

**Joint Submissions by the Equal Education Law Centre (“EELC”), Western Cape  
Commissioner for Children (“WCCC”), and Ilitha Labantu on the Draft Regulations  
on the Management of Learner Pregnancy in Schools.**

**Attention:**

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## Introduction

1. Equal Education Law Centre (EELC) is a registered law clinic whose staff of social justice lawyers specialise in education policy, legal advocacy, community lawyering and public interest litigation. Through its daily advice clinic, EELC provides free legal services and representation to people who would otherwise not be able to afford them. Based on our work and the lived realities of the individuals and communities we serve, we also make legal submissions on law and policy reform. We additionally produce action-based research to facilitate reform within South Africa's education system and ensure equal and quality education for all learners.
2. In preparation of this submission the EELC has worked alongside Equalisers (learner members) of our social movement partner Equal Education, as well as our Education Justice Ambassadors who are a part of our Education Justice Ambassador Fellowship.
3. These consultations were conducted with a diverse group of 40 adolescent learners in the Eastern Cape and Gauteng provinces, respectively. The learners provided significant feedback on their experiences and challenges faced at school when it comes to learner pregnancy. The consultation process not only gave us an opportunity to better understand the issues but also created an opportunity for the learners to be changemakers and active citizens.
4. Feedback was received through group work, while some learners chose to make individual submissions. With the learners' consent, scanned copies of their inputs are attached to this submission.
5. The Western Cape Commissioner for Children (WCCC) protects and promotes children's rights in the Western Cape. The WCCC is an oversight mechanism for social sector departments, namely the Western Cape Education Department, the Department of Health and Wellness, the Department of Cultural Affairs and Sport, and the Department of Social Development. The WCCC recognises that the child rights

organisations or community members contribute to the institutional mission of the WCCC to make young voices count with decision-makers - #littlevoicesMUSTcount,#amazwiamancinciMAKAVAKALE,#kleinstemmetjiesMOETsaakmaak.

6. Ilitha Labantu is a non-profit civil society organisation established in 1989, with a specific focus on addressing violence against women and children and providing support to those affected within and around disadvantaged communities. The organisation's work is implemented through its various programs, including the Outreach and Education Department, which drives community-based awareness, prevention, and education initiatives. Through this department, Ilitha Labantu advances its Safer Schools Initiative, aimed at promoting safe, supportive, and violence-free learning environments by addressing gender-based violence, strengthening child protection mechanisms, and raising awareness among learners, educators, and communities.
7. Despite the introduction of the DBE's Policy on the Prevention and Management of Learner Pregnancy in Schools (2021), EELC's law clinic still receives matters in which pregnant learners are subjected to unlawful practices. These include School Governing Bodies ("SGBs") of the schools adopting pregnancy policies that provide for the automatic exclusion of pregnant learners. Secondly, learners who fall pregnant are not readmitted to school in the year of pregnancy and are forced to repeat the same grade should they decide to return. Thirdly, schools demand learners pay a deposit fee in case of a medical emergency and asking learners to be accompanied by their parents or legal guardians to school every day.
8. The Draft Regulations on Management of Learner Pregnancy in Schools ("the Regulations") objectives aimed at the protection and inclusion of pregnant learners present themselves at a critical time where schools continue to harm and undermine the rights of pregnant learners.

9. We therefore welcome the opportunity to make submissions on the Regulations. Our submission highlights some of the key concerns emerging from our experiences in working on issues which affect pregnant learners and advocacy to create an inclusive regulatory environment for all children, particularly those who are vulnerable and marginalized.
10. Kindly note that our submissions and recommendations will be divided into general and section specific comments.
11. Lastly, we also note and endorse the submissions made by the Education Justice Ambassadors in relation to their entered-centered response to the Regulations.

### **General Comments**

12. The intention of the Regulations is supported, particularly in so far as it seeks to protect pregnant learners and ensure continued access to education. However, the Regulations require substantial strengthening to ensure that it is rights-based, operationally clear, and capable of consistent implementation in all schools. We note that these Regulations engage important constitutional and statutory rights, including equality, dignity, privacy, bodily integrity, education, children's autonomy and the best interests of children. For that reason, the Regulations should be revised to remove ambiguity, clarify roles and responsibilities, and establish practical mechanisms for support, accountability, and redress. Reflections by learners indicate that the treatment of pregnant learners varies according to each school. Some learners noted that learners are judged and discriminated against and often choose to drop-out while a minority noted that teachers are supportive and patient and that learners are encouraged and supported to come back to school after pregnancy.
13. Most of the learners listed the following significant structural and attitudinal barriers to accessing sexual and reproductive health services: fear, shame and embarrassment; discrimination based on age; lack of transport money to go to the clinic; lack of

confidentiality by healthcare workers and educators; unfriendly or judgmental behavior from healthcare workers and educators, unfriendly behavior from educators, discrimination at health facilities and religious beliefs.

## **Inclusive terminology**

### **i. “Learner pregnancy”**

14. Through the Safer Schools Initiative, Ilitha Labantu has documented that stigma in schools is not limited to visible pregnancy. Learners who experience pregnancy-related loss or termination often face equal or greater psychological distress due to silence, exclusion, and lack of institutional recognition. These experiences frequently result in absenteeism, drop-out, or long-term disengagement from education. The current definition of learner pregnancy is overly narrow and does not reflect the complexity of pregnancy experiences among adolescents. It excludes learners affected by miscarriage, termination of pregnancy, or stillbirth, thereby unintentionally limiting access to psychosocial, educational, and institutional support. In ensuring the policy meets its intention and imperatives, it is important that a holistic and inclusive approach is adopted that includes the manner in which terms are used and the meanings prescribed to them. The current Draft Regulations appear to focus narrowly on one category of learner and may unintentionally exclude or under-specify support for others.

### **ii. “Learner”**

15. The definition must be expanded to ensure full inclusivity and alignment with the constitutional right to education and dignity. The term must include pregnant learners, learners who terminate pregnancy, learners who experience miscarriage or stillbirth, learners who give birth, and expectant fathers. If the definition is expanded in line with our comment, this would necessitate further definitions to be included, such as termination of pregnancy, miscarriage and stillbirth. These definitions must be aligned with their current definitions under other Acts of parliament, including the Choice on Termination of Pregnancy Act 92 of 1996.

iii. **“after childbirth”**

16. The phrase “after childbirth” should be replaced with “after pregnancy” to ensure broader, more accurate, and less limiting wording. This change would better reflect the range of pregnancy-related circumstances contemplated by the Regulations and avoid excluding learners whose experience does not fit a narrow formulation. This ensures that all learners affected by pregnancy in any form are equally protected, supported, and reintegrated into the education system without discrimination or stigma.

**Consultative process, autonomy and reintegration**

17. The Regulations should clearly reflect a meaningful consultative process in decisions affecting a learner's education and support needs and which affirms the learner’s dignity, autonomy, privacy, and participation. In matters affecting children, the framework should support informed participation where the learner is capable of taking part and avoid paternalistic decision-making. The Draft Regulations should also include a clearer reintegration process for learners returning to school after pregnancy-related absence, including readmission, continuity of learning, and support on return including the provision of dedicated breaks and access to a private safe space for breastfeeding or expressing milk, in line with national health commitments.
18. Learners noted that it was important that they are part of decision making when it comes to policies concerning their sexual and reproductive health and rights. This includes intentional and proactive consultations at schools and communities in accessible and understandable language. This feedback reflects the principle articulated in article 12 of the CRC and in the Committee on the Rights of the Child’s General Comment No. 12 (2009) on the right of the child to be heard. It also reflects section 28(2) of the Constitution of South Africa, which places the best interests of the child as paramount in every matter concerning the child — and which recognises that learner participation is itself a means of realising those best interests.

## Monitoring and evaluation

19. The Regulations are silent on monitoring and evaluation, which is a significant omission. A monitoring framework should be included to track implementation, identify gaps, assess compliance, and measure whether the Regulations are achieving their intended purpose. In the same vein, the Regulations should contain enforcement mechanisms, clear responsibilities, and escalation pathways for non-compliance. Without explicit consequences, escalation steps, or oversight arrangements, the Regulations risk being directive in form but weak in practical application.

## Complaint and redress mechanisms

20. There is a lack of a clear complaint and redress mechanism for learners. The Regulations should provide an accessible process for learners to report non-compliance, unfair treatment/discrimination, or failure to provide support, including a clear pathway for resolution and appeal where necessary.

21. Learners noted that many schools do not properly follow the education policies that already exist. When principals or teachers do not follow the rules, it is not clear what should happen next. Because of this, the rules are applied differently from school to school, and learners are not always properly protected. This means they do not all experience the rules in the same way.

22. One of the learners reflected and said;

*“They’re already not following the available rules, so what will happen to this one and why is it different? If the current rules are not followed, it is hard to trust that new rules will make a difference unless there is proper accountability and support to make sure they are applied.”*

23. The learners noted that the Department of Basic Education must do more to make sure schools are following the rules that already exist. This should not only be written in policy but also checked in practice.
24. We also think it should be clear what happens when principals or teachers do not protect learners' rights. There should be clear steps that are taken so that officials are held accountable. School Governing Bodies should also play a stronger role. They should help make sure that cases of discrimination and misconduct are taken seriously and properly addressed.

