

Equal Education takes education department to court over unplaced learners

By [Liezl Human](#)

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EE says learners' constitutional rights have been infringed.



Members of Equal Education picketed outside the Western Cape High Court on Monday. Photo: Liezl Human

Equal Education (EE) headed to the Western Cape High Court on Monday, 29 April, seeking an urgent order for the Western Cape Education Department (WCED) to put unplaced learners in school. The organisation also wants catch-up plans for the learners when they do get places in school.

This follows EE's urgent application on Friday, 26 April, which was struck off the roll. EE approached the court again on Monday on the unopposed urgent court roll.

In court, lawyers for the EE Law Centre and for the WCED tried to come to an agreement on when the matter could be set down for a hearing.

Judge Lister Gcinikhaya Nuku was apprehensive about postponing the matter for too long. He asked, “What must then happen to the children?”

Judge Nuku ordered that among the court papers to be filed, the WCED must provide a report indicating how many learners are known to be unplaced.

Yolisa Piliso, attorney at the EE Law Centre, