Joint statement: Equal Education and the Equal Education Law Centre launch Shadow School Capacity Norms for public comment as the Department of Basic Education misses its court-ordered deadline

17 November 2026

Today, Equal Education (EE) and the Equal Education Law Centre (EELC) are releasing Shadow School Capacity Norms for public comment. Learners, parents, teachers and school communities are invited to engage with the proposed rules and tell us whether they would work in their schools. Our public comment period will remain open until 22 January 2027.

In 2023, following an intervention by EE and the EELC, the Gauteng High Court ordered the Department of Basic Education (DBE) to publish School Capacity Norms by 10 October 2026. The Department missed this court-ordered deadline, and more than a month later, the final Norms are yet to be published.

School Capacity Norms are meant to establish binding rules that determine how many learners a school can accommodate, when a school or class is overcrowded, and what steps government must take to address overcrowding. Our Shadow School Capacity Norms are an alternative version, drafted by EE and the EELC in consultation with learners and school communities directly affected by overcrowding. They set out what the official Norms should include, and establish clear obligations against which government should be held accountable.

We are calling on learners, parents, teachers, principals, school governing bodies and anyone who has learnt or taught in an overcrowded classroom to comment on our proposal on how the DBE's School Capacity Norms should look like. We want to know whether these rules would work in their schools, and whether anything is missing. We particularly want to hear from learners in under-resourced schools, learners with disabilities, and learners who need additional teaching time, support and space. We demand the immediate publication of the DBE's final School Capacity Norms. We will measure their adequacy against the standards set out in our Shadow School Capacity Norms and continue to hold the Department accountable for delivering binding, enforceable regulations that address overcrowding.

How to comment

The public comment period is open until 22 January 2027. You can submit comments in any official language, either in writing or as a voice note. There are several ways to participate:

- **WhatsApp:** Send a written message or voice note to Fikile Sibisi (EE Gauteng Organiser) on +27641197559
- **Email:** Send your written comments or a voice recording to fikile@equaleducation.org.za

You can access our Shadow School Capacity Norms here.

You do not need to comment on every provision. We want to hear about your experiences of overcrowding at school, what challenges you face, and whether the proposed rules would help address them. Tell us what you have seen, what needs to change, and what you think is missing.

Background

On 10 October 2023, the Gauteng High Court ordered the DBE to publish School Capacity Norms within three years. These are binding rules that should set how many learners a school can accommodate, how many learners can be taught in a classroom, and what the government must do when schools are over capacity.

The Minister of Basic Education, Siviwe Gwarube, has published a draft of the School Capacity Norms, but missed the court's deadline of 10 October 2026 to publish the final version. The draft itself had many gaps, and the consultation process excluded many of the school communities most affected by overcrowding.

The consequences of this delay are already being felt across the country. In Gauteng, MEC for Education Lebogang Maile has reported that 77 000 learners who applied on time for admission to entry grades (Grade R, 1 and 8) are yet to be placed in a school. This number does not include learners in other grades who are transferring from one school to another, learners who have not yet applied, or those who will arrive at school gates when the 2027 academic year begins. Without adequate planning and enforceable capacity rules, the admissions crisis risks worsening, and ill-resourced schools will be forced to accommodate more learners into already overcrowded classrooms.

Over and over again, EE and the EELC have highlighted the urgent need for these regulations. Properly developed and enforceable School Capacity Norms would provide a clear legal framework for determining how many learners schools can enrol, how many learners classrooms can accommodate, how much physical space schools need, and what resources government must provide when schools are overcrowded.

Without these binding rules, learners, educators, and school communities continue to bear the consequences. These include overcrowded classrooms, limited individual attention from teachers, unsustainable workloads for teachers, mobile classrooms becoming permanent structures, unsafe school environments, and an ongoing admissions crisis that leaves thousands of children without a school place or placed so late in the academic year that their ability to progress and pass their current grade is compromised.

What are the Shadow Capacity Norms and what do they do?

EE and the EELC developed the Shadow Capacity Norms to bring the legal framework we envisioned to life. A framework that would address the call for binding Norms, with clear implementation deadlines

and accountability measures to address overcrowding and its complexities as defined in EE's "No Space for Us" report.

When the DBE released its Draft School Capacity Norms for public comment in August 2025, EE and the EELC hosted workshops with learners and school communities, as well as a public meeting attended by community members, learners, and DBE representatives. In our submission to the DBE, we highlighted several critical gaps in the draft, including the absence of a clear definition of overcrowding, binding implementation deadlines, and clarity on the roles and responsibilities of different stakeholders.

We also raised concerns about the DBE's flimsy public consultation process, which did little to reach Black and working-class school communities. The draft Norms were published only in English and Afrikaans, despite our repeated requests for translations into at least four other official languages. These requests went unanswered. Although the DBE had maintained it had conducted robust public engagement, most of the schools we engaged were unaware of the draft Norms or what they said. This raises serious questions about whether the consultation was meaningful or merely a tick-box exercise. It also reflects a wider concern: other regulations introduced under the Basic Education Laws Amendment Act have similarly been published largely in only English and Afrikaans, excluding many of the school communities whose lives and education they directly affect.

Building on this work, EE established an internal task team to develop Shadow School Capacity Norms grounded in the realities of overcrowded and ill-resourced schools. The task team comprised three Equalisers (EE learner members), three EE Facilitators, an EE researcher, EE's Gauteng Head of Province, and an EELC researcher. Their work has resulted in the Shadow School Capacity Norms we are releasing for public comment today.

The Shadow School Capacity Norms make several important contributions. They provide a clear definition of overcrowding, distinguishing between severe and extreme overcrowding, and establish a framework for determining the capacity of schools, classrooms, and grades. They set out binding implementation timelines and clear accountability mechanisms, including establishing a dedicated Task Force to oversee implementation and set out the roles and responsibilities of different stakeholders. They also address the inconsistencies between the proposed formula for calculating classroom capacity and the teacher-to-learner ratios set out in the DBE's draft.

We are now releasing the Shadow School Capacity Norms for public comment until 22 January 2027. EE and the EELC will engage extensively with learners and school communities and use their feedback to strengthen the Shadow Norms. We view these Shadow Capacity Norms as a tool to advance the struggle for a clear and enforceable legal framework that protects every learner's right to a safe, dignified, and conducive learning environment. They are intended to ensure that the realities of those most affected by overcrowding are reflected in the rules that govern school capacity.

The release of our Shadow Norms does not absolve the DBE of its legal obligation. EE and the EELC continue to demand the immediate publication of the final Minimum Uniform Norms and Standards for

School Capacity, with binding timelines, clear accountability mechanisms, and a definition of overcrowding. We also demand that the final Norms be made accessible in more than just English and Afrikaans, as these are not the home languages of most school communities in South Africa.

The court order was not a recommendation. It was a directive that the DBE was legally required to comply with. Learners cannot continue to wait while they are forced to learn in overcrowded classrooms without the space, resources and support they need.

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