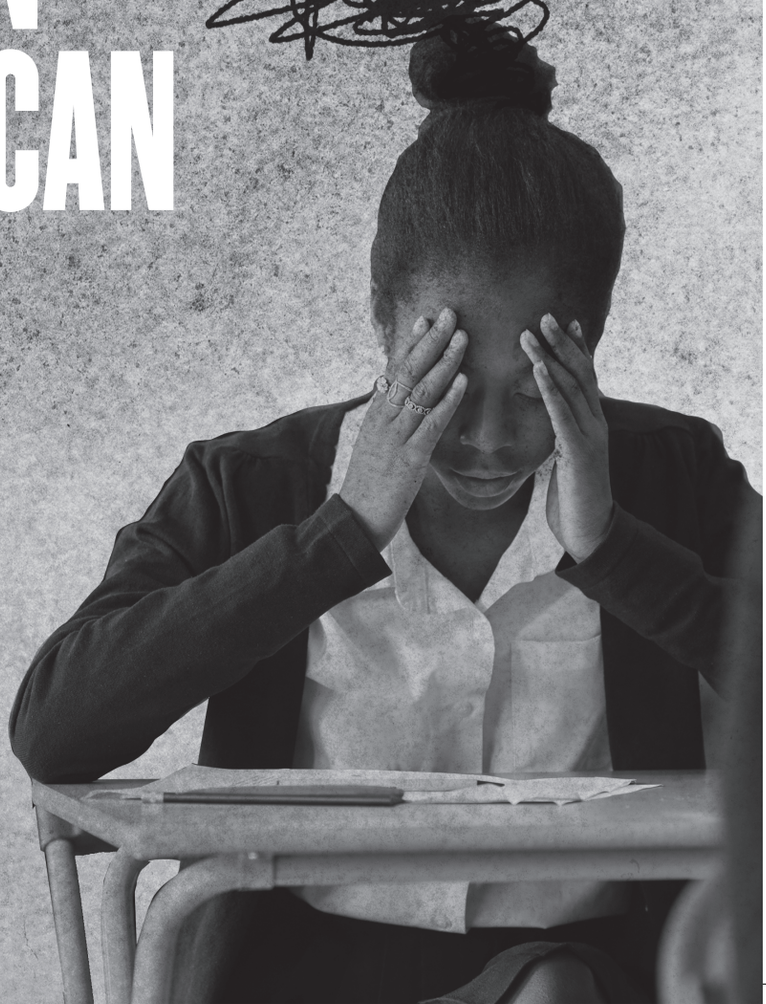
EQUAL EDUCATION

THE RIGHT TO PSYCHOSOCIAL SUPPORT FOR LEARNERS IN SOUTH AFRICAN SCHOOLS

November 2026



Refilwe Jankie

I hope this booklet helps learners realise that their mental health as well as their emotional health actually matters, and that they don't have to carry everything in silence. A lot of us go to schools where there isn't a single social worker or therapist on site, so we end up thinking that struggling emotionally is just something we have to deal with on ~~our~~ our own. I want learners to read this, understand their rights, and know that ~~their~~ asking for help isn't a sign of weakness; it's something they deserve. Above all, I hope it breaks the stigma and gives learners the words to stand up for their well-being, knowing that they aren't invisible and that their feelings are valid.

I want to see our schools become places of real, holistic care, not just places where we are judged by our marks. That means fighting for accessible in-school psychosocial support so having a councelor isn't a luxury for a lucky few, but a reality for all of us. But real change also means looking at the whole school community; recognising that teachers, admin staff, and even the security guards at the gate need care too, because we all shape the school environment together. I want a culture shift where mental health isn't treated as an emergency back-up plan, but as an everyday priority where everyone in the school gates feels safe, seen, and supported.

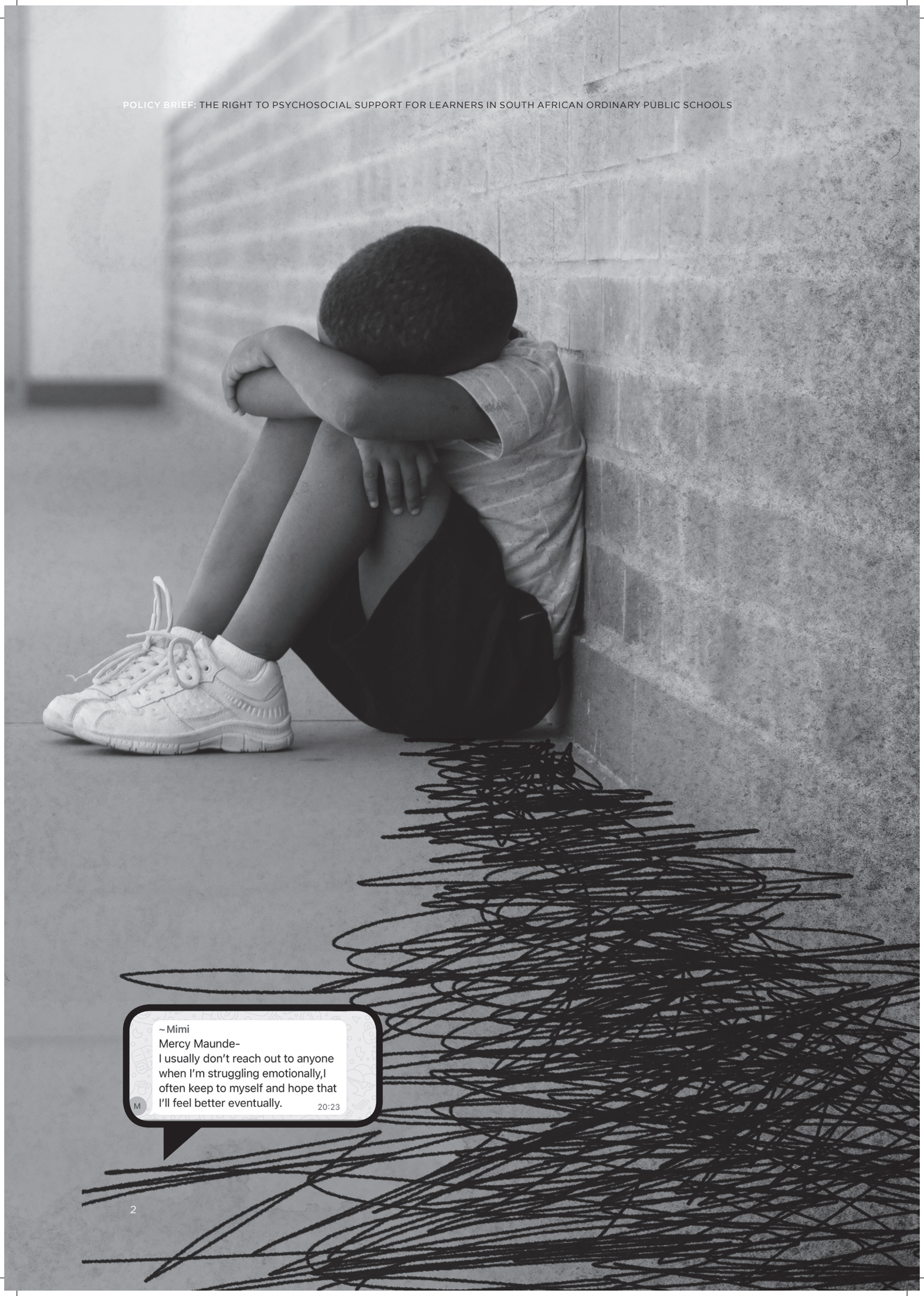
KEY ACRONYMS

BELA	Basic Education Laws Amendment Act
CSTL	Care and Support for Teaching and Learning Framework
DoH	Department of Health
DSD	Department of Social Development
NPAC	National Programme of Action for Children in South Africa
ISHP	Integrated School Health Policy
SGBs	School Governing Bodies
SIAS	Screening, Identification, Assessment, and Support Policy
SASA	South African Schools Act

ABOUT EQUAL EDUCATION

Equal Education (EE) is a youth-led mass democratic movement of learners, post-school youth, parents, teachers and community members who use mobilisation and public action, supported by careful research, to empower young activists and ensure equality in South African education. We have over 5000 members, organised in schools across Gauteng, the Western Cape, Eastern Cape, KwaZulu-Natal and Limpopo. Our campaigns include advocacy for school safety and better school environments. We have published reports focused on school safety over the years. EE advances equality in education through research, community organising, public mobilisation, litigation and policy advocacy.

EQUAL EDUCATION


~Mimi
Mercy Maunde-
I usually don't reach out to anyone when I'm struggling emotionally,I often keep to myself and hope that I'll feel better eventually.
20:23
M

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FOREWORD

SAFETY IS POLITICAL. HOW SAFE YOU ARE IS DETERMINED BY WHERE YOUR SCHOOL IS LOCATED: THE RIGHT TO PSYCHOSOCIAL SUPPORT IN SCHOOLS

Safety is political. How safe you are is determined by where your school is located: The right to psychosocial support in schools

Over the last 30 years, conversations about the right to education have focused on whether learners have access to school infrastructure, adequate sanitation, classrooms and learning materials. These are important and necessary conditions for learning. Yet, for learners across the townships of the Western Cape, one fundamental question continues to demand our attention: Can learners truly learn when they do not feel safe?

Since 2014, Equal Education members have consistently reminded us that safety is not merely about the physical conditions of a school. It is also about the emotional and psychological conditions in which learners are expected to learn, grow and develop. Learners have spoken about violence in their communities, violence within school premises, the trauma of gun violence and the devastating consequences of being denied access to psychosocial support services. Their experiences have made one thing clear: safety cannot be separated from the right to education.

Schools do not exist in isolation from the communities in which they are situated. When communities are characterised by violence, insecurity and trauma, these realities inevitably

find their way into schools and into the lives of learners. In townships across the Western Cape, children continue to experience the consequences of violence, including exposure to shootings, crossfire and other forms of harm. Some have witnessed violence on their way to school. These experiences do not simply disappear when a learner enters a classroom. They affect concentration, participation, confidence, relationships and the ability to learn.

