8.1. Determine the learners' academic and psycho-social needs in accordance with Department of Basic Education's Screening, Identification, Assessment and Support Policy ("**SIAS Policy**").
 - 8.2. Provide the parents/caregivers of the learners with copies of the Individual Support Plans (ISP's) for the learners.

- 8.3. The ISP's must be put into effect within 10 working days of the placement of the learners.
9. It is recorded that the respondents have reserved the right to address all the allegations contained in the founding papers in its answering papers when dealing with Part B of the Notice of Motion.
10. The hearing of the relief sought in Part B of the Notice of Motion shall stand over for determination on a date to be allocated by the Registrar on the semi-urgent roll
11. Costs are reserved for determination by the Court hearing the Part B relief.

BY ORDER OF THE COURT

COURT REGISTRAR

Equal Education Law Centre
Isivivana Centre, 3rd Floor
8 Mzala Street
Khayelitsha
Cape Town
c/o Ndifuna Ukwazi
18 Roeland Street
Cape Town

Annexure A A11



APPLICANTS – LEARNERS	GRADE
1. [REDACTED] on behalf of [REDACTED] (15 years old) and [REDACTED] (13 years old).	[REDACTED] (9), [REDACTED] (8)
2. [REDACTED] on behalf of [REDACTED] (14 years old)	10
3. [REDACTED] on behalf of [REDACTED] (15 years old).	9
4. [REDACTED] on behalf of [REDACTED] (17 years old)	11
5. [REDACTED] on behalf of [REDACTED] (12 years old)	5
6. [REDACTED] on behalf of [REDACTED] (19)	11

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:
Adv. Michelle Norton SC Tatum Howie
Adv. Achmat Toefy Zukiswa Kota
Justice Catherine O'Regan Michael Mbikiwa
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NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

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Inclusive and Specialised Education Support (ISLES)

District Based Support Team (DBST):

Education Psychologist, Learning Support Advisor, School Social Worker and Subject Advisors.

School Based Support Team (SBST):

Educators providing support to learners in line with the SIAS support pathway.

Individual Support Plans (ISP):

The Learning Support Teacher (LST) is based at a primary school, arrangements for the scholastic assessments to be administered for the high school learners.

The Individual Support Plan will be put in place within 14 days of each learner placed.

The ISP to be viewed in collaboration with the curriculum catch up plan.

Learner	Age	Grade	Support
[REDACTED]	15	Grade 9	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p> <p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p> <p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
[REDACTED]	13	Grade 8	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p> <p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p>

			<p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
	15	Grade 9	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p> <p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p> <p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
	17	Grade 11	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p> <p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p> <p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
	14	Grade 9	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p>

			<p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p> <p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
██████████	19	Grade 11	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker.</p> <p>Scholastic Assessment /Baseline Assessment (LST) to determine the level of functioning of the learner and to provide scholastic support.</p> <p>Individual Support Plan developed in collaboration with parent, learner, School Based Support Team, and District Based Support Team.</p> <p>The findings by the SBST and DBST will determine if further assessment is required by the psychologist for possible Assessment Accommodations.</p> <p>Training will be provided to educators on differentiation of learning material so that teachers can accommodate the learner concerned within the classroom context.</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p>
██████████	12	Grade 5	<p>Psycho -Social Support: Therapeutic Support provided by the Psychologist /School Social Worker</p> <p>Scholastic Assessment</p> <p>Individual Support Plan (ISP) to be reviewed every 3 months.</p> <p>Learning Support Withdrawal (if required).</p>