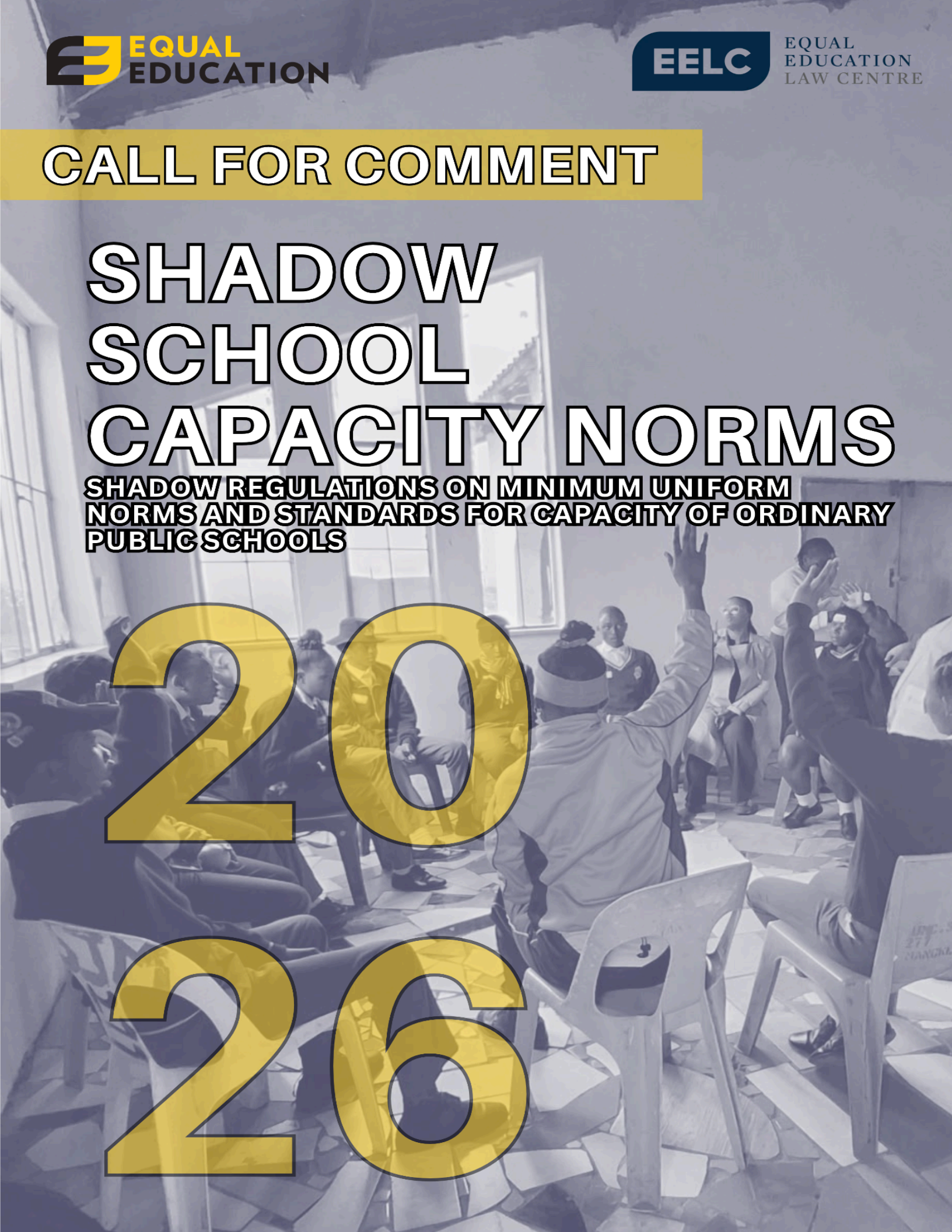
EQUAL EDUCATION

EELC EQUAL EDUCATION LAW CENTRE

CALL FOR COMMENT

SHADOW SCHOOL CAPACITY NORMS

SHADOW REGULATIONS ON MINIMUM UNIFORM NORMS AND STANDARDS FOR CAPACITY OF ORDINARY PUBLIC SCHOOLS



2026

DRAFT SHADOW REGULATIONS • IMITHETHONQUBO ENGASCHICILELWE

EQUAL EDUCATION AND EQUAL EDUCATION LAW CENTRE

NO. 1 **17 November 2026**

SOUTH AFRICAN SCHOOLS ACT, 1996

EE AND EELC CALL FOR COMMENT: SHADOW REGULATIONS ON MINIMUM UNIFORM NORMS AND STANDARDS FOR CAPACITY OF ORDINARY PUBLIC SCHOOLS, 2026

"We, as the learners, together with Equal Education and the Equal Education Law Centre, have developed these Shadow Capacity Norms because we believe every learner deserves a safe, dignified and suitable environment in which to learn. We cannot accept a situation where learners are overcrowded in classrooms, where there are not enough teachers, proper sanitation, working libraries and laboratories, proper school infrastructure, and resources – where the current daily conditions make it difficult to receive quality education. We developed these Shadow Capacity Norms because we believe that the government must be held accountable for ensuring that every school has the space and resources to accommodate its learners. We therefore call on the Department of Basic Education to urgently release and implement the Capacity Regulations. Our right to quality basic education cannot wait any longer."

– Siphosethu Hlomela, Grade 11, Phomolong Secondary school.

The court ordered the Minister of Basic Education to publish binding norms on school capacity by 10 October 2026, and she has not done so. These Shadow Regulations set out what those norms should say: how many learners a school can take, when a school is overcrowded, and what government must do about it. They are also a benchmark. When the Minister publishes the official norms, we will measure them against this standard: whether they define overcrowding, set limits that protect learning, place every learner in a school, and bind government to clear deadlines for providing the classrooms, educators and toilets that schools need. **We invite learners, parents, educators, principals, school governing bodies, officials and everyone who has learnt or taught in an overcrowded classroom to comment on these Shadow Regulations and tell us whether these rules would work in their school, and what is missing.**

Comments may be sent:

- in writing or as a voice note, by WhatsApp to Fikile Sibisi (EE Gauteng Organiser) on +27641197559; or
- by email to fikile@equaleducation.org.za

by 22 January 2027. These Shadow Regulations will be revised in light of comments received.

PREAMBLE

WHEREAS, South Africa has inequitable and discriminatory development concerning the provision of quality basic education to all learners and all public schools, and bearing in mind that social and financial investment in education is a Constitutional responsibility of the Government, and requires education to be central to Government policies and budgets as one of its key priorities;

AND WHEREAS, the Minimum Uniform Norms and Standards for School Infrastructure have existed for over a decade, yet education departments have consistently failed to meet their deadlines, implement their mandates, and provide meaningful accountability to learners and communities. Inadequate planning across key departments has resulted in persistent school infrastructure backlogs. School communities across the country continue to wait desperately for infrastructure upgrades, appropriate school infrastructure, new school construction and maintenance, educator allocation where it is needed most, clear disaster management protocols for schools, and universal design principles to accommodate learners with disabilities in public ordinary schools. These failures demonstrate that norms and standards alone are insufficient without coordinated implementation, adequate funding, and enforceable accountability mechanisms;

AND WHEREAS, to avoid repeating the failures of the school infrastructure law, it is imperative to establish a dedicated Task Force to implement these Regulations, comprising the Department of Basic Education, provincial education departments, national and provincial treasuries, municipalities, and other relevant departments. This Task Force must ensure seamless implementation by addressing the challenges that have plagued infrastructure norms, most critically, securing the funds necessary to implement this law. The Task Force would co-plan, cost, and fund implementation, with consistent monitoring, regular updating, and more accurate data collection on the scale of overcrowding and capacity challenges;

AND WHEREAS, the implementation of these norms must be lawful, in that they must align with applicable building regulations and the National Health and Safety Standards as prescribed in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), and must at all times consider the learners' best interests in receiving quality education at the ordinary public school, and importantly the avoidance of overcrowding, provided that overcrowding is defined in accordance with Regulation 1; and

BE IT THEREFORE REGULATED by the Minister of Basic Education as follows –

Regulation 1: Definitions

1. In these Regulations, a word or expression to which a meaning has been assigned in the South African Schools Act, 1996 (Act No. 84 of 1996), bears the meaning so assigned and, unless the context otherwise indicates –

