

# IMPLEMENTATION OF NORMS AND STANDARDS FOR SCHOOL INFRASTRUCTURE

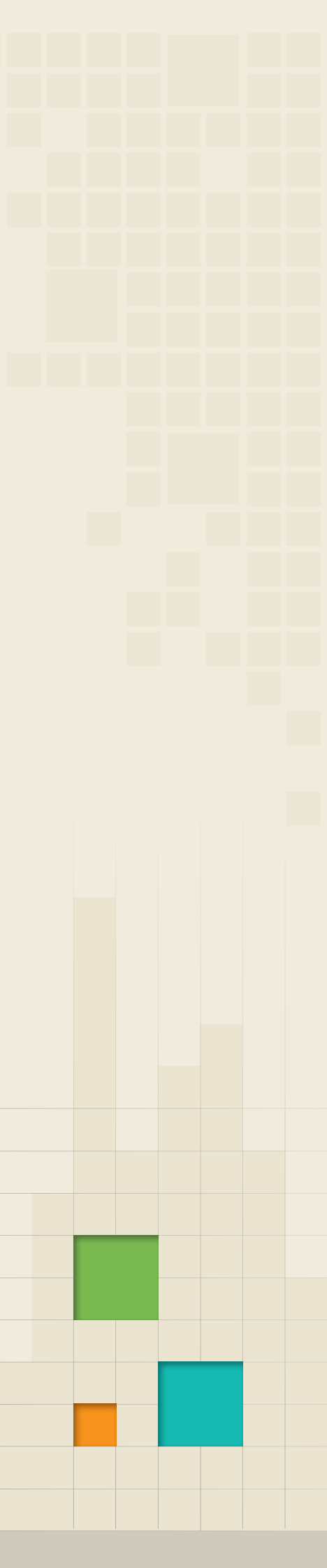


CENTRE FOR  
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# List of Abbreviations

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|              |                                                           |
|--------------|-----------------------------------------------------------|
| <b>ASIDI</b> | Accelerated Schools Infrastructure Development Initiative |
| <b>CCL</b>   | Centre for Child Law                                      |
| <b>DBE</b>   | Department of Basic Education                             |
| <b>EE</b>    | Equal Education                                           |
| <b>EELC</b>  | Equal Education Law Centre                                |
| <b>LRC</b>   | Legal Resources Centre                                    |
| <b>PAIA</b>  | Provision of Access to Information Act 2 of 2000          |
| <b>PED</b>   | Provincial Education Departments                          |
| <b>SADTU</b> | South African Democratic Teachers' Union                  |
| <b>SCA</b>   | Supreme Court of Appeal                                   |

# EXECUTIVE SUMMARY

Apartheid's discriminatory policies resulted in problematic long-term education impacts for most children in South Africa (usually black children from low income households and deprived contexts). These impacts have perpetuated inequality through circumstances such as the appalling condition of many schools. Children in provinces that experience particularly high levels of poverty, such as Limpopo and Eastern Cape, bear the brunt of the inequality.<sup>1</sup> Challenges, including no/unreliable water supply, pit latrines or no ablution facilities, no electricity supply, and dangerous and/or undesirable infrastructure, persistently and negatively affect children's experiences of learning.<sup>2</sup>

Much remains to be achieved to ensure that all children attending school have access to safe schools that are conducive to learning. There are concerning ongoing reports about children learning in schools flooded by rain, or dying due to falling into pit latrines. The presence of, and response to, the COVID-19 pandemic has highlighted and further entrenched the deep inequalities in the education system.

The campaign for better education infrastructure started in 2008, and in January 2013 the Minister published draft norms and standards. So, what has been achieved since then? The report finds the following from the publicly available data:

- Since 2013, the number of independent school learners has increased by 43% (221 281 learners) compared to public school learner numbers, which increased by only 6% (709 042).
- Overall, the number of public schools declined by 1 547 schools, from 24 136 in 2013 to 22 589 in 2022.
- The independent school sector, across the different provinces, has increased its number of schools over the period between 20% and 105%, adding a total of 698 new schools since 2013.

The data on the progress made to eliminate the schools built from inappropriate materials are not consistent. The latest data that could be found was for 2017, which was compared to the prior report in 2011. The following deductions were made from the available data:

- There is significant variation between provinces in the proportion of schools constructed from appropriate materials.
- Most of the schools made of inappropriate materials affect the lowest three quintiles of learners.

1 McConnell C and Breener S "Litigating the Right to Basic Education" in Brickhill J *Public Interest Litigation in South Africa* 282–3.

2 *Ibid.*

- There was a clear drop in the number of schools without any water supply – the number reduced by more than half from 2013 to 2014, indicating that the advocacy for norms and standards had a positive effect.
- Whilst the target for schools with no water supply was met in time, it is noted with concern that the number of schools with unreliable water supply has doubled since 2011.
- In 2018, the government achieved the requirement that no school should be without sanitation facilities. There has also been a steady reduction in the number of schools relying only on pit latrines.
- There have been steady reductions in the number of schools without access to electricity since the implementation of the infrastructure norms and standards. However, the proportion of schools with unreliable electricity supply has increased since 2011, and comprised 14% of all schools in 2021.
- Schools with no communication tools reduced by half between 2011 and 2014, but since 2014, there has been little progress to further reduce this number.

For a complete analysis of sufficient school infrastructure, one needs to look at the available classrooms and their size. This is particularly important, since the infrastructure norms and standards specifically prescribe the square metres per learner.

Incompetence and corruption play a significant role in the slow pace of school infrastructure delivery. To ensure accountability, advocacy efforts should therefore continue to push for consistent and reliable data on:

- progress made to eliminate schools constructed from inappropriate materials
- the number of classrooms, and an adequate number of classrooms for the number of learners
- type and size of rooms in schools
- accessibility of schools
- the number of toilets, basins, etc. relative to the number of learners

”

For a complete analysis of sufficient school infrastructure, one needs to look at the available classrooms and their size.



## 1

## INTRODUCTION

The right to basic education has long been seen as both a human right in itself, and an indispensable means of realising other human rights.<sup>3</sup> It is viewed as an empowerment mechanism through which economically and socially marginalised children can lift themselves out of poverty and obtain the means to participate fully in their communities.<sup>4</sup> The importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.<sup>5</sup> The Constitutional Court has affirmed the importance of education by noting the following:

Teaching and learning are as old as human beings have lived. Education is primordial and integral to the human condition. The new arrivals into humankind are taught and learn how to live useful and fulfilled lives. So education's formative goodness to the body, intellect and soul has been beyond question from antiquity. And its collective usefulness to communities has been recognised from prehistoric times to now.<sup>6</sup>

The conditions – such as the quality of school infrastructure – under which education is provided play a crucial role in successful schooling, and the ultimate fulfilment of the above-mentioned educational outcomes. This is a fact acknowledged by former President Thabo Mbeki, in 2004, when he noted that learning is critical to the improvement of quality of life, and committed to ensuring that no learners would learn under trees, in mud schools or other dangerous conditions that would expose them to the elements.<sup>7</sup>

3 Committee on Economic Social and Cultural Rights "General Comment 13: The right to education" (1999) para 1.

4 *Ibid.*

5 *Ibid.*

6 *Federation of Governing Bodies for South African Schools (FEDSAS) v Member of the Executive Council for Education, Gauteng and Another* (CCT 209/15) [2016] ZACC 14 at para 1.

7 President Thabo Mbeki "Address of the President of South Africa, Thabo Mbeki, to the first joint sitting of the third democratic Parliament, Cape Town" (21 May 2004).

Apartheid’s discriminatory policies resulted in problematic long-term education impacts for most children in South Africa (often black children from low-income communities and deprived contexts). These impacts have perpetuated inequality through circumstances such as the appalling conditions of schools. Children in provinces that have particularly high levels of poverty, such as Limpopo and Eastern Cape, bear the brunt of the inequality.<sup>8</sup> Challenges, such as no/unreliable water supply, pit latrines or no ablution facilities, no electricity supply, and dangerous and/or undesirable infrastructure, persistently and negatively affect children’s experiences of learning.<sup>9</sup>

The year 2020 marked ten years since the Legal Resources Centre (LRC), the Centre for Child Law (CCL) and seven school governing bodies (representing seven schools in Eastern Cape) launched a court application in the Bhisho High Court, Eastern Cape (“Mud Schools case”).<sup>10</sup> The court application was launched in a bid to have the dilapidated infrastructure of the seven schools – and other schools with similar issues – refurbished in order to provide safe schools conducive to learning.

The court order obtained from this initial litigation was pioneering. The Department of Basic Education (DBE) was put to task and required to provide children with safe school infrastructure conducive to learning. The DBE reports that, because of the Accelerated School Infrastructure Delivery Initiative (ASIDI) project – initiated after the judgment – 246 new schools reached practical completion in the 2019/20 financial year. The initial litigation also paved the way for further litigation (by various impact litigation groups including Section27, Equal Education and the Equal Education Law Centre) on the safety of school infrastructure, and such issues as school sanitation and infrastructure norms and standards.

8 McConnachie C and Breener S “Litigating the Right to Basic Education” in Brickhill J *Public Interest Litigation in South Africa* 282–3.

9 *Ibid.*

10 *Centre for Child Law and 7 others v Government of the Eastern Cape Province and others*, Eastern Cape High Court, Bhisho, case no 504/10.