This is why we must understand school safety as a political issue. It is a question of whose lives are protected, whose suffering is recognised and whose right to safety and education is taken seriously. When learners are expected to attend school in environments where their physical and psychological safety cannot be guaranteed, we must confront the inequalities that shape their daily experiences. Violence faced by learners is a direct threat to their right to education.

For more than a decade, Equal Education members in the Western Cape have demanded safe schools and challenged the government to treat safety as a priority within the education system. They have made it clear that learners cannot be expected to learn in environments that undermine their dignity, well being and sense of security.

Equal Education has consistently argued that school safety must never be treated as a secondary consideration or as an additional service to be provided when resources permit. Safety is part of education. Psychosocial support is part of education. The well being of learners is inseparable from their right to safety and education.

Through this policy brief and the psychosocial support toolkit, Equal Education seeks not only to challenge government but also to contribute to a clear understanding of what meaningful psychosocial support in schools must look like. We believe that every school should have access to a dedicated social worker and psychologists. Areas that are violence hotspots should be prioritised to curb the ongoing systemic violence.

We further believe that government must ensure that the policies and frameworks developed to address learner safety and psychosocial support are implemented meaningfully on the ground.

Policies that exist only on paper cannot protect learners. School-based support teams must be functional. Safe Schools programmes must be active and effective. School safety committees must meet, respond and take responsibility. These structures must work together to identify risks, prevent violence, support learners and ensure that those who need assistance are not left to navigate trauma alone. The government has a responsibility to ensure that these preventative and support mechanisms are adequately resourced, monitored and accessible to every learner.

The publication of this policy brief is therefore both a demand and an offering. It is a demand that the government fulfil its responsibility to protect learners and provide the support they need. It is also an offering of the knowledge, experiences and solutions developed through years of learner organising and advocacy. A safe school is not a privilege. A school that supports the psychosocial well-being of its learners is not an aspiration for the future. It is an obligation that must be fulfilled now.

Equal Education remains committed to fighting for schools in which every learner is protected, supported and able to learn with dignity. Because the right to education must mean more than being inside a classroom. It must mean being safe enough to learn, supported enough to heal and empowered enough to thrive.

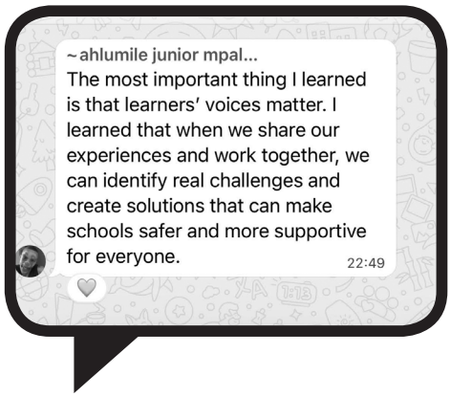
#iSafetyNgoku! #OneschoolOnesocialworker!



NONTSIKELELO DLULANI

Deputy Secretary General and Acting Head of the Western Cape

EXECUTIVE SUMMARY



Every learner in South Africa has the right to learn in a safe, supportive and enabling environment. Yet many learners continue to attend schools while carrying the effects of violence, abuse, poverty, neglect, trauma and other psychosocial challenges without access to the support they need. These experiences affect learners' mental health, emotional well-being, school attendance, behaviour and academic performance, undermining the realisation of their constitutional right to basic education.

This policy brief draws on the findings of the iSafety Ngoku (2023) report, which found that psychosocial support for learners is lacking at schools. Most schools surveyed did not have access to on-site psychologists or social workers, while teachers are expected to provide support despite lacking specialist training. This is a grave concern with the lack of adequate teacher training on provisioning of psychosocial support. These findings demonstrate a persistent gap between government commitments and learners' lived realities.

The purpose of this policy brief is to map and analyse South Africa's legislative and policy framework governing psychosocial support for learners and to determine whether learners have a legally enforceable right to these services. Drawing on the Constitution, national legislation, government policies and relevant case law, the brief demonstrates that psychosocial support forms an integral part of the constitutional right to basic education. Although no single statute expressly creates a standalone right to psychosocial support, the combined effect of sections 12, 28 and 29 of the Constitution, together with the South African Schools Act, the National Health Act and the Children's Act, establishes a clear legal foundation for learners to be provided with psychosocial support.

Furthermore, the brief analyses key government policies, including the CSTL Framework, ISHP, SIAS Policy, White Paper 6 on inclusive education, NPAC, and National Child Care and Protection Policy. These policies provide practical guidance for delivering psychosocial support and assign responsibilities to the DBE, PEDs, DoH and DSD. The legislation and policies analysed demonstrate that psychosocial support is a shared state responsibility requiring coordinated implementation across sectors.

Despite this comprehensive framework, implementation remains inadequate. Learners, particularly those in under-resourced schools and communities, continue to face significant barriers in accessing psychosocial support services. The continued absence of these services cannot be justified by administrative failures or resource constraints where the Constitution and government policies already impose obligations to provide them.

Accordingly, Equal Education concludes that psychosocial support is not an optional programme or discretionary service. It is a necessary component of learner safety, child protection and the constitutional right to basic education. Ensuring meaningful access to psychosocial support is essential for improving educational outcomes, protecting learners from violence and trauma, promoting inclusion, and enabling every learner to reach their full potential.

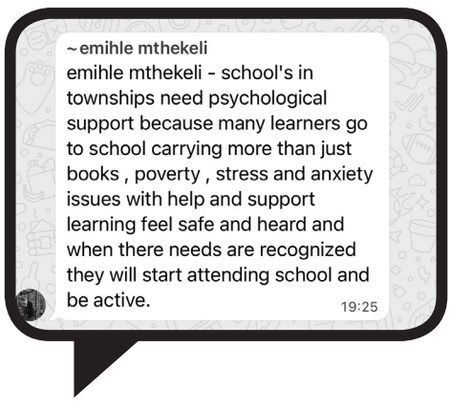
To address the implementation gap, Equal Education calls on the government to prioritise psychosocial support delivery through coordinated action. This includes ensuring that:

- Every ordinary public school has access to psychologists and social workers
- Requiring schools to develop school-based psychosocial support policies
- Strengthening monitoring and accountability mechanisms for delivery of psychosocial support services
- The DBE, along with all PEDs, must promote knowledge of and access to psychosocial support for learners
- The DBE must investigate the use of artificial intelligence as an option to provide psychosocial support for learners

The time has come to move beyond policy commitments and ensure implementation. Every learner deserves access to timely, accessible and quality psychosocial support. Delivering these services is both a constitutional obligation and an essential investment in the safety, dignity, well-being of learners.

1.

CONTEXT AND PURPOSE



This policy brief builds on Equal Education's ongoing work to advance safe, equitable, and enabling schooling environments for all learners. It explores the right to psychosocial support for learners and the role of psychosocial support as an essential component of learner safety and the realisation of the right to basic education. In this policy brief, we argue that ensuring learners have access to appropriate and timely psychosocial support services is fundamental to creating safe schools where they can learn, participate, and thrive.

The ongoing violence in schools and communities undermines learners' constitutional rights to dignity, safety, and education. Violence experienced by learners manifests in different forms, this could include physical violence, bullying, sexual violence and harassment, corporal punishment, gang-related violence, discrimination, intimidation, emotional abuse, as well as exposure to direct or indirect violence within homes and communities. Such violent experiences may often lead to trauma, anxiety, depression, absenteeism, poor academic performance, school dropout, and other adverse educational and developmental outcomes. For many learners, the effects of violence extend beyond immediate physical harm and create long-term psychosocial needs that require timely and appropriate support.

This policy brief was developed through a participatory, learner-centred approach that placed learners' lived experiences at the centre of the analysis. A learner task team comprising about 15 Equalisers, learner members of Equal Education from different ordinary public schools in the Western Cape, participated in a series of structured engagements to reflect on their experiences of school safety, well-being, and access to psychosocial support. After engaging with Equalisers, it was determined that psychosocial support for learners should be a key priority in addressing learner safety. Providing psychosocial support serves as a preventative and protective measure to assist learners who encounter violence. Equalisers agree that focusing on psychosocial support aims to counter structural violence against learners and thereby ensure holistic support for all learners, whether they are directly exposed to violence or simply require psychosocial support as part of their right to basic education.

The participants included learners from Grades 10-12, representing quintile 1-3 schools located in under-resourced communities in the Western Cape, such as Khayelitsha, Delft, Mfuleni and Langa. Their contributions provided critical insight into the realities faced by many learners and shaped the recommendations necessary for them. This policy brief is published along with a learner support toolkit to help unlock psychosocial support for learners.

2.
BACKGROUND

In 2016, we undertook a social audit and produced a report on safety and sanitation in Western Cape schools. The 2016 "Loose papers and vague allegations" exposed significant challenges of safety and sanitation in the Western Cape. The report revealed that learners were unsafe, with two in five learners directly or indirectly experiencing violence in school and/or on their way to and from school. It has been a decade since the publication of the safety and sanitation report, but realities revealed 10 years ago persist in the Western Cape.

In 2023, the safety and sanitation report was followed by the publication of iSafety Ngoku report. iSafety Ngoku was a sequel to the state of learner safety in the Western Cape. The report focused on investigating security measures related to school infrastructure law, effectiveness of school-based safety structures, adequacy of psychosocial support provisions, and awareness and application of existing policies. The report aimed to tackle the ongoing safety challenges in the Western Cape. iSafety Ngoku revealed that 75% of the 40 interviewed schools did not have a psychologist or social worker based on-site for psychosocial support. While 75% of surveyed schools had at least one teacher designated to provide initial psychosocial support, some of the teachers had not received training for this duty, among other concerning findings.

Both these reports were grounded in elements of physical safety in school environments. However, the 2023 report drew attention to psychosocial support as an integral tool to address school violence, finding that it plays an integral role in improving learners' mental health, and allowing for meaningful participation in the educational environment that results in quality learning outcomes.

Part of EE's current key focus on school safety is on the provisioning of psychosocial support in preventing, mitigating, and addressing violence encountered by learners. This policy brief serves as an advocacy tool that emphasises the need for psychosocial support services and interventions for learners. In this document, we map, analyse, and critique a variety of policies and other legal instruments that regulate provisioning of psychosocial support for learners.

