***IMPORTANT*: DO NOT SEND THIS TEMPLATE IN AS IS – FOLLOW THE INSTRUCTIONS CAREFULLY**

INSTRUCTIONS FOR USING THIS TEMPLATE

* Words in black can be left as it is.
* Words in **red** must be **removed**.
* Words in blue must be RESTATED in your own words and the original blue words **REMOVED**.

If you are unsure whether your submission is in order, feel free to send it to us at defensor@pestalozzi.org before you submit it. We will be happy to have a quick look.

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XXth of [May/June], 2022

ATTENTION: Mr LA Brown

Dear Mrs BP Mbingo-Gigaba, Chairperson: Portfolio Committee on Basic Education

**RE: BASIC EDUCATION LAWS AMENDMENT BILL**

[Express gratitude for the opportunity to comment on the BELA Bill]

[State that you have concerns about the BELA Bill, specifically the amendments to section 51 of the SASA which deals with home education]

**Summary**

My main concerns are as follows:

* The nature and character of home education is different from school education and can not be properly regulated under the same law as school education
* The SASA provides no principles, guidance, procedures or structures to facilitate decisions on the best interest of the child

**Introduction and Background**

[OPTIONAL – Introduce yourself and your family. How big is your family? How old is/are your child/ren? Etc.] [You do not need to disclose these personal details if you do not wish to do so. However, if the reader can picture you and your family as real people with real lives, the impact of your letter is much stronger.]

[Tell your story:

* How long you have been homeschooling;
* Why you started homeschooling;
* Any negative experience you have had with CAPS and/or schools;
* Any positive impact home education has had on your child/ren and/or family.]

[Explain:

* the curriculum and approach you use;
* why you chose it;
* how it benefits your family;
* If you are using an approach or curriculum other than CAPS, explain why you would not want your child to follow CAPS or be assessed against CAPS.]

**Substantive Comments**

Remember to restate each sentence/paragraph in blue below in your own words. The easiest way to do that is to read through the sentence/paragraph, then write down what you remember without looking back to the original sentence/paragraph. Don’t just copy-and-paste!

1. The nature and character of home education is different from school education and cannot be properly regulated under the same law as school education

[Name at least three differences between school education and home education (more if you have the time). Think about things such as: doing different grades in different subjects, learning in an integrated way so that facts are not learnt out of context, being able to follow your and your children’s religious / philosophical approach, always knowing exactly what your children knows and therefore no need for formal testing, etc. Think of things in your specific curriculum, methodology, approach, or philosophy that is different from the way things are done in school. For each of these differences, explain how the way things are done in school has had / can have a negative impact on your child/ren, and how the way things are done in home education has had / can have a positive impact on your child/ren.]

[State that since home education is so different from school education, it is highly problematic to try and regulate them in the same law.]

I would like to propose that the Children’s Act already sufficiently regulates home education, and no additional regulation is needed in the SASA or elsewhere. Section 18(2)(a) of the Children’s Act, read with the definition of “care” in the same Act, gives all children the right to have their education “guided, directed and secured” by their family or parents. All the necessary principles, guidance, procedures and structures to regulate parental care (including education) are also provided in the Act. No additional regulation is therefore needed.

1. The SASA provides no principles, guidance, procedures or structures to facilitate decisions on the best interest of the child

According to Sections 4 and 51 of the SASA the Head of the Provincial Education Department (HOD) may decide whether a particular form of education is in the best interest of the child. Section 51 also provides that such a decision by the HOD may be appealed to the Member of the Executive Council (MEC) of that province.

[Point out that the SASA does not include any principles, guidance, procedures, or structure to enable the HOD or MEC to make an appropriate decision.]

[State that you believe it is a child’s Constitutional right in terms of section 28(2) of the Constitution to have the child’s best interest be of paramount importance in every matter concerning the child. Proper care must be taken that this right is respected, promoted, protected and fulfilled.]

[Explain that:

* the HOD doesn’t know your child/ren from Adam;
* it will take a significant amount of time, money, and manpower per child to gather enough information on your child/ren;
* this is not feasible, considering the budget available to provincial education departments.]

[Explain that:

* you, as a parent, know your child/ren intimately;
* you are therefore in a much better position to make decisions on the best interest of the child, without having to spend extra time or money; and
* someone with less knowledge should not be allowed to overrule your decisions.]

[Explain that:

* the HOD’s area of expertise is school education.
* However, the decision to home educate is rarely, if ever, made solely on educational grounds.

[Explain why you decided to home educate.