## CHALLENGES THAT PERSISTENTLY AND NEGATIVELY AFFECT CHILDREN’S EXPERIENCES OF LEARNING



Water supply



Sanitation

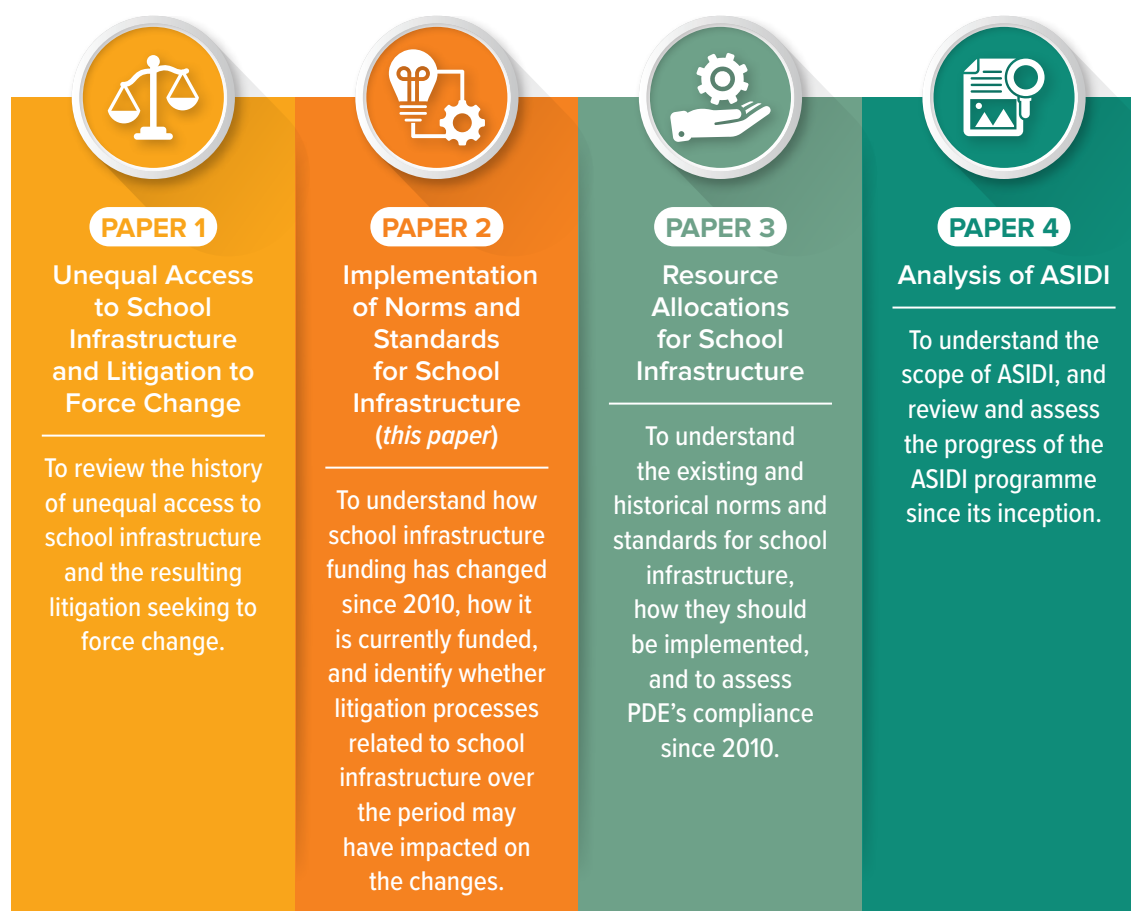


Electricity



School infrastructure

However, much remains to be achieved to ensure that all children attending school have access to safe schools conducive to learning. Concerning ongoing reports about children learning in schools flooded by rain, or dying due to falling into pit latrines, are prevalent. The presence of, and response to, the COVID-19 pandemic has highlighted, and further entrenched, the deep inequalities in the education system. This paper is the second in a series of four separate, but linked, papers to assess the progress made over the last ten years. The titles and a short summary of each of the series of papers are:



### **Paper 1 – Unequal Access to School Infrastructure and Litigation to Force Change**

Since 2010, social activists and litigators – recognising the courts' potential to achieve children's right to basic education – have utilised litigation to seek the improvement of school infrastructure, set norms and standards for infrastructure, and challenge school rationalisation processes.

In 2010, the LRC, CCL, and the Infrastructure Crisis Committees of seven schools in the Eastern Cape, launched court action to eradicate mud schools in the Eastern Cape province. The government initially opposed the court application but then agreed – through a 2011 settlement – to provide the seven schools with mobile classrooms, sufficient desks and chairs, and water. It also agreed to commit R8.2 billion to replace inadequate school structures nationwide. Additional court action, advocacy and monitoring efforts ensured that government could not renege on its obligations, and also highlighted government's

persistent failures to implement the original agreement timeously. The so called “Mud Schools case” was followed by the “norms and standards case” launched by Equal Education. After years of advocacy and mobilisation campaigns around the Minister of Basic Education’s failure to develop and implement minimum norms and standards for school infrastructure, Equal Education launched a court application in 2012 to compel the Minister to promulgate the norms and standards. The litigation, together with persistent mobilisation campaigns, resulted in a settlement in which the Minister conceded and developed regulations – which had to be revised – and ultimately promulgated the norms and standards. Over the years, the provincial education departments have closed down, and, in some instances, merged, many schools in outlying or rural areas due to small learner numbers as part of their rationalisation and re-alignment programme. This paper highlights instances of rationalisation and re-alignment, their impact on affected children, and advocacy and or litigation around them.

Progress has been made in addressing inappropriate and unsafe school infrastructure, in large part due to the litigation and advocacy efforts of civil society organisations and affected schools, communities and learners. However, the work is not over yet, and much remains to be achieved to ensure that all children going to school have access to safe schools that are conducive to learning. There are concerning regular reports of children learning in schools flooded by rain, and children dying due to falling into pit latrines.

#### **Paper 2 – Implementation of Norms and Standards for School Infrastructure** (this paper)

#### **Paper 3 – Resource allocations for school infrastructure**

To understand the existing and historical norms and standards for school infrastructure, how they should be implemented, and to assess PDE’s compliance since 2010.

#### **Paper 4 – Analysis of ASIDI**

ASIDI is a programme run by the national DBE. It was established in 2011 with the goal of addressing backlogs in the provision of water, sanitation and electricity to schools, as well as the replacement of school structures made from inappropriate materials – such as mud and asbestos – with appropriate structures. ASIDI was established in response to litigation brought against the DBE by schools in the Eastern Cape and the Centre for Child Law, represented by the Legal Resources Centre, with the aim of eradicating mud schools in the Eastern Cape. This paper delves into the running and implementation of the ASIDI programme since its establishment, including a review of the applicable policy documents, funding sources, outputs and barriers to successful implementation.

The running of ASIDI is governed by two documents developed by the DBE. The *ASIDI Process Flow* document details how schools that need their inappropriate and dangerous infrastructure refurbished, and/or need to receive other identified services, are added to the ASIDI Masterlist.

The *ASIDI Disbursement, Professional and Management Fee Policy and Procedure* document provides the regulatory framework for overseeing the expenses associated with implementing ASIDI projects. It also outlines the process for determining the value of assets transferred to custodians (provincial education departments) and offers guidance to the DBE's Financial Services and Asset Management activities, including activities conducted by Implementing Agents and other appointed service providers.

ASIDI's funding comes from the SIBG. This paper discusses how funding from the SIBG has been allocated for the implementation of ASIDI over the years, including the impact of underspending during some financial years. It also raises questions regarding the constitutionality of the SIBG given it is an indirect conditional grant.

This paper discusses how funding from the SIBG has been allocated for the implementation of ASIDI over the years, including the impact of underspending during some financial years. It also raises questions regarding the constitutionality of the SIBG given it is an indirect conditional grant.

Since ASIDI's inception, the DBE has reported on the implementation, progress and setbacks of the ASIDI programme in various ways, including in its annual reports, presentations to parliamentary committees and *The ASIDI Brief* – quarterly reports produced by DBE. A review of the ASIDI briefs shows significant progress in the implementation of the project over the years. However, the progress was subject to delays for various reasons, resulting in children being unnecessarily exposed to unsafe learning conditions. Some of the reasons for delay include corruption, incompetence, poor governance, and austerity budgeting. These, and the roles they play in adversely affecting the implementation of ASIDI, are discussed, as well as how accountability mechanisms have failed to proactively prevent or address some of the challenges.

# 2

## THE HISTORY OF NORMS AND STANDARDS FOR SCHOOL INFRASTRUCTURE

### 2.1 The journey to securing school infrastructure norms and standards<sup>11</sup>

Section 5A(1)(a) of the Schools Act 84 of 1996 (“the Schools Act”) states that the Minister of Basic Education may, after consultation with the Minister of Finance and the Council of Education Ministers, and by regulation, prescribe minimum norms and standards for school infrastructure. Equal Education (EE),<sup>12</sup> noting that thousands of schools in South Africa suffered from a lack of resources – electricity, water supply, ablution facilities, stocked libraries and laboratories, fencing, and computer centres – and that many schools were constructed from inappropriate materials,<sup>13</sup> used this section to initiate a campaign in 2008, calling on the Department of Basic Education to set minimum standards (norms and standards) for public school infrastructure.<sup>14</sup> The campaign consisted of marching, picketing, petitioning, writing countless letters to the minister, carrying out door-to-door support campaigns in communities, and spending nights fasting and sleeping outside of Parliament.

11 Extract from paper 1 in this series.

12 A community, membership-based organisation, advocating for quality and equality in the South African education system. See <https://equaleducation.org.za/> for more information.

13 Equal Education “School Infrastructure” (undated) available at: <https://equaleducation.org.za/campaigns/school-infrastructure/>.

14 Brickhill J “Strategic Litigation in South Africa: Understanding and Evaluating Impact” (2021) 192–3.

“The inadequacy of schooling facilities, particularly for many blacks was entrenched by the formal institution of apartheid, after 1948, when segregation even in education and schools in South Africa was codified. Today the lasting effects of the educational segregation of apartheid are discernible in the systemic problems of inadequate facilities and the discrepancy in the level of basic education for the majority of learners.”

*Constitutional Court Case Governing body of the Juma Masjid Primary School v Ahmed Asruff*  
Essay NO

In March 2011, EE led a 20 000-person march of learners and supporters to Parliament, demanding that the Minister and department adopt minimum norms and standards.<sup>15</sup> The existence of minimum norms and standards would compel provincial governments to improve education infrastructure.<sup>16</sup> They could also be used to hold the provincial governments, circuits and districts to account.<sup>17</sup>

In March 2012, EE decided to launch a court application to compel the Minister to promulgate the norms and standards. EE, and the infrastructure committees of two schools in Eastern Cape, were represented by the LRC.<sup>18</sup>

The application addressed and described the widespread results of the government’s failure to provide adequate infrastructure standards for public schools in terms of section 5A of the Schools Act, a problem that most harshly affects the poorest schools in the country by perpetuating systemic school infrastructural problems and gross educational inequalities. The application showed in vivid and personal detail how many learners and teachers have been left in unsafe environments that are not conducive to learning, and which have undermined the ability of the learners to achieve in the classroom and fully realise their rights to an adequate education, equality and dignity.<sup>19</sup>

15 Equal Education “School Infrastructure” (undated) available at: <https://equaleducation.org.za/campaigns/school-infrastructure/>.

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 Equal Education “School Infrastructure” (undated) available at: <https://equaleducation.org.za/campaigns/school-infrastructure/>.

EE intensified its public campaign at the same time that it was pushing the court action.<sup>20</sup> It held marches and pickets, learners and supporters sent various communications to the Minister (emails, letters, faxes, tweets and pictures), and information was disseminated through mass distribution of posters, fliers and pamphlets, radio adverts and more.<sup>21</sup> In November 2012, the Minister conceded and agreed to a settlement that provided the two applicant schools with adequate infrastructure, and to promulgate the norms and standards.<sup>22</sup>

The Minister published draft norms and standards in January 2013.<sup>23</sup> The draft norms and standards elicited a number of public submissions, including over 700 individual submissions collected by EE.<sup>24</sup> The Minister amended the draft in response to the submissions received, and promulgated the norms and standards in November 2013.<sup>25</sup> They required all schools to have access to sufficient water, electricity, sanitation, safe classrooms, internet, security, libraries, computer and science laboratories, and recreational facilities.<sup>26</sup> They also provided time frames for implementation, and required the provincial departments of education to report on progress.<sup>27</sup>

Despite improvements to the norms and standards, they still did not meet constitutional muster and were challenged in court by EE, represented this time by the Equal Education Law Centre (EELC).<sup>28</sup> The norms and standards made implementation subject to resources and the co-operation of other government agencies and entities responsible for infrastructure in general, giving government a means to escape their obligations.<sup>29</sup> This also infringed on the Minister's obligation to make binding norms and standards. Portions of the norms and standards also read vaguely, and were open-ended in a manner that provided little clarity on government's fulfilment of its obligations in terms of the norms and standards, as well as of the Schools Act.<sup>30</sup>

20 McConnachie C and Breener S 289.

21 Equal Education "School Infrastructure" (undated) available at: <https://equaleducation.org.za/campaigns/school-infrastructure/>.

22 Brickhill J (n41 above) 194.

23 Brickhill J (n41 above) 194–5.

24 Equal Education "School Infrastructure" (undated) available at: <https://equaleducation.org.za/campaigns/school-infrastructure/>.

25 Brickhill J 194–5.

26 Budlender S, Marcus G and Ferreira N "Public interest litigation and social change in South Africa: Strategies, tactics and lessons" (2014) 84.