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3. INTRODUCTION

Children's mental health challenges in South Africa are exacerbated by many societal instabilities and violence, resulting in higher rates of depression, anxiety, and trauma. According to the South African Depression and Anxiety Group, teenage suicide is the third leading cause of death among young people aged 15–24 in South Africa, with 9% of reported teenage deaths attributed to suicide. School is a safety net for learners, and strengthening psychosocial support is a tool for preventing and addressing the mental health challenges they face. Moreover, psychosocial support also serves as a restorative measure for learners who may encounter violence as victims or perpetrators.

Section 29(1) of the Constitution provides for the right to basic education. Over the years since the introduction of the Constitution, the right to basic education has continued to evolve, showing its flexibility and resilience, particularly in response to changing societal needs and challenges such as learner safety and access to resources. Learner safety is a primary feature of the right to basic education. Accordingly, the realisation of the right to basic education as provided in the Constitution encompasses the safety and security of learners. This brief seeks to explore the right to psychosocial support provisioning for learners through the lens of learner safety.

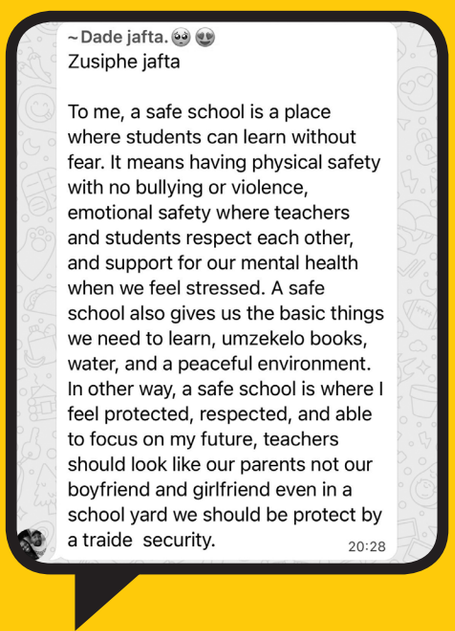
It is established in terms of the CSTL framework that a school is not merely a place of teaching and learning but an environment where learners ought to feel physically and psychologically safe to thrive. Mahlapahlapana T and Osher D also support this notion, arguing that learners require safe and supportive schools to develop and thrive. These needs are particularly great for children who are vulnerable, namely those who struggle with trauma, the adversities of poverty, and the challenges of racism, ethnocentrism, religious prejudice, and disability. Importantly, learning does not happen in a vacuum. Therefore, it is important that learner needs, such as psychosocial support provisioning, be a main feature for holistic learning, as this support can help address emotional and social challenges that may hinder academic success.

Although the rationale for providing psychosocial support to learners is well-established, it does not reflect the reality for many learners across South Africa. It has been more than two years since the publication of the iSafety Ngoku report, and incidents of learner violence continue to spiral, leaving learners increasingly exposed. Statistics South Africa revealed that more than 1.1 million pupils reported school violence in 2024. These are not isolated incidents of violence experienced by learners. As of 2026, there are still growing reports of learner violence across South Africa. Therefore, this policy brief argues for the recognition of the right to psychosocial support for learners as an intervention to address the challenges faced by learners, including the lack of safety.

As a background, it is important to establish the meaning of a safe school environment. The CSTL defines a safe school as follows:

A safe school may be defined as one that is free of danger and where there is absence of possible harm, a place in which non-educators, educators, and learners may work, teach and learn without fear of ridicule, intimidation, harassment, humiliation, or violence.

A safe school is therefore a healthy school in that it is physically and psychologically safe.



4.

MAPPING OF LAW AND POLICY ON PSYCHOSOCIAL SUPPORT FOR LEARNERS

This section consolidates law and policy orientation, as well as the state's commitment towards the realisation of psychosocial support for children, particularly learners within the South African education system. We begin the analysis with a discussion that aims to identify the source of the right to psychosocial support for learners. In doing so, we unpack elements of various law and policy documents.

- The Constitution, 1996
- South African Schools Act 84 of 1996
- National Health Act 61 of 2003
- Children's Act No 38 of 2005, as amended
- White Paper 6: Special Needs Education – Building an Inclusive education and training system (2001)
- Care and Support for Teaching and Learning (CSTL) (2008)
- Integrated School Health Policy (2012)
- Screening Identification and Support (SIAS) (2014)



Emihle Zamazulu

Emihle Tima - Schools should have necessary resources like libraries, Computer labs, wellness centers or guidance counselor etc available this is to ensure that learners receive and have access to the support they need at all time.

- The government should know that the education of a black child is not just another meaningless task it has to execute but a right that to be delivered. Children in the marginalized community should have the same type and quality of education as everyone without the need to fight for it as it's their right. The government should stop creating policies that look good on paper but never seen on the ground and actually start implementing them.

05:00

A GENERATION GROWING UP WIT

The law recognises the right. Learı

YEARS OF LAW & POLICIES

Progressive recognition of the right to psychosocial support

1996	1996	2001	2003	2005
South African Schools Act 84 of 1996 Provides for a safe school environment and learner welfare.	National Programme of Action for Children in South Africa 1996 – 2030 Commitment to children's holistic development and wellbeing.	White Paper 6: Special needs education – building an inclusive education and training system. Early identification and support for learners with barriers.	National Health Act, (Act No 61 of 2003) Mental health care is part of essential health services.	Children's Ac (Act No 38 c 2005, as amended) Ensures protec care and developmenta support for all childrer

MORE THAN TWO DECADES OF LAW AND POLICI

THE LIFE COURSE OF A LEARNER

GROWING UP WITHOUT ACCESS TO PSYCHOSOCIAL SUPPORT

0–3 YEARS TODDLER



- Unidentified trauma
- Neglect and abuse often unnoticed
- Poor emotional regulation
- Delayed development
- Weak attachment and trust

4–6 YEARS PRESCHOOL



- Anxiety
- Behavioural challenges
- Learning difficulties remain unidentified
- Low self-esteem begins

7–9 YEARS FOUNDATION PHASE



- Effects of abuse, grief and neglect impact learning
- Difficulty concentrating
- Low confidence
- Absenteeism starts

10–12 YEARS INTERMEDIATE PHASE

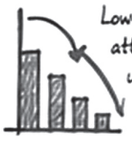


- Struggles with emotions
- Behaviour problems
- Teachers carry burdens they are not trained to address
- Learners suffer in silence

THE LONG-TERM IMPACT: YOUNG ADULT AND BEYOND



Unresolved trauma and poor mental health



Lower educational attainment and unemployment risks



Difficulty forming healthy relationships and social connections



Increased risk of conflict with the law and criminal justice involvement



KEY MESSAGE

The challenge is no longer whether learners have a right to psychosocial
South Africa's legislative and policy framework clearly recognises th
The challenge is implementation. Every year that psychosocial su
is another year in which a child grows into adulthood carrying preventa
undermining their education, wellbeing and future life opportunities.

ITHOUT PSYCHOSOCIAL SUPPORT

arners continue to grow up <u>without</u> it.

5	2008	2012	2014	2019	2019
Act, 38 of as d) otection, nd ental for dren.	Care and Support for Teaching and Learning Schools as centres of care, support and wellbeing for learners.	Integrated School Health Policy Promotes physical, mental and psychosocial wellbeing in school settings.	Screening, Identification, Assessment and Support (SIAS) Policy Learners with barriers to learning are to be identified and supported.	National Child Care and Protection Policy Coordinated psychosocial support and protection for children.	Guide for Learner Support Agents and Schools on Providing Psychosocial Support for Learners Practical guidance for schools to provide psychosocial support.

ICIES... BUT IMPLEMENTATION HAS NOT KEPT PACE. →

RS TE



e

12–13 YEARS SENIOR PRIMARY



- Emotional needs largely unmet
- Stress and worry increase
- Physical health screened but psychosocial needs ignored

13–15 YEARS HIGH SCHOOL ENTRY



- Referrals delayed or unavailable
- Shortage of psychologists, counsellors and social workers
- Academic performance affected

15–17 YEARS ADOLESCENT



- Anxiety, depression and trauma
- Exposure to violence and abuse
- Bullying and isolation
- Higher risk of substance abuse
- School disengagement

17–18 YEARS SCHOOL-LEAVING LEARNER



- Many learners complete school having never spoken to a counsellor or social worker
- Unresolved pain carried into adulthood

risk with nd stice t



Intergenerational cycles of violence, trauma and poverty



Lost potential, lost productivity, lost opportunities for our nation

THE POLICY GAP

1996 → 2019

More than two decades of laws and policies progressively recognised psychosocial support as essential to children's wellbeing and education.

≠

THE REALITY

Thousands of learners have progressed from Grade R to Grade 12 without ever receiving meaningful psychosocial support because implementation has not kept pace with legal and policy commitments.

ial support.
<u>that they do.</u>
support is not provided
ntable trauma,

RIGHTS RECOGNISED.
SUPPORT DELAYED.
CHILDHOOD CANNOT BE REPEATED.



4.1

Rights-based framework for psychosocial support for children

This policy brief uses the terms "children" and "learners" interchangeably. As indicated in the background, everyone has a right to a basic education. The scope of the right to basic education is elastic. Accessing the right to basic education is not limited to traditional classroom teaching. Cases such as Minister of Basic Education v Basic Education for All (textbook case) and Equal Education and Others v Minister of Basic Education and Others (NSNP case), among others, illustrate the evolution of the right to basic education. The textbook case illustrated that the realisation of the right to basic education requires direct resource provisioning for learning to take place, while the NSNP case depicted the interconnection of the right to nutrition as provided in terms of section 28(2). Similar to these two cases, the right to basic education can also be linked to other rights relating to children's safety and care.

To elaborate on the elasticity of the right to basic education, we turn to constitutional provisions on child safety and care. Section 12(1)(c) recognises the right to security for persons to be free from all forms of violence. This right extends to learners in school environments.

Furthermore, section 28(1)(b) reaffirms that children have a right to appropriate alternative care when removed from the family environment. Importantly, schools are sites of care for learners during their time in school in line with the *loco parentis* principle. In terms of the *loco parentis* principle, school officials act in the place of a parent who has entrusted the custody and control of his or her child to an educator or another person during normal intramural or extramural school activities. Therefore, school officials, including teachers, owe care to learners during their time in school.

