



## COURT TELLS DEPARTMENT OF EDUCATION TO FIX SCHOOL INFRASTRUCTURE

Equal Education has won another important battle relating to school infrastructure. On 19 July the High Court in Bisho (Eastern Cape) ruled that the Department of Basic Education (DBE) must amend some of the *Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure*. Equal Education, a democratic movement committed to quality and equality in education, successfully argued that there are flaws in the Regulations. The Judge ruled in favour of Equal Education on all five issues put before the court:

Sub-Regulation 4 (5) (a) This sub-regulation contains an “escape clause” which makes the Minister subject to the resources and cooperation of other organs of state in the implementation of these norms. In the words of the Judge “*As I understand the argument put forward by the Minister, her hands are tied . . . This simply compromises the constitutional value of accountability.*” Para. 182. This “escape clause” has allowed the DBE to delay implementation of the norms and standards. The Court ruled that the sub-regulation is unlawful and invalid.

Sub-Regulation (2) (b) exempted building plans that were approved prior to the promulgation of the Regulations. The Court has ruled that all plans, as far as reasonably possible, should comply with the norms and standards.

Sub-Regulation 4 (3) (a) states that schools built entirely from mud, asbestos, iron or wood must be replaced. The court has ruled that the phrase “*built entirely*” must be replaced with “*classrooms built entirely or substantially.*” The effect of this amendment is that the DBE cannot ignore schools where some of the structures do not meet the norms and standards.

Sub-Regulation 4 (3) (b) deals with the prioritization of power supply, water supply and sanitation. Equal Education argued that the word “prioritise” is vague. The Court ruled that the sub-regulation should be read with 4 (1) (b) (i) which compels the DBE to comply with the said norms and standards within three years of the publication of the Regulations

Sub-Regulations 4 (6) (a) and 4 (7) must be amended to ensure that the public/SGBs have timeous access to these building plans and progress reports.

The court ruling, which comes after the death of a learner in a pit toilet, puts pressure on Minister Motshekga and the DBE to address infrastructure issues in schools as a matter of urgency. NAPTOSA commends Equal Education for their sustained campaign to improve the infrastructure in schools.

Click here for a copy of the Court ruling. <https://www.naptosa.org.za/court-rulings/2655-court-ruling-19-july-2018-ee-vs-dbe> . Click here for Equal Education statement. <https://equaleducation.org.za/2018/07/19/statement-victory-for-ee-and-sas-learners-as-court-orders-government-must-fixthenorms/> Click here for a copy of the Regulations. <https://www.naptosa.org.za/professional/gov-gazette/43-gg-37801>

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