27 *Ibid.*

28 The Equal Education Law Centre is registered as a law clinic with the Cape Law Society and its staff of social justice lawyers specialise in education policy, legal advocacy, community lawyering and public interest litigation.

29 *Equal Education and Another v Minister of Basic Education and Others* [2018] ZAECBHC 6 at para 59–63.

30 *Equal Education and Another v Minister of Basic Education and Others* at para 119–122.



... all schools built of inappropriate materials should be fixed, and not just those made entirely of mud; provincial reports on steps taken to remedy school infrastructure challenges must be made publicly available to ensure transparency and public accountability; and the norms and standards must read to mean that the department must fix schools and not just prioritise them.

The Bhisho High Court handed down judgment on 19 July 2018. The Court noted that the government has the overall responsibility to ensure state compliance with section 29(1)(a) of the Constitution of the Republic of South Africa, 1996 (the Constitution), as well as the Schools Act.<sup>31</sup> It further noted that state action must be taken in a manner that is respectful of the inherent dignity of human beings.<sup>32</sup> It went on to acknowledge the fact that it cannot be disputed that basic school infrastructure plays a weighty role in the delivery of basic education.<sup>33</sup>

The Court, after setting out the above foundational principles, went on to hold that it is unacceptable to argue that the provision of appropriate schools is dependent on other entities, thereby essentially absolving the department of its obligations. This is inconsistent with the Constitution; all schools built of inappropriate materials should be fixed, and not just those made entirely of mud; provincial reports on steps taken to remedy school infrastructure challenges must be made publicly available to ensure transparency and public accountability; and the norms and standards must read to mean that the department must fix schools and not just prioritise them.<sup>34</sup> The Minister was directed to fix the identified problems in the norms and standards.

The Department of Basic Education attempted to appeal the judgment and order of the High Court. The Constitutional Court dismissed the appeal in October 2018, finding that it bore no prospects of success.<sup>35</sup>

31 *Equal Education and Another v Minister of Basic Education and Others* at para 168.

32 *Equal Education and Another v Minister of Basic Education and Others* at para 169.

33 *Equal Education and Another v Minister of Basic Education and Others* at para 170.

34 *Equal Education and Another v Minister of Basic Education and Others* at para 178–202.

35 Constitutional Court order, see <https://eelawcentre.org.za/wp-content/uploads/minister-of-basic-education-and-others-v-ee-amatolaville-norms-2-november-2018.pdf>.

## 2.2 The fight continues

On 10 June 2022, the department, further exacerbating matters, published proposed amendments to the norms and standards that – according to EE and the Equal Education Law Centre – have the following regressive outcomes:

1. The wording of the proposed amendments is vague and confusing. It is not clear what is being changed or replaced, making it difficult for the public to engage with them.
2. The proposed amendments remove infrastructure delivery deadlines (2016, 2020, 2023 and 2030 deadlines). This makes it difficult for stakeholders to hold the department accountable for the provision of appropriate school facilities.
3. The proposed amendments remove guidelines to provinces about what they should report on – backlogs, plans for building new schools, plans for upgrading and maintaining existing schools.
4. The use of the phrase “as far as practicable” by the department in reference to making sure that different state entities fulfil their roles in the delivery of school infrastructure.<sup>36</sup>

The proposed amendments were still being processed when this report was finalised in September 2023. EE and the Equal Education Law Centre continue to carry out campaigns opposing the draft amendments. On 30 June 2022, the two organisations organised a march to Parliament, attended by 60 learners, opposing the amendments.<sup>37</sup>

“The roof did not have a ceiling and the corrugated iron had spaces between the sheets. The floor of the classrooms had cracks and holes in the floor. When it rains, not only does the roof leak, it gets too loud to hear the teacher teaching. It is very distracting and after the roof collapsed, sometimes we are sent home if the rain is too much.”

*School Governing Body of Makangwane vs MEC of the Limpopo Department of Education*

36 Equal Education and Equal Education Law Centre “Joint Submission by Equal Education and Equal Education Law Centre on amendments to the regulations relating to minimum uniform norms and standards for public school infrastructure” 29 July 2022; and Equal Education and Equal Education Law Centre “Media Statement: EE and EELC make a written submission on the DBE’s proposed changes to the school infrastructure law, urging it not to scarp the urgency and accountability needed for fixing our schools!” 1 August 2022.

37 Groundup “Learners march against proposal to end deadlines to fix schools” 30 June 2022. Available at <https://groundup.org.za/article/learners-march-against-proposed-changes-to-school-norms-and-standards/>.

# 3

## THE NORMS AND STANDARDS

In November 2013, the Minister of Basic Education published final and binding Norms and Standards for School Infrastructure. The objectives of the regulations are:

1. to provide minimum norms and standards for public school infrastructure;
2. to ensure compliance with the minimum uniform norms and standards in the design and construction of new schools, and additions, alterations and improvements to schools that existed when the regulations are published; and
3. to provide for timeframes within which school infrastructure backlogs must be eradicated.

The norms deal with the size of education areas (including libraries, science laboratories, storage facilities etc.), administration areas, and norms for sanitation areas, etc. Regarding classroom size, the infrastructure norms and standards state the following:

1. The minimum space in a school allocated for each learner and educator must be as follows:
  - a. Grade R
    - i. Learner: 1.63m<sup>2</sup>; and
    - ii. Educator: 7m<sup>2</sup>;
  - b. Grades 1 – 12
    - i. Learner: 1m<sup>2</sup>; and
    - ii. Educator: 7m<sup>2</sup>;
  - c. Learners with disabilities: 2m<sup>2</sup>.
2. The following are acceptable norms for class size:
  - a. Grade R: A maximum of 30 learners; and
  - b. For all other classes: A maximum of 40 learners.

They require that schools adhere to the requirements and principles of Universal Design. Universal Design is the “design and composition of an environment so that it can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability.”<sup>38</sup>

While the regulations apply to all new schools as well as to additions, alterations and improvements to existing schools, with schools built from mud, wood, asbestos and metal being prioritised. In addition, schools that do not have access to any form of power supply, water supply or sanitation must also be prioritised. These existing and prioritised schools were expected to meet the minimum norms and standards *within a period of three years from the date of publication of the norms and standards* (i.e. by November 2016), whereas other existing schools were given a period of seven years (i.e. November 2020) to comply with the norms and standards. In addition, the norms and standards relating to libraries and laboratories were to be phased in over a period of 10 years (i.e. by November 2023).

The norms and standards also required that each province provide the Minister, within 12 months of the published regulations, with detailed plans on how the province would implement the norms and standards. The plans were to refer to the following:

1. The backlogs, at district level, that each province experiences in terms of the norms and standards;
2. Costed short-, medium- and long-term plans with targets;
3. How new schools should be planned and maintained, and how existing schools are to be upgraded and maintained; and
4. Proposals with respect to procurement, implementation and monitoring.

”

Universal Design is the “design and composition of an environment so that it can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability.

38 <https://universaldesign.ie/what-is-universal-design/>

## 4

# WHO IS RESPONSIBLE FOR SCHOOL INFRASTRUCTURE PLANNING?

The Constitution lists “education at all levels, excluding tertiary education” in Part A of Schedule 4. This means that national and provincial government have concurrent legislative competence with regard to primary and secondary school education.<sup>39</sup> Section 146 of the Constitution sets out the conditions that national legislation needs to meet in order to prevail over provincial legislation dealing with a matter in Schedule 4. Amongst the conditions is the requirement that “the national legislation deals with a matter that, to be dealt with effectively, requires uniformity across the nation, and national legislation provides that uniformity by establishing (i) norms and standards, (ii) frameworks or (iii) national policies”.<sup>40</sup>

In other words, the provinces are primarily responsible for Schedule 4 functions, such as education, while national government is allowed to set norms and standards, frameworks and national policies. National government is also responsible for exercising oversight of provinces’ performance, and may intervene in a province when there is a failure “to fulfil an executive obligation in terms of the Constitution or legislation”.<sup>41</sup>

So, with regard to school infrastructure, the division of roles and responsibilities is (or should be) as follows:

1. National government, acting through the Minister of Basic Education and the DBE, is responsible for:
  - a. providing leadership to the education sector, which includes developing strategies to address the backlogs in school infrastructure;
  - b. developing national norms and standards, frameworks and policies related to the nature, planning, funding, provision, maintenance and use of school infrastructure;

<sup>39</sup> See sections 44 and 104 of the Constitution.

<sup>40</sup> See section 146(2)(b) of the Constitution.

<sup>41</sup> See section 100 of the Constitution.

- c. building the capacity of Provincial Education Departments (PEDs) to fulfil their responsibilities with regard to the planning, provision and the like, of school infrastructure;
  - d. managing and exercising oversight of the use of any conditional grants for funding school infrastructure in accordance with the requirements of the annual Division of Revenue Act;
  - e. monitoring PEDs' compliance with the abovementioned national school infrastructure norms and standards, frameworks and policies; and
  - f. if necessary, intervening in provinces when they fail to fulfil an executive obligation, such as failure to implement a national policy or national norms and standards related to school infrastructure.
2. Provincial governments, acting through their respective MECs for Education and PEDs, are responsible for:
- a. analysing the demand for, and planning the provision of, school infrastructure;
  - b. representing the education sector in the provincial budget processes, and making credible bids for budgets;
  - c. funding the provision of school infrastructure;
  - d. managing the building, refurbishment and maintenance of school infrastructure, which includes maintaining a comprehensive asset register of school infrastructure;
  - e. managing the spending of conditional grants from national government for funding the provision of school infrastructure in accordance with the requirements of the annual Division of Revenue Act;
  - f. monitoring the use of school infrastructure by schools; and
  - g. reporting to the DBE on specified matters related to school infrastructure.

The primary responsibility of provinces regarding planning and funding the provision of school infrastructure is confirmed by the 1998 National Norms and Standards for School Funding (as amended in 2006), issued in terms of the Schools Act.<sup>42</sup> The relevant sections under the heading “Scenario planning for new school construction” read as follows:

86. The MEC for Education of each province must ensure that there are enough school places to enable each child living in the province to attend school during the compulsory phase (section 3(3) of the Schools Act). If an MEC cannot comply with this mandate, he or she must take steps to remedy the situation and must report annually to the Minister of Education on progress made (section 3(4) of the Schools Act).

<sup>42</sup> National Norms and Standards for School Funding, GN 2362, GG 19347, 12 October 1998; Amended National Norms and Standards for School Funding, GN 869, GG 29179, 31 August 2006 sections 72–77 & section 85.

88. Despite the current shortage of funds for capital development, as an aid to planning and decision-making, each PED must:

- a. Maintain an accurate, prioritised, annually updated database of school construction needs, and
- b. undertake annually updated long-term projections of new school construction targets and funding requirements, based on these norms.

90. The scenario planning should initially estimate the requirements to eliminate backlogs and provide sufficient school places by the target year 2008. This must form part of the analytical work required for the MTEF, and should be adjusted annually in the light of new data and performance in new school construction. Depending on the availability of funds each year, and construction performance, the plan may require acceleration or deceleration.

It is notable that, in 1998, the national government required PEDs to plan for the elimination of backlogs and the provision of sufficient school places by 2008.<sup>43</sup> Needless to say, this target was missed, and still has not been achieved by most provinces eight years later.