The duty of care illustrates the relationship between the right to basic education and sections 12(1)(c) and 28(1)(b) of the Constitution. Schools have a duty of care, which includes keeping learners' safety during their time at school. Given that psychosocial support is a key component of the right to safety and education, schools have a duty to provide and facilitate access to psychosocial support services for learners.

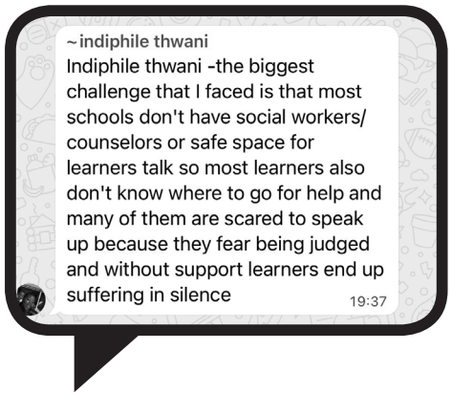
Furthermore, violence is not limited to physical violence, the safety of learners also extends to their psychological well-being. It may include non-physical violence, such as psychological violence. Therefore, the right to be free from all forms of violence includes an environment free from psycho-emotional harm. The right to be in a safe environment, free of violence, is an intrinsic part of the right to basic education.

Having established the right of learners to be free from all forms of violence and in safe, caring, and supportive environments, it is important to establish who the duty bearers are. This is necessary to unlock access to these rights.

Firstly, the state must respect, protect, promote and fulfil the rights in the Bill of Rights. Therefore, the state must protect all the rights listed above. In the context of learners, the duty to be cared for is extended to the DBE and schools. However,

children are not solely the responsibility of the state. Parents are the primary duty bearers of the rights provided under sections 12(1)(c) and 28(1)(b). Accordingly, safeguarding children, including offering psychosocial support, starts in their homes.

Although there is no explicit right to provide psychosocial support, this right may be read as part of sections 12(1)(c), 28(1)(b) and 29(1) as discussed above. The State has acknowledged this duty through the development of legislation and policy that seeks to respect, protect and fulfil the provisioning of psychosocial support for children, particularly learners in school environments. Such legislative and policy commitments are discussed in the following sections.

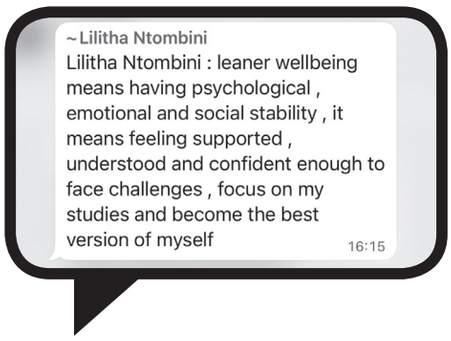


In terms of the *loco parentis* principle, school officials act in the place of a parent who has entrusted the custody and control of his or her child to an educator or another person during normal intramural or extramural school activities.

Therefore, school officials, including teachers, owe care to learners during their time in school.

4.2

Legislation on psychosocial support for children



4.2.1

SOUTH AFRICAN SCHOOLS ACT 84 OF 1996

The SASA, as the primary legislation governing the functioning and administration of public schools in South Africa, does not expressly provide for the delivery of psychosocial support to learners. Nevertheless, it contains several provisions that indirectly promote learners' psychosocial well-being through its broader commitment to learner welfare and the creation of safe and supportive school environments. These include provisions regulating school discipline, the prohibition of corporal punishment and initiation practices, and the inclusion of learners with special education needs in ordinary public schools. While these measures contribute to protecting learners' dignity, safety, and well-being, SASA does not establish a clear legal framework for the provision of psychosocial support, nor does it specify how learners may access such services. Consequently, any recognition of psychosocial support within the Act can be inferred from its broader protective objectives rather than from an explicit statutory obligation. The sections discussed below illustrate the provisions of SASA that have an indirect bearing on the delivery of psychosocial support in schools.

→ School code of conduct as an opportunity to build-in psychosocial support for learners

According to section 8(5) of the SASA, a code of conduct must contain provisions of due process safeguarding the interests of the learner [emphasis] and any other party involved in disciplinary proceedings. This provision is flexible. It allows the members of the school governing bodies (SGBs), which must include a learner representative, to provide measures that safeguard all learners involved in disciplinary hearings when developing the school code of conduct. Therefore, a school's code of conduct may include measures for accessing psychosocial support for learners who may be involved in disciplinary hearings. For example, in a case of violence against a learner, a school code of conduct may provide for steps that the school can take to unlock psychosocial support for both the victim and the perpetrator.

In summary, section 8(5) is drafted with flexibility, allowing SGBs to develop school-based solutions that may be entrenched in binding documents such as the school code of conduct. Furthermore, the SGBs are permitted to develop policies that encourage the provisioning of psychosocial support, which

Schools should view disciplinary action against learners in line with the school code of conduct as an opportunity to unlock psychosocial support, not as a chance to chastise.

may include initiatives like the installation of “kindness benches” to promote mental well-being among learners. Such initiatives are important to promote learner wellness. SGBs are the primary bodies governing schools and have a key role in developing school policies and initiatives. Schools such as Rocklands Primary School in Mitchells Plain have installed a “Kind Heart Bench” in collaboration with the Schools Environment Education and Developments (SEED) to support the mental health of learners by encouraging conversations and peer support. This initiative is one of many permitted by the SASA to unlock mental health support for learners.

Schools should view disciplinary action against learners in line with the school code of conduct as an opportunity to unlock psychosocial support, not as a chance to chastise. This principle should also apply to instances of learner-on-learner violence in schools to promote positive discipline. This approach was stressed in A.P NO and Others v Oakdale Agricultural High School and Others, with the court noting that the expulsion of two learners over vaping was an excessive sanction and that discipline that humiliates learners cannot be justified academically nor from a developmental perspective. Salie J’s judgment upheld the principles of child protection and encouraged support for learners. Importantly, this case illustrates that disciplinary action against learners is an indicator for learner support to be triggered, including the provision of psychosocial support.

Prohibition of corporal punishment and initiation practices

Corporal punishment is a form of violence against learners, and the SASA prohibits the administration of corporal punishment against learners in schools. On 20 August 2025, the World Health Organization published a report confirming that the use of corporal punishment is a health risk, also affecting learners’ psychological well-being. Corporal punishment is not only limited to physical harm but also extends to denying learners meals, forcing learners to stay in uncomfortable positions, forced ingestion, and denying or restricting the use of toilets, among other things, as amended by the BELA. The prohibition of corporal punishment is one of the mechanisms aimed at upholding the best interests of children, thereby not exposing them to violence. As such, the prohibition is a preventative measure against straining learners’ psychological well-being.

Section 10A of the SASA provides another preventative measure aimed at safeguarding learners’ psychosocial needs. According to section 10A of the SASA, no person may conduct or participate in any initiation practices against a learner at a school or in a hostel accommodating learners from a school. In accordance with the SASA, “initiation practices” means any act that, in the process of initiation, admission into, or affiliation with, or as a condition for continued membership of, a school, a group, intramural or extramural activities, an interschool sports team, or organisation that endangers the mental or physical health or safety of a person. By extension of this provision, schools owe a positive duty to learners to ensure that their mental health is safeguarded and that no person is permitted to harm their mental well-being through initiation practices. This provision acknowledges learners’ mental health as an essential component of education. Hence, learners are safeguarded against initiation practices in school.

Provisioning of special education needs

Provincial education members of the executive council (MECs) must, where reasonably practicable, provide education for learners with special educational needs at ordinary public schools and relevant educational support services for such learners. This provision promotes inclusive education, compelling the MECs to offer educational support services to learners in ordinary public schools. Educational support services for learners also include the direct provision of psychosocial support.

In summary, although there is no explicit direct requirement for the provision of psychosocial support for learners in terms of SASA, section 12(4) does provide an opportunity for learners to seek psychosocial support as part of the educational needs that MECs must provide. As such, learners may be able to rely on section 12(4) to advance their claim. Similarly, as discussed above, sections 8, 10, and 10A indicate that psychosocial support for learners is incorporated into the SASA as part of the education support services that must be provided. Furthermore, these sections allow for instances where schools and PEDs should proactively provide for psychosocial support and that failure to do so would violate the learner's constitutional rights.

4.2.2 NATIONAL HEALTH ACT, 2003 (ACT NO 61 OF 2003)

The National Health Act (Health Act) is a primary piece of legislation that governs the national health system. The Health Act regulates and promotes access to equitable health services. Health care services as provided by the Act include the provisioning of psychosocial support services for children, particularly for learners in schools. The Integrated School Health Policy is one of the key documents that seeks to realise holistic key health services for learners in schools, and this will be further elaborated in this policy brief. Child and adolescent mental health guidelines are also predicated on the Health Act, which aims to promote mental health support and well-being for children. It is evident from the state's efforts in legislating mental health services for children that they have the right to psychosocial support services, although not directly expressed in the Health Act.

With the Health Act in mind, it is evident the provisioning of psychosocial support for learners requires a multisectoral approach with the DoH being a key player. This will be discussed in a separate section in this brief.

Provincial education members of the executive council (MECs) must, where reasonably practicable, provide education for learners with special educational needs at ordinary public schools and relevant educational support services for such learners.

4.2.3

CHILDREN'S ACT, 2005 (ACT NO 38 OF 2005, AS AMENDED)

The Children's Act is primary legislation designed to protect and promote children's rights and well-being. Similar to the Health Act, psychosocial support provisioning is also provided for in the Children's Act. Furthermore, DSD is the main custodian for ensuring the liveliness of the provisions provided in the Children's Act. This confirms that multiple government departments share interdepartmental responsibilities for protecting and promoting children's rights. Although the Children's Act is not specific about the provision of psychosocial support for children, it does aim to safeguard children in schools. The Act places an obligation on teachers, among other persons, who may become aware of child abuse, exploitation, or maltreatment or where there is deliberate neglect or where a child is degraded, to report it to the DSD. The reporting extends beyond the grounds mentioned above.

Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial DSD, a designated child protection organisation or a police official. There need not be gross evidence of violence that a child may be suffering, but a reasonable belief that a child is in need of care would suffice for reporting. Reporting such cases would help unlock child care services from the DSD, which may include psychosocial support provisioning if necessary. Importantly, this provision also highlights and proves the importance of child protection and psychosocial support as a key feature of legislative provisioning.