### **Support for male learners**

25. The Regulations should contain clear and strong indicators of support for learners who are fathers, where applicable, to ensure that support measures are inclusive and responsive to the needs of all learners affected by pregnancy, termination, miscarriage, stillbirth, childbirth and parenthood. The current Regulations appear to focus narrowly on one category of learner and may unintentionally exclude or under-specify support for others.

### **Referral and support pathways**

26. The Regulations should be clearer on the role of the principal as the administrative case officer and should also consider the appointment or election of a case manager to identify, lead, and facilitate support. This would improve accountability and reduce confusion between school, district, and external responsibilities. The referral process should also be clear, step-by-step, and easy to follow, with identified role-players and timelines. It should identify who must be contacted, what services are available, how referrals are triggered, and how learners move between school-based, district-based, and external support systems. If the Regulations are not explicit, there is a real risk that their provisions will not be implemented.
27. The Regulations should further clarify the support pathway between school-based, district-based, health, psychosocial, and social support services. This is necessary to

ensure that learners do not fall through the gaps between institutions, and that referrals are made promptly and appropriately.

### **School-Based Support Team (SBST)**

28. In many schools, particularly in under-resourced communities, SBSTs are either inactive or operate without training. Due to the lack of training, support and exposure to issues such as Gender Based Violence, adolescent development, or trauma-informed care. This results in inconsistent responses to learner pregnancy cases.

29. SBSTs must be explicitly mandated as compulsory institutional structures in all schools. Their functions must include:

- Coordinated learner support and case management.
- Psychosocial support and referral coordination.
- Implementation of inclusive education strategies.
- Collaboration with external service providers and civil society organisations.

30. This aligns directly with Ilitha Labantu's Safer Schools Initiative, which emphasises school-based systems strengthening as a critical prevention and response mechanism.

### **District-Based Support Team (DBST)**

31. The absence of a clear, operational definition of DBSTs creates ambiguity in accountability and weakens implementation oversight. DBSTs must be clearly defined as district-level structures responsible for:

- Oversight of inclusive education implementation.
- Training and capacitation of SBSTs.
- Resource allocation and mobilisation.
- Strengthening referral pathways between schools and external services.

32. This ensures coherence between policy intent and district-level execution.

### **Prohibited practices**

33. The Regulations should include a non-exhaustive list of prohibited practices to prevent unlawful exclusion, coercion, humiliation, compulsory deposits, compulsory parental accompaniment, or any other conduct that undermines a learner's rights. As mentioned above, the Regulations should also provide accessible complaint and redress mechanisms so that learners know how to report non-compliance, discrimination, or failure to provide support. A clear remedy framework strengthens enforceability and makes the rules more meaningful in practice.

34. Teachers treat learners unfairly, especially pregnant learners. This can include judging them, making hurtful comments, or making fun of them. Some teachers also make examples of pregnant learners in front of others, which can be embarrassing and harmful.

35. We have also seen cases where learners are forced to change subjects without their consent or are moved back a grade without a clear reason, or are excluded from normal school activities. These actions make learners feel pushed out and unsupported at school.

36. The learners felt that there must be clear rules about how teachers treat learners. These rules should apply to both teachers and learners, and they must clearly say that discrimination, mocking, and exclusion are not allowed.

37. Further, teachers who treat pregnant or parenting learners unfairly must be held accountable. There should be clear steps that are taken when this happens. They noted that learners should not only be expected to report problems to teachers. There ought to be other officials, staff or structures at school, such as the School Governing Body or other trusted adults, where learners can report discrimination safely.

### **Reporting mechanisms**

38. Learners felt that reporting rape, sexual abuse, or harassment at school is often not safe or clear, noting that, it can often be confusing and intimidating, and that many of them do not know who to go to or what will happen after they report.
39. The learners reflected that reporting is not always kept private, and that there are not enough trained people to support them. Because of this, many learners feel scared or guilty, and some choose not to report at all.
40. They noted that schools should have more than one trained person (perhaps pregnancy committees) that learners can go to when they need to report abuse. This could include a social worker, nurse, counsellor, or another trusted adult, so that learners can choose who they feel most comfortable speaking to.

*“We believe reporting processes must be private and focused on the learner. Learners should feel safe and supported when they report, and not judged or blamed. Reporting should protect learners and make it easier for them to speak up, not make them feel scared or guilty. We also think that when a case is reported, learners must be given access to psychological support and counselling so that they are properly supported.”*

### **Timeframes for support**

41. The Regulations should also include timeframes for all key interventions, including assessment, referral, support planning, readmission, accommodation, and follow-up. Without deadlines, support may be delayed or implemented inconsistently, to the detriment of learners.

### **Budget and resources**

42. The Regulations do not address costing, resourcing, or implementation capacity. Any regulatory framework that creates obligations for schools and departments must be accompanied by a realistic assessment of the budget, staffing, training, and support

resources required. The absence of costing raises concerns about whether the duties imposed by the Regulations can be practically fulfilled.

### **Teacher support**

43. The Regulations do not make sufficient provision for teacher support. The Regulations should include training, guidance, and implementation support for educators, particularly where they are required to manage sensitive disclosures, referrals, accommodations, and reintegration. Without support for teachers, implementation is likely to be uneven and may place an unreasonable burden on schools.

### **Confidentiality in reports**

44. The Regulations are not specific as to what information needs to be included in the reports from external services providers, after the initial assessment of the learner. In this regard, the Regulations should clearly articulate the specific information needed in the learner's medical report, which is deemed necessary for optimum support from the Principal, SBST and DBST, to protect the learner from undue exposure and discriminatory practices.

### **Mandatory reporting**

45. We strongly support the inclusion and explicit incorporation of Section 110 of the Children's Act 38 of 2005 within the regulatory framework. Through the Ilitha Labantu school-based Gender Based Violence prevention and response programmes, it has been consistently clear that mandatory reporting:

- Strengthens early identification of abuse
- Enables timely intervention
- Protects learners from ongoing harm.

46. However, its effectiveness depends on:

- Clear implementation guidelines

- Trauma-informed application by educators, and
- Strong referral systems to social development and law enforcement.

47. We therefore recommend that the Regulations explicitly incorporate Section 110 obligations, ensuring that all educators and relevant personnel are trained and supported to comply appropriately, without compromising learner dignity and safety.

48. In addition to the above learners raised the concerns about subregulation 8(6) that requires learners under the age of 16 to be reported to the South African Police Services. They felt that this requirement is both a deterrence to report and/ or disclose learner pregnancy cases and an attempt to criminalise young people. Some learners felt that this could then limit access to support for the pregnant learner, preventing them from receiving the guidance and assistance that they may need, including support to take responsibility and develop into better fathers.

### **Prevention through Education**

49. Learners noted that they felt that the three main contributors to learner/teenage pregnancy were:

- Lack of knowledge of sexual and reproductive health and rights.
- Unsafe sex practices.
- Inadequate or ineffective delivery of Comprehensive Sexuality Education.

50. It is important that in managing learner pregnancy both reactive and proactive measures must be put in place. Proactive measures include prevention to reduce future cases. As envisioned by the Department of Basic Education Policy on the Prevention and Management of Learner Pregnancy in Schools, the provision of youth-friendly Sexual Reproductive Health Rights (“SRHR”) information in schools needs to be provided through a close working relationship between the Department of Basic Education and

Department of Health as prescribed by the Integrated Schools Health Policy (“ISHP”). Life Orientation and other subjects, through the provision of Comprehensive Sexuality Education, should contain material that is interactive, learner-centered and employs skills-based pedagogies, delivering quality, age-appropriate SRHR information, including information on contraception.

51. In addressing and combating the increase of learner pregnancy cases, the learners noted that one of the avenues that would assist learners and ensure that they have some level of access to sexual and reproductive health information and services, was a collaboration between the Department of Basic Education and the Department of Health. Learners noted that if clinical services including the availability of contraceptives would be made available in schools this would not only guarantee easy access but also ensure consistent access to information. This is consistent with the existing School Health Policy framework and should be urgently operationalised.

**Provision Specific Comments**

TABLE OF COMMENTS			
Clause	Regulation	Comments	Recommendation
Definitions Learner	1	The definition of pregnant learner should be broader and more inclusive. The current definition adopts a traditional and literal approach which does not align with the purpose and intention of the Regulations and/or reality on the ground that not all pregnant learners give birth or are birthing parents. As such we propose that the definition be amended to include learners who choose to terminate their	We recommend that the term “Learner” be amended to state the following:  “Learner” means a pregnant learner, learners who have chosen to terminate their pregnancy, learners who have experienced a miscarriage, a learner who have experienced a stillbirth, a learner who has given birth, and an expecting father.”