The school funding norms and standards require PEDs to prepare a “target list” of schools or areas that need to be prioritised in the allocation of funds for school infrastructure. The relevant sections read as follows:

78. The construction of new schools or additional classrooms and learning facilities should be targeted to the neediest population. In this expenditure category, “need” is defined in terms of

- a. lack of current schools, or
- b. overcrowding of existing ones.

79. No national norm for “crowding” is given in this document. Each PED must objectively determine where to site new schools and classrooms based on provincial norms and verifiable crowding and distance indicators (need indicators) developed from available data, including the School Register of Needs, Census data, and the department’s own EMIS. Wherever possible, PEDs must aim to eliminate under-utilisation of physical space occurring concurrently with overcrowding and must therefore also determine minimum per classroom occupation levels below which schools will be considered under-utilised.

43 In 2006, an amended version of the 1998 norms were published, but this target date was not changed.

80. Need indicators should refer to the proportion of children who are out of school or are in over-crowded schools. Preference should be given to areas where –

- a. children are out of school and there is no uncrowded local or nearby school; or
- b. all eligible children are enrolled in school but the local or nearby schools are crowded; and
- c. an analysis of population movements demonstrates that the population concerned is resident and permanent.

81. Using these criteria, the PEDs must develop a ranking of geographical areas from neediest to least needy, based on the numbers of children out of school or in existing crowded schools. Backlogs must be eliminated by starting with the neediest, most crowded areas, and proceeding as quickly as possible down the list of priorities.

82. In the allocation of new school construction funds, preference must be given to-

- a. facilities serving the compulsory education grades (grades 1–9) in order to ensure that all eligible learners have school places as soon as possible, and
- b. extensions to existing schools, rather than new schools, except where extensions would result in schools that are too large to be pedagogically sound, or would otherwise be uneconomical, impractical, or undesirable on educational grounds.

These sections place specific obligations on PEDs to:

- plan for school infrastructure;
- maintain backlog lists that rank geographical areas/schools according to need;
- prioritise the building of new schools or classrooms, “starting with the neediest, most crowded areas”; and
- report annually to the Minister of Education on progress made in eliminating the backlogs.

It is evident that, in 1998, there was an intention and a plan to ensure that the PEDs worked systematically to eliminate backlogs in school infrastructure. However, it is apparent that most PEDs have failed to comply with these regulations, and the DBE has failed to enforce compliance with these national norms and standards, as well as with the envisaged process for eliminating school infrastructure backlogs.

## 5

WHAT HAS BEEN ACHIEVED  
SINCE 2010?

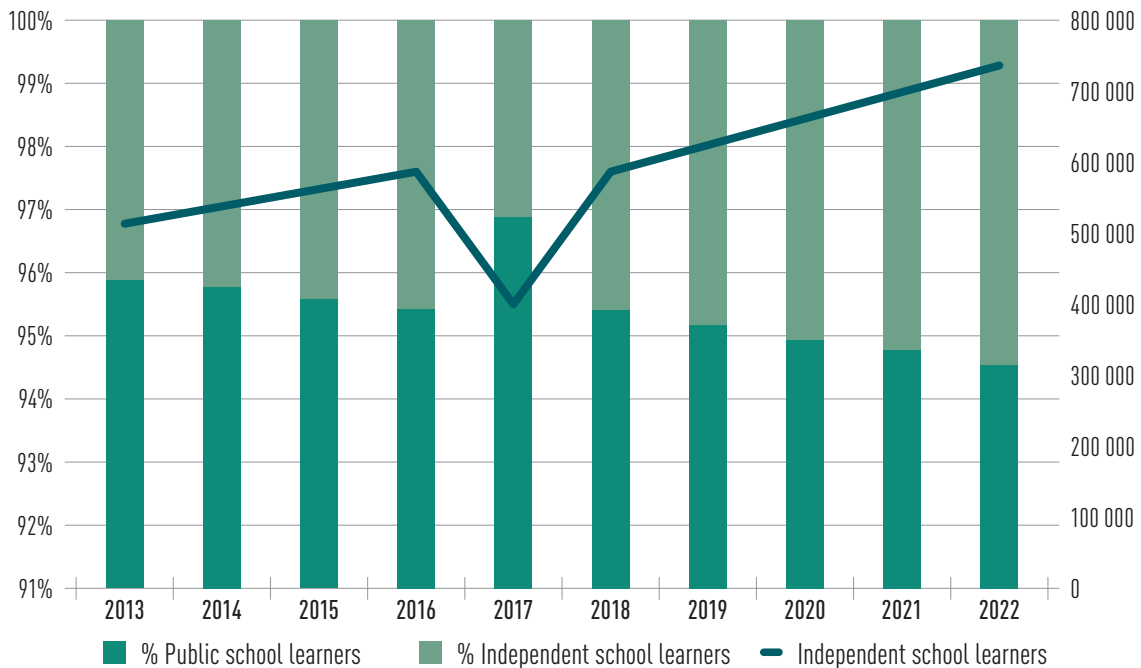
Despite the existence of a court order, the Department has failed to timeously meet its obligations as set out in the norms and standards. Data from 2021 shows that thousands of learners are still exposed to unsafe and unlawful conditions, with 3 343 schools nationwide still having unreliable electricity supply, 5 836 schools still having unreliable water supply, and 5 167 utilising pit latrines.<sup>44</sup> Challenges around the funding allocated to fixing school infrastructure contributes to these failures, as well as “inaccurate and unreliable data regarding the state of school infrastructure, difficulties attracting infrastructure specialists such as engineers and surveyors, especially in rural provinces, and community disruptions such as protests and vandalism.”<sup>45</sup>

## 5.1 Changes in the number of ordinary public schools

Since 2013, the number of independent school learners has increased by 43% (221 281 learners) compared to the number of public school learners, which has increased by only 6% (709 042). This means that the proportion of learners in the independent school space has risen by over 1%, i.e. more parents are opting to send their children to private institutions. [Note – the data in Figure 1 is taken directly from the DBE School Realities reports published each year. It is not clear whether the 2017 figures are an error. If the number of learners in both independent and public schools for 2017 are correct, it means that approximately 188 000 children entered the public school system in 2017, then left in 2018. This magnitude of growth and decline (45%) over a one-year period is highly improbable.]

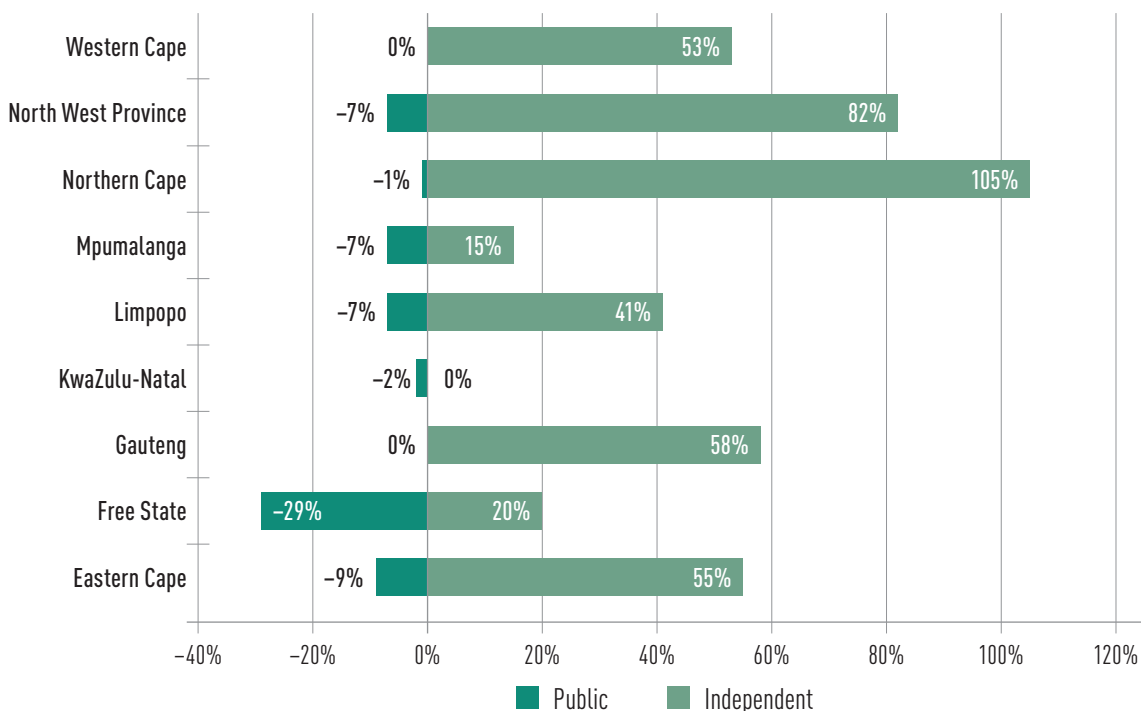
44 Basic Education Handbook, 315.

45 *Ibid.*

**FIGURE 1** Growth in independent schools' share of the education space, 2013 to 2022

Source: DBE School Realities 2013–2022.

This can be seen more clearly in Figure 2, which shows the change in the number of private and public schools from 2013 to 2022. There has been an overwhelming increase in the number of private schools over the period in all provinces except KZN. This is compared to an overall decline in the number of public schools across the nine provinces.

**FIGURE 2** Change in number of private and public schools, 2013 to 2022

Source: DBE School Realities, 2013–2022.

**TABLE 1** Number of public schools per province 2000, 2013 to 2022

| PROVINCES     | 2 000         | 2013          | 2014          | 2015          | 2016          | 2017          |
|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Eastern Cape  | 6 178         | 5 562         | 5 554         | 5 527         | 5 469         | 5 389         |
| Free State    | 2 538         | 1 327         | 1 306         | 1 260         | 1 214         | 1 184         |
| Gauteng       | 1 905         | 2 056         | 2 070         | 2 080         | 2 083         | 2 207         |
| KwaZulu-Natal | 5 693         | 5 937         | 5 915         | 5 899         | 5 895         | 5 879         |
| Limpopo       | 4 138         | 3 924         | 3 929         | 3 893         | 3 867         | 3 866         |
| Mpumalanga    | 2 053         | 1 768         | 1 762         | 1 744         | 1 725         | 1 726         |
| Northern Cape | 486           | 553           | 551           | 552           | 545           | 550           |
| North West    | 2 294         | 1 551         | 1 515         | 1 490         | 1 471         | 1 487         |
| Western Cape  | 1 504         | 1 458         | 1 458         | 1 460         | 1 450         | 1 508         |
| <b>Total</b>  | <b>26 789</b> | <b>24 136</b> | <b>24 060</b> | <b>23 905</b> | <b>23 719</b> | <b>23 796</b> |

Source: DBE School Realities, 2013–2022. Also data for the year 2000 from Education Statistics at a Glance in 2000, Department of Education (February 2002).

”  
2013–2022  
the number of  
independent schools in  
the province rose by 20%.