"class" means a group of learners who learn together for a specific period;

"classroom" means the physical space in which lessons take place, as further described in Regulation 16(2), and excludes –

1. A shipping container or any other structure that was not designed for teaching and learning; or
2. A room or structure that the district office or a qualified inspector confirms poses a risk to the health or safety of learners or educators, including one that is structurally unsafe, is not adequately ventilated, or cannot be kept at a safe temperature;

"class capacity" means the maximum weighted learner count that can be taught in a classroom for a particular grade, subject or purpose, being the classroom capacity reduced to account for –

1) the fixed fittings and equipment required for that subject or purpose and the floor area they occupy;
2) any additional area per learner required to teach that subject safely, including in laboratories, workshops or other practical spaces; and
3) the maximum class size set out in Regulations 6(1)

provided that class capacity may never exceed classroom capacity;

"classroom capacity" means the maximum weighted learner count that a classroom can physically accommodate, determined by:

1) the usable floor area of the classroom after deducting the educator teaching space;
2) the minimum area per learner set out in Regulation 9;
3) the physical condition of the classroom; and
4) fixed furniture and circulation space, and the applicable building and health and safety requirements;

“compliant toilet” means a permanent, functioning toilet that meets the Infrastructure Norms and is appropriate for the age of the learners who use it. In accordance with the Minimum Uniform Norms and Standards for Public School Infrastructure, it does not include a plain pit latrine;

“district panel” means the district placement and disputes panel established under Regulation 5E;

“educator posts” means all educator posts at a school, whether funded by the Provincial Education Department or by the school governing body;

"extreme overcrowding" means overcrowding where any class exceeds the maximum class size by more than 25%, or a school’s weighted learner count exceeds its maximum capacity by more than 25%;

“ideal capacity” means the weighted learner count a grade or subject can accommodate at the ideal class sizes, calculated under Regulation 5(5);

“ideal class size” means the class size for a grade or subject set out in Regulation 4(6);

“grade capacity” means the number of weighted learners a school can accommodate in a grade, based on the classrooms designated for that grade, calculated under Regulation 5(3)(a);

“learner weight” means the value assigned to a learner in terms of Regulation 5A to reflect the additional teaching time, support, or physical space that the learner requires, being not less than 1. A learner’s weight is the same in every class the learner attends;

“maximum class size” means the class size set out in Regulation 6(1);

“minimum class size” means the class size determined under Regulation 4(2);

“mobile classroom” means a temporary or relocatable structure used for teaching and learning, excluding a shipping container which may not be counted as a classroom;

"overcrowding" means when the number of learners in at least some classes grows to the extent that educators' and learners' ability to create an effective learning environment is limited. A school is overcrowded when it has insufficient educators, infrastructure, or resources to serve the number of learners enrolled, or when it cannot adapt as learner numbers increase. The determination of whether a school is overcrowded must consider factors including but not limited to: the number of educators; the number of weighted learners enrolled; the quality of the school's performance; educator workload and spread; class sizes in different grades and subjects; the number of subjects and after-school activities offered; classroom sizes and how many are suitable for use; school building capacity; and the availability

of school building facilities, equipment, and services. Whether a class or a school is overcrowded is measured on actual conditions under Regulation 5D. In Zone 2, the factors listed in this definition are applied in the assessment under Regulation 5C(6)(a);

“priority school” means a non-fee-paying school, or a school at which more than 50% of learners are fee-exempt, and whose infrastructure and resource needs require additional allocation, determined by the extent of its infrastructure backlog, including—

1) schools with insufficient appropriate classrooms;
2) schools with inadequate water, sanitation, or electricity infrastructure;
3) schools lacking specialist facilities, including libraries, laboratories, and multipurpose rooms;
4) schools with dilapidated or unsafe physical structures;
5) schools that are majority reliant on mobile or temporary classrooms as permanent structures; and
6) schools where learners with disabilities attend but do not have required universal design features to accommodate learners with disabilities or barriers to learning;

"**register classroom**" means a designated classroom where learners are officially registered and from which they access all other classrooms for their various subjects;

“school capacity” means the number of weighted learners a school can accommodate, being the lowest of what its classrooms, educator posts, and toilets allow, calculated under Regulation 5(4);

"severe overcrowding" means overcrowding that is not extreme, where any class exceeds the maximum class size, or a school’s weighted learner count exceeds its maximum capacity;

"specialist classroom" means a room for a specific subject or purpose with instruments or other resources for experiments and learning such as workshops, computer rooms, science laboratories, libraries, music rooms, art centres, gymnasiums, store rooms and school halls, provided that only rooms meeting the minimum specialist facility requirements set out in the Infrastructure Norms may be excluded from classroom capacity calculations;

"**the Act"** means the South African Schools Act, 1996 (Act No. 84 of 1996);

“the Infrastructure Norms” means the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure;

"toilet capacity" means the largest number of learners for whom a school's compliant toilets meet the numbers required by the Infrastructure Norms, as verified by the district office. Toilet capacity is determined separately for Grade R, counting only compliant toilets designed for Grade R learners;

"weighted learner count" means the sum of the learner weights of all learners in a class, grade or school;

"weighted learners" means learners whose needs require additional teaching resources or space allocation, including but not limited to learners exempt from school fees; learners with disabilities or barriers to learning; overage learners; learners who have repeated grades; and learners requiring additional learning support; and

"zero overcrowding" means that none of the shortfalls listed in Regulation 5D(2) applies to a school.

Regulation 2: Objectives

1. The objectives of these Regulations are to—

    a. maximise the use of learning spaces in ordinary public schools and ensure that all classrooms are used effectively, thereby safeguarding against overcrowding;

    b. promote and fulfil inclusive and equitable access to quality, free, public basic education for all learners;

    c. ensure the efficient and equitable use of public resources;

    d. clarify and streamline equitable and effective learner placement so that all learners have access to quality learning opportunities;

    e. provide objective and standardised criteria for determining when a school is full, bringing clarity, transparency, and fairness to admission decisions;

    f. define overcrowding and establish binding obligations on government to prevent, monitor, and alleviate overcrowding in public schools;

    g. establish binding resource entitlements for schools determined to be overcrowded, with enforceable timelines and remedies for non-compliance; and

h. create transparent dispute-resolution mechanisms accessible to all schools, regardless of their resource level or legal capacity.

DETERMINING SCHOOL CAPACITY

Regulation 3: Application and Scope

1. These Regulations apply to ordinary public schools.

2. These Regulations set out the minimum uniform norms and standards for the capacity of an ordinary public school in respect of the number of learners a school can admit.

Regulation 4: Minimum and Maximum Capacity Zones

3. School capacity must be calculated at three interrelated levels: class capacity, grade capacity, and school capacity. This multi-level approach is necessary to account for the relational nature of school resources, including educator workload, weighted learners, and the uneven distribution of learners across grades, subjects, and streams. A school-level calculation alone cannot detect overcrowding caused by the unequal distribution of learners within a school, nor can it account for the interaction between class size, educator workload, subject spread, and the availability of classrooms and furniture.

4. Minimum capacity is determined by the minimum class size, being the class size below which a further reduction in the number of learners would not materially improve teaching and learning. The Minister must, by notice in the Gazette, determine the minimum class size for each grade or phase and, for Grades 10 to 12, for each subject, having regard to the available evidence on the relationship between class size and learning, provided that no minimum class size may be less than 70 percent of the corresponding ideal class size set out in sub-regulation (6). Regulation 5A(5) and (6) apply, with the necessary changes, to a notice under this sub-regulation. Until the first notice is published, the minimum class size is 80 percent of the corresponding ideal class size. Minimum capacity is calculated on the weighted learner count at classroom, grade and school level. Minimum capacity shows that a grade or school can comfortably admit more learners without affecting teaching or learning. It may not be used to decide whether a school should be rationalised, merged or closed, which is governed by the Act.

5. Maximum capacity is the point beyond which a school cannot accommodate additional learners. At that point the school may decline to admit learners as set out in Regulation 5C(7), and the

state's duty to provide resources, which begins at ideal capacity under Regulation 5(6)(d), must be met within the timelines in Regulations 5C(7) and 5D(5). Maximum capacity is determined at class, grade and school level in accordance with Regulation 5, provided that at class level maximum capacity may not exceed the maximum class sizes set out in Regulation 6(1).