		<p>pregnancy, experience miscarriage or stillbirth, and learners who give birth. This ensures that all learners, regardless of the course of their pregnancy, would be protected and supported under the Regulations.</p>	
School Based Support		<p>The current definition does not consider the full scope and functionality of the school based support team. The wording minimises the importance of the SBST structure and does not provide mandatory establishment in all schools including private schools. The definition further aligns with the Standard Operating Procedures for the Establishment, Operational Management and Capacity Building of District Based Support Teams (“DBST”), November 2024.</p>	<p>Deletion of the current wording, and the insertion of the following:</p> <p>“School Based Support Teams established by all schools as a school level support mechanism, whose primary function is to put coordinated school, learner and teacher support in place to ensure that the school becomes an inclusive centre of learning, care and support. This team is the same as an Institution-level Support Team.”</p>
District Based Support Team		<p>The Regulations make reference to the District Based Support Team section 4. However, they do not include a definition of the term or details on the structure.</p> <p>The definition further aligns with the Standard Operating Procedures for the Establishment, Operational Management and Capacity Building of District Based Support</p>	<p>Insertion of the following wording:</p> <p>“District Based Support Team means a management structure at the district level responsible for coordinating and promoting inclusive education through training, curriculum delivery, distribution of resources, infrastructure development, and identification, assessment and addressing barriers to learning. The DBST must provide leadership and general management to ensure that schools within an education district are</p>

		Teams (“DBST”), November 2024.	inclusive centres of learning, care and support.”
Individual Support Plan		There is a need to define an Individual Support Plan as well as an amendment to the relevant section to reflect the inclusion of the School Based Support Team.	We recommend the inclusion of the following wording:  “Individual Support Plan – A plan designed for learners who need additional support or expanded opportunities, developed by teachers in consultation with the parents and the School Based Support Team.”
Objectives of Regulation	Regulation 3	It is important that the principle of inclusion is applied in all matters concerning children. As such, these Regulations must recognise inclusion as objective as this speaks to the direct issue of the exclusion, discrimination and victimisation of pregnant learners.	We recommend the amendment of the clause and the inclusion of subsection (d) with the following wording:  “3(d) Schools must prevent and address all barriers that threaten or otherwise affect the full participation of pregnant learners with their right to education. All intentions and strategies must be informed and guided by the purpose of full inclusion.”
District Based Support Team	Regulation 4(1)(a)	The use of the phrase or term “after childbirth” adopts a traditional, narrow and literal approach and understanding of pregnancy which does not align with the purpose and intention of the Regulations and/or reality on the ground given that not all learners give birth and/or are birthing parents.  The use of “after pregnancy or post pregnancy” ensures a broader and inclusive understanding of the different journeys of pregnancy. This approach	We recommend the deletion of the term “after birth” and the insertion of “after pregnancy” such that the clause reads as follows:  “4(1)(a) takes reasonable measures to protect the rights of learners to basic education and, where necessary, advise on alternative methods for the reasonable accommodation of the learner during pregnancy and <u>after pregnancy.</u> ”

		<p>considers learners who choose to terminate their pregnancy, experience a miscarriage, experience stillbirth, learners who give birth and expectant fathers. Thus, ensuring that all learners are able to benefit equally from discrimination.</p>	
	<p>subregulation 4(1)(c)</p>	<p>Simplify the language and remove ambiguity to ensure it is clear who is responsible for what and at which stage or level.</p> <p>Currently it is unclear who should lead the process of supporting learners. Does it rest with the District Base Support Team, the School Based Support Team or the Principal at school level.</p>	<p>We recommend the amendment of subregulation 4(1)(c) to state the following:</p> <p><u>“Support the process of managing learner pregnancy through oversight and resources mobilisation aimed at supporting schools in the provision of professional advice, referrals and services for all learners.”</u></p> <p>Additional to this is the inclusion of a further subsection on additional support that DBSTs must provide to SBSTs and Schools. As such we recommend the following inclusion:</p> <p>“One of the primary functions of the DBST is the development and ongoing support of SBSTs within their district. This support may include:</p> <p>Identifying and using local community support networks to improve teaching and learning processes and help schools link their needs with local resources to address them.”</p> <p>DBSTs must be explicitly mandated to:</p> <ul style="list-style-type: none"> <li>• Provide structured oversight and accountability mechanisms.</li> <li>• Mobilise resources for school-level interventions.</li> </ul>

			<ul style="list-style-type: none"> <li>• Strengthen SBST capacity through continuous training and mentorship.</li> <li>• Facilitate linkages between schools and community-based support services.</li> </ul>
	subregulation 4(1)(d)	Provide a clear and easy to follow referral process. This makes it clear so all stakeholders, role players, and especially the implementers know and understand what is expected of them. It also ensures clarity and uniformity.	A subsection must be included as part of this section providing a clear detail on the "referral process" referred to in this subregulation 4(1)(d).
	subregulation 4(2)	<p>The concept of reasonable accommodation remains vague and lacks operational clarity.</p> <p>Learners frequently disengage from schooling due to the absence of flexible learning arrangements, lack of psychosocial support, and inadequate physical infrastructure adjustments.</p> <p>We suggest that the Regulations provide clarity on what reasonable accommodation entails.</p>	<p>We recommend that the subregulation be amended to include two types of support as follows:</p> <p><u>“(2) Reasonable accommodation of the learner contemplated in subregulation (1) refers to necessary and appropriate modification and adjustments without imposing a disproportionate or undue burden, where needed in a particular case, to ensure that learners continue with their education during and after pregnancy. This includes, but is not limited to the following:</u></p> <p>(a) Modification or adjustments to furniture, facilities and equipment required to be used by the learner.</p> <p>(b) <u>Support services which includes but is not limited to educational and psycho-social support.</u></p>
School-based support team	subregulation 5(1)(a)	Simplify the language and remove ambiguity to ensure it is clear who is responsible	We recommend the amendment of subregulation 5(1)(a) to read as follows:

		<p>for what and at which stage or level.</p> <p>Currently it is unclear who should lead the process of supporting learners. Does it rest with the District Based Support Team, the School Based Support Team or the Principal at school level.</p>	<p><u>“Support and provide oversight on the management of learner pregnancy by coordinating a multisectoral response that ensures that every internal stakeholder understands and meets its obligation and mandate at school level.”</u></p>
	subregulation 5(1)(b)	<p>The School Based Support Team must provide oversight and provide the necessary support to ensure that the best interests of the learner are considered. This function further aligns with the function and/or duty contained in subregulation 5(1)(a) as recommended above.</p>	<p>We recommend the amendment of subregulation 5(1)(b) to read as follows:</p> <p><u>“Develop and review the individual support plan contemplated in Regulations (8)(2)(d) in consultation with the school principal.”</u></p>
	Section 5(2)(c)	<p>Access to support services must not be dependent on complete administrative or documentary information, as this disproportionately affects vulnerable learners. Where a learner is unable to provide said documentation this should not affect or hinder the learner’s right to education and access to educational and psycho-social support.</p>	
Obligations of principal	subregulation 6(1)(h)	<p>Use of inclusive language as not all pregnant learners identify as female.</p>	<p>We recommend the amending of subregulation 6(1)(h) to read as follows:</p> <p><u>“Ensure that after a learner’s pregnancy, the learner returns to the relevant grade to continue <u>their</u> education.</u></p>

	subregulation 6(1)(e)	This obligation falls under the function and purview of the District Based Support Team.	We recommend that subregulation 6(1)(e) be removed.
	subregulation 6(1)(k)	It is important that the decision not only relies on the school principal and the parent/caregiver/guardian of the learner. Section 28(2) of the Constitution provides that the best interests of the child are of paramount importance and as such they have the right to be heard on matters and decisions concerning them to the extent that they understand the issue and possible outcomes of said decision. This is supported by section 10 of the Children’s Act 38 of 2005. It is further important that decisions affecting the learner’s attendance be informed by all interested stakeholders and people with expertise, hence the recommendation of the school based support team in the decision making process.	We recommend the amending of subregulation 6(1)(k) to read as follows:  “With consultation with the learner, the parent, caregiver or guardian of the learner and school based support team, agree to the leave of absence of the learner during pregnancy and post pregnancy.”
	subregulation 5(1)(j)	The term “educational support” is too broad and does not give sufficient guidance to the learners or the implementers of the obligation.	We recommend the amendment of subregulation 5(1)(j) to read as follows:  “Provide educational support which includes but is not limited to:  i. Academic flexibility and alternative assessment arrangements. ii. Catch up plans. iii. Make-up tests iv. Catch up lessons

			<p>v. Extra lessons.</p> <p>vi. lesson packs.</p>
General procedure for management of learner pregnancy	subregulation 8(2)(d)	subregulation 8(2)(d) states that the principal, "through the school-based support team," must develop an individual support plan for the learner. This wording limits the process to the school-based support team, potentially excluding other key stakeholders such as the learner, her guardian, and relevant professionals (e.g. social workers, health practitioners). To ensure a holistic, learner-centered, and effective support plan, it is important to broaden the process to include these stakeholders.	<p>We recommend the amendment of subregulation 8(2)(d) to read as follows:</p> <p>“(2) The principal must -</p> <p>(c) through <u>a consultative process</u> including the school-based support team, the learner, her guardian, <u>and recommendations from a relevant professional</u>, develop an individual support plan...”</p>
	subregulation 8(3)	subregulation 8(3) does not specify the scope of information to be included in the report, which may lead to the inclusion of confidential or sensitive information unrelated to the pregnancy, such as HIV status or other medical conditions. This risks violating the learner's right to privacy and confidentiality. To ensure privacy and protect learners from potential stigma or discrimination, subregulation 8(3) should clearly state that only information directly related to the pregnancy should be	<p>We recommend the amendment of subregulation 8(3) by inserting clause (d) to read as follows:</p> <p>“(3) The report contemplated in subregulation 2(c) must -</p> <p>(d) Omit or withhold confidential or sensitive information, such as the learner's HIV status or other unrelated medical conditions, unless such information is directly relevant to the management of the pregnancy and the learner has provided explicit written consent for its inclusion”</p>

		included in the report, and that sensitive information (e.g., HIV status) must be omitted or withheld unless directly relevant.	
	subregulation 8(6)	The process outlined in subregulation 8(6) is a duplication of mandatory reporting requirements already established in national legislation. The Children's Act 38 of 2005 and the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, requires educators and school officials to report cases of pregnancy in learners under 16 to the Department of Social Development and the South African Police Service. Repeating this requirement in the Regulations does not add value and may cause confusion or unnecessary administrative burden. Removing this duplication will streamline the Regulations and ensure clarity for school staff and stakeholders.	We recommend the removal of this subregulation.
	subregulation 8(7)	The current wording of subregulation 8(7) limits the duty to report to cases where the identity of the father is known and the pregnancy results from a sexual offence. This approach is problematic because it does not reference the Criminal	We recommend amending subregulation 8(7) to reference the Criminal Procedure Act and clarify that the duty to report applies regardless of whether the father is known to read as follows:  “(8) When the learner becomes pregnant due to a sexual offence, the principal must follow the provision of the Criminal Law