Overall, the number of public schools declined by 1 547 schools, from 24 136 in 2013 to 22 589 in 2022. The most concerning decline is in Free State, where the province went from 1 327 public schools in 2013 to 946 in 2022, a decline of 29%. To cater for the obvious need created by the public school closures, the number of independent schools in the province rose by 20% over the same period. Similarly, in other provinces the independent school sector has grown by between 20% and 105%, adding a total of 698 new schools since 2013.

| 2018   | 2019   | 2020   | 2021   | 2022   | % CHANGE<br>IN NUMBER<br>OF SCHOOLS<br>FROM<br>2010–2022 | CHANGE IN<br>NUMBER OF<br>SCHOOLS<br>2010–2022 | CHANGE IN<br>NUMBER OF<br>SCHOOLS<br>2000–2022 |
|--------|--------|--------|--------|--------|----------------------------------------------------------|------------------------------------------------|------------------------------------------------|
| 5 210  | 5 205  | 5 213  | 5 109  | 5 046  | –10%                                                     | –542                                           | –1 132                                         |
| 1 117  | 1 085  | 1 045  | 990    | 946    | –33%                                                     | –476                                           | –1 592                                         |
| 2 077  | 2 071  | 2 071  | 2 067  | 2 056  | 2%                                                       | 43                                             | 151                                            |
| 5 849  | 5 821  | 5 853  | 5 801  | 5 801  | –2%                                                      | –126                                           | 108                                            |
| 3 843  | 3 773  | 3 716  | 3 675  | 3 646  | –8%                                                      | –319                                           | –492                                           |
| 1 751  | 1 679  | 1 666  | 1 654  | 1 649  | –10%                                                     | –189                                           | –404                                           |
| 545    | 546    | 545    | 545    | 545    | –9%                                                      | –52                                            | 59                                             |
| 1 454  | 1 451  | 1 447  | 1 450  | 1 448  | –12%                                                     | –198                                           | –846                                           |
| 1 443  | 1 445  | 1 448  | 1 449  | 1 452  | 0%                                                       | –3                                             | –52                                            |
| 23 289 | 23 076 | 23 004 | 22 740 | 22 589 | –6%                                                      | –1 547                                         | –4 200                                         |

Number of public schools per province, % Change in number of schools from 2010–2022



**TABLE 2** Number of independent schools per province, 2013 to 2022

| Provinces                                    | Eastern Cape | Free State | Gauteng | KwaZulu- Natal |
|----------------------------------------------|--------------|------------|---------|----------------|
| Change in number of schools 2013–2022        | 94           | 14         | 342     | 1              |
| % Change in number of schools from 2013–2022 | 55%          | 20%        | 58%     | 0%             |
| 2013                                         | 171          | 69         | 593     | 219            |
| 2014                                         | 178          | 70         | 651     | 236            |
| 2015                                         | 200          | 72         | 700     | 238            |
| 2016                                         | 207          | 68         | 730     | 247            |
| 2017                                         | 180          | 71         | 860     | 220            |
| 2018                                         | 199          | 70         | 759     | 189            |
| 2019                                         | 225          | 71         | 742     | 215            |
| 2020                                         | 239          | 77         | 834     | 338            |
| 2021                                         | 232          | 81         | 874     | 221            |
| 2022                                         | 265          | 83         | 935     | 220            |

Source: DBE School Realities, 2013–2022.

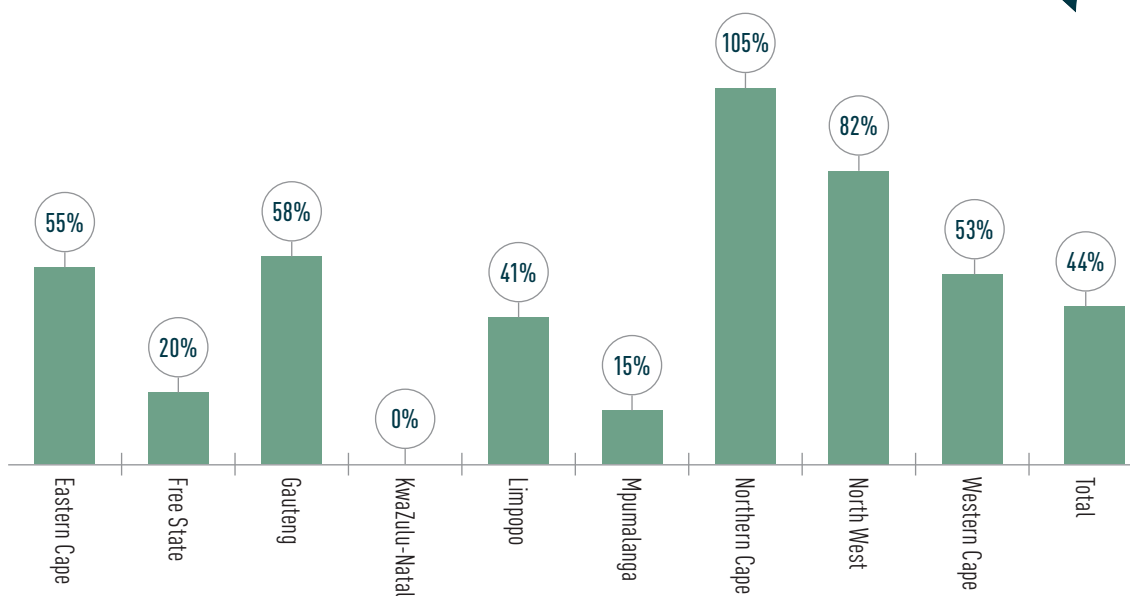
”

2013–2023  
Gauteng and Western  
Cape added 342 and 105  
independent schools.

In Gauteng and Western Cape, there were minimal changes in the number of public schools over the period 2013–2023. However, in the independent school sector, Gauteng and Western Cape added 342 and 105 independent schools over the same period respectively, which shows that, despite the inability of the public sector to add schools in these provinces, there was a need that was filled by the private sector.

| Limpopo | Mpumalanga | Northern Cape | North West | Western Cape | Total |
|---------|------------|---------------|------------|--------------|-------|
| 58      | 18         | 21            | 45         | 105          | 698   |
| 41%     | 15%        | 105%          | 82%        | 53%          | 44%   |
| 143     | 117        | 20            | 55         | 197          | 1 584 |
| 147     | 105        | 26            | 55         | 213          | 1 681 |
| 152     | 118        | 29            | 54         | 223          | 1 786 |
| 151     | 122        | 30            | 63         | 237          | 1 855 |
| 159     | 110        | 29            | 69         | 268          | 1 966 |
| 163     | 112        | 37            | 69         | 267          | 1 865 |
| 158     | 116        | 37            | 85         | 273          | 1 922 |
| 170     | 116        | 40            | 85         | 296          | 2 195 |
| 180     | 131        | 40            | 89         | 306          | 2 154 |
| 201     | 135        | 41            | 100        | 302          | 2 282 |

% Change in number of independent schools per province schools from 2013–2022



## 5.2 Infrastructure norms and standards progress

The DBE's reporting and analysis of data on the progress made to eliminate schools built from inappropriate materials is inconsistent, with publicly available information recorded in various places. These include the DBE school monitoring survey, DBE NEIMS data, the ASIDI briefs and DBE Annual Reports.

This paper analyses all the sources except ASIDI, since it is an initiative aimed specifically at eliminating backlogs in schools' infrastructure maintenance. ASIDI is discussed in paper 4. It is nevertheless useful to give a brief overview of the progress derived from ASIDI, which can be seen in Table 3 below. What we see is that, while significant progress has been made since 2011, it seems that progress has slowed down in recent years.

**TABLE 3** Consolidated ASIDI briefs, 2014–2021

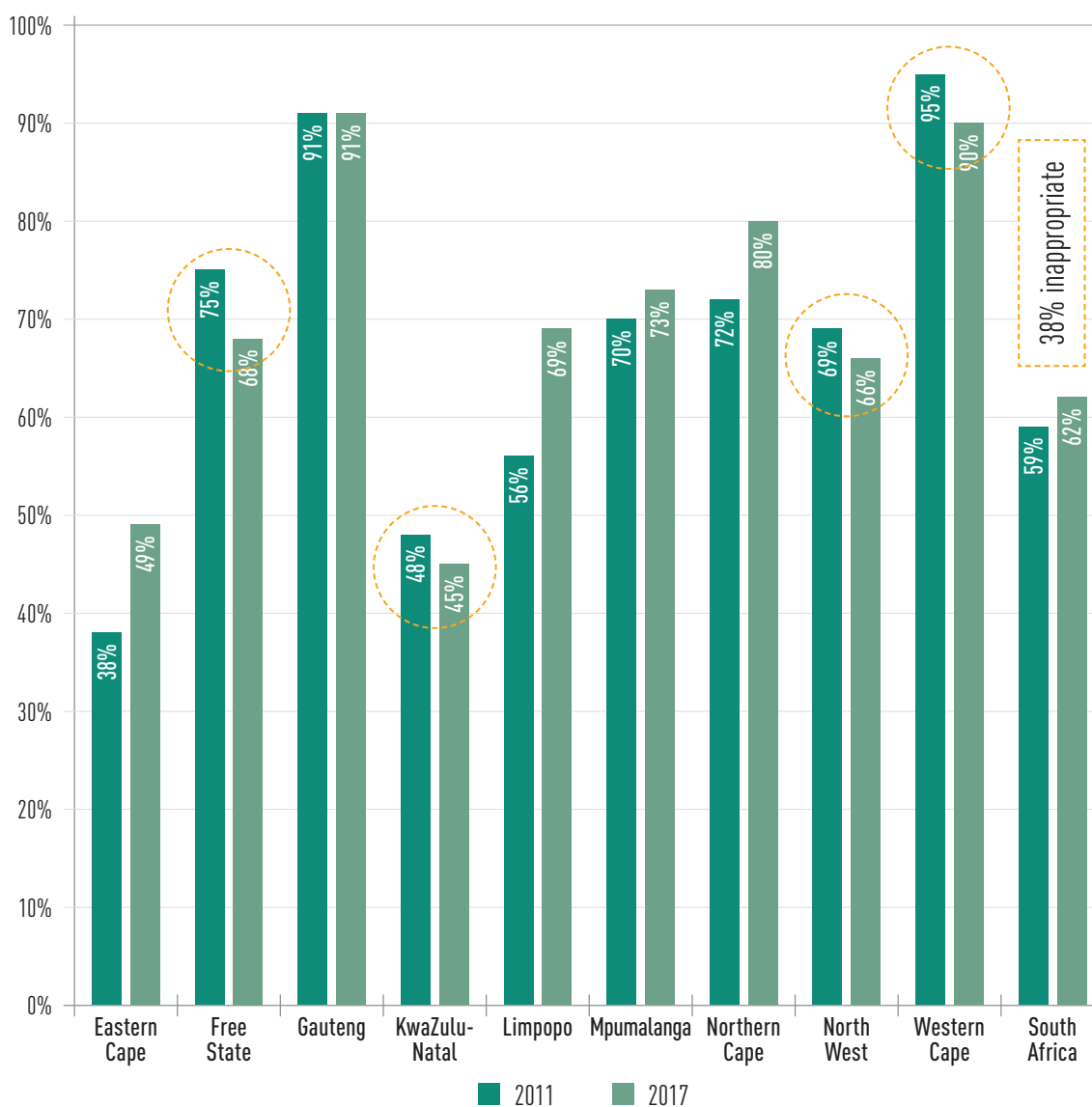
| Schools                           | Original scope | PROGRESS/PROVISIONS AS OF |        |        |         |          |        |        |                       |                       |
|-----------------------------------|----------------|---------------------------|--------|--------|---------|----------|--------|--------|-----------------------|-----------------------|
|                                   |                | Jan 14                    | Oct 14 | Aug 15 | June 16 | March 19 | Aug 19 | Dec 19 | 2020/21 Annual Report | 2021/22 Annual Report |
| With inappropriate infrastructure | 510            | 49                        | 79     | 116    | 162     | 214      | 222    | 229    | 279                   | 229                   |
| In need of sanitation             | 939            | 226                       | 266    | 425    | 412     | 693      | 795    | 834    | 1720                  | 934                   |
| In need of electricity            | 932            | 150                       | 265    | 298    | 294     | 372      | 372    | 372    | No data               | 372                   |
| In need of access to water        | 1 145          | 232                       | 224    | 499    | 573     | 836      | 936    | 957    | 1 057                 | 957                   |

## 5.2.1 Schools made from inappropriate structures

The data on the progress made to eliminate the schools built from inappropriate materials are not consistent. The most recent data found was for 2017, which has been compared to the prior report compiled in 2011. Overall, in 2017, a significant percentage of schools (38%) were still constructed from inappropriate materials.