6. Rather than requiring the assessment of all factors in every case, capacity determinations shall be organised into three capacity bands called "zones", each with its own decision-making logic. For admissions, the zone is determined at grade level, or in grades where learners move between classrooms by subject, at school level. Overcrowding in a class, within a grade that is not over capacity, must first be addressed by redistributing learners in terms of Regulation 8(3). School capacity is used for planning and reporting under Regulations 12 and 13. Within Zone 2, a grade or school that is above its ideal capacity is overcrowded, and the state's duty to provide resources applies from that point. The three zones are:

    a. **Zone 1:** Where a school falls below the minimum-capacity threshold, meaning it has enough classrooms, educator posts, and toilets for its current weighted learner count, it shall be presumed that the factors listed in Regulation 5C(6)(a) are satisfied. Schools in this zone are obligated to accept additional learners without requiring individualised assessment. The calculation in Regulation 5 does the assessment: if the weighted learner count is below minimum capacity, the conditions are presumed to be met, unless Regulation 5C(5) applies. This reduces conflict between provincial education departments and schools, allows provincial education departments to place learners and use public school resources more equitably, and speeds up the admissions process;

    b. **Zone 2:** Between minimum and maximum capacity. This is the only zone requiring discretionary judgment and contextual assessment. A school may have capacity on paper, but the factors listed in Regulation 5C(6)(a) require case-by-case evaluation. Schools do not make Zone 2 decisions alone. If a school and a provincial education department disagree on applying the factors, they must follow the process in Regulation 5C(6) before litigation, and in accordance with section 59A of the Act. This ensures that all schools, well-resourced and under-resourced alike, operate under the same decision-making framework. A well-resourced school cannot bypass this process by threatening litigation; every school must first follow the same process. This levels the playing field by removing the bargaining advantage that comes from additional financial

and legal resources, ensuring, as far as possible, that determinations are made on the merits rather than on institutional power; and

c. **Zone 3:** Where a school meets or exceeds maximum capacity, the framework presumes that no additional factors favour accepting more learners and, where it exceeds maximum capacity, that additional resources are needed. A school may decline to admit additional learners only as set out in Regulation 5C(7); and the school's entitlements are automatically triggered, obligating the Department of Basic Education and the relevant provincial education department to provide the necessary resources, including additional educator, classrooms and infrastructure, within the timelines set under Regulation 5C(7).

7. Educator workload is a factor in the Zone 2 assessment under Regulation 5C(6)(a)(iii). Where an educator's workload is above the limit, the school is entitled to additional educator posts under Regulation 5D(2)(e):

a. Until the educator workload policy contemplated in paragraph (b) is published, an educator's workload is the time the educator is required to spend in a year on teaching, preparation, marking and assessment, according to the school's timetable and the duties allocated to the educator, and it is above the limit where it exceeds the 1 800 hours a year, an average of 43 hours a week, provided for in the Personnel Administrative Measure; and.

b. The Minister must, within two years of the publication of these Regulations and after the consultation required by law, publish an educator workload policy setting out how educator workload is measured and the maximum workload permitted. From the date of its publication, that policy replaces paragraph (a). If the policy is not published within two years, paragraph (a) continues to apply until it is.

8. The ideal class sizes, being the ideal class sizes set out in the Personnel Administrative Measures, are as follows —

a) Grade R: one educator to a maximum of 30 learners, provided that, in addition to the educator, one assistant must be allocated to the class in accordance with the National Norms and Standards for Early Childhood Development Programmes, and that Grade R classrooms must include dedicated space for the assistant;

b) Grades 1 to 4: 35 learners per class;

c) Grades 5 to 6: 40 learners per class;

d) Grades 7 to 9: 37 learners per class; and

e) Grades 10 to 12: subject-dependent class sizes ranging from 6 learners for specialised subjects, such as music, to 37 learners for languages, Life Orientation, and most elective subjects.

these ideal class sizes apply to the weighted learner count of each class.

Regulation 5: Calculating Capacity

1. The capacity of an ordinary public school is calculated in the five steps set out in this regulation. Schedule 1 sets out the same steps with worked examples.

2. Step 1: how many learners one classroom can hold. The class capacity of a classroom is the lower of —

    a. the number of learners its floor area allows under Regulation 9; and

    b. the maximum class size set out in Regulation 6(1),

less any floor area taken up by fixed fittings and equipment, as set out in the definition of class capacity.

3. Step 2: how many learners the classrooms can hold.

    a. Where the learners in a grade are taught mainly in one classroom, grade capacity is the number of general classrooms designated as register classrooms for that grade, multiplied by the class capacity of those classrooms.

    b. Where learners move between classrooms by subject, classrooms are shared between grades. Capacity is then calculated for those grades together, as the number of general classrooms they use, multiplied by 85 percent, being the classroom utilisation rate, and by the class capacity of those classrooms. The zone that results applies to each of those grades.

4. Step 3: check against educators and toilets. School capacity is the lowest of —

    a. the total of the capacities calculated under sub-regulation (3);

b. the number of educator posts at the school, including posts funded by the school governing body, multiplied by 28, being the learner-to-educator ratio; and

c. the school's toilet capacity. The capacity of Grade R is also limited by the toilet capacity determined separately for Grade R.

5. Step 4: three capacities. The calculation in sub-regulations (2) to (4) is done three times, using in sub-regulation (2)(b) —

a. the maximum class size set out in Regulation 6(1), which gives maximum capacity;

b. the ideal class sizes set out in Regulation 4(6), which gives ideal capacity; and

c. the minimum class sizes determined under Regulation 4(2), which gives minimum capacity.

6. Step 5: compare with the learners enrolled. The weighted learner count of the grade or school is compared with the three capacities, so that —

a. below minimum capacity, the grade or school is in Zone 1;

b. from minimum capacity up to maximum capacity, it is in Zone 2;

c. at or above maximum capacity, it is in Zone 3;

d. above ideal capacity, it is overcrowded under Regulation 5D, even though it is in Zone 2. The Provincial Education Department must provide the classrooms, educator posts and other resources needed to bring it to its ideal capacity, and must tell the school in writing what it will provide and by when; and

e. a grade is never in a lower zone than the school as a whole, so that where a school is over capacity from educator posts or toilets, every grade is in Zone 3.

7. In this calculation —

a. the district office must verify the figures, including the number of compliant toilets, using the educator posts at the school as at the date of the annual school capacity report under Regulation 12;

b. a school may not designate or re-designate a register classroom, or classify a room as a specialist classroom, without the approval of the district office;

c. maximum capacity is a ceiling set by infrastructure and safety limits, and is not a target;

d. the operational capacity of a grade or school is the point between minimum and maximum capacity at which it should operate, determined by applying the factors listed in Regulation 5C(6)(a);

e. capacity is based on the number of classrooms, and not on the number or size of the classes a school has formed. Where a school teaches in more than one language of instruction in separate classes, or is required to do so, it must first combine classes in the same language and grade that are below the minimum class size, up to the ideal class size, before the need for separate classes may be taken into account. Where separate classes are still needed after that and the school does not have the classrooms or educator posts for them, the admission is dealt with as a Zone 2 matter under Regulation 5C(6), whatever zone the grade or school is in, and the Provincial Education Department must provide the classrooms and educator posts that the assessment shows are needed; and

f. the capacity of subject classes in Grades 10 to 12 is not part of the calculation, and is dealt with under Regulation 5C(6) and (9).

8. Learners are counted using the learner weights determined under Regulation 5A. A grade with more weighted learners therefore reaches each capacity with fewer learners, because those learners need more of an educator’s attention and more resources.

9. A complete capacity re-determination of an ordinary public school may be required in the event of:

a. space being removed or more space being added;

b. changes that affect the type or function of space;

c. exceptional and unforeseen circumstances such as emergencies, special events or changes in local demographics that affect the ordinary public school's ability to accommodate learners; and

d. following the annual school capacity report required under Regulation 12.

Regulation 5A: Learner Weight

1. The Minister must, by notice in the Gazette, determine the learner weight applicable to each category of weighted learner.