		Procedure Act 51 of 1977 , which governs the reporting of criminal offences and it may result in underreporting of sexual offences.	(Sexual Offences and Related Matters) Amendment Act, 2007...”
	subregulation 8(8)	The use of the term "non-educator member" in subregulation 8(8) is unnecessarily narrow and may exclude certain categories of staff who interact with learners and have a duty to protect them. The term "staff member" is more inclusive and ensures that all employees of the school, regardless of their specific role, are covered by the reporting and disciplinary requirements.	We recommend the amendment of subregulation 8(8) to read as follows:  “Where the biological father of the child is an educator or <u>staff member</u> of the school, the incident must.....”
Management of learner pregnancy during assessments and examinations	Section 9(3)(b)	Replace “promotional” with “promotion and progression”.	We recommend the amendment of section 9(3)(b) to read:  “Formal assessment tasks, controlled tests and examinations referred to in subregulation (2) must, respectively - (a) be recorded; (b) Be used for promotion and progression purposes; and (c) be administered under controlled conditions”.
	Section 9(5) and (6)	We are concerned with this provision. In its current form, the default position is that pregnant learners <i>cannot</i> write their examinations unless they prove that they are able to. We propose that the section be amended to make the default position one in which pregnant learners are	We recommend the amendment of subregulation 9(5) to read:  “Where a pregnant learner is medically unfit to sit for an examination or any assessment contemplated in subregulation 6, a parent, caregiver or guardian as the case may be, must provide the principal with a valid medical report to that effect”.

		<p><i>always</i> able to write their examinations, and only when they are <i>unable</i> to write, should they be made to provide a medical certificate.</p> <p>This is a more inclusive position to take, as medical certificates are often difficult to obtain for various reasons, including distances of clinics, particularly in rural or peri-urban areas, long waiting periods for them to be issued, and the need to take time off to obtain them.</p> <p>In light of this, it is logical to allow <i>all</i> pregnant learners to write and only place the “burden” of obtaining a medical certificate on the comparatively fewer learners that are unable to write.</p> <p>Thus, the provision should be amended to refer to being “unfit” to write the examination or complete the assessment, rather than being “fit” to do so.</p>	<p>We further recommend the deletion of subregulation 9(56) to read.</p>
	<p>Section 9(7)</p>	<p>We suggest that the word “learning” is replaced with “education” as it is unclear what “learning” entails or will require of the principal and staff.</p>	<p>We recommend the amendment of subregulation 9(7) to read:</p> <p>“The principal and staff must take steps to accommodate the learner’s education during the examination period”.</p>

<p>Management of learner pregnancy during extended absences</p>	<p>Section 10(4)(b)</p>	<p>This section deals with the absence of the pregnant learner from school. In particular, section 10(4)(b) states that where a pregnant learner has been absent, their parent must be informed of the work that was missed and must be advised to make suitable arrangements for the relevant study materials, lesson notes and assignments to be availed to the learner to cover the lost content. However, we are concerned that the provision of materials, lesson notes and assignments alone is insufficient, particularly where the learner has been absent for a longer time period. It is our submission that in addition to the provision of materials, tuition must also be provided and tailored to the learners' specific circumstances.</p>	<p>We recommend the addition/insertion of a section to the Regulations that ensures pregnant learners are also provided with tuition when they are absent for reasons related to their pregnancy. A suggested addition could read:</p> <p>“In addition to the collection of the relevant study materials and the learner’s obligations to cover missed content, as set out in section 10(4), the school has an obligation to provide tuition to the learner where they are absent for reasons related to their pregnancy”.</p>
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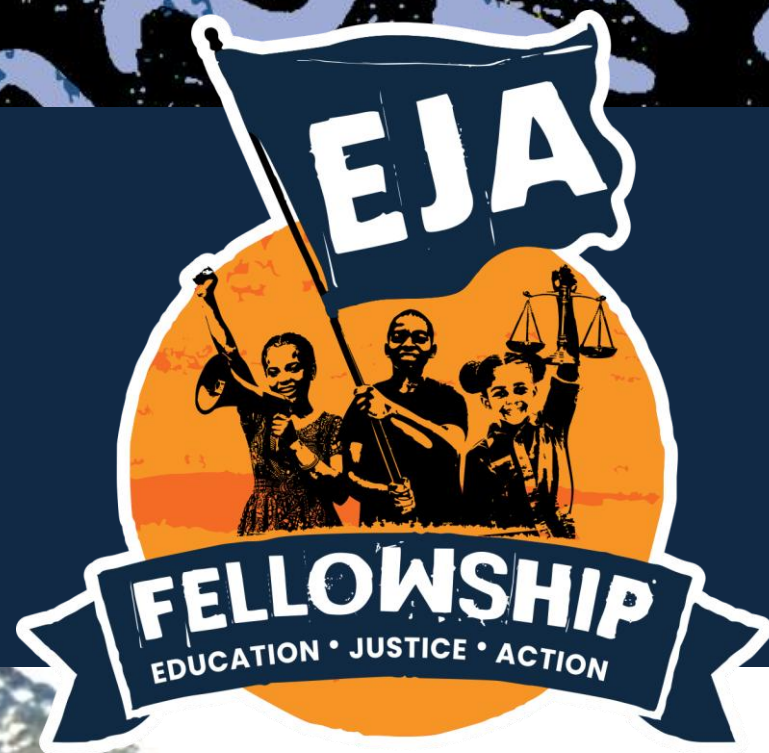
**Public participation**

Public participation is a crucial aspect of effective governance and public policy. It ensures that policies are informed by diverse perspectives and promotes accountability. The involvement of citizens in public participation means participating in decision making processes and importantly ensuring that policies are responsive, implementable and sustainable due to being shaped by community input. The Draft Regulations were published on 25 March 2026, with a 30-day notice to make submissions. These timelines did not consider that during that time schools were on holiday and that organising consultations requires time and resources. As such

we recommend that the Department extend the submission and/or reopen the call for submissions.

## **Conclusion**

Learner pregnancy is a multidimensional issue that sits at the intersection of the rights to education, dignity, equality, health and bodily integrity. The voices of the young people who participated in our consultations make clear that systemic, rights-based reform is required. EELC, WCCC and Ilitha Labantu remain committed to engaging in the process and thank the Department of Basic Education for the opportunity to contribute.