The provinces differ quite significantly in the percentage of schools constructed from appropriate materials. In 2017, fewer than 50% of schools were constructed from appropriate materials in Eastern Cape and KwaZulu-Natal, whereas almost all schools in Western Cape and Gauteng are made of appropriate materials.

**FIGURE 3** Percentage of schools made of appropriate materials by province, 2011 and 2017

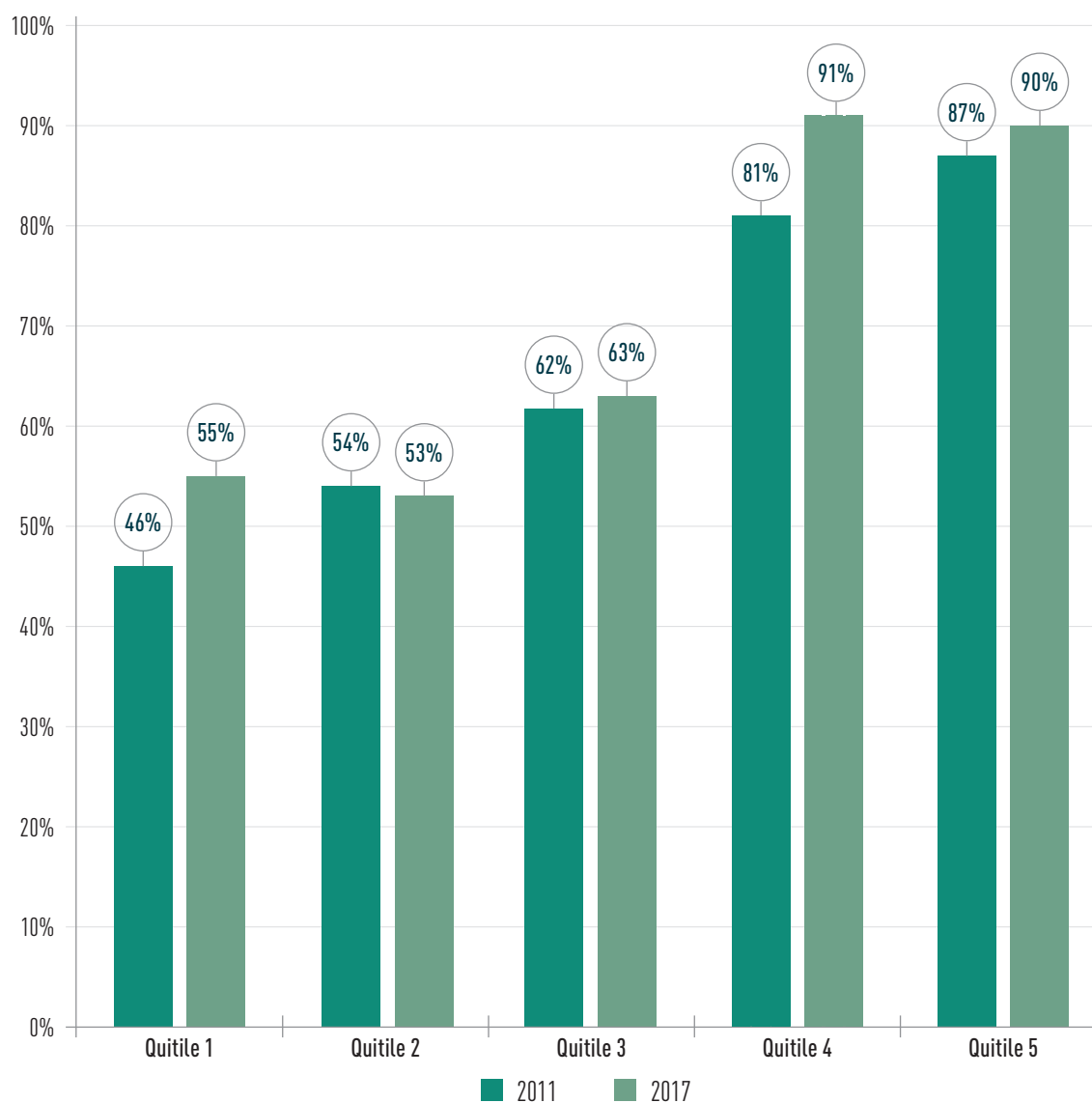


Source: DBE School monitoring survey, 2011 and 2017.

It is also important to note that some provinces saw the percentage of schools made of appropriate materials decrease between the two reporting years, namely Free State, KwaZulu-Natal, North West and Western Cape. This could mean one of two things – 1) new schools are being built with inappropriate materials or, 2) the total number of public schools declined, making the proportion of structures constructed from inappropriate materials greater over time. The latter is most likely the case, given that it was noted, in section 5.1, that there has been a steady decline in the number of public schools in each province.

Most of the schools constructed from inappropriate materials are in the lowest three quintiles.

**FIGURE 4** Schools constructed from appropriate materials by quintile

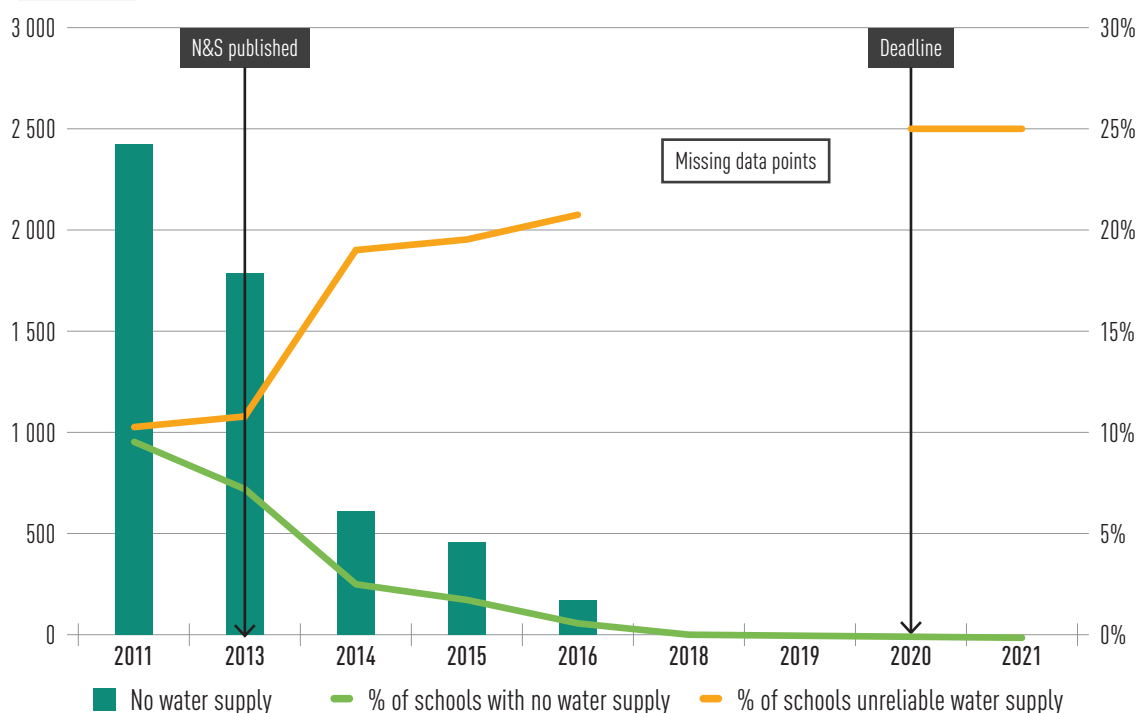


Source: DBE School monitoring survey, 2011 and 2017.

## 5.2.2 Access to water, electricity, and sanitation

According to the norms and standards, all schools should have had access to water, electricity and sanitation by 2020. Figure 5 shows the change in water access for the years 2011 through 2021. The data shows that this target was reached sometime between 2016 and 2018. What is interesting about the graph is that, since the publication of the national norms and standards in 2013, there was a clear drop in the number of schools without any water supply, falling by more than half from 2013 to 2014.

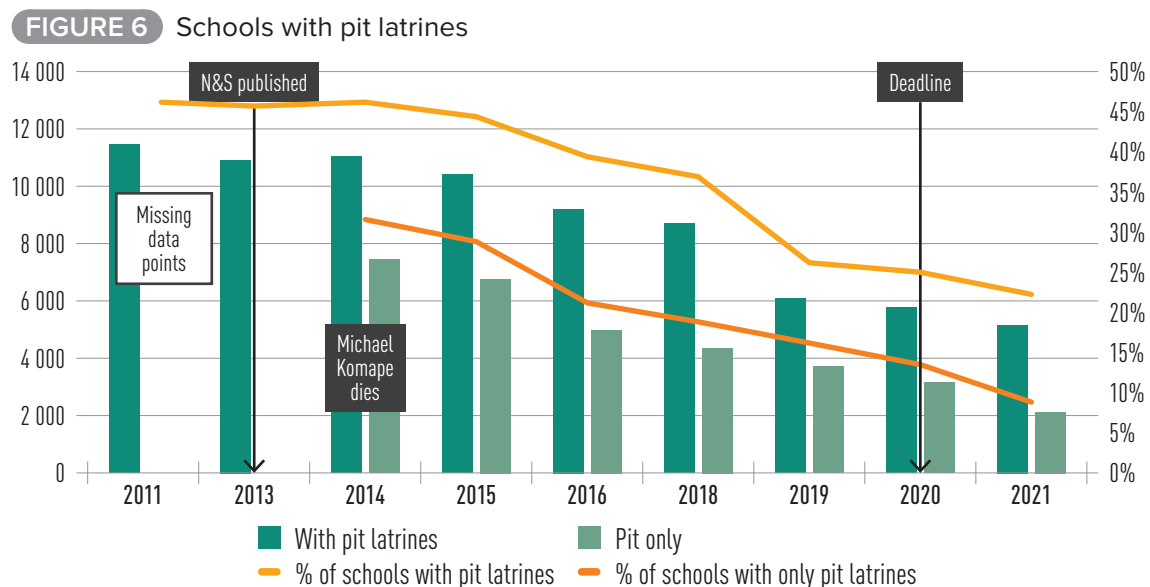
**FIGURE 5** Number of schools with unreliable and no water supply



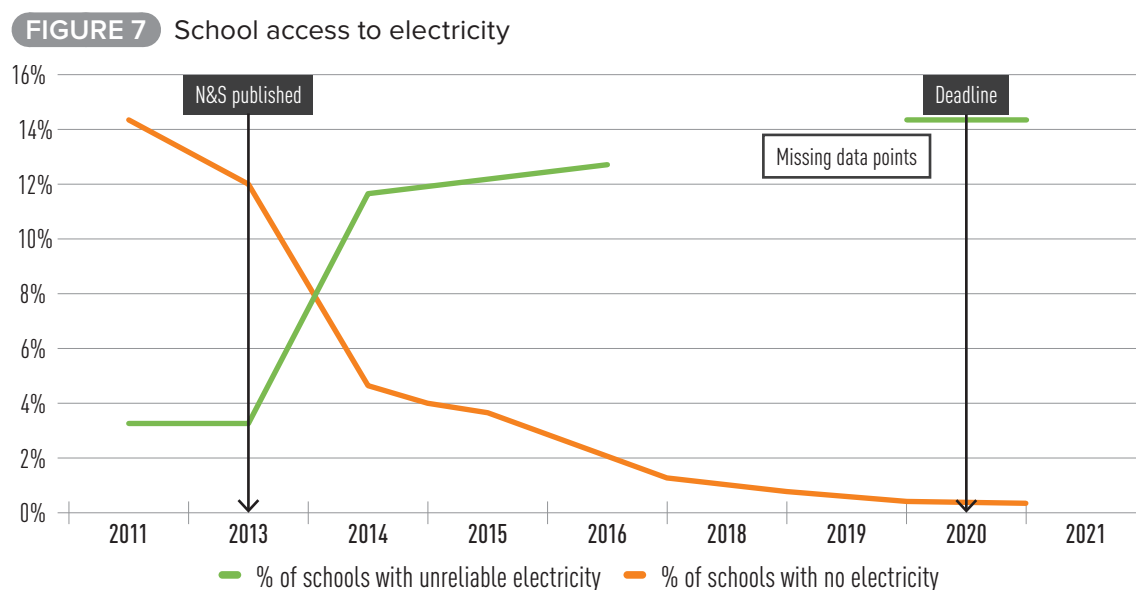
Source: DBE NEIMS data, 2011–2021.

