

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

PROVINCIAL HEARING ON THE LACK OF SECURITY AND SAFETY MEASURES IN SPECIAL NEEDS SCHOOLS IN THE NORTH WEST PROVINCE.

WRITTEN SUBMISSION

1. What in your view are the underlying causes of the systemic failure to adhere to the minimum safety and fire standards in special needs schools in the North West Province?

There are a number of issues to be considered some of which follow:

- Post provisioning
 - Inadequate provision in the legal or policy framework relating to post provisioning in special schools and special school hostels. Policy does not take into account the need for 24 hour supervision of learners in special school hostels, requiring a higher level of intensity and a greater level of skill. This would require more skilled staff than are needed in ordinary school hostels. These norms and standards do not exist. The Draft Guidelines for Resourcing Inclusive Education do not make sufficient or detailed provision for special school hostel staff taking into account the different learner needs.
- Staff skills and qualifications
 - No norms and standards relating to minimum qualifications and experience of special school hostel and support staff.
 - No adequate staff development plan in place at special schools to ensure staff develop the necessary skills to ensure learner safety and security taking into account specific learner needs.
- School safety policies and procedures
 - Often policies and procedures are not widely known by staff and seldom by learners, as these are not prioritised by school management or monitored by District Officials.
 - Schools do not have regular safety drills or clear procedures in case of emergencies.
 - Provincial and District DBE Officials are not held accountable for compliance in special schools. No official action or performance plans contain any indicators relating to special school safety and security.

- Infrastructure and equipment safety compliance
 - Schools do not comply for some of the following reasons:
 - Compliance is not monitored by the DBE
 - Schools lack the funds to implement all necessary infrastructure adaptations and provincial budgets do not prioritise funding for special school safety and security.
 - Schools are often overwhelmed and under resourced and safety measures fall off the radar as it is not prioritised.

It must however be noted that failure to implement basic fire safety measures (fire extinguishers, fire blankets) and to ensure learners could exit through fire escapes is inexcusable and can only be considered as gross negligence.

- Legislative and policy gaps
 - Despite strong international obligations on the South African state imposed by treaties which SA has ratified, there is definitely not adequate domestication of these provisions in our legal and policy framework to protect learners in special schools.
 - Whilst our Constitution protects a wide range of human rights, more detailed provisions giving effect to these rights in the case of learners with disabilities, are not in place. There are piecemeal and fragmented provisions across a number of laws and policies but none that afford adequate protection.
 - There is no comprehensive guideline, policy or piece of legislation which makes specific provision for special school hostels. The Guidelines to Ensure Quality Education and Support in Special Schools and Special School Resource Centres, 2014 gives broad stroke guidance as to the functioning of the hostel without any detailed specifics. Special school hostels must otherwise comply with the provisions for ordinary school hostels which is entirely inadequate.
 - The minimum uniform norms and standards for public school infrastructure contains insufficient provision for special schools and timeframes for compliance with “universal design” is 2030, this is unacceptable. Current school infrastructure budget cuts will surely also be felt by Special Schools.
 - (See more below).
- Lack of political will
 - Special schools have in the past and still today, been left on the fringes of the education system. Budgeting, planning, accountability measures and the provision of quality education for learners with disabilities have not been seen as a priority. Despite numerous reports and cases dealing with the poor conditions in special schools, abuse and neglect, the DBE shows no commitment to ensuring the right to education, dignity, equality and even the right to life of learners with disabilities are protected and realised. This, coupled with a lack of specialised knowledge and skills in the DBE to ensure compliance, results in the extreme neglect of special schools and their learners.

2. Does the existing conception and implementation of law and policy serve the safety and security interests of learners with disabilities and provide adequate protection? If not, how can the regulatory environment be improved?

- As has been pointed out above there are definite gaps in the legal and policy framework. As a result it does not offer adequate protection for learners with disabilities in special school hostels. In addition, many of the policy provisions which do exist are not well known or effectively implemented. As provisions are scattered across guidelines and policies and in light of the fact that they must be implemented alongside provisions relating to ordinary schools, it makes monitoring and implementation difficult.
- Most District officials do not have the skill to assess the needs of learners in special schools and so tend to not offer support or monitoring at all.
- The obligation to make “Reasonable accommodation” is not well known, nor are reasonable accommodations planned for and implemented, following a consultative determination of individual needs.
- The existing conception and implementation of law and policy does not serve the safety and security interests of learners with disabilities.

3. What specific challenges do special needs schools face in complying with legislative and policy imperatives designed to ensure the reasonable accommodation of learners with disabilities during emergencies?

- Insufficient resources (human, financial and equipment)
- Lack of knowledge or experience in determining reasonable accommodations
- Lack of support from District or Provincial officials

4. What role, if any, have the North West Department of Education and the relevant local municipalities played in addressing these challenges?

None that we are aware of.

5. What steps can be taken to address the safety and security concerns on an urgent interim basis and in the long-term? Which actors are best placed to take these steps?

The following urgent steps should be taken:

- The DBE must immediately enforce compliance with and make resources available to implement safety and security standards in the special schools and special hostels in the province. District and schools must, in making schools safe and secure for learners with disabilities, ensure the facilities are suitable for use by the specific learners in each school.
- Schools must immediately train all staff in emergency and other safety and security measures.
- Learners must be made aware of all emergency procedures.

In the long run:

- Adopt norms and standards relating to post provisioning in special schools hostels
- Amend the Children's Act to include special school hostels as "child and youth centres" so that the same protective measures can apply
- Improve accountability mechanisms at all levels of government.

6. Any other information of relevance.

Whilst these hearings focus on the North West Province, the issues raised apply across all provinces. Numerous reports of human rights violations of learners with disabilities in **all** provinces have been received by government and civil society organisations. This issue must be addressed at a national level and adequate accountability measures put in place as a matter of urgency.

Yours sincerely



Robyn Beere
Director