



17 September 2026

Joint statement: Equal Education and the Equal Education Law Centre deeply disappointed by the Supreme Court of Appeal ruling on collaboration schools, donor-funded schools and intervention facilities

Equal Education (EE) and the Equal Education Law Centre (EELC) are deeply disappointed by the Supreme Court of Appeal's (SCA) decision to dismiss EE's appeal concerning the Western Cape's controversial model of collaboration schools, donor-funded schools and intervention facilities. The appeal challenged the July 2023 Western Cape High Court judgment, which upheld provisions of the Western Cape Provincial Schools Education Amendment Act (WCPSEA Act) introducing these models into the province's public education system.

EE, represented by the EELC, first took this matter to court in 2019, challenging the underregulated introduction of collaboration schools and donor-funded schools, as well as the establishment of intervention facilities. While these models may be presented as innovative approaches to education, we remain concerned that they give donors and private entities significant control over public schools in a way that undermines the principles of democratic governance and accountability. We furthermore remain concerned with the WCPSEA Act's provision for the establishment of intervention facilities for learners found guilty of serious misconduct, a provision that can remove a learner from the formal education system and potentially separate them from their families and communities for up to a year.

Our challenge has never been to additional investment in public education, but to the WCPSEA Act's provisions permitting these models to operate without adequate safeguards - handing donors and private operators substantial control over public schools, and officials broad discretion over learners, in a manner inconsistent with the Constitution and the South African Schools Act (SASA). EE and the EELC have consistently advocated for regulatory frameworks that protect the best interests of learners and safeguard the meaningful participation of learners, parents and school communities in decisions that shape their children's education. This has been at the heart of our litigation - our concern that provisions of the WCPSEA Act relating to collaboration schools, donor-funded schools, and intervention facilities are inconsistent with the Constitution and conflict with the SASA, while diminishing the role of parents and learners in school governance.

We remain particularly concerned that the legislation permits private operators to occupy up to 50% of the seats on a school governing body (SGB), weakening the role of parents despite their legally recognised majority role in school governance. The legislation also does not provide sufficient clarity on

who may qualify as a donor or private operator, or adequately define the extent of the powers that donors and operators may exercise within public schools. In addition, the establishment of intervention facilities gives education officials significant discretion over the placement and treatment of learners, with potentially far-reaching consequences for their education.

Although the SCA ruled against us, our commitment to protecting the voices of school communities and upholding the rights of learners remains unwavering. Meaningful participation by parents and learners in school governance is not a procedural nicety, it is fundamental to accountable, quality public education. We will continue to organise and advocate on this basis.

EE and the EELC are studying the SCA's judgment and will consult with our membership and school communities as we consider our options going forward, including whether to approach the Constitutional Court. We will issue a further statement once this process has been concluded.

Ensuring that the laws and regulations governing our public schools uphold constitutional rights and principles, while reflecting the lived realities of learners and their families, will remain at the forefront of our work.

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To arrange a media interview, contact:

- Sesethu August (Equal Education Communications Officer) sesethu@equaleducation.org.za or 063 221 7983
- Jay-Dee Booysen (Equal Education Law Centre Media and Communications Specialist) jay-dee@eelawcentre.org.za or 082 924 1352