# SUBMISSION ON THE DRAFT REGULATIONS OF THE MANAGEMENT OF LEARNER PREGNANCY IN SCHOOLS

BY THE EDUCATION JUSTICE AMBASSADORS | APRIL 2026





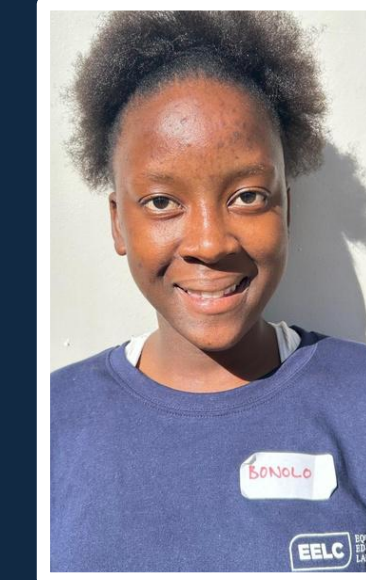
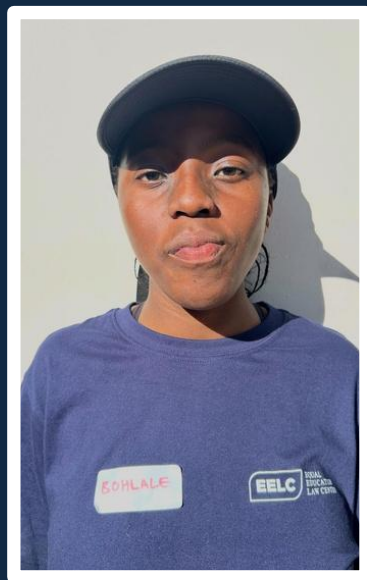
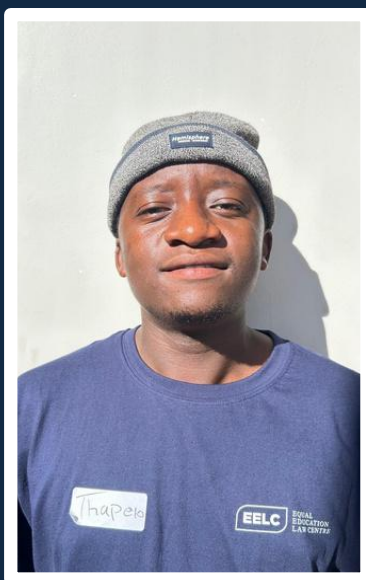
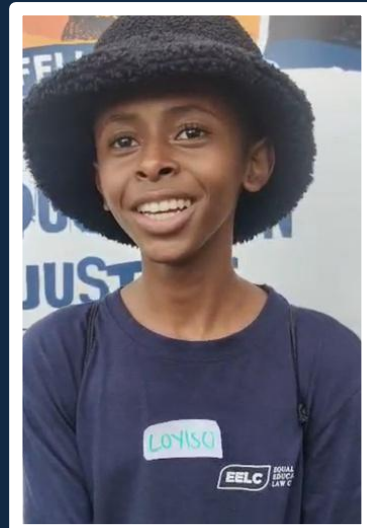
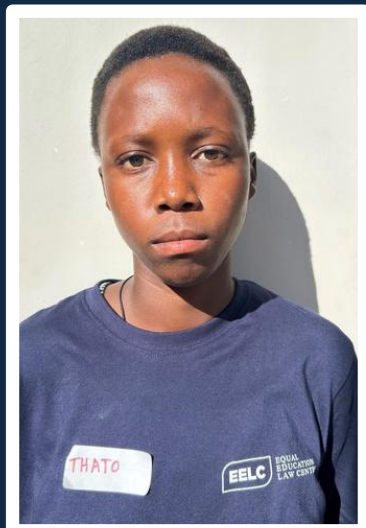
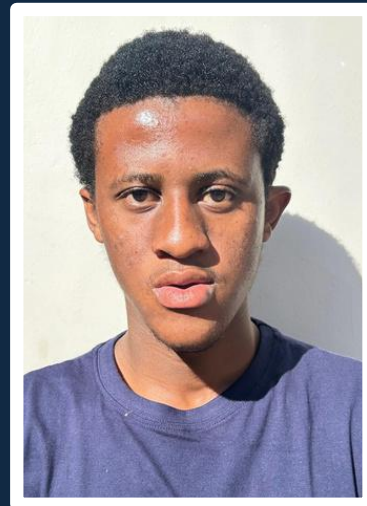
We are the Education Justice Ambassadors (EJAs), a group of young people from across Gauteng participating in a year-long fellowship with the Equal Education Law Centre. We draw on our experiences of the education system while building the knowledge and skills to advocate for learners and engage on issues that affect us directly.

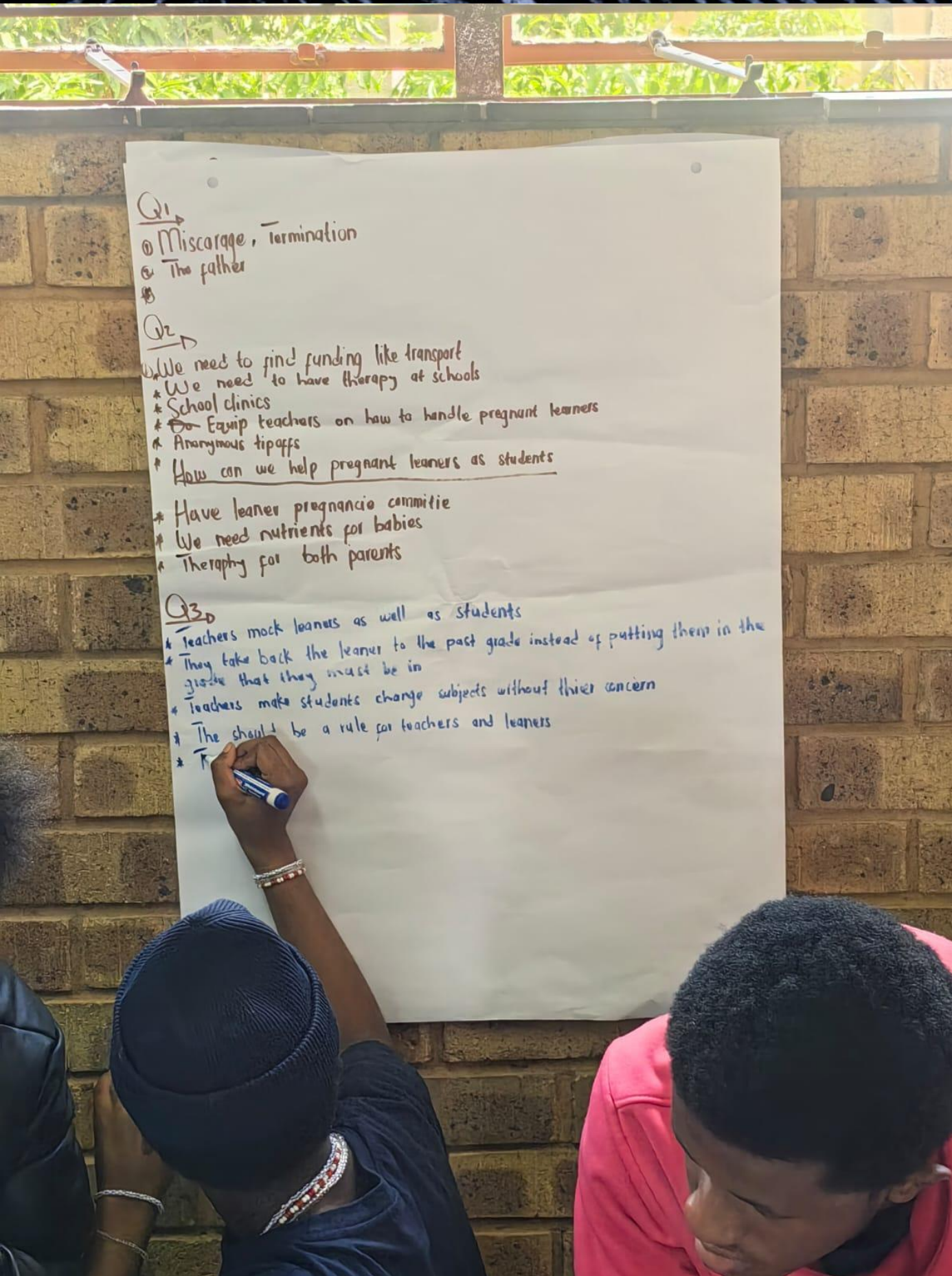




# WE ARE

TUMELO SIBUSISO  
SIPHESIHLE YENDE  
NATHI MAKHUBELA  
PRECIOUS NGWENYA  
BOHLALE PHELADI  
KEACLARETSE DITIBANE  
ORATILE DITIBANE  
TSHIAMISO DUMA  
CHANTELL MTEMBO  
JOY LESEGO MDLULI  
NTUTHUKO NKOSI  
THATO MOSUOE  
BONOLO MAMAKOKO  
THAPELO MABOKELA  
GIFT UBISI  
SPHIWE GASA  
MINENHLE DUBAZANA  
LOYISO GWABENI  
LILY KUMBANGA