Whilst the target for schools with no water supply was met in time, it is noted with concern that the number of schools with unreliable water supply has doubled since 2011. This could mean that either the work done was substandard, or municipalities are unable to support the increased service delivery requirements to schools.

In 2018, government achieved the requirement that no school should be without sanitation facilities. There has been a steady reduction in the number of schools relying only on pit latrines. The largest reduction took place between 2015 and 2016, benefitting 1 797 schools.



There have been steady increases in access to electricity at schools since the implementation of the infrastructure norms and standards. However, schools with unreliable electricity supply increased since 2011, reaching 14% of all schools in 2021. This unreliable electricity supply could be due to the introduction of loadshedding<sup>46</sup> which commenced in 2007.



<sup>46</sup> An action to electricity consumption by interrupting the electricity supply to avoid excessive load on the electricity generating plant.

### 5.2.3 Access to communication tools

The infrastructure norms and standards indicate schools must have each of the following: intercom, internet, fax and telephone facilities.

**TABLE 4** Schools' access to communication tools

| Date | No Communication                        | % of schools with telephone | % of schools with internet |                                      | % of schools with fax | % of schools with intercom |
|------|-----------------------------------------|-----------------------------|----------------------------|--------------------------------------|-----------------------|----------------------------|
| 2011 | 409                                     | 45%                         | 13%                        |                                      | 35%                   | –                          |
| 2013 | 360                                     | 46%                         | 13%                        |                                      | 36%                   | –                          |
|      | % of schools with internet for teaching |                             |                            | % of schools with internet for admin |                       |                            |
| 2014 | 188                                     | 45%                         | 19%                        | 24%                                  | 37%                   | 5%                         |
| 2015 | 181                                     | 45%                         | 19%                        | 25%                                  | 38%                   | 6%                         |
| 2016 | 180                                     | 45%                         | 20%                        | 26%                                  | 37%                   | 6%                         |
| 2018 | 170                                     | 46%                         | 20%                        | 28%                                  | 38%                   | 6%                         |
| 2019 | 170                                     | 46%                         | 20%                        | 29%                                  | 38%                   | 6%                         |
| 2020 | 171                                     | 46%                         | 20%                        | 29%                                  | 38%                   | 6%                         |
| 2021 | 178                                     | 46%                         | 20%                        | 30%                                  | 38%                   | 6%                         |

Source: DBE NEIMS data, 2011–2021.

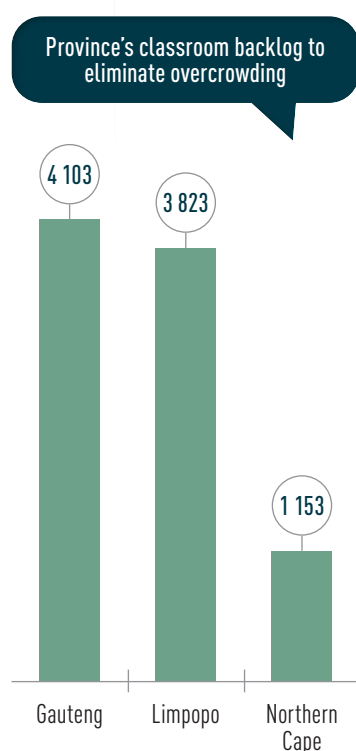
In the table above, “No communication” indicates schools that do not have any form of communication tool. This not only includes the ones listed in the norms and standards, but also includes two-way radio and a call box. The number of schools with no communication tools fell by half between 2011 and 2014, but since 2014, there has been little progress to reduce the number of schools without any communication tools.



## 5.3 Changes in the number of classrooms in public ordinary schools

For a complete analysis of sufficient school infrastructure, the available classrooms and their size must be considered. This is particularly important, since the infrastructure norms and standards specifically note the square metre per learner. However, there is currently no data available on:

- number of classrooms/whether adequate number of classrooms for number of learners;
- types of rooms in schools/size of rooms;
- accessibility of schools;
- number of toilets, basins, etc. adequate for number of learners.



In the infrastructure progress report sent to EE (following a PAIA request), there is very little, and inconsistent, mention of classrooms, and no mention of classroom size. The Gauteng PED notes, in their latest (2020) infrastructure report, that the province's classroom backlog to eliminate overcrowding is 4 103. Limpopo PED reports delivery of 3 823 classrooms between 2011/12 and 2018/19. The Northern Cape PED calculates their classroom backlog at 1 153. These numbers mean nothing unless classroom size is also provided, to determine the extent to which the infrastructure norms and standards relating to the square metres per learner is being met.

## 6

# CORRUPTION, INCOMPETENCE AND POOR GOVERNANCE

Underperforming Implementing Agents (IA) have contributed to the delays in addressing school infrastructure challenges through a lack of proper oversight over projects; overworked project managers; lack of transparency in relation to the procurement of these IAs; and failure by the state to address IAs. In 2018, EE published a report to highlight the problems with IAs and the impact they have on delivery of school infrastructure. It found that “public money meant for school construction is siphoned to professional fees of third-party consultants, and to management fees of IAs whose CEOs make millions of rands a year while Eastern Cape teachers and learners languish in crisis conditions.”<sup>47</sup>

## Implementing Agents

“Where PEDs don’t have the necessary capacity to practically address the needs of schools, IAs are brought in to fill the capacity gap by managing batches of projects.”

*Source: Equal Education. 2018. “Implementing Agents: The Middlemen in charge of Building Schools”*

“IAs provide “the centralised management of one or more portfolios of education projects which includes identifying, prioritising, authorising, managing and controlling projects, programmes and other related work to achieve the specific infrastructure related service delivery objectives of the DBE in consultation with the DBE.”

*Source: National Treasury “Cost Model for the Establishment of Control Budgets for Primary and Secondary Schools”, May 2015, <https://www.treasury.gov.za/legislation/pfma/TreasuryInstruction/Annexure%20A%20-%20Cost%20Model.pdf>.*

<sup>47</sup> Equal Education. 2018. “Implementing agents: The Middlemen in Charge of Building Schools.” Available: chrome extension: //efaidnbmnnnibpcajpcglclefindmkaj/ <https://equaleducation.org.za/wp-content/uploads/2020/09/EE-IA-Report-23-10-19-Digital.pdf>

This was acknowledged by the department when it published its Guidelines on Minimum Requirements for Implementing Agents in the Basic Education Sector in 2019. In the guidelines, the department lists a range of problems encountered with, and by, IAs that prompted the development of the guidelines. These problems include:

- Allowing poorly performing service providers (SPs) to continue working on projects, lack of proper and adequate paper trail in monitoring the performance of SPs, and not following correct processes in terminating the services of poorly performing SPs.
- Not blacklisting poorly performing SPs on the National Treasury Database.
- Inability to account, to a reasonable level of accuracy, for the utilisation of transferred Programme Funds.
- Late payments to SPs while Programme Funds had been transferred to IAs, leading to cash-flow problems experienced by SPs; abandonment of work on-site by SPs; delays with completion of projects; high cost of doing work associated with interest charges; necessary re-working after protracted work stoppages; high coverage for late payment risk imposed by the SPs at bidding stage; good performing SPs opting for other projects, leading to the sector remaining with average or poorly performing SPs.

“At Lingelihle Senior Secondary School in Qumbu, a poorly built and incomplete wall collapsed and killed a learner in 2014. The school had complained to the IA several times that the wall structure was unsafe, but received inadequate communication – until it was too late.”

*Equal Education, Implementing agents: Middlemen in charge of building schools*

It is not clear whether the guidelines have made any difference in resolving the problems pertaining to IAs. During an oversight visit by Parliament’s Portfolio Committee to the DBE in 2021, the committee chairperson, Bongiwe Mbinqo-Gigaba, said the committee is aware that, in most provinces, the IAs are the provincial departments of Public Works, which “makes it difficult to build in risk mechanisms to hold Public Works to account”.<sup>48</sup> It is unclear how the IA being the provincial department of Public Works makes risk management more difficult, but even if that is the case, PEDs should by now have either created the capacity internally to manage these projects, or found alternative IAs. It seems that this problem has become a convenient excuse for DBE to pass the buck to Public Works for the insufficient progress made in school infrastructure over the years.

48 <https://www.sanews.gov.za/south-africa/departments-called-manage-delayed-schools-infrastructure-projects>

Incompetence on the part of the department plays a significant role in the slow pace of delivery of school infrastructure. A report, commissioned by the CCL in 2019 to assess progress made by the Gauteng PED in addressing challenges in building and improving school infrastructure, found similar problems. What the report highlighted was a lack of evidence that increasing and fluctuating learner numbers were being factored into the planning for infrastructure by the Gauteng PED. In addition, the documents that report on the quality of infrastructure delivered are vague, and do not deal decisively with instances of substandard service delivery. In many instances, it was found that construction projects undertaken in different years show evidence of similar problems that have not been resolved. This demonstrates a lack of reflective practice on the part of the department.