Children as rights holders and as a vulnerable group: Health and Children's Act

Children, including learners, are primary rights holders. In Ab and Another v Pridwin Preparatory School and Others, the court expounded that children are not merely extensions of their parents but independent rights-holders. This principle aligns with constitutional values that recognise children's rights as independent individuals, including their rights to dignity, bodily integrity, and the paramount importance of their best interests, among other things. This case underscored the autonomy of children. This background is crucial for understanding how children are viewed, and it allows them to be seen as rights holders like adults, who also need psychosocial support services, such as counselling and mental health resources, to ensure their well-being and development.

Furthermore, children are generally perceived as vulnerable persons due to their physical, emotional, and cognitive developmental stages and their limited capacity to protect themselves. The Health Act, along with the Children's Act, aims to uphold the principles of child protection and recognises children as part of vulnerable groups, thereby ensuring that they are prioritised for health care services in line with section 28(1)(c) of the Constitution. In the context of this policy brief, health care services as completed by the Health Act include psychosocial support services for children. Therefore, according to the Health Act, the DoH is responsible for providing direct psychosocial support for children. Schools serve as hubs for delivering health services, including psychosocial support, under the DoH's responsibility through the ISHP, which will be discussed later.

Conclusion on legislation: the right to psychosocial support

Legislation and policy documents developed by the state establish the right to psychosocial support for learners. Legislation consists of legally binding rules and subordinate laws (regulations) enacted in accordance with legislation, whereas policies outline the goals and principles of government departments. Policies are discretionary state documents that may be legally binding on the government. Legislative commitments serve as binding instruments that government departments must adhere to, rather than mere promises to provide psychosocial support services.

The Constitution, which serves as the founding document for establishing rights, specifically sections 12(1)(c), 28, and 29(1)(a), establishes a prima facie basis for the right to psychosocial support provision for learners. Furthermore, the realisation of this right is further expounded in the SASA, Health Act, and Children's Act. As argued, the elasticity of the right to basic education is permissive for the inclusion of psychosocial support as part of the basket of basic education provisions. Policies and guidelines that provide content and clarity on psychosocial support delivery further support the state's legislative commitment to psychosocial support provisioning.

Provisioning of psychosocial support should be viewed as an important component of a state's constitutional obligation rather than a mere health intervention. Interpreting the provisioning of psychosocial support exclusively through the lens of medical legislation may risk narrowing its scope, limiting access to learners who receive a formal diagnosis, and undermining the preventative, developmental and inclusive objectives envisaged by the Constitution and the broader legislative framework protecting children's rights. Accordingly, a holistic, rights-based approach to the realisation of access to psychosocial support is of paramount importance.

4.3

Policies and programmes focused on psychosocial support delivery for children

Over the years, South Africa has developed many policies and guidelines seeking to expand on the provisioning of psychosocial support services. After establishing the legal sources for the right to psychosocial support, we will examine the policies and guiding documents that further facilitate the realisation of this right. In turn, we explore the following policy documents on psychosocial support delivery:

- **National Programme of Action for Children in South Africa 1996 - 2030**
- **White Paper 6: Special Needs Education - Building an Inclusive Education and Training Systems, 2001**
- **Care and Support for Teaching and Learning, 2008**
- **Integrated School Health Policy, 2012**
- **Screening, Identification, Assessment and Support Policy, 2014**
- **National Child Care and Protection Policy, 2019**
- **Guide for Learner Support Agents and Schools on Providing Psychosocial Support for Learners, 2019**

4.3.1

THE NATIONAL PROGRAMMES OF ACTION FOR CHILDREN IN SOUTH AFRICA (1996 - 2030)

The National Programmes of Action for Children in South Africa (NPACs) outlines the government's commitment strategies towards children's wellbeing. The NPACs exists as a framework for children's rights implementation. It is aligned with the Children's Act, the Convention on the Rights of the Child and other frameworks relating to children. Over the years the NPACs recognise the importance of psychosocial provisioning for children and explicitly recognises its provisioning as part of education. The NPACs aim to centre education support services including school health, social work and psychological services as key areas of provisioning. Importantly, it places emphasis on the DSD to provide psychosocial support to vulnerable children and families, including child-headed households.

The working paper notes that there is growing evidence that there is a gap between policy and practice, leaving children vulnerable without realising their rights.

Although the South African government has committed itself to programmes and plans of action over the years, this has not translated into reality in terms of delivering psychosocial support services for children, especially in schools. Evidently, South Africa has an abundance of policies on children, but it should place more focus and emphasis on resourcing and practice. UNICEF's working paper also supports this notion. The working paper notes that there is growing evidence that there is a gap between policy and practice, leaving children vulnerable without realising their rights. Even worse, policies on delivery of psychosocial support are jumbled across many government departments, causing confusion and lack of implementation, which ultimately undermines the effectiveness of support services for vulnerable children. Accordingly, there is a need for streamlined, clearly identified departments to exercise the duty to provide psychosocial support for learners in school.

4.3.2

WHITE PAPER 6: SPECIAL NEEDS EDUCATION - BUILDING AN INCLUSIVE EDUCATION AND TRAINING SYSTEM (2001)

The DBE appreciates that a broad range of learning needs exists among the learner population at any point in time and that where these are not met, learners may fail to learn effectively or be excluded from the learning system.

In this regard, different learning needs may arise from a range of factors, including physical, mental, sensory, neurological, and developmental impairments, differences in intellectual ability, and particularly challenging life experiences, including socio-economic deprivations. However, the White Paper does not do much to cover some of these grounds for learner support save for learners with disabilities.

The White Paper fails to adequately define special education needs. Its focus reads as central to resolving the apartheid mischief that excluded learners from accessing special schools. The White Paper does attempt to recognise that special education needs for learning do not reside primarily within the learner, and accordingly, learner support only taking the form of specialist, typically medical interventions. Although the White Paper does not explicitly define special education requirements, it can be inferred that it acknowledges that special education needs extend beyond traditional medical learner support. Consequently, the fact provision of psychosocial support to learners who experience barriers to learning do not necessitate conventional medical intervention, is equally important. Furthermore, the delivery of psychosocial support for learners in public ordinary schools is a central tool for promoting inclusive education.

The delivery of psychosocial support for learners in ordinary public schools does not distract from the importance of prioritising learners with disabilities in special schools. However, the meaningful access to psychosocial support in ordinary public schools can lessen the pressure of learner referrals to special schools.

In 2001, the White Paper recognised that "learners with disabilities experienced great difficulty in gaining access to education, and very few special schools existed, and they were limited to admitting learners according to rigidly applied categories". 25 years later, South Africa has only 554 special schools serving close to 200 000 learners. The shortage of special schools still causes a significant difficulty for learners with severe disabilities to access education. Accordingly, in line with section 12(4) of the SASA, each provincial education MEC must reasonably accommodate learners with special education needs in ordinary public schools. This requires stronger interventions and resources for the delivery of psychosocial support services to support learners.

Care and support is an intrinsic part of education and development of learners. Therefore, psychosocial support for learners is a priority action area in terms of the CSTL programme.

4.3.3

CARE AND SUPPORT FOR TEACHING AND LEARNING (CSTL) (2008)

The CSTL programme's purpose is to realise all children's education rights, particularly those of the most vulnerable, by transforming schools into inclusive environments and eliminating health and economic barriers that impede learners' access to education, performance, progression, and retention.

The CSTL programme emphasises the school as a conduit for care and support services for learners in school. The programme positions a school as a resource to access childcare services and not merely as a desk, chalks and teaching environment. It is intended to provide care and support to teachers and learners in and through schools.

The success of CSTL is measured by the extent to which all children are:

- **Enrolled at school at an appropriate age;**
- **Able to attend school regularly and complete their schooling; and**
- **Provided the opportunity and support to enable them to reach their full potential;**

The CSTL programme imagines access to education as a full package of a child's development. From the entry point to the education system, a lifelong journey of learning and holistic support for a child's development. To test the success of the CSTL programme, the third leg of the test becomes more relevant to ascertain if learners feel provided with opportunities and support that are necessary for their development. The provision of psychosocial support for learners is one of the integral tools for enabling them to reach their full potential. The schooling system cannot pretend that its job is purely to teach because teachers are not teaching machines, but teaching children who have to be cared for and supported in order for them to succeed.

Care and support is an intrinsic part of education and development of learners. Therefore, psychosocial support for learners is a priority action area in terms of the CSTL programme. It acknowledges the provision of care and support in response to the emotional, mental and social needs of learners and educators is necessary in creating safe, supportive learning environments.

To realise the full implementation of the CSTL programme, certain roles are assigned to different role players, which we will unpack below.

According to the CSTL programmes teachers are supposed to play an important role in the provision of psychosocial support to vulnerable learners, by identifying the need for support, and ensuring support for stress and depression through referrals. Also, schools are required to establish peer education groups that can offer ongoing support and to maintain open channels with families. Importantly, teachers must be provided with necessary skills to support learners.

In the execution of their role, teachers may draw on professional services such as psychologists within the DoH and DSD, drop-in centres registered with the DSD. Teachers are also encouraged to seek psychosocial support services through the Provincial Employee Assistance Programmes.

In light of the limited school capacity to provide psychosocial support, the schools may have been encouraged to form different partnerships for the delivery of psychosocial support service. Such partnerships may include Partnerships with the DSD and DoH are critical to link learners with social workers, psychologists and psychiatrists. NGOs, community-based organisations (CBOs) and faith-based organisations (FBOs) can also assist schools with psychosocial support.

The CSTL programme also sets out the following minimum standards for different role players which are summed as follows:

Provincial Education Department with support from the DBE

- Ensure provision of psychosocial support for learners;
- Ensure that there is a referral network for learners needing support for emotional, mental and social needs;
- Train teachers in providing psychosocial support to learners.