2. In determining learner weights, the Minister must have regard to —

    a. the levels of support set out in the Policy on Screening, Identification, Assessment and Support;

    b. the learner weightings applied in the post provisioning norms; and

    c. available evidence on the additional teaching time, support and space required by each category of weighted learner.

3. No learner weight may be less than 1, and each category of weighted learner listed in Regulation 1 must carry a weight greater than 1.

4. The notice must state how weights apply to a learner who falls within more than one category.

5. The Minister must publish a draft notice for public comment for a period of not less than 30 days before determining or amending learner weights.

6. The Minister must review the learner weights annually and publish any amended notice by 30 June each year, which applies from the start of the following school year.

7. The Minister must publish the first notice under sub-regulation (1) within 60 days of the publication of these Regulations.

8. Until the first notice is published, and in any year in which the Minister fails to publish a notice, the learner weights in the most recent notice apply or, if none has been published, the weightings in the post provisioning norms to the extent that they cover the listed categories of learners.

Regulation 5B: Resources that Trigger Provision

1. A shortage of classroom furniture, textbooks or other learning and teaching support materials is not a ground for determining that a class, grade or school has reached capacity, and may not be relied on to refuse admission to a learner. A classroom has enough furniture when it has a desk

space and a chair for every learner in the largest class taught in it. Where a classroom does not have enough furniture, sub-regulation (2) applies.

2. Where admitting a learner results in, or adds to, a shortage of the resources referred to in sub-regulation (1), the school must admit the learner and notify the district office, and the Provincial Education Department must provide the resources within 20 school days of being notified.

3. Water, electricity and perimeter security are assessed at school level, against the standards set out in the Infrastructure Norms.

4. Where a school's provision of the infrastructure referred to in sub-regulation (3) falls below the standards set out in the Infrastructure Norms —

    a. the school must continue to admit learners up to its capacity determined under Regulation 5; and

    b. the Provincial Education Department must provide the infrastructure needed to meet those standards within 12 months of the confirmed determination.

5. Despite sub-regulation (4)(a), where the district office confirms in writing, within 2 school days of a request by the school, that the school has no safe drinking water supply, the school is Zone 3 until a safe supply of drinking water is restored. Any other shortfall under sub-regulation (3) is not a ground for refusing admission.

5A. Toilets are part of the capacity calculation under Regulation 5(4)(c). Where a school, or its Grade R, is over its toilet capacity —

    a. the Provincial Education Department must provide the compliant toilets needed, including age-appropriate toilets for Grade R, within 6 months of the confirmed determination;

    b. until then, the Provincial Education Department must provide temporary toilets within 5 school days, but temporary toilets do not count towards toilet capacity; and

    c. Regulation 5C(7) applies to the admission and placement of learners.

6. Shortfalls under this regulation, and the steps taken to remedy them, must be recorded in the annual school capacity report under Regulation 12.

7. Where classrooms, including mobile classrooms, are added to a school, the Provincial Education Department must at the same time provide the furniture, sanitation and other infrastructure that the additional learners need under the Infrastructure Norms.

8. The Provincial Education Department must remedy these shortfalls for priority schools first.

Regulation 5C: Applying Capacity Determination

1. As part of the school capacity report required under Regulation 12, the principal must each year complete the capacity calculation form in Schedule 1 for each grade and for the school, using the enrolment and educator posts recorded as of 15 November every year, after the school has been alerted of its post provisioning and per learner allocation for the subsequent year.

2. The district office must verify the calculation within 30 days of receiving the school capacity report and confirm in writing the minimum capacity, ideal capacity, maximum capacity, weighted learner count and zone of each grade or, where Regulation 5(3)(b) provides for capacity to be determined at school level, of the school.

3. The school must give the confirmed determination to the governing body and display it at the school, and the Provincial Education Department must publish the determinations for all schools in each district 7 days before the start of the school year.

4. A confirmed determination applies to every admission and placement decision for the following school year, unless capacity is re-determined under Regulation 5(9).

5. Zone 1: the school must admit the learner and may not refuse admission on the ground of capacity. A grade is not treated as being in Zone 1, and is dealt with under sub-regulation (6), where any of its classes exceeds the maximum class size set out in Regulation 6(1).

6. Zone 2:

    a. the school and the district office must jointly assess whether the learner can be admitted, having regard to —

        i. the best interests of the learner and the learner's right to a basic education, including the distance to the nearest other school with capacity;

        ii. the effect on the quality of teaching and learning in the classes affected, and on the school's performance;

iii. educator workload, determined under Regulation 4(5);

iv. class sizes in the grades and subjects affected, including the capacity of subject classes in Grades 10 to 12;

v. whether classrooms or educator posts can be reallocated between grades;

vi. the school's need for spare capacity, as contemplated in Regulation 10(3);

vii. the number of subjects and after-school activities the school offers, and the languages in which it teaches;

viii. the number of learners the school's buildings were designed to accommodate;

ix. predicted changes in learner numbers at the school;

b. where they do not agree, either may refer the matter to the district panel, which decides it under Regulation 5E;

c. the school and the Provincial Education Department must follow the process in this sub-regulation before taking legal action against each other about the admission or placement, unless urgent relief is required;

d. the district office must make sure the learner is attending a school while the process is under way; and

e. where the assessment or decision is that the learner cannot be admitted, sub-regulation (7) applies as if the grade or school were in Zone 3.

7. Zone 3:

a. the school may decline to admit the learner only where another school within a reasonable distance of the learner's home that is appropriate for the learner, including in its language of learning and teaching, the subjects it offers and the fees it charges, is in Zone 1 or Zone 2, or is less over its maximum capacity, measured as a percentage;

b. the district office must place the learner at that other school within 5 school days, and the Provincial Education Department must provide scholar transport where the learner cannot reasonably walk to it, adapted to the learner's needs where necessary;

c. the Provincial Education Department must, within 30 days of the confirmed determination, tell the school in writing which additional classrooms, educator posts, toilets, and other resources it will provide to bring the school below maximum capacity, and by what date; and

d. where paragraph (a) does not allow any school to decline, the Provincial Education Department must place the learner at the school within a reasonable distance that is least over maximum capacity, measured as a percentage, or at the nearest school if there is none within a reasonable distance, and must provide that school, within 20 school days, with the additional classrooms, educator posts and other resources it needs to accommodate the learner.

8. A learner who applied for admission for a school year must have a place at a school by the first school day of that year. A learner who applies during the school year must have a place within 10 school days of applying.

9. Where a class in any subject exceeds the maximum class size set out in Regulation 6(1), or admitting a learner would take it above that size, the school must form an additional class in that subject within 10 school days. Where the school, after receiving timetabling support under Regulation 7(3), cannot do so with its existing classrooms and educator posts, and the district office confirms this, the Provincial Education Department must provide the educator post or classroom needed. Until it does, an admission that would add a learner to that subject is dealt with under sub-regulation (6), whatever zone the grade or school is in.

10. The operational capacity referred to in Regulations 5(7)(d) and 12(2)(a) is the weighted learner count, between minimum and maximum capacity, that the school and the district office agree, or that is decided under sub-regulation (6)(b), a grade or school can accommodate in that year.

11. In this regulation, a school is within a reasonable distance of a learner's home only where the learner can reach it safely and within a reasonable time, having regard to the learner's age, any disability, the safety of the route, including busy roads and other hazards, and the transport available, including transport adapted to the learner's needs. In any event, the school may be no more than 5 kilometres from the learner's home, or 20 kilometres where the Provincial Education Department provides scholar transport, measured along the shortest walking or road route.

Regulation 5D: Measuring Overcrowding

1. Whether a school is overcrowded must be measured on the actual conditions in which teaching and learning take place, and not on school-wide ratios of learners to educators or learners to classrooms.