* Name several of your considerations, leaving out educational considerations.
* Think of financial, psychological, religious, social, and familial considerations.
* Point out the fact that neither the HOD nor any of the officials are trained to deal with such matters, never mind make decisions about it.
* Repeat that the HOD’s area of expertise is school education and his jurisdiction should be limited to that area.]

While there are several significant problems with making decisions about the best interest of the child in terms of the SASA, the express purpose of the Children’s Act is to “*respect, protect, promote, and fulfil … the rights set out in section 28 of the Constitution*.” The child’s right to have their best interest be regarded as of paramount importance in every matter concerning the child is one of the rights contained in section 28 of the Constitution.

The Children’s Act therefore contains all the necessary principles, guidance, procedures and structures to ensure that the child’s best interests are served in a particular matter.

The decision on whether a particular educational choice is in the best interest of the child should therefore rather be dealt with in terms of the Children’s Act, which is ideally suited and expressly developed for this kind of decision, than by the SASA, which is ill-suited for this purpose and contains none of the necessary contents to enable such a decision.

**Conclusion**

In light of the above points, I would like to ask the following:

1. That proposed section 51 in the BELA Bill be deleted;
2. That the current section 51 in the SASA be replaced with a section which includes the following:
	1. A simple notification process which allows the HOD to keep track of children who are receiving education elsewhere than in school, without providing regulating powers to the HOD.
	2. An exemption clause from compulsory school attendance for children whose parents have notified the HOD of their intention to home educate.
	3. Discontinuation of exemption from compulsory school attendance only when the child returns to school, or when the Children’s Court orders the HOD to discontinue such exemption.
	4. Matters arising from home education shall be dealt with in terms of the Children’s Act, 38 of 2005.

[If you would like the opportunity to address the Portfolio Committee on Basic Education in person (an oral submission), ask for that opportunity here]

[Express gratitude for the opportunity to comment, as you do not feel as if your voice has been heard by government while the Bill was being prepared. Thank the Chairperson for considering your submission.]

Sincerely yours,

**INSTRUCTIONS FOR SENDING YOUR LETTER**

First proofread your letter:

1. Check for typos, missing words, etc.
2. Make sure you have added everything you wanted to say.
3. **Remove all red and blue words**.

Now you are ready to send your letter!

Open the submission form at this link: <https://pestalozzi.org/pestalozzi-letter/>. This is an automated system which keeps track of all letters sent. If you send your letter through this system, we will know if it is delivered, read, gets lost, or is deleted.

Now choose one of the following ways to send your submission:

1. **If you want your contact details to be publicly released with your submission**, do the following:

Copy-and-paste your submission into the first field (marked “Copy-and-paste your submission/cover letter here:”). **Make sure nothing that was written in red or blue is included.** Complete the rest of the fields at the bottom and click “Submit”. Your submission will be signed with your contact details and will be sent to the correct email addresses in parliament. You will also receive a copy of your submission in your inbox.

1. **If you do NOT want your contact details to be publicly released with your submission**, follow these steps:
2. Copy-and-paste your submission into a new Word document. **Make sure no blue or red words are included**. Make sure your name and surname are written at the bottom of your document in Word and save it in a PDF. Give it an appropriate title such as “Comment on the BELA Bill – Portfolio Committee of Basic Education”.
3. Copy-and-paste the following into the first field of the submission form (marked “Copy-and-paste your submission/cover letter here:”):

*Attention: Mr L A Brown*

*Dear Mrs B P Mbingo-Gigaba, Chairperson: Portfolio Committee on Basic Education*

*RE: BASIC EDUCATION LAWS AMENDMENT BILL*

*Please find attached my submission on the BELA Bill to the Portfolio Committee on Basic Education.*

*For privacy reasons I do not wish my contact details to be publicly released with my submission.*

*Sincerely yours,*

1. Attach the PDF of your submission in the next field.
2. Complete all subsequent fields. The submission form will automatically sign your letter with the appropriate details.
3. Click “Submit”. Your submission will be signed with your contact details and sent to the correct email addresses in parliament. You will also receive a copy of your submission in your inbox.

**Remember that the office of Parliament will still be able to see your contact details. However, only the PDF will be released publicly, and not your contact details.** **Any submission made to Parliament, in whichever format, needs to show the details of the sender. Otherwise it might be regarded as spam or a bot message.** **If you are worried about whether it is dangerous to write to Parliament, please read our explanation** [**here**](https://pestalozzi.org/wp-content/uploads/2022/05/Is-it-dangerous-to-write-to-Parliament.pdf)**.**