

Annexure A: Pestalozzi Trust

CALL FOR COMMENTS ON THE POLICY ON HOME EDUCATION

COMMENTATORS:

NAME	ORGANISATION
	PESTALOZZI TRUST

NOTE 1:

Due to the:

- 1) Lack of meaningful consultation in the drawing up of the draft Policy;
- 2) Period for comment being limited to 21 days;
- 3) Comment being required while the period for comment on the BELA Bill is still open;
- 4) Time needed to read the numerous pieces of legislation, regulation and policy that the draft Policy aims to make relevant to home education.;
- 5) Need to consult legal counsel;
- 6) Lack of an opportunity to consult with home educators and other stakeholders, many of whom are located in geographically diverse regions and are not organised into representative bodies;
- 7) Time of the year, being both a period of examinations and close to the festive season AND
- 8) The fact that as of the writing of this submission, our request for an extension to the comment period has not received a response,

the Pestalozzi Trust is unable to comment in the detail that it would like to do. We therefore offer these comments as preliminary comments in the hope that future consultations will allow us to make more incisive and useful comments.

Given the fact that we have not been consulted in a meaningful way, we are not in general able to make proposals for revisions. Should such consultation take place we will be pleased to assist in this regard.

Our comments should in no way be construed as an endorsement of this process, or that we agree that such a draft Policy can be legally binding on home educated learners or their parents.

We reserve all of our rights in this regard.

COMMENTS ON THE DRAFT POLICY ON HOME EDUCATION

Policy Page	Chapter/Section	Comment	Proposal for Revision
5	1. Definitions "competent assessor"	There is no provision in the SASA for such a role. The term "competent" is redundant. Does the DBE envisage deploying "incompetent assessors" that these "competent assessor" must be distinguished from by the use of the adjective "competent"? See Note 1	This pre-empts the BELA Bill and should be removed. Remove "competent"
5	"education programme"	See Note 1	
5	"home education"	See Note 1	
5	"home education site"	See Note 1	

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5	"illegal independent educational institution"	It is not for the DBE to determine 'legality'; this is a function of the courts. This is a intrusion of the executive into the functions of the judiciary. It is also a violation of the right to due legal process. See Note 1	Any reference to 'legality' needs to be removed.
	'monitoring' means checking for compliance with the Act and the policy established pursuant to section 51 of the Act;	1) Neither this draft Policy nor the Policy for the Registration of Learners for Home Education 1999 were established pursuant to the SASA. They were/are to be established pursuant to the Section 3(4) of the National Education Policy Act 1996. 2) s51 (SASA 1996) nowhere contemplates the creation of a compliance framework that needs to be monitored beyond the application process. As the registration request is processed within the PED, the only monitoring that needs to be done is of how the registration is being processed. Therefore there is no need for monitoring unless the DBE/PEDs wish to monitor their own administrative processes See Note 1	Remove from definitions
6	'Parent"	See Note 1	
6	"tutor" means a qualified educator	What a "qualified educator" is, is not defined either in this Draft Policy or in the SASA 1996. This will	Remove "qualified" and "on parts of the curriculum"

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	providing supplementary support services on parts of the curriculum.	<p>lead to confusion and inconsistent application, as a person who is deemed “qualified” by one official or province may not be deemed “qualified” by another. Also “curriculum” is not defined. Homeschooling families use a variety of curricula, and for many of these curricula it will not be possible to get a tutor qualification. In practice this means that parents will only be able to use tutors if they follow the CAPS curriculum.</p> <p>There are many people who are highly suitable to provide tutoring services for a specific subject, for example a family member or friend who has a degree in Mathematics. However, since these people do not necessarily have tutoring qualifications, it will not be possible to make use of the services of such people.</p> <p>See Note 1</p>	
6	C1.s2(1) & (2)	No comment at this stage. We reserve our right to further comment.	
6	C1.s2(3)-(5)	See Note 1	
6	C1.s3	See Note 1	
7	C1.s6	No comment at this stage. We reserve our right to further comment.	
8	C1.s6(2)(1)	No comment at this stage. We reserve our right to further comment.	
9	C1.s8.1(1)	See Note 1	

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9	C1.s8.1(2)	The DBE is here once again donning its judicial robes and prescribing to the court.	
9	C1.s8.2	See comments above concerning legality. See Note 1	
9	C1.s8.3	No comment at this stage. We reserve our right to further comment.	
10	C1.s8.4	No comment at this stage. We reserve our right to further comment.	
10	C1.s9	See Note 1	
10	C1s10	See Note 1	
11	s10.1(1)(k)(iii) associate herself or himself or cause the child to be associated with any illegal independent educational institution in respect of the home education provision. Such an association in violation of the Act, is not in the best interests of the learner, and shall amount to a reason upon which the HOD may investigate and which may lead to withdrawal of the registration of a learner to receive education at home.	<p>This creates a situation where, for example, a child registered at a school may attend an extra lesson at a cottage school, but her sibling who is registered for homeschooling cannot. Will the school-going child be under threat of being de-registered from school as well?</p> <p>Many independent educational institutions provide excellent services. Otherwise these institutions would not be growing so fast. It is an attack on the dignity of the people who offer these excellent services to make the sweeping statement that receiving these services cannot be in the interest of children.</p> <p>As for additional comment see Note 1.</p>	

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11	C1s10.2	See Note 1.	
11	C1s11	See Note 1.	
11	C2s12	These provisions are impractical and unworkable. See Note 1.	
12	C2s12.4 The provision of education beyond the scope of this policy is provided in the <i>Regulations Pertaining to the Conduct, Administration and Management of the NCS examination.</i>	This appears to preclude alternative school leaving examinations such as “Cambridge”, The International Baccalaureate and the GED. See Note 1.	State clearly and for the avoidance of doubt that this in no way will limit learner’s freedom to pursue any alternative school leaving qualification.
12	C2s13	See Note 1.	
12	C2s13(2)(c)(ii)	See Note 1.	
12	C2s13(2)(e)(iii)	See Note 1.	
12	C2s14	See Note 1.	This section needs to be checked for compliance with PAJA.
12	C2s14(3) f the HOD approves the registration of a learner for home education, the HOD shall within 30 days after approval:	The current Policy requires the HOD to process the request within 30 days. See Note 1.	Impose a reasonable period within which the request has to be processed. This period should be in line with PAJA.

Policy Page	Chapter/Section	Comment	Proposal for Revision
13	C2s15	See Note 1.	
13	C2s16	See Note 1.	
13	C317	See Note 1.	
13	C3s18	See Note 1.	
14	C3s19	See Note 1.	
15	C3s20	See Note 1.	
15	C3s21	See Note 1.	
15	C3s22	See Note 1.	
15	C3s23	No comment at this stage. We reserve our right to further comment.	
16	C4s24	See Note 1.	
16	C4s25	See Note 1.	
16	C4s26	See Note 1.	