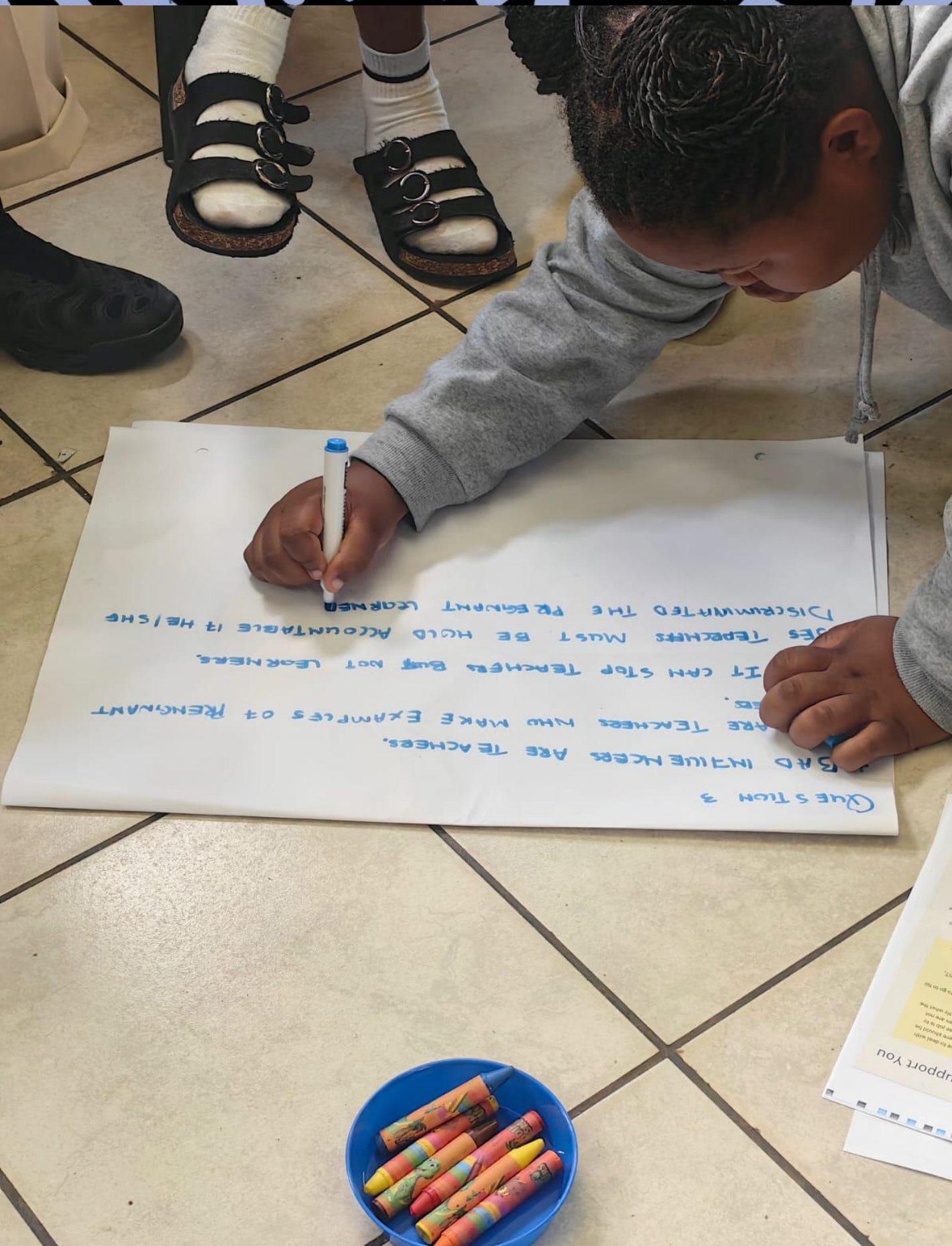


We met on Sunday, 19 April, together with the Equal Education Law Centre. We started by learning what a submission is and how to make one. We then unpacked what the regulations say and what the rights of pregnant learners are. After that, we broke into smaller groups to talk about what we think about the regulations and to share our own experiences of learner pregnancy in our schools. We wrote our ideas and discussions on flip chart paper, and those notes have been used to put this presentation together.

We wanted to make sure that everyone had a chance to share their views in a way that felt comfortable to them. Some of us preferred speaking rather than writing, so we also recorded videos to capture our thoughts. We have included both written and video inputs as part of this submission.

We hope that the Department of Basic Education carefully considers all parts of our submission. It is important to us that different ways of sharing views, whether written or spoken, are taken seriously so that everyone's voice can be heard.





We would welcome  
the opportunity to  
make oral  
submissions



# OUR VIDEO SUBMISSIONS



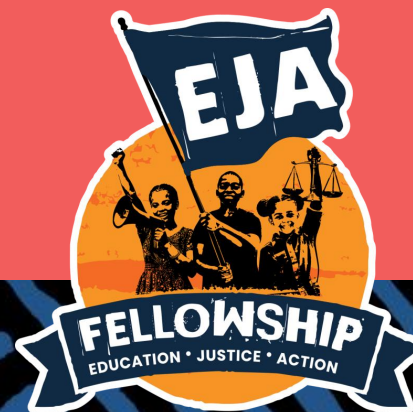


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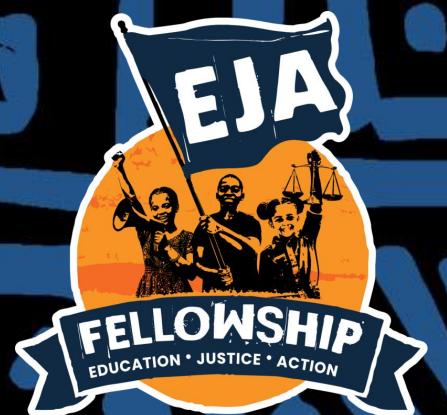
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# KEY ISSUES



# DEFINITIONS



**The current definition of a "pregnant learner" must be broadened to reflect the full range of reproductive experiences learners may face.**

### **Miscarriage**

Learners who have experienced a miscarriage must be recognised and supported under the policy definition.

### **Abortion**

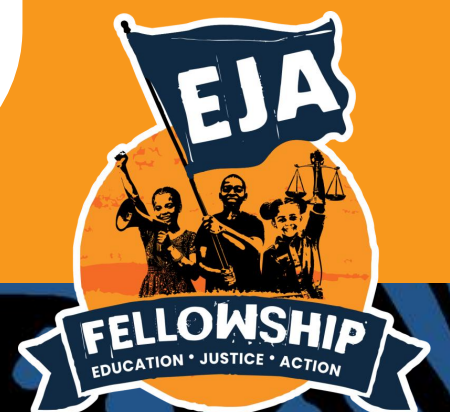
Learners who have had abortions should be explicitly included and afforded the same care and consideration.

### **Birth & Stillbirth**

Learners who have given birth (including those who have experienced stillbirths) must be covered within the definition.

### **The Father's Role**

The role of the father should be formally included in the definition, acknowledging shared responsibility from the outset.



# ACCOUNTABILITY & IMPLEMENTATION



## ISSUE

We have seen that many schools do not properly follow the education policies that already exist. When principals or teachers do not follow the rules, it is not clear what should happen next. Because of this, the rules are applied differently from school to school, and learners are not always properly protected. This means we do not all experience the rules in the same way.

As one of us said, “They’re already not following the available rules, so what will happen to this one and why is it different?” If the current rules are not being followed, it is hard to trust that new rules will make a difference unless there is proper accountability and support to make sure they are applied.

## RECCOMENDATION

We think the Department of Basic Education (DBE) must do more to make sure schools are following the rules that already exist. This should not only be written in policy, but also checked in practice.

We also think it should be clear what happens when principals or teachers do not protect learners’ rights. There should be clear steps that are taken so that people are held accountable.

School Governing Bodies (SGBs) should also play a stronger role. They should help make sure that cases of discrimination and misconduct are taken seriously and properly addressed.



# UNSAFE & UNCLEAR REPORTING MECHANISMS



## ISSUE

We feel that reporting rape, sexual abuse, or harassment at school is often not safe or clear. It can be confusing and intimidating, and many of us do not know who to go to or what will happen after we report.

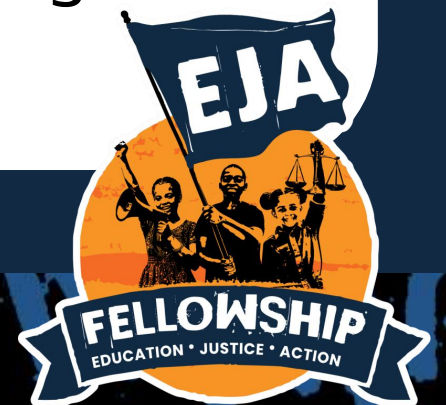
We are also worried that reporting is not always kept private, and that there are not enough trained people to support us. Because of this, many learners feel scared or guilty, and some choose not to report at all.

## RECOMMENDATIONS

We think schools should have more than one trained person (maybe pregnancy committees) that learners can go to when they need to report abuse. This could include a social worker, nurse, counsellor, or another trusted adult, so that learners can choose who they feel most comfortable speaking to.

We believe reporting processes must be private and focused on the learner. Learners should feel safe and supported when they report, and not judged or blamed.

Reporting should protect learners and make it easier for them to speak up, not make them feel scared or guilty. We also think that when a case is reported, learners must be given access to psychological support and counselling so that they are properly supported.



# DISCRIMINATION BY EDUCATORS



## ISSUE

We have seen that some teachers treat learners unfairly, especially pregnant learners. This can include judging them, making hurtful comments, or making fun of them. Some teachers also make examples of pregnant learners in front of others, which can be embarrassing and harmful.

We have also seen cases where learners are forced to change subjects without their consent, moved back a grade without a clear reason, or excluded from normal school activities. These actions make learners feel pushed out and unsupported at school.

## RECOMMENDATION

We think there must be clear rules about how teachers treat learners. These rules should apply to both teachers and learners, and they must clearly say that discrimination, mocking, and exclusion are not allowed.

We believe that teachers who treat pregnant or parenting learners unfairly must be held accountable. There should be clear steps that are taken when this happens.

We also think learners should not only be expected to report problems to teachers. There should be other people or structures at school, such as the School Governing Body or other trusted adults, where learners can report discrimination safely.



**NOT ENOUGH SUPPORT  
FOR PREGNANT &  
PARENTING LEARNERS**



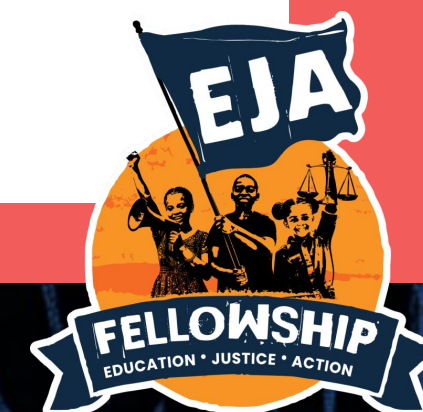
## ISSUE

We have seen that pregnant learners often miss school because they feel scared, judged, or unsupported.

Learners face emotional and financial pressure. They do not come to school because they are stressed about supporting the baby, and need financial support.

Some also face health challenges that make it difficult to attend school regularly. The regulations are not practical when they ask learners to get a doctor's note – what if they cannot travel to the doctor? Or do not have access to one in a remote rural area?