School principal and school management team

- Providing support in the classroom for learners with psychosocial barriers to learning;
- Must develop annual School Improvement Plans and individual plans for the personal growth and development of teachers that increase the school's capacity to provide psychosocial support;
- Must establish an SBST that includes representation of bodies or people with psychosocial skills;
- Must ensure that educators, SGBs, RCLs and learners in peer groups are trained in the identification of learners needing psychosocial support and their respective roles in providing support;
- Should establish a referral network between the school and service providers in the surrounding community, DSD and other government departments that provide psychosocial support.

Parents and caregivers

- Where their children have experienced trauma, should make sure that they let the educators know;
- Must make sure that their children are assessed by the school for additional learning needs;
- Must find out from the school and the educator what services and support are available to help with their children's additional needs and make sure that they receive these.

4.3.4

INTEGRATED SCHOOL HEALTH POLICY (2012)

The ISHP is an integral policy on streamlining health services for learners in schools. It presents international evidence showing that the successful implementation of school health programmes depends on strong partnerships among the education and health sectors, teachers and health workers, schools and community groups, as well as learners and those responsible for school health programmes. In terms of the policy, the responsibility for coordinating health services for learners is centred in the DoH, with regular meetings required to ensure the delivery of school health services. Central to the health services delivered for learners includes the provisioning of psychosocial support. Accordingly, the ISHP affirms the state's duty to provide psychosocial support for learners in school. According to the ISHP every learner must once during each of the four educational phases. Additional individual assessments should also be offered to all learners who are repeating grades or at the request of an educator, parent or at the request of the learner (self-referral).

The policy is set out to contribute to the improvement of the general health of school-going children as well as the environmental conditions in schools and address health barriers to learning in order to improve education outcomes of access to school, and learner retention. The Integrated School Health programme as provided in terms of the ISHP includes the following:

School health teams are responsible for providing most school health services, visiting schools on selected dates. Mental health and psychosocial support are part of the services to be provided by the school nurses. Furthermore, the school health packages include psychosocial support delivery for learners from Grades R to 12. The recommended norm for delivering individual learner assessments is one professional nurse for every 2,000 learners to be assessed per year. The professional nurse is primarily responsible for coordinating the implementation of the ISHP, conducting individual learner assessments, and providing on-site services. The professional nurses are also responsible for ensuring referral and follow-up of learners when required and for ensuring that information on learners is recorded and stored appropriately.

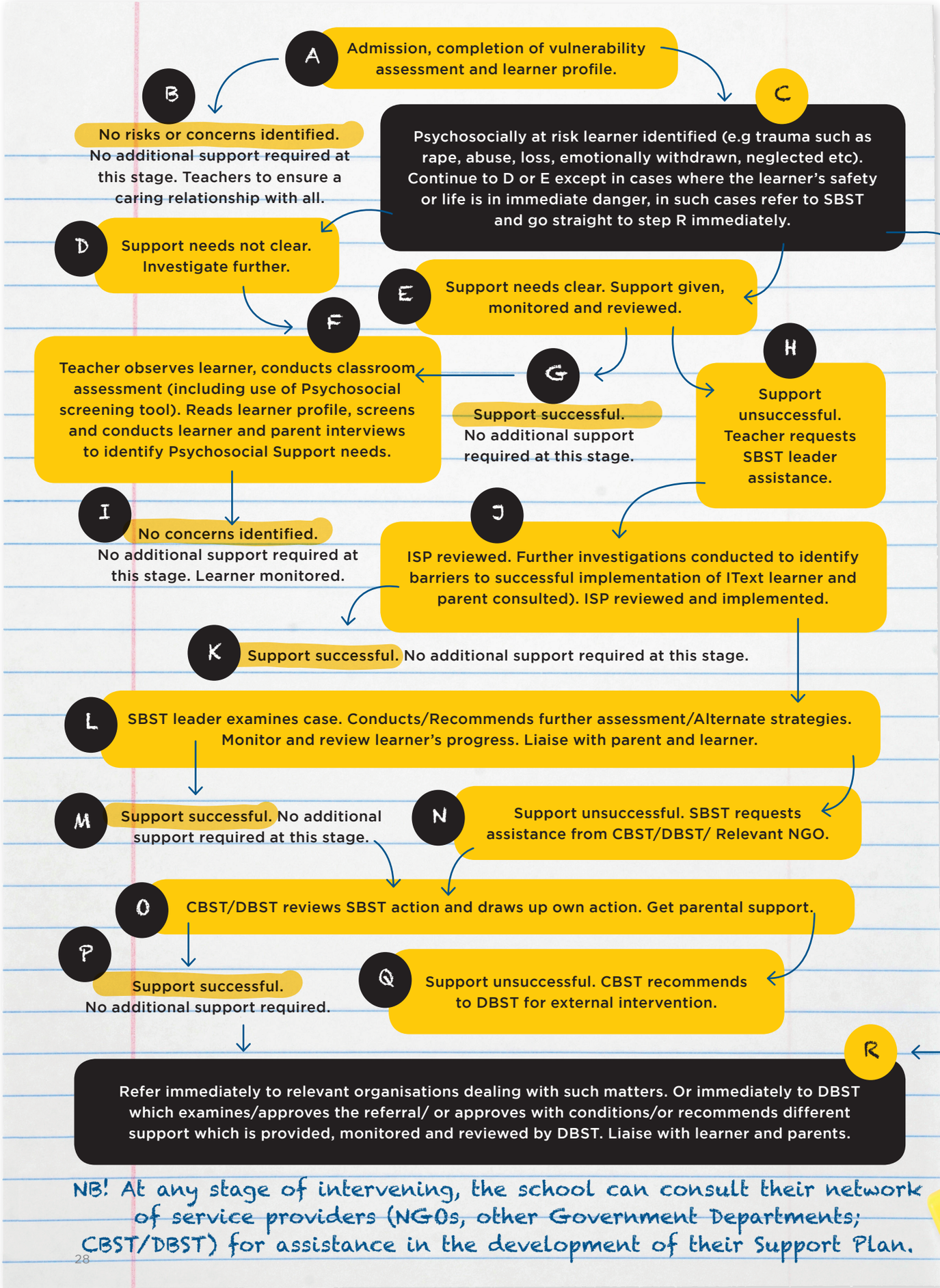
The National and Provincial DoHs, DBE, and DSD must ensure coordination between all the relevant service providers related to the school health programme. Regular meetings are necessary to ensure that the collaboration required for the implementation of the policy is achieved at all levels.

4.3.5

SCREENING IDENTIFICATION AND SUPPORT (SIAS) (2014)

The SIAS policy is one of the most popular policies over the years for delivering support and referrals to special schools. Importantly, SIAS is central for the promotion of inclusive education and ensuring delivery of support for learners within ordinary public schools. To ensure the delivery of support for learners, one must read the provisioning of psychosocial support in the SIAS policy alongside section 12(4) of the SASA.

While the SIAS policy is developed for the provision of psychosocial support for learners, it is common for teachers to implement the policy only when it relates to referrals of learners



NB! At any stage of intervening, the school can consult their network of service providers (NGOs, other Government Departments; CBST/DBST) for assistance in the development of their Support Plan.

from ordinary public schools to special schools. However, the design of the policy is not only intended for referrals but also for direct support for learners. This is also confirmed by the requirement to undertake a vulnerability assessment for every learner upon admission. The summary diagram of the vulnerability assessment is provided below. Vulnerability assessment is integral in determining the learner needs and ensuring delivery of psychosocial support where required.

4.3.6

NATIONAL CHILD CARE AND PROTECTION POLICY (2019)

The National Child Care and Protection Policy (NCPP) confirms children's constitutional rights and places child protection at the centre of the state's responsibilities. It also establishes children's right to psychosocial support that addresses both a child's emotional and social needs, such as counselling, safety planning, and family support.

The NCPP requires this support to be part of a wider child protection system. Its purpose is to promote children's well-being, prevent abuse and neglect, and help children recover from trauma. This support must be available to all vulnerable children and their families, particularly those affected by violence, abuse, neglect, exploitation, or poverty. Under the NCPP, psychosocial support must be:

- **Accessible – easy for children and families to reach and use;**
- **Child-centred – focused on each child's needs and best interests;**
- **Family-focused – involving and strengthening the family unit;**
- **Trauma-informed – delivered in a way that recognises and responds to trauma;**
- **Professionally delivered – provided by trained practitioners;**
- **Culturally appropriate – sensitive to a child's background and context;**
- **Coordinated across sectors – linking government departments, schools, and services;**
- **Based on individual assessment – tailored to each child's specific circumstances.**

The goal is to prevent harm, strengthen families, support children's emotional well-being, and help children who have experienced abuse or neglect recover and reintegrate. Because schools fall within this coordinated system, and because many vulnerable learners are identified through the school environment, the state's obligation to deliver psychosocial support extends into schools. This means learners, especially vulnerable learners, can hold the state accountable for realising their right to psychosocial support at school. The delivery of psychosocial support within schools can be drawn from the Guide for Learner Support Agents and Schools on Providing Psychosocial Support to Learners (2019).



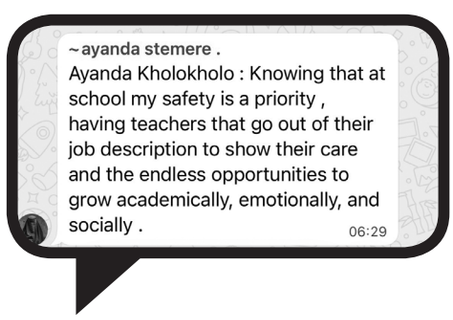
5.

AFFIRMING THE RIGHT TO PSYCHOSOCIAL SUPPORT FOR LEARNERS: LEGISLATION V POLICY

Learners in South African public schools have a right to psychosocial support. As the analysis above demonstrates, this right is founded in both legislation and policy. It is grounded in binding legislation and given operational content through national policies. Together, these two sources create complementary legal obligations on the state. Legislation is inherently binding. Provisions contained in the Constitution and other statutory instruments constitute law and must be complied with. Accordingly, because the right to psychosocial support is reflected in the Constitution and related legislation, the state is under a legal obligation to provide such support to learners.

Policies, in turn, give practical effect to this legislative framework by providing the operational mechanisms through which the right to psychosocial support is realised. Where the state adopts a policy that provides substantive content to a right in the Bill of Rights, such as the SIAS and CSTL policies relating to psychosocial support, those policies create legally enforceable obligations. The state cannot rely on the argument that a document is "only a policy" to justify non-compliance, nor do budgetary or administrative constraints, on their own, excuse a failure to fulfil these obligations. This principle was confirmed by the Constitutional Court in Charnell Commando and Others v City of Cape Town and Another.

