

## **Joint statement: Minister of Basic Education misses court-ordered deadline to release final School Capacity Norms**

**19 October 2026**

Three years have passed since the Gauteng High Court ordered the Minister of Basic Education, Siviwe Gwarube, to promulgate the final Minimum Uniform Norms and Standards for School Capacity (Capacity Norms) by 9 October 2026. Yet, as of today, the final norms remain unpublished, leaving this court ordered deadline unmet.

On 10 October 2023, the Gauteng High Court in *SAOU vs the Minister of Basic Education* ordered the Minister to develop and publish the School Capacity Norms within three years. The deadline expired on 9 October 2026, and still no final draft has been released

Equal Education (EE) and the Equal Education Law Centre (EELC) call on the Minister to urgently explain the delay and provide a clear date for the publication of the final norms. Every day that these critical regulations remain unpublished, learners continue to bear the consequences: overcrowded classrooms, limited individual attention from teachers, mobile classrooms becoming permanent structures, and an ongoing school admissions crisis.

*"I am disappointed that the School Capacity Norms have not been released on time. We continue to learn in overcrowded classrooms, which make it difficult to concentrate and get the quality education we deserve. Minister, we need you to take action and release these norms because every learner deserves a better learning environment." - Lwazi Dhlamini, Grade 10, Gauteng Equaliser*

EE has campaigned against overcrowding in schools for many years. Our "No Space for Us" report highlights the urgent need for the Department of Basic Education (DBE) to develop and publish Minimum Uniform Norms and Standards for School Capacity.

Addressing overcrowding requires a clear legal framework that regulates school capacity and limits the number of learners schools can enrol. This is a key demand in our overcrowding report, which calls for the DBE to publish binding norms with clear implementation deadlines. Without these regulations, efforts to address overcrowded classrooms and to ensure that every learner has access to a safe, dignified and conducive learning environment remain inadequate.

What are Capacity Norms?

The Minimum Uniform Norms and Standards for School Capacity set out how many learners can be accommodated in a classroom and how much space each learner and teacher should have. Capacity Norms help the government to plan effectively and ensure that learners have adequate space to learn in dignity.

Capacity Norms would also help schools manage admissions and avoid having to accommodate more learners than the school was built for. They will provide clear criteria for determining when classrooms are overcrowded and whether additional classrooms, teachers or other resources are needed.

The DBE released the first draft of the regulations for public comment on 7 August 2025. Since then EE, alongside the EELC, has hosted workshops with learners and school communities to ensure they understand the proposed regulations and can contribute to shaping norms that respond to the realities of their schools. We also hosted a public meeting attended by community members, learners and representatives from the DBE. The comments from the public meetings and workshops were consolidated into a submission to the DBE, which was sent in December 2025. Our submission highlighted several critical gaps, including the absence of a definition of overcrowding, clear implementation deadlines, and clarity on the roles and responsibilities of different stakeholders. We also raised concerns about inconsistencies between the proposed formula for calculating classroom capacity and the teacher-to-learner ratios set out in the draft.

In addition, EE developed shadow capacity norms that take into consideration the realities of schools that are already overcrowded and under-resourced. We sought an opportunity to present these proposals to the DBE. However, despite the expectation that the DBE would respond, we have yet to receive the promised feedback.

EE and the EELC therefore demand:

- The immediate release of the final Minimum Uniform Norms and Standards for School Capacity
- A public explanation from the Minister of Basic Education for missing the court-ordered deadline.
- Binding timelines, clear accountability mechanisms, and a definition of overcrowding that prioritises the most affected schools.

This court order was not a suggestion; it was a directive that must be complied with. Learners cannot continue to wait while they are forced to learn in overcrowded classrooms without the space and resources they need.

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