Research conducted by EE<sup>49</sup> in 2020 also found that many of the progress reports provided by PEDs were incomplete and inconsistent. It found that:

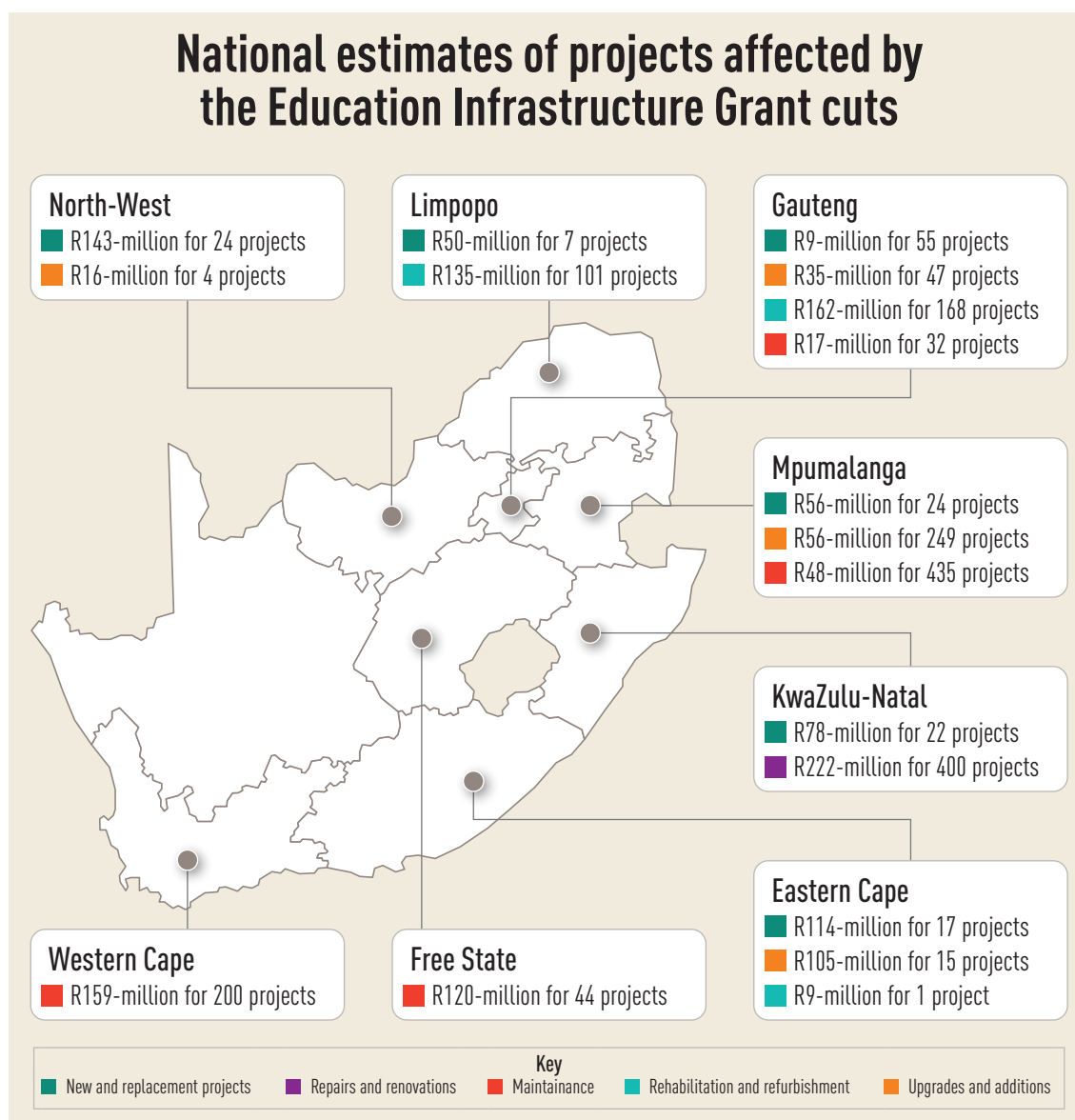
- Gauteng PED's 2019 report was very similar to its 2018 report, with the same number of classroom backlogs as the previous year, with no explanation as to why.
- Some reports explain only certain backlogs and not others. "For example, the Western Cape Department of Education's (WCED) report is silent on backlogs for schools that don't have fences that are built according to what the law demands (1.8m high) or enough water and electricity, and if any need electronic connectivity. The KZNDoE report also has too little information on its backlogs tied to the 2020 deadline and does not report on electronic connectivity and how many schools don't have enough water and sanitation."
- The reports fail to provide proper plans for eliminating backlogs.

Funding availability in the sector is often used as a reason for the delays in infrastructure delivery or maintenance. In recent years, cuts in the education infrastructure budget may promote this narrative. For instance, in 2020, 1 938 school infrastructure projects were put on hold as a result of cuts made to the Education Infrastructure Grant in order to support the Covid-19 Relief Grant.<sup>50</sup>

49 Equal Education. 2020. Statement: Latest provincial school infrastructure reports show some progress in delivery, but education departments are failing miserably to comply with the 2020 deadline of the norms and standards for public school infrastructure. 25 November 2020. Available: <https://equaleducation.org.za/2020/11/25/statement-latest-provincial-school-infrastructure-reports-show-some-progress-in-delivery-but-education-departments-are-failing-miserably-to-comply-with-the-2020-deadline-of-the-norms-and-standards-f/>

50 Mthethwa, A. 2020. School infrastructure projects on hold as Covid-19 slashes grants. *Daily Maverick*. 5 August 2020. Available: <https://www.dailymaverick.co.za/article/2020-08-05-school-infrastructure-projects-on-hold-as-covid-19-slashes-grants/>

**FIGURE 8** National estimates of projects affected by the Education Infrastructure Grant cuts



Source: Mthethwa, A. 2020. School infrastructure projects on hold as Covid-19 slashes grants. *Daily Maverick*. 5 August 2020. Available: <https://www.dailymaverick.co.za/article/2020-08-05-school-infrastructure-projects-on-hold-as-covid-19-slashes-grants/>

However, these cuts cannot be viewed in isolation. “The inefficiencies [in the national and provincial departments of education] span years of poor implementation of infrastructure projects and under-expenditure by provincial departments, which resulted in project delays, cost overruns (which necessitate more budget allocations) and wasteful and fruitless expenditure.”<sup>51</sup> The 2018/19 Auditor General report found that irregular expenditure in the KwaZulu-Natal and Gauteng PEDs amounted to R1.9 billion and R1.7 billion respectively.

<sup>51</sup> Mthethwa, A. 2020. School infrastructure projects on hold as Covid-19 slashes grants. *Daily Maverick*. 5 August 2020. Available: <https://www.dailymaverick.co.za/article/2020-08-05-school-infrastructure-projects-on-hold-as-covid-19-slashes-grants/>

# 7

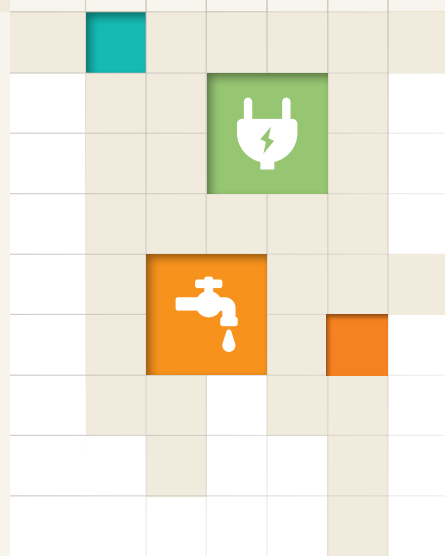
## CONCLUSION

Much remains to be achieved to ensure that all children going to school have access to safe schools that are conducive to learning. The following conclusions can be drawn following from the publicly available data.

- Since 2013, the proportion of independent school learners has increased by 43% (221 281 learners), while the proportion of public school learners has risen by only 6% (709 042).
- Overall, the number of public schools declined from 24 136 in 2013 to 22 589 in 2022.
- The independent school sector, across the provinces, has increased its share of schools over the period by between 20% and 105%, adding a total of 698 new schools since 2013.

The data on the progress made to eliminate the schools constructed from inappropriate materials are not consistent. The most recent data that could be found was for 2017, which was compared to the prior report in 2011. Regardless, the following deductions can be made from the data available:

- The provinces differ quite significantly in the percentage of schools constructed from appropriate materials.
- Most of the schools constructed from inappropriate materials are in the lowest three quintiles.
- There was a clear drop in the number of schools without any water supply, falling by more than half from 2013 to 2014, indicating that the advocacy for norms and standards had a positive effect.
- Whilst the target for schools with no water supply was met in time, it is noted with concern that the number of schools with unreliable water supply has doubled since 2011.
- In 2018, government achieved the requirement that no school should be without sanitation facilities. There has been a steady reduction in the number of schools relying only on pit latrines.

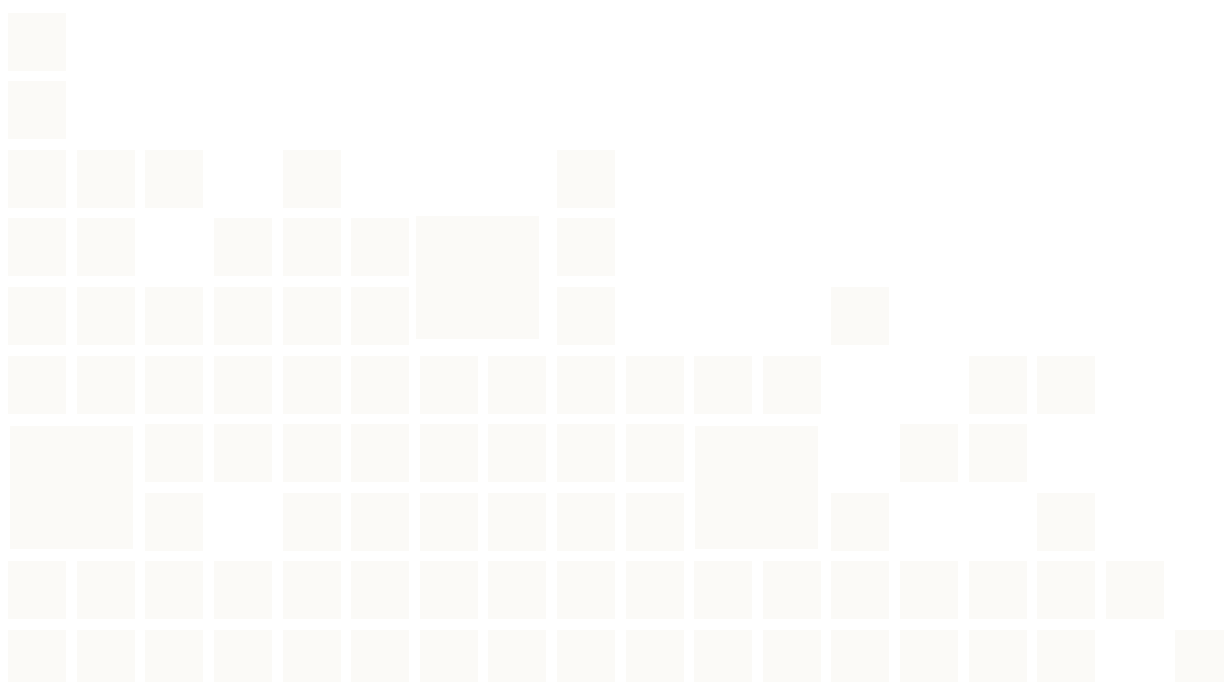


- There have been steady reductions in the lack of access to electricity at schools since the implementation of the infrastructure norms and standards. However, schools with unreliable electricity supply increased since 2011, reaching 14% of all schools in 2021.
- Schools with no communication tools reduced by half between 2011 and 2014, but since 2014, little progress has been made to further reduce the number of schools without any communication tools.

For a complete analysis of school infrastructure, the available classrooms and their size must be considered. This is particularly important, since the infrastructure norms and standards specifically note the square metre per learner. This information is not available.

Incompetence and corruption play a big role in the slow pace of delivery of improved school infrastructure. Advocacy efforts should therefore continue to push for consistent and reliable data on:

- progress made to eliminate the schools constructed from inappropriate materials;
- number of classrooms/whether there is an adequate number of classrooms for the number of learners;
- types of rooms in schools/size of rooms;
- accessibility of schools;
- number of toilets, basins, etc. relative to the number of learners.



## Notes

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