2. A school is overcrowded when any of the following shortfalls apply. Each shortfall entitles the school to the resource shown —

    a. class size: any class has a weighted learner count above the ideal class size set out in Regulation 4(6). The school is entitled to the educator post and classroom needed for an additional class;

    b. classroom space: any class is taught in a classroom that is too small for it, measured under Regulation 9. The school is entitled to a classroom of the required size;

    c. capacity: the weighted learner count of a grade or of the school is above its ideal capacity. The school is entitled to the classrooms and educator posts needed to bring it to its ideal capacity;

    d. toilets: the school, or its Grade R, is over its toilet capacity. The school is entitled to the compliant toilets needed, as set out in Regulation 5B(5A);

    e. educator workload: the workload of any educator, calculated under Regulation 4(5), exceeds the threshold in that sub-regulation. The school is entitled to the additional educator posts needed;

    f. furniture: any classroom does not have a desk space and a chair for every learner in the largest class taught in it. The school is entitled to the furniture needed, as set out in Regulation 5B;

    g. textbooks: any learner does not have the textbooks and other learning and teaching support materials the curriculum requires. The school is entitled to those materials, as set out in Regulation 5B; and

    h. buildings: the school's enrolment exceeds the number of learners its buildings were designed to accommodate. The school is entitled to the shared infrastructure that the Infrastructure Norms require for its enrolment.

3. Overcrowding is severe or extreme as defined in Regulation 1. Only class size and capacity, which includes toilet capacity, decide whether overcrowding is severe or extreme. Overcrowding

that is neither severe nor extreme must still be remedied, in the order of priority in sub-regulation (6).

4. The needs of learners are taken into account through the learner weights, and are not counted again as a separate shortfall.

5. Within 60 days of the school capacity report under Regulation 12, the Provincial Education Department must tell the school in writing which shortfalls it has confirmed, what it will provide for each, and by when.

6. A Provincial Education Department must address overcrowding in the following order of priority—

    a. schools at which learners could not be placed or were placed under Regulation 5C(7)(d), and schools in capacity pressure areas under Regulation 13A;

    b. schools with extreme overcrowding;

    c. schools with severe overcrowding; and

    d. all other overcrowded schools.

    Within each level of priority, priority schools come first.

7. Overcrowding is measured from the information in the school capacity report under Regulation 12, including the number of learners in each class as the school has actually constituted its classes. In planning under Regulations 13 and 13A, a Provincial Education Department must also take into account predicted growth in learner numbers at the school and in its area.

Regulation 5E: District Placement and Disputes Panel

1. Each Provincial Education Department must, within 12 months of the publication of these Regulations, establish a placement and disputes panel in every education district.

2. A district panel consists of —

    a. a chairperson who is independent of the Provincial Education Department and of the schools in the district;

    b. a representative of the district office;

c. a representative of the governing bodies in the district;

d. a representative of the parents in the district; and

e. a representative of the learners in the district, nominated by representative councils of learners.

A member may not take part in a matter that involves a school at which the member works, serves on the governing body, is a learner or has a child.

3. The district panel must —

a. decide, at the request of the learner or the learner's parent, where a learner must be placed who has not been placed within the period in Regulation 5C(8); and

b. decide the disputes referred to it under this regulation.

4. A dispute about any of the following may be referred to the district panel —

a. the capacity or zone confirmed for a grade or school under Regulation 5C(2);

b. the admission of a learner in Zone 2 under Regulation 5C(6);

c. whether a school may decline to admit a learner, or where a learner is placed, under Regulation 5C(7);

d. a shortfall that the Provincial Education Department has confirmed or refused to confirm under Regulation 5D(5), the number of compliant toilets at a school, or whether a room is a classroom under Regulation 16(2A); and

e. whether a school is a priority school.

5. A dispute may be referred by the school, its governing body, the district office, or a parent or learner affected by the decision.

6. The district panel must —

a. give the school, its governing body, the district office, the learner's parents and the learner an opportunity to make representations, and hear the learner in a way that suits the learner's age;

b. decide the dispute within 14 days of the referral, or within a further 14 days where the panel allows a party more time to make representations for good reason;

c. give its decision and reasons in writing; and

d. publish its decisions without identifying any learner.

7. No fee may be charged for referring a dispute. No party may be represented by a legal practitioner, unless the district panel allows it because the matter is unusually complex and fairness requires it. Where the panel allows one party legal representation, it must make sure that the other parties, including the learner, are assisted. Any party may be assisted by a person of their choice who is not a legal practitioner, such as a family member, a teacher or a member of a community organisation.

8. While a dispute about the admission or placement of a learner is before the district panel, the district office must make sure the learner is attending a school.

9. The school and the Provincial Education Department must give effect to a decision of the district panel, unless it is set aside on appeal or by a court.

10. A school and a Provincial Education Department must refer a dispute to the district panel before taking legal action against each other about it, unless urgent relief is required.

11. This regulation does not limit the right of a parent or learner to appeal to the Member of the Executive Council under the Act, or the right of any person to approach a court.

Regulation 6: Number of Educators and Class Size

1. The norm and standards ratio for the number of educators and class size is:

a. in the case of Grade R, one educator to a maximum of 30 learners, provided that in addition to the educator, there must be one assistant allocated to the class in accordance with the National Norms and Standards for Early Childhood Development Programmes. Grade R classrooms must also have dedicated space for the assistant; and

b. in the case of Grades 1 to 12, one educator to a maximum of 40 learners.

2. The maximum class sizes set out in sub-regulation (1) must be enforced as ceilings, not targets.

3. Learner weights determined under Regulation 5A must be applied such that schools serving learners with greater needs have smaller effective class sizes.

4. Poverty redress posts must be allocated to priority schools as a minimum of 5% of total posts, not a maximum, to compensate for the negative impact that poverty has on learning.

5. The Minister may, by notice in the Gazette, reduce any ideal class size set out in Regulation 4(6) or any maximum class size set out in sub-regulation (1), but may not increase it.

Regulation 7: Quality Performance

1. An ordinary public school must ensure that it remains within the determined norms and standards of educator numbers and class sizes ratio and avoid overcrowding to protect the quality of performance of the school.

2. The Department of Basic Education, Provincial Education Departments, and Education Districts are primarily responsible for:

    a. monitoring and identifying overcrowded schools;

    b. providing resources and support to alleviate overcrowding;

    c. ensuring schools have the capacity to comply with these norms;

    d. providing timetabling support to schools, including training for educators responsible for timetabling on building viable, sustainable, and elastic timetables;

    e. providing tools and, where possible, automation support for timetable development.

3. The district office must give a school timetabling support —

    a. when the school asks for it;

    b. where a class at the school exceeds the maximum class size; and

    c. before a Zone 2 assessment under Regulation 5C(6) is completed.

4. Timetabling support must help the school use its classrooms and educators so that classes stay within the ideal class sizes. It may not be used to require a school to exceed the ideal class

sizes, to reduce the subjects or languages it offers, or to give up the spare capacity contemplated in Regulation 10(3).

USE OF CLASSROOMS AND SPECIALIST SPACES

Regulation 8: Curriculum and Extracurricular Choices

1. Learners must be admitted into register classrooms in ordinary public schools in accordance with their respective grades and the relevant capacity of the classrooms.

2. Learners may move from their register classroom to different areas of specialisation according to the timetable and different extracurricular choices while belonging to a general register classroom contemplated in sub-regulation (1).

3. When learner enrolment exceeds or falls below estimated numbers, adjustments may be made to the distribution of learners across classrooms to optimise learning environments without exceeding physical or resource limitations.

Regulation 9: Classroom Size

1. The size of a classroom is calculated as follows: Classroom Size = length × width.

2. A Grade R classroom has a classroom size of at least 60 square metres, of which:

    a. the minimum average area per learner is 1.6 square metres;

    b. the minimum average area for the educator teaching space is 7 square metres; and

    c. the minimum average area for the allocated assistant is 2 square metres.

3. A Grade 1 to 12 classroom has a classroom size of at least 48 square metres, of which:

    a. the minimum average area space per learner is 1 square metre; and

    b. the minimum average area space per educator teaching space is 7 square metres.

3A. In any classroom, the minimum area for each learner with a disability is 2 square metres.

4. The number of learners that the floor area of a classroom allows under this regulation may not be used to justify a class size above the maximum class sizes set out in Regulation 6(1).

Regulation 10: Utilisation of available classrooms

1. All classrooms must be used efficiently throughout the school day with minimal downtime or underutilised periods, in order to ensure that the school can accommodate its learner population without overcrowding or wasting resources.

2. "Under-utilisation" must be measured against a realistic operational capacity that includes necessary buffer resources, not against a 100% theoretical maximum capacity. A school must not be considered under-utilised simply because it operates below 100% theoretical maximum capacity.