The Constitutional Court further affirmed the central role of policy in service delivery in Adonisi and Others v Minister for Transport and Public Works, Western Cape and Others. These decisions confirm that policies adopted to implement constitutional rights are not merely aspirational documents. Once adopted, they bind the state to deliver the services they prescribe and are enforceable through the courts. Accordingly, learners' right to psychosocial support in South Africa rests on two mutually reinforcing legal foundations: legislation and policy. The existence of policies without implementation is insufficient to satisfy the state's constitutional obligations. Learners who require psychosocial support must therefore be provided with such support in accordance with the Constitution, applicable legislation, and the policies adopted to give effect to these rights.



6.

AVAILABILITY AND ACCESSIBILITY OF ADEQUATE PSYCHOSOCIAL SUPPORT FOR LEARNERS IN SCHOOLS

Although the legislative and policy framework governing the provision of psychosocial support for learners is clear, the same cannot be said about the realisation and implementation of these services within schools. In practice, there remains a significant gap between the legal obligations imposed on the state and the actual delivery of psychosocial support to learners.

Many learners continue to be exposed to violence, trauma, abuse, and other adverse experiences both within their communities and in school environments. Despite the profound impact that such experiences have on learners' emotional well-being, mental health, and academic performance, they are often not followed by adequate psychosocial support interventions. Mahwai argues that most schools, particularly those located in disadvantaged communities, do not have access to school counsellors, despite being the schools that require such services the most. The lack of psychosocial support leaves many vulnerable learners without the assistance necessary to cope with trauma and to fully participate in their education.

The DBE and PEDs often cite limited financial and human resources as the primary reason for the inadequate provision of psychosocial support services. However, resource constraints cannot justify the state's failure to fulfil its constitutional and statutory obligations. As argued above, the absence of adequate psychosocial support constitutes a serious infringement of learners' rights to education and to the support services necessary for the meaningful enjoyment of that right. Without appropriate psychosocial interventions, many learners are unable to engage effectively in the learning process, undermining both their educational outcomes and their overall development.

Equalisers have similarly observed that many of their schools do not receive adequate psychosocial support services, further highlighting the persistent disconnect between the legal and policy framework and its implementation in practice. This demonstrates a substantial gap between the rights guaranteed in law and the lived experiences of learners in South African schools.

It is therefore inexcusable that learners continue to navigate educational environments without access to adequate psychosocial support. Such support should not be viewed as an optional or supplementary service, but rather as an integral component of the right to basic education. Ensuring the effective provision of psychosocial support is essential to creating safe, inclusive, and enabling learning environments in which all learners are able to realise their full educational potential.

7.

RECOMMENDATIONS AND CALL TO ACTION BY EQUALISERS

1. One school, one psychologist, including social workers in-school

Having established the right to psychosocial support for learners, this must be followed by implementation. The DBE, in collaboration with PEDs, the DoH, and DSD, should develop and implement a phased plan to ensure that every ordinary public school has access to a psychologist and social worker, or at least available learner support agents. While recognising the juncture of resource constraints, the government should prioritise schools serving vulnerable communities, where learners are disproportionately exposed to poverty, violence, abuse, neglect, substance abuse, and other adverse childhood experiences. Dedicated budget allocations should be made to recruit, train, and retain psychosocial professionals, while strengthening partnerships with universities and professional councils to increase the supply of psychosocial support practitioners.

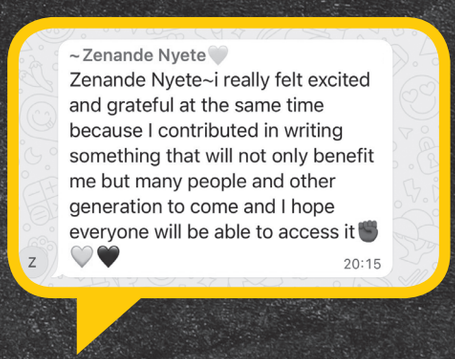
In the interim, district-based multidisciplinary support teams should be strengthened to ensure that every school receives regular and responsive psychosocial support until permanent in-school appointments are achieved. Psychologists and social workers should not only respond to crises but also provide preventative services, including counselling, mental health promotion, trauma support, family interventions, referrals, and educator support. Incorporating these professionals within schools will promote early identification of psychosocial challenges, improve learner wellbeing, reduce barriers to learning, and strengthen the realisation of the constitutional right to basic education.

2.

All schools must develop their own psychosocial support policies and promote teaching and learning with care

Every ordinary public school should be required to adopt a school-based psychosocial support policy that gives practical effect to national frameworks such as the SIAS policy and the CSTL framework. This function must be primarily held and supported by the SBSTs. As discussed above, SASA provides the legal power to the SGBs to develop such school policies aimed at safeguarding learners. The policy should clearly define the school's approach to learner wellbeing, establish referral pathways, outline responsibilities of educators and school leadership, provide protocols for responding to trauma and emergencies, and include measures to prevent bullying, discrimination, violence, and other risks affecting learners.

The development of these policies should involve meaningful participation from learners, teachers, SGBs, parents, and community stakeholders to ensure that they respond to the specific needs of each school community. Schools should also cultivate a culture of care by integrating psychosocial well-being into school improvement plans, classroom practice, and extracurricular activities. Continuous professional development should equip teachers to identify learners requiring support while fostering safe, inclusive, and supportive learning environments where every learner feels safe.

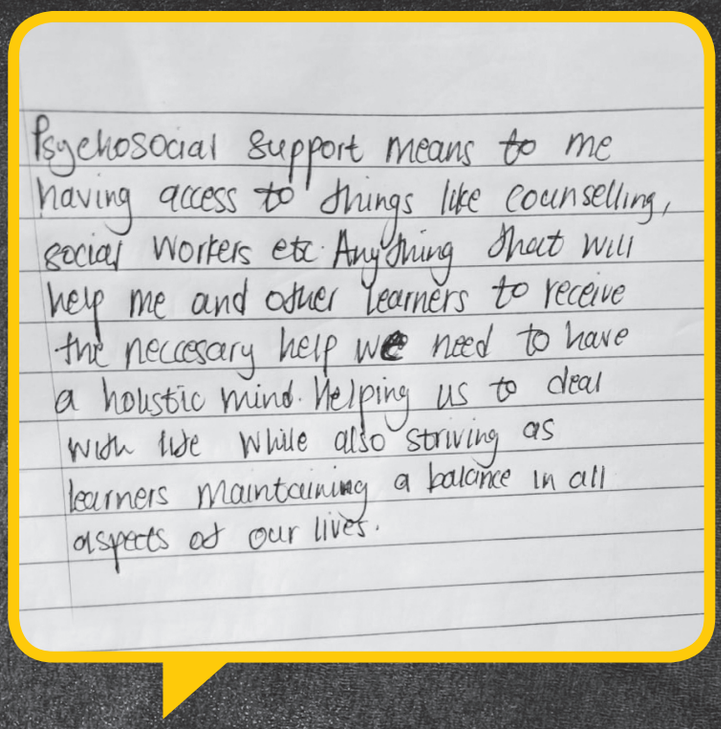


3. There must be ongoing monitoring of delivery of psychosocial support services to ensure improvement of its delivery

The DBE and PEDs should lead in establishing a monitoring framework for the delivery of psychosocial support services in schools. The framework should assist the DBE along with the PEDs to understand the quality, accessibility, and effectiveness of psychosocial support services. To support the monitoring of psychosocial support provisioning, the schools must provide regular reports, while district officials conduct routine oversight visits to assess compliance with national standards and identify implementation challenges.

4. The DBE, along with all PEDs, must promote knowledge of and access to psychosocial support for learners.

The DBE and PEDs must support schools in developing awareness campaigns to ensure that school communities understand the importance of psychosocial support and how to unlock access to psychosocial support services, especially for schools located in violent communities. Importantly, schools must promote a culture of the use of availability and reduce stigma associated with seeking mental health-related support.



5.

The DBE must investigate the use of artificial intelligence as an option to provide psychosocial support for learners.

The DBE should undertake research and pilot programmes to evaluate how artificial intelligence (AI) can responsibly support the provision of psychosocial services in schools. Importantly, such research should also focus on the risks associated with the use of AI-powered platforms by minors. While AI tools may be relevant and provide adequate support for learners, they may pose safety risks. Therefore, such research should also aim to understand how to protect learners' data information on AI platforms. Such tools may be particularly valuable in schools where access to psychologists and social workers remains limited, helping to bridge service gaps while improving the reach of psychosocial support.

8.

CONCLUSION

Ensuring that every learner can access appropriate psychosocial support is therefore not only a policy imperative, but a constitutional and legal obligation.

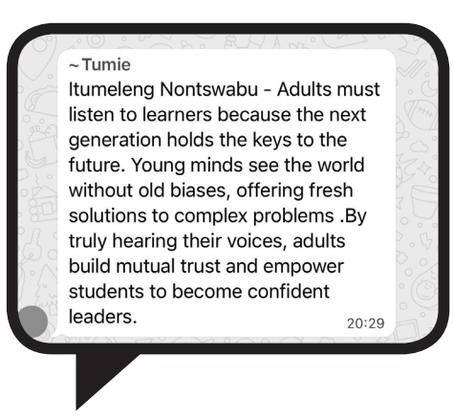
The legal and policy framework is clear on the delivery of psychosocial support for learners. All learners have an implied right to psychosocial support as an integral component of their constitutional right to a basic education in terms of section 29(1) of the Constitution.