Many schools do not provide enough support. Learners do not always have access to healthcare, counselling, or safe spaces at school. Uniforms are not always suitable for pregnant learners, and school facilities are not always appropriate or comfortable. We have also seen that learner fathers are often left out and do not receive any support.



## RECCOMENDATION

We think schools must do more to support pregnant and parenting learners so that they can stay in school and continue learning. Schools should provide access to healthcare services, such as school clinics or support from health workers. Learners should also have access to counselling and the support they need at school. This should include guidance on parenting support, nutritional support for babies, and how to financially and emotionally support the baby.

We believe that school uniform rules should be more flexible so that pregnant learners can feel comfortable. Schools should also make sure that sanitation facilities are safe and appropriate, and that learners can access any medication they may need during the school day.

Finally, we think learner fathers should also be supported. They should be included in counselling and programmes that help them understand their responsibilities and support their children.



**LEARNERS ARE NOT  
AWARE OF THEIR  
RIGHTS**



## ISSUE

We have seen that many learners do not know enough about their rights. We are not always taught what our rights are, how to report abuse or discrimination, or what support is available to us.

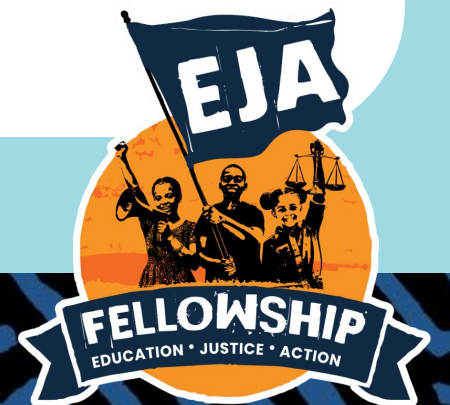
Because of this, learners can be more vulnerable to abuse and unfair treatment, and may not know where to go for help.

## RECCOMENDATION

We think schools must do more to teach learners about their rights and responsibilities in a clear and ongoing way.

Learners should be taught about their constitutional and education rights, how to report abuse or discrimination, and what school policies say about issues like pregnancy, absence, and health.

This learning should not happen only once. It should happen regularly and in a way that is easy to understand for different age groups, so that all learners are informed and able to protect themselves.



# From Siphesihle Yende

## UNL EARNER Program

### Definition of a "Pregnant Learner"

A "Pregnant Learner" is a learner currently, given birth, termination/miscarriage and "THE FATHER"

(Saying this because not one learner is pregnant and others needs to be know and the father also has role and responsibilities he's pregnant also.)

Do you think these rules will actually help learners stay in school? Are there things that happen at your school that are not covered by these rules?

Yes. Because most learners dropout because of discriminating by learners and teachers but also the community.

1. How do rural kids get transportation when you say let them go to school pregnant and also health access it far were by they say.

- Get funding for transportation and health access and also therapy.

- Conduct a law or act that say when you discriminate a pregnant kid in school you do social work for the community.

- Working together Teachers advising and also community.

What are some ways pregnant learners are treated unfairly at your school? Do these rules do enough to stop this?

- Most times classmates mock and what worse Teachers even gossip and make laugh about you in cases i have seen and these rules are not enough to protect because those rules are broken by the support team.

(Do Schools Get Support From DEPT)

NO. They dont get support at all. At our schools

the DEPT dont even come to even check our classroom and also how will they manage to come to give support when they dont even come in how to do research since conducting this law to see from schools what experience we see.

(What Support will be given specific explanation well)  
They should tell us more what support and how and when receiving this draft i dont see "Rural Pregnant learners" mentioned.

(What must the Principal do)

NO. Principal wont follow the rules. They dont even know check our school environment.

They should be given warnings to be fired out of there position and have disciplinary hearing cases about the matter.

NO. One person is corrupt there should be division of work among people who the pregnant learner dont know.

It not fair how do pregnant learners go to school pregnant and being mock and rule kids i dont see safety concerns here.

And also it hard to get medical notes in public schools and if the learner does not have means not coming to school it not fair.

The topics in a pay in school are many and in a week we have learn 5 topics and how is a pregnant learner going to catch up

## [SAFETY, Reporting and Support] [AND LAW]

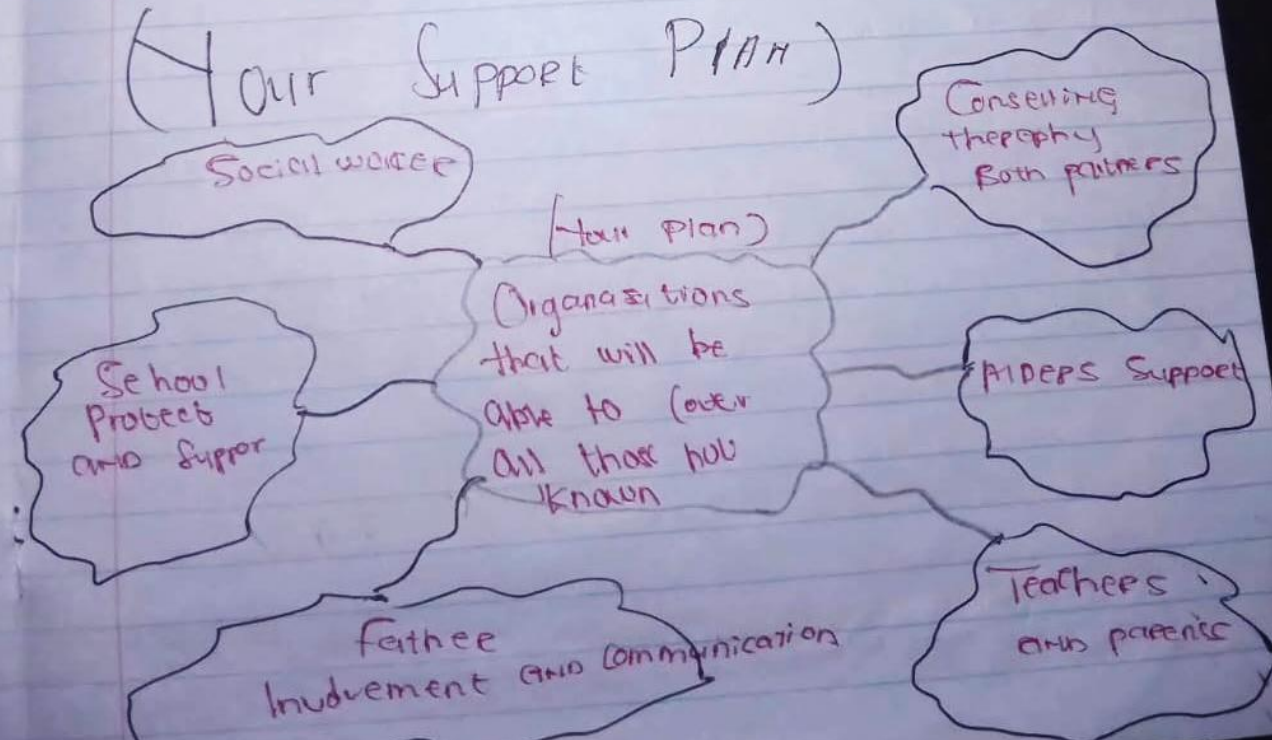
First they must go to therapy and also they protect the learners and most cases the people wanting to do this. But also have proper way to address it so that it will not scare the kids.

- Counselling
- Therapy
- Communication
- Support and Law taken to the home.

Yes The person outside the school can be a neighbour, inside home, community and also people we trust the most. That the explanation I like the most.

Yes. If rape or other form of abuse they should be reported to not let the person feel they have not been supported.

## (Your Support Plan)



## (IM Conclusion)

- What I would say is you can't draft a law without Budget and also the Budget was supposed to be shown to us to see.

Also don't draft a law without not seeing rural learners pregnant learners is not going to benefit them but going to fail still.

And if the rules are not followed they should be law involved.

And also the government here should be law based if they don't follow this rule.

And also I think nurse to be brought to school for safety reasons.

# From Bonolo Mamakoko

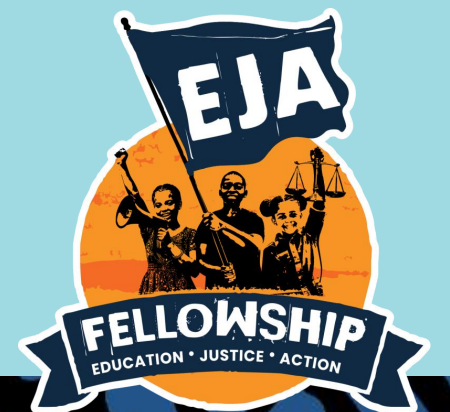
Suggestion on who should support pregnant learners when school principals are unable to assist them fully

My name is Bonolo Mamakoko, I am a grade 11 learner from Alexandra, Gauteng. I am writing to suggest ways to improve support for pregnant learners

The policy on the Prevention and Management of Learner Pregnancy in Schools (2021) places responsibility on principals to provide academic support and referrals. However, many principals in Public schools (under resourced schools) lack training, time or support from district. They even lack access to social workers to meet these responsibilities.

This leaves pregnant learners without guidance on healthcare, safe return or protection from victimisation. I think suggest that a social worker should step in. Because a social worker can provide health care referrals, psychological support and academic support plans. And also child protection if the learner is under 16.