3. Elasticity is an essential operating requirement of schools. Schools require one or two educators free of scheduled responsibilities at any given time so that they are able to cover absences, and spare classroom capacity to respond to routine disruptions. Where classrooms cannot be used throughout the day due to legitimate constraints (specialist room requirements, split language streams, elective subject offerings, or uneven learner distribution across grades), these factors must be recognised as affecting functional capacity rather than dismissed as inefficiency.

4. Priority schools, which usually cannot afford to employ educators paid by their governing bodies, are particularly dependent on government provision of buffer resources. The DBE and PEDs must ensure that all schools have sufficient elasticity in their timetables, and must provide for priority schools first.

5. A school may not have its educator posts or other resources reduced because it keeps its enrolment at or below its maximum capacity, or because it declines to admit learners in accordance with these Regulations.

GOVERNMENT OBLIGATIONS

Regulation 11: Communication

1. Within 60 days after the publication of these Regulations, the Department of Basic Education must publish these Regulations in all official languages.

Regulation 12: School Capacity Report

1. Within 90 days of the publication of these Regulations and then each year thereafter by 30 November, each school, in collaboration with its Provincial Education Department, must submit a school capacity report to the Department of Basic Education.

2. The school capacity report must include:

    a. a detailed capacity assessment calculated in accordance with Regulations 4 to 10 and set out in the form in Schedule 1, specifying minimum, operational and maximum capacity;

    b. the confirmed determination for each grade and for the school under Regulation 5C;

    c. an analysis of infrastructure challenges and backlogs, including:

        i. the condition of all classrooms and teaching spaces;

        ii. the number and quality of sanitation facilities and ablution blocks;

        iii. the reliability and source of water supply;

        iv. the reliability and source of electricity supply;

        v. the state of security infrastructure and perimeter fencing;

        vi. the availability and condition of specialist classrooms (libraries, laboratories, computer centres, etc.);

        vii. the availability and condition of sports facilities and school halls;

    d. an analysis of overall school resources, including:

        i. the number and qualifications of teaching staff;

        ii. the number and functions of non-teaching staff;

        iii. financial resources and budget allocation;

        iv. learning and teaching support materials;

    e. identification of any mobile classrooms in use, their age, and the date by which each must be replaced under Regulation 16(4A);

f. the number of learners in each class, by grade and subject, and the floor area of the classroom in which each class is taught;

g. the workload of each educator, calculated under Regulation 4(5), and the grades and subjects each teaches; and

h. the number of learners the school's buildings were designed to accommodate, and the school's projected enrolment for the next three years, which the Provincial Education Department must provide to the school.

Regulation 13: Eradication of Overcrowding Plans

1. Within one year of the publication of these Regulations, each Provincial Education Department must create and release a publicly available plan to eradicate overcrowding in schools, and must update the plan every year in line with the reports under Regulation 12 and projected learner enrolment.

2. The plan must:

    a. set clear priorities for addressing overcrowding, in the order of priority set out in Regulation 5D(6) - based on the reports required under Regulation 12;

    b. establish binding deadlines with phased reduction timelines, each measured from the publication of these Regulations:

        i. Phase 1 (within 3 years): Eliminate extreme overcrowding ;

        ii. Phase 2 (within 7 years): Eliminate severe overcrowding;

        iii. Phase 3 (within 10 years): Eradicate all overcrowding, so that every school has zero overcrowding;

    c. include costed budgets for each phase of implementation; and

    d. identify the infrastructure, educator, and resource requirements necessary to achieve the targets.

3. The Department of Basic Education must:

    a. exercise clear oversight over these plans;

b. create a mandatory checklist for PEDs to complete when submitting their plans;

c. verify that plans are feasible, adequately costed, and include binding deadlines.

Regulation 13A: Capacity Pressure Areas

1. An education circuit is a capacity pressure area where, in any year —

   a. more than 25 percent of the ordinary public schools in the circuit are in Zone 3; or

   b. more than 25 percent learners in the circuit were placed under Regulation 5C(7)(d).

2. Each Provincial Education Department must keep a register of every learner who has applied for admission and has not yet been placed, recording the circuit, the grade, the date of application and, when the learner is placed, the date of placement. The Department must publish the totals for each circuit every school term, without identifying any learner.

3. By 31 March each year, each Provincial Education Department must identify the capacity pressure areas in the province, using the confirmed determinations under Regulation 5C and the register under sub-regulation (2), and publish them with a map.

4. Within 6 months of identifying a capacity pressure area, the Provincial Education Department must adopt and publish an infrastructure and staffing plan for that area, which must —

   a. state the number of learner places the area is short, now and as projected for at least the next five years, using enrolment trends, population data and approved or planned housing developments;

   b. identify the new schools, additional classrooms, toilets and educator posts needed, with sites, costs and completion dates;

   c. set out the interim measures that will apply until then, and the date on which each will end; and

   d. be developed in consultation with the municipality and with learners, parents and governing bodies in the area, consulting learners in a manner appropriate to their age.

5. The Provincial Education Department must include each plan in its infrastructure plans and budget submissions, and submit the costed plan to the provincial treasury and the Department of Basic Education.

6. The Provincial Education Department must review each plan every year and report on progress in the report required under Regulation 15(1).

7. A municipality must, on request, give the Provincial Education Department information on approved and planned housing developments in a capacity pressure area, and must expedite the identification, zoning, servicing and release of land for new schools in that area.

Regulation 14: Roles, Responsibilities & Implementation Task Force

1. The Minister must, within 6 months of the publication of these Regulations, establish a national Task Force to oversee their implementation.

2. The Task Force must consist of one representative from the Department of Basic Education, the Provincial Education Departments, the National Treasury, the provincial treasuries, organised local government, educator unions, governing body associations, learners, district representatives, non-teaching school staff assisting with capacity calculations and civil society.

3. The Task Force must —

    a. plan and cost the implementation of these Regulations, and identify the funding needed;

    b. monitor progress against the plans required under Regulations 13 and 13A;

    c. improve the collection of data on overcrowding and school capacity; and

    d. report to Parliament every year on progress, including where the funding allocated is not enough to implement these Regulations.

4. The Task Force must meet at least once every school term, in person or virtually, and publish its minutes and reports.

5. The roles and responsibilities of each entity in implementing these Regulations are as follows:

Entity	**Responsibility**
Minister of Basic Education	Determine minimum class sizes by notice in the Gazette (Regulation 4(2)); determine learner weights by notice in the Gazette, after public comment, and review them every year (Regulation 5A); publish the educator workload policy within two years (Regulation 4(5)(b));

	reduce, but not increase, the ideal and maximum class sizes by notice in the Gazette (Regulation 6(5)); establish the Task Force (Regulation 14(1)); restore binding deadlines to the Infrastructure Norms (Regulation 16(7)).
Department of Basic Education	Provide oversight and support to provinces; develop mandatory checklists for provincial plans to ensure uniformity of reporting; monitor provincial compliance with phased timelines; publish consolidated national annual reports on progress; publish these Regulations in all official languages (Regulation 11); receive school capacity reports (Regulation 12); verify that provincial plans are feasible, costed and have binding deadlines (Regulation 13(3)); with provinces and districts, monitor and identify overcrowded schools and provide timetabling training and tools (Regulation 7(2)); ensure that priority schools have spare capacity in their timetables (Regulation 10(4)); serve on the Task Force (Regulation 14).
Provincial Education Departments	Determine school capacity; submit capacity reports to DBE; develop and implement eradication plans; allocate resources; provide timetabling support; report annually on progress; establish a district panel in every district and give effect to its decisions (Regulation 5E); publish the confirmed capacity determinations (Regulation 5C(3)); provide the classrooms, educator posts, toilets, furniture, textbooks and other resources that these Regulations require, within the set times (Regulations 5(6)(d), 5B, 5C(7) and (9), and 5D); place learners where every school within a reasonable distance is full, and provide scholar transport (Regulation 5C(7)); provide for priority schools first (Regulation 5B(8)); not reduce a school's posts or resources because it stays within its capacity (Regulation 10(5)); keep a register of unplaced learners, identify capacity pressure areas and adopt a plan for each (Regulation 13A); replace, or make safe, unsafe rooms and mobile classrooms (Regulation 16); refer disputes to the district panel before litigation (Regulation 5E(10)).
District Education Offices	Operational oversight: support schools with capacity assessments; provide timetabling assistance; monitor compliance; escalate unresolved overcrowding to PED; verify each school's capacity calculation and confirm its capacity and zone in writing (Regulations 5(7)(a) and 5C(2)); approve the designation of register classrooms and specialist classrooms (Regulation 5(7)(b)); assess Zone 2 admissions jointly with the school (Regulation 5C(6)); make sure a learner is attending a school while a placement or dispute is pending (Regulations 5C(6)(d) and 5E(8)); confirm where a school has no safe drinking water supply