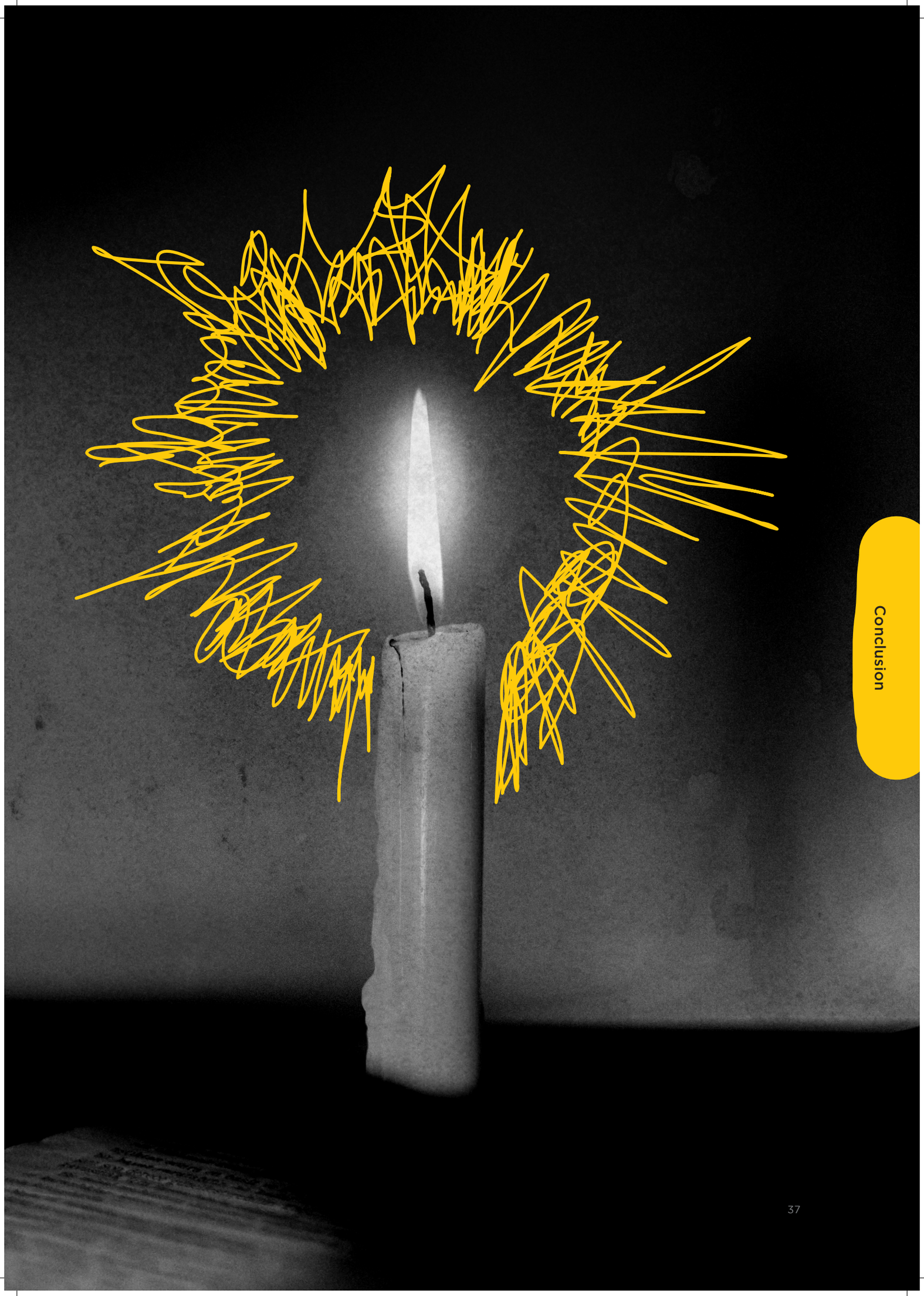
The legal and policy framework is clear on the delivery of psychosocial support for learners. All learners have an implied right to psychosocial support as an integral component of their constitutional right to a basic education in terms of section 29(1) of the Constitution.

The analysis above of the applicable legislation and policies demonstrates that psychosocial support is not an optional or supplementary service but a necessary element of ensuring learner safety, well-being, and meaningful access to education.

The responsibility for delivering psychosocial support rests across multiple state departments, particularly the DBE, DSD, and DoH. The legislative and policy framework envisages an integrated and coordinated approach in which these departments work collaboratively to identify, prevent, and respond to the psychosocial needs of learners. As a component of the immediately realisable right to basic education, the provision of psychosocial support cannot be refused or not provided on the basis of administrative inefficiency, poor interdepartmental coordination, or resource constraints.

The duty barriers have an existing legal obligation to deliver psychosocial support for learners. The continued failure to provide accessible and effective psychosocial support services undermines learner safety, compromises educational outcomes, and constitutes a failure to give full effect to the constitutional rights of learners. Ensuring that every learner can access appropriate psychosocial support is therefore not only a policy imperative, but a constitutional and legal obligation.





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ENDNOTES

Cases

Ab and Other v Pridwin Preparatory School and Others 2020 (5) SA 327 (CC).

Adonisi and Others v Minister for Transport and Public Works, Western Cape and Others; Minister of Human Settlements and Another v Minister for Transport and Public Works, Western Cape and Others 2026 (CCT 126/24; CCT 128/24) (CC).

Charnell Commando and Others v City of Cape Town and Another 2025 (3) SA 1 (CC).

A.P NO and Others v Oakdale Agricultural High School and Others 2025 411 (3) ZAWCHC.

Minister of Basic Education v Basic Education for All 2016 (4) SA 63 (SCA); *Equal Education and Others v Minister of Basic Education and Others* 2021 (1) SA 198 (GP).

Journal articles

Arendse L, 'The Obligation to Provide Free Basic Education in South Africa: An International Law Perspective' (2011) *Potchefstroom Electronic Law Journal* 97-217.

Damonse, K 'Characterising the Right to Education: Psychosocial Support in Schools' (2026) *Potchefstroom Electronic Law Journal*.

Fuo, O, 'Constitutional basis for the enforcement of "'executive'" policies that give effect to socio-economic rights in South Africa' (2013) *Potchefstroom Electronic Law Journal* (PELJ) 1 - 45.

Pillay J, Patel L and Setlhare-Kajee R, 'Teacher awareness of psychosocial support available as per the Integrated School Health Policy in South Africa' (2023) *South African Journal of Childhood Education.*

Mahlapahlapana T and Osher D, 'Schools as enabling environments' (2014) *South African Journal of Education* 1 - 6.

Marishane R.N, 'The right to basic education for all in South Africa: Implications for school principals' (2017) *Koers Online*. 1-8.

Simelane S, Bantjes J, Kleintjes S et al. 'Putting child and adolescent mental health at the centre: building an ecosystem of support' (2025) South African Health Review 131–14 to Simelane S, Bantjes J, Kleintjes S et al. 'Putting child and adolescent mental health at the centre: building an ecosystem of support' (2025) *South African Health Review* 131–141.

Oosthuizen IJ and Van der Walt JL, 'A legal and philosophical perspective on the in loco parentis position of teachers' (1998) *Koers – Bulletin for Christian Scholarship* 89–99.

Legislation

The Constitution of the Republic of South Africa, 1996.

South African Schools Act No 84 of 1996.

National Health Act No 61 of 2003.

Children's Act No 38 of 2005, as amended.

Internet sources

English A, *'Kindness bench arrives in Mitchell's Plain'* (2025), available at: https://plainsman.co.za/news/2024-11-06-kindness-bench-arrives-in-mitchells-plain/ (accessed: 17 March 2026).

World Health Organisation, *'Corporal punishment of children: the public health impact'* (2025) available at: https://www.who.int/publications/i/item/B09424 (accessed: 12 January 2026)

South African Depression and Anxiety Group, *'Feelings of failure'* (2025), available at: https://www.sadag.org/index.php?option=com_content&view=article&id=1924:teen-suicide-prevention-week&catid=111&Itemid=1362017 (accessed: 02 September 2025).

Statistics South Africa *'Child Protection Week shines light on school violence patterns'* (2026), available at: https://www.statssa.gov.za/?p=19585 (accessed: 21 July 2026).

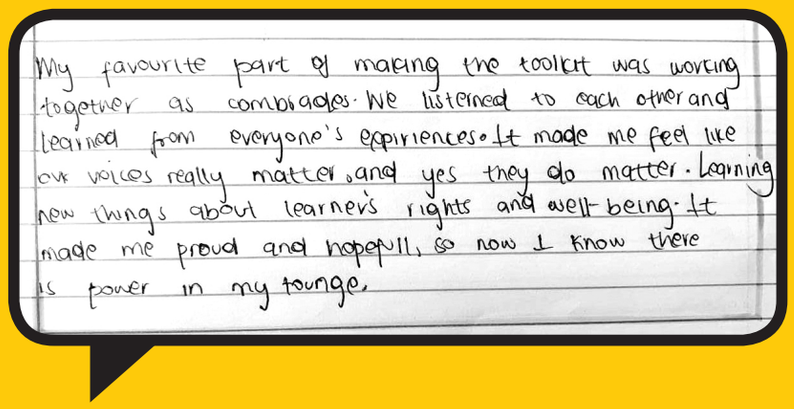
South Africa Department of Health, *'Policy guidelines for mental health services for children and adolescents'* (2023) available at: https://www.gov.za/sites/default/files/gcis_document/201409/childmentalhealth0.pdf (accessed: 26 October 2025).

Department of Basic Education, *'Care and Support for Teaching and Learning Framework'* (2008), available at https://www.education.gov.za/Portals/0/Documents/Publications/CSTL%20Handbook.pdf?ver=2019-06-18-134012-183 (accessed: 04 September 2025).

Republic of South Africa (RSA), *'National Plan of Action for Children in South Africa'* Pretoria: Department of Women, Children and People with Disabilities' (2012) Available at: https://www.unicef.org/southafrica/media/1301/file/ZAF-national-plan-of-action-for-children-in-South-Africa-2012-2017.pdf (accessed: 26 February 2026).

UNICEF Innocenti, *'Implement: Bridging the gap between policy and practice Synthesis of UNICEF Innocenti research on education in Africa'* (2024). Available at: https://files.eric.ed.gov/fulltext/ED676233.pdf (accessed: 24 February 2026).

Endnotes


My favourite part of making the toolkit was working together as comrades. We listened to each other and learned from everyone's experiences. It made me feel like our voices really matter, and yes they do matter. Learning new things about learner's rights and well-being. It made me proud and hopefull, so now I know there is power in my tounge.



I felt proud of being part of something that will benefit myself and my peers. I got to share ideas and opinions on how this will help every student in need of this support.

17:51

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