

Alternative Education Modalities Excluded from the SA Schools Act

Every person in South Africa has the right to a basic education, according to Section 29 of the Constitution. The Constitution does not limit this right to a certain type of education, or education received through a certain modality. It only states that it should be a “basic education”.

The underlying principle that shapes the SA Schools Act is that the right to “basic education” is fulfilled by school attendance and by following the CAPS syllabus. For example, the SASA defines a school as “*a public school or independent school which enrolls learners in one or more grades from grade R (Reception) to grade twelve*”.

In terms of Section 6A of the Act the National Curriculum Statement/CAPS “must be applicable to public and independent schools”. On the face of it this restricts curriculum choice and while in practice a few independent schools follow other curricula they are always under pressure to conform to CAPS.

The only exception to school education is home education. Home education is allowed for in the Act, but here home education is limited to education actually provided at the child’s home. The new definition in the BELA Bill also limits home education to education provided mainly by the parent, and to education subject to annual assessments. In terms of curriculum, it also puts increasing pressure on home educators to conform to the CAPS syllabus.

No other types of education are explicitly provided for in the SA Schools Act.

It is therefore clear that the SA Schools Act severely limits the freedom provided for in the Constitution.

Here are specific examples of education modalities that are limited by the SASA:

A. The Act should explicitly protect the right to freedom of curriculum choice for all educational institutions.

According to the Constitution, every person has a right to run an independent educational institution, provided it is registered with the State (amongst other things). If you therefore run an educational institution, the Constitution itself requires registration with the State.

However, by reading the SASA you could conclude that the only kind of institution that can be registered under the SASA is a school, which is defined as an institution that makes use of grades. The SASA should therefore be amended to explicitly provide for the registration of educational institutions which do not make use of grades and follow other curricula.

B. Small Schools/Microschools/Cottage Schools/Centres

The SASA does not explicitly limit a “school” to a certain number of learners.

However, in many provinces, a minimum of 20 learners must be enrolled in an institution before such an institution may be registered as a school. This makes your true cottage school, typically with less than twenty learners, and all the benefits that goes with it, potentially illegal.

Such a cottage school also is run in a vastly different manner than an enormous school of 1200 learners. While there are many safety and organizational concerns in a large school, these almost would not exist in a small cottage school. To expect a small school to adhere to the exact same regulations as a large school is therefore unrealistic and unfair.

SASA should explicitly provide for cottage schools and their specific needs in order to protect their right to exist from infringement on provincial level.

C. Virtual schools

Virtual schools are difficult to regulate under normal school regulations. Although your typical virtual school delivers the curriculum, provides assessments, and takes care of most of the rest of the academic requirements, there are some key aspects to education which they cannot take responsibility for.

The parent of a learner at a virtual school must take responsibility for

- (1) Providing all equipment necessary for the learner to “attend” school;
- (2) Ensure that the learner actually makes use of the online programmes and classes;
- (3) Provide extramurals / access to a library / access to social opportunities; and
- (4) ensure the physical safety of the child during school hours.

All of these responsibilities would belong to a brick-and-mortar school, but cannot be shouldered by a virtual school.

To prevent that certain aspects of the child’s education and safety will be left in a “no man’s land”, the SA Schools Act should provide for virtual schools.

D. Co-operative Home Education

Co-operative home education is a form of home education where several families work together to provide a shared education to their children. They may, for example, rotate venues and gather at a different family’s home each day of the week. Parents may take turns teaching, each teaching the subject(s) they feel most comfortable in. This is not a school, as there is usually no remuneration and the parents generally do the teaching themselves.

This kind of home education is not provided for under the BELA Bill, as its definition of home education limits home education to education done primarily at home. Tutors are also only allowed in specific subjects.

There is no reason why families should not have the freedom to work together in this fashion, and there is nothing detrimental to the situation. Rather, there are many positives, such as social interaction, and making use of each parent’s specific strength.

The BELA Bill should therefore be adapted to make provision for co-operative home education.

Conclusion

You can ask the PCBE to do the following:

1. Explicitly provide for non-graded institutions to register as educational institutions;
2. Change the definition of “school” in the act to include all educational institutions that are school-like;
3. Remove Section 6A(2) that imposes the NCS/CAPS on all educational institutions;
4. Protect the rights of small schools in the SA Schools Act;
5. Provide for virtual schools; and
6. Broaden the definition of home education to include co-operative home education.

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