	or a room is unsafe (Regulations 5B(5) and 16(2A)); serve on the district panel (Regulation 5E(2)).
District panels	Place learners under Regulation 5C(7) and (8), as the district's rapid-response team for learner placement; decide disputes about capacity, zones, admissions, placements and shortfalls, after hearing the school, the governing body, the district office, the parents and the learner (Regulation 5E).
School principals	Complete the capacity calculation form and submit the school capacity report every year (Regulations 5C(1) and 12); give the confirmed determination to the governing body and display it at the school (Regulation 5C(3)); admit learners in Zone 1, assess Zone 2 admissions jointly with the district office, and decline to admit in Zone 3 only as Regulation 5C(7) allows; admit the learner and notify the district office where furniture or textbooks are short (Regulation 5B(2)); form an additional class where a class exceeds the maximum class size (Regulation 5C(9)); refer disputes to the district panel before litigation (Regulation 5E(10)).
School Governing Bodies	School-level participation: participate in capacity assessments; ensure amendments to unlawful school admissions policies; communicate capacity determination to parents and community; receive the confirmed capacity determination (Regulation 5C(3)); refer disputes to the district panel and make representations to it (Regulation 5E(5) and (6)); be represented on the district panel (Regulation 5E(2)); be consulted on plans for capacity pressure areas (Regulation 13A(4)); be represented on the Task Force through governing body associations (Regulation 14(2)).
National Treasury	Propose sufficient and predictable funding in the budget to implement these Regulations, including for school infrastructure, additional classrooms, educator posts, learner support, maintenance, and overcrowding-eradication plans. National Treasury must participate in the national overcrowding-eradication Task Force led by the Department of Basic Education, ensure that national budgets and fiscal frameworks enable the full implementation of these Regulations, and ensure that proposed laws, policies, norms, and standards are adequately costed, funded, and implementable before their adoption.

Provincial Treasuries	Consider the costed provincial eradication plans in the budget process and propose allocated funds; ensure transparent expenditure; receive the costed plans for capacity pressure areas (Regulation 13A(5)); serve on the Task Force (Regulation 14).
Municipalities	Provide and maintain essential services (water, electricity, sanitation) to schools; coordinate with PEDs on service delivery; give PEDs information on approved and planned housing developments in capacity pressure areas, and expedite the identification, zoning, servicing and release of land for new schools there (Regulation 13A(7)); be consulted on plans for those areas (Regulation 13A(4)); serve on the Task Force (Regulation 14).
Task Force	Plan and cost the implementation of these Regulations and identify the funding needed; monitor progress against the provincial plans; improve data on overcrowding and school capacity; report to Parliament every year, including where the funding allocated is not enough; meet at least once every school term and publish its minutes and reports (Regulation 14).

Regulation 15: Transparency and Accountability

1. Each provincial education department must, by 31 August each year, publish a public report setting out—

    a. the number and percentage of schools operating above maximum capacity;

    b. the number of classes exceeding the ideal class sizes and the number exceeding maximum class sizes, disaggregated by grade and subject;

    c. progress against the phased reduction timelines set out in Regulation 13;

    d. the steps taken to alleviate overcrowding;

    e. the number of mobile classrooms in use, their age, and planned replacement timelines;

    f. the estimated total cost of eradicating overcrowding in schools, disaggregated by type of resource or facility;

    g. budget allocations and expenditure on infrastructure and educator provisioning;

h. a list of the schools that are overcrowded under Regulation 5D, showing for each school whether the overcrowding is severe or extreme and which shortfalls apply, to be used for targeted spending; and

i. the percentage of educator posts allocated for poverty redress, and the reasons for that percentage.

2. The Department of Basic Education must, by 31 October each year, publish a consolidated national report on progress in implementing these Regulations.

3. Where a provincial education department fails to meet a phase deadline, it must publicly report on the reasons for non-compliance and provide a revised timeline, showing how it will make up for the missed deadline without compromising other deadlines.

Regulation 16: Harmonisation with Infrastructure Norms

1. These Regulations must be read together with the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure (the "Infrastructure Norms").

2. A "classroom" is a permanent building or room fit for the purpose of delivering quality teaching and learning, compliant with all building, health, and safety standards, including adequate ventilation, lighting, temperature control, and acoustics.

2A. A classroom does not include —

a. a shipping container or any other structure that was not designed for teaching and learning; or

b. a room or structure that the district office or a qualified inspector confirms poses a risk to the health or safety of learners or educators, including one that is structurally unsafe, is not adequately ventilated, or cannot be kept at a safe temperature.

2B. A space excluded under sub-regulation (2A) does not count towards capacity, and the Provincial Education Department must replace it within 12 months of the district office confirming that it is excluded.

3. Mobile classrooms must be classified as temporary relief measures only. They must not be counted as fulfilling the state's long-term obligation to provide permanent, quality infrastructure.

4. Mobile classrooms must be governed by a clear maximum lifespan. PEDs must report annually on the number of mobile classrooms in use, their age, and planned replacement timelines.

4A. A mobile classroom that meets the standards in sub-regulation (2), other than being permanent, counts towards capacity for no longer than 10 years from the date it is installed. After that it does not count, and the Provincial Education Department must replace it with a permanent classroom.

5. Only specialist rooms meeting the minimum requirements set out in the Infrastructure Norms may be excluded from general classroom capacity calculations. This provision prevents the strategic misuse of "specialist" rooms to underreport a school's official capacity.

6. The prioritisation of infrastructure upgrades must follow the order of priority in Regulation 5D(6) and, within each level of that order, the following order and timelines, which apply whether or not the Infrastructure Norms set deadlines:

a. First priority: Schools built with inappropriate materials (mud, asbestos, metal, wood) (3-year timeline) ;

b. Second priority: Schools with insufficient access to water, power, or sanitation (3-year timeline);

c. Third priority: Schools lacking classrooms, electricity, water, sanitation, electronic connectivity, and perimeter security (7-year timeline); and

d. Fourth priority: Schools lacking libraries and laboratories (10-year timeline).

7. The Minister must restore binding deadlines to the Infrastructure Norms for the infrastructure that affects overcrowding.

SCHEDULE 1: CAPACITY CALCULATION

Part A: Steps

Step	What is done	Regulation
1. Count the fixed inputs	Count the general classrooms and measure their floor area. Count the educator posts, including posts funded by the governing body. Count the compliant toilets.	5(2), 9
2. Class capacity	Take the lower of the number of learners the classroom floor area allows and the maximum class size.	5(2), 6(1)
3. Maximum capacity	Grades taught mainly in one classroom: classrooms for the grade × class capacity. Grades where learners move between classrooms by subject, in primary or high schools: classrooms × utilisation rate × class capacity, for the school as a whole. Then check the school total against educator posts × the learner-to-educator ratio and against the school's toilet capacity, and use the lowest figure.	5(3), 5(4)
4. Minimum and ideal capacity	Repeat step 3 using the minimum class size, and again using the ideal class size.	5(5)

5. Weighted learner count	Add up the learner weights of all learners enrolled.	1, 5A
6. Zone	Below minimum capacity: Zone 1, unless any class is above the maximum class size, in which case Zone 2. From minimum up to maximum capacity: Zone 2. At or above maximum capacity: Zone 3.	5(6), 4(4)
7. Apply the zone	Zone 1: admit. Zone 2: joint assessment. Zone 3: place elsewhere and provide resources.	5C

Results are rounded down to a whole number.

Part B: Worked example, primary school (Grade 4)

The learner weight, minimum class size and other figures marked "illustrative" are examples only.