As an Education Justice Ambassador, I am committed to helping implementing solutions in schools



# From Keaclaretse Ditibane

## THE PERSON I THINK SHOULD BE RESPONSIBLE FOR THE PREGNANT LEARNERS

### LEARNERS OR AN EJA

- For a learner to be responsible for the program, we should choose the person who will be strongly dependent. Not a person who will gossip and talk about people's personal issues

### A SOCIAL WORKER

- For a social worker to be responsible, we have to choose a social worker who will not stay at our school, but a social worker who will stay at his or her workplace.

### TEACHER

- For a teacher to be responsible, we have to choose a teacher who loves school learners. A teacher who is caring and a teacher who likes to motivate learners

**NB:** FOR A PERSON THAT WE WILL CHOOSE TO BE RESPONSIBLE, WE NEED TO HAVE A POLICY THAT WILL HAVE CERTAIN RULES THAT SHOULD BE FOLLOWED. THEY SHOULD FOLLOW THAT POLICY OR CODE OF CONDUCT

## WHAT I THINK AS A YOUNG EJA

Whoever we choose, they should always be a school learner, because as school learners we know what we face in our everyday lives and we can relate with those pregnant learners, including fathers.



## Reflection on EJA Workshop by Mbalenhle Gxuda – (Equal Education Law Centre intern and EJA workshop facilitator)

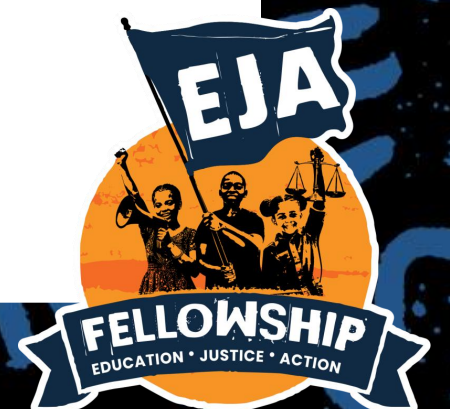
When I arrived in Daveyton on Sunday, I did not know what to expect. I introduced myself simply as a legal intern. Someone still learning, still trying to understand how the law operates in people's everyday lives. What I encountered in that room has stayed with me.

The Fellows welcomed me with warmth and confidence. The kind of confidence and boldness that comes from knowing your reality and speaking from it. They created a space that felt open and honest, and I felt I identify with them.

As we worked through the "Learner Pregnancy and Know Your Rights" worksheet, I noticed by how familiar they are with the law. They referred to section 29 of the Constitution of the Republic of South Africa, as well as the rights to dignity and privacy, with ease. Their engagement showed a clear interest in law and justice.

One moment that stood out was Nthuthuko's reflection on the requirement for a doctor's note. What appears to be a simple law becomes a real barrier for a pregnant learner in a rural area, far from a clinic, with limited transport and inconsistent access to healthcare. It is a reminder of how easily the law can overlook lived realities.

As the discussion deepened, the Fellows shared what happens in at their schools. They spoke about teachers removing pregnant learners from classrooms for reasons not related to learning, principals changing subjects without consultation, and educators making jokes or treating pregnancy as a disciplinary issue rather than a matter requiring support. One Fellow described a learner who gave birth in a school bathroom due to the absence of health support. Another shared a recent case in their community involving the rape of a 12-year-old by an older man, where no meaningful action followed despite the matter being reported, raising concerns about accountability.



## **CONTINUED: Reflection on EJA Workshop by Mbalenhle Gxuda**

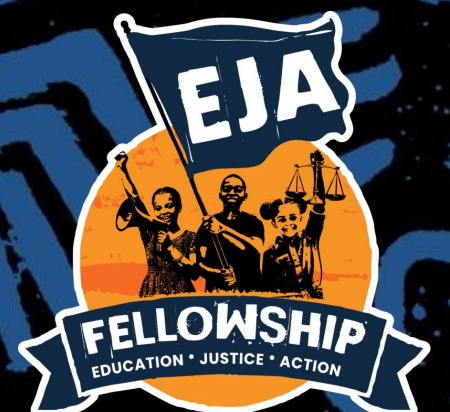
What stood out equally was that they did not stop at identifying problems. They proposed solutions. These included the establishment of a Learner Pregnancy Support Committee made up of a social worker, a Life Orientation teacher, and learner representatives. They called for school-based clinics or, at minimum, functional sick rooms. They emphasised the need for accountability, including consequences for principals who deregister pregnant learners to protect pass rates, and for teachers who fail to support learners academically.

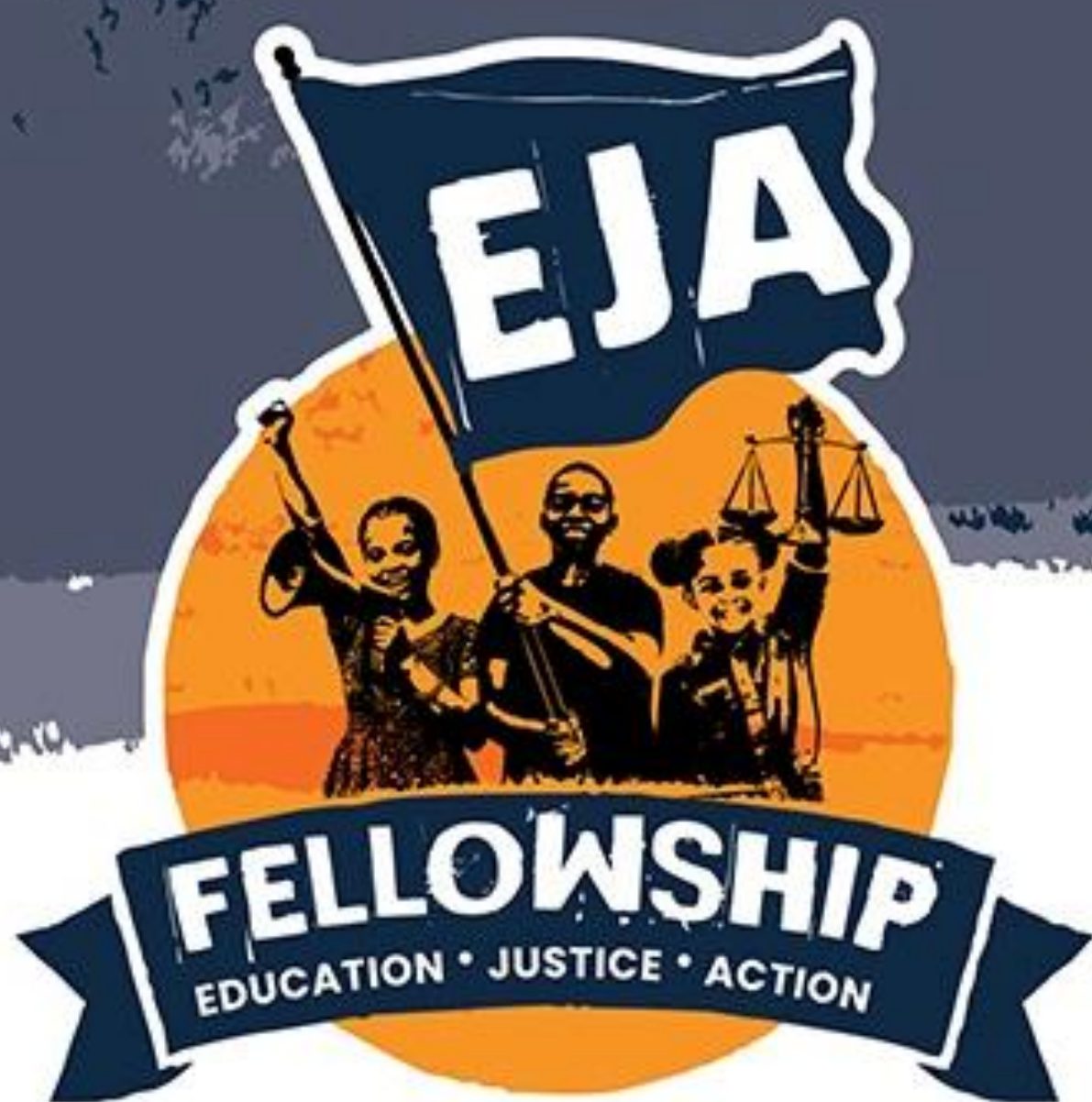
They also identified gaps in the draft regulations. They suggested that the definition of a “pregnant learner” should include those who have experienced miscarriage, stillbirth, or abortion. They called for clarity on terms such as “close in age” in the context of consensual relationships, and on what is meant by “other authorities” beyond the South African Police Service.

Their observations about how school reputation is often prioritised over learner dignity were clear and came from experience. I am grateful to have witnessed and learned from this engagement.



***THANK YOU FOR TAKING THE TIME TO  
CONSIDER OUR SUBMISSION. QUESTIONS AND  
COMMENTS CAN BE DIRECTED TOWARD  
VUYOLWETHU TSWELEKILE AT  
VUYOLWETHU@EELAWCENTRE.ORG.ZA***





# EDUCATION JUSTICE AMBASSADORS FELLOWSHIP

*Young voices. Real rights. Brighter futures.*



**EELC**

EQUAL  
EDUCATION  
LAW CENTRE



**TREVOR NOAH**  
FOUNDATION