Item	**Calculation**	**Result**
Classrooms for Grade 4	Counted	3
Floor area limit per classroom	56 m^2 less 7 m^2 educator space, at 1 m^2 per learner	49
Maximum class size, Grades 1 to 12	Regulation 6(1)	40
Class capacity	Lower of 49 and 40	40
Maximum capacity	3 × 40	120
Minimum class size (illustrative)	80% of the ideal class size of 35	28

Minimum capacity	3 × 28	84
Weighted learner count	76 learners at weight 1, plus 12 overage learners at weight 1.2 (illustrative)	90.4
Zone	90.4 is between 84 and 120	Zone 2

The ideal capacity is 3 × 35 = 105. Above 105 the grade is overcrowded and is owed resources, although it stays in Zone 2 until 120. With 70 learners at weight 1 the grade would be in Zone 1 and the school would have to admit. With a weighted learner count of 120 or more it would be in Zone 3. The school as a whole must also be within its capacity from educator posts and toilets.

Part C: Worked example, high school (Grades 8 to 12)

Item	**Calculation**	**Result**
General classrooms	Counted	30
Classroom utilisation rate (illustrative)		85%
Class capacity	Lower of the floor area limit and the maximum class size of 40	40
Capacity from classrooms	30 × 85% × 40	1 020
Educator posts, including governing body posts	Counted	34
Capacity from educator posts	34 × 28 (illustrative learner-to-educator ratio)	952

Toilet capacity	32 compliant toilets, enough for 1 000 learners under the Infrastructure Norms (illustrative)	1 000
Maximum capacity of the school	Lowest of 1 020, 952 and 1 000	952
Minimum capacity of the school	30 × 85% × 29 (illustrative minimum class size, 80% of the ideal class size of 37, rounded down)	739
Weighted learner count	650 learners at weight 1, plus 150 weighted learners at 1.2 (illustrative)	830
Zone, applying to every grade	830 is between 739 and 952	Zone 2

Part D: Capacity calculation form

School: _____ District: _____ Year: _____ Grade (or "whole school"): _____

Item	**How to work it out**	**Figure**
A. General classrooms	Count	
B. Class capacity	Lower of the floor area limit and the maximum class size	
C. Utilisation rate	Only where learners move between classrooms by subject; otherwise 100%	

D. Maximum capacity from classrooms	A × B × C	
E. Minimum class size	From the notice under Regulation 4(2)	
F. Minimum capacity	A × E × C	
G. Educator posts (whole school only)	Count, including governing body posts	
H. Capacity from educator posts (whole school only)	G × learner-to-educator ratio	
I. Maximum capacity	Lowest of D, H and Q	
J. Learners at weight 1	Count	
K. Weighted learners	Add up their learner weights	
L. Weighted learner count	J + K	
M. Zone	L below F: Zone 1. L from F up to I: Zone 2. L at or above I: Zone 3	
N. Shortage of furniture, textbooks or other materials	Yes or no, with details (Regulation 5B)	
O. Sanitation, water, electricity or security below the Infrastructure Norms	Yes or no, with details (Regulation 5B)	
P. Ideal capacity	A × ideal class size (Regulation 4(6)) × C. If L is above this figure, the grade or school is	

	overcrowded and is owed resources	
Q. Toilet capacity (whole school only, and separately for Grade R)	The number of learners the compliant toilets allow under the Infrastructure Norms. Temporary toilets do not count	

Completed by (principal): _____ Date: _____ Verified by (district office): _____ Date: _____

SCHEDULE 2: EXPLANATORY NOTE

This Schedule explains in plain language how these Regulations work. It is a guide only. Where it differs from the Regulations, the Regulations apply.

School-wide ratios of learners to educators, or of learners to classrooms, hide overcrowding, because learners do not divide evenly between classes. These Regulations therefore answer three questions.

1. Is the school overcrowded? Measure what is actually happening

Overcrowding depends on how learners, educators and classrooms relate to each other. It is measured from actual conditions, which each school reports every year (Regulations 5D and 12).

- **A class is overcrowded** when it has more learners than the ideal class size for its grade, or the classroom is too small for it.
- **A school is overcrowded** when any one of these applies: a class is above the ideal class size or in a room too small for it, the school is above its ideal capacity or short of toilets, an educator is over the workload limit, a classroom is short of furniture, a learner is without textbooks, or the school holds more learners than its buildings were designed for. Each shortfall entitles the school to that resource. Because one shortfall is enough, many schools will be overcrowded, so tiers and one order of priority do the sorting. Overcrowding is severe above the maximum (a class above the maximum class size, or a school above its maximum capacity) and extreme well above it. Provinces must deal first with schools where learners cannot be placed, then extreme overcrowding, then severe overcrowding, then the rest (Regulation 5D(6)), and must publish the list of overcrowded schools (Regulation 15).

2. How many learners can a school be required to take? Count what can be checked

Capacity decides admissions, so it is calculated only from things a district official can check (Regulation 5). Schedule 1 sets out the steps, with worked examples.

- **Classrooms and their floor area:** A room holds the lower of what its floor area allows and the maximum class size.
- **Educator posts:** All posts count, including those paid for by the governing body.

- **Toilets:** Only compliant toilets count. Temporary toilets do not. Grade R is checked separately against toilets of the right size.
- **Weighted learners:** A learner who needs more teaching time or support counts for more than one. The Minister sets the weights each year (Regulation 5A).

The timetable and the way rooms are labelled are left out of the calculation, because a school controls them. Where learners stay in one classroom, capacity is worked out for each grade. Where they move between rooms by subject, rooms are shared between grades, so capacity is worked out for the whole school.

3. Three class sizes and three zones

- **Minimum class size:** below it, smaller classes would no longer improve learning. Being below the minimum shows that a school can take more learners. It may not be used to decide whether a school should be rationalised, merged or closed (Regulation 4(2)).
- **Ideal class size:** above it a class is overcrowded and the state must provide resources (Regulation 4(6)).
- **Maximum class size:** 40 learners, or 30 in Grade R. Only at this point may a school decline to admit learners (Regulation 6(1)).

Zone	What the numbers show	What happens (Regulation 5C)
Zone 1	Below minimum capacity. Adding a learner does not harm teaching.	The school must admit the learner. As a safeguard, a grade or school with any class above the maximum class size is assessed in Zone 2 instead.
Zone 2	Between minimum and maximum capacity. The numbers do not settle it.	The school and the district office assess the case together against listed factors. If they disagree, the district panel decides. Above ideal capacity, the province must also provide resources.

Zone 3	At or above maximum capacity. The school is full.	The school may decline only if a less crowded school is within a reasonable distance. The district office places the learner there, with scholar transport where needed, and the province must tell the full school what it will provide and by when.

4. Some shortages mean "provide", not "refuse"

If every shortage counted towards capacity, the schools with the worst infrastructure would all be full. So most shortages oblige the province to provide (Regulation 5B). Toilets are the exception and do limit capacity, because they cannot be supplied in a few days and a severe shortage affects health and dignity.

- **Furniture and textbooks** never justify turning a learner away. The province must supply what is missing within a set time.
- **Water, electricity and security** are assessed for the whole school. A shortfall obliges the province to fix it. Only a confirmed loss of safe water stops admissions.
- **Unsafe rooms and shipping containers** are not classrooms. They do not count towards capacity and must be replaced (Regulation 16).

5. What happens to the learner, and to the school?

- **No learner is left without a place:** Where every nearby school is full, the province places the learner at the least overcrowded school within a reasonable distance and resources it, within a set number of school days (Regulation 5C(7) and (8)).
- **Disputes go to a district panel:** Schools, governing bodies, parents and learners can all use it, without a fee and, usually, without a lawyer. The panel also decides where a learner must be placed if the district office has not placed the learner in time (Regulations 5C(8) and 5E).
- **Oversized subject classes must be split:** The district office helps with the timetable. If there is no educator or room for another class, the province must provide one (Regulations 5C(9) and 7).
- **Schools are not penalised for staying within capacity:** A school cannot lose educator posts because it keeps its enrolment at or below its maximum capacity (Regulation 10(5)).

- **Pressure is planned for:** Provinces keep a register of unplaced learners, identify capacity pressure areas, where a set share of schools are full or many learners had to be placed at schools that were already full, and adopt a costed plan for each area that looks at least five years ahead (Regulation 13A). A national Task Force oversees implementation and reports to Parliament (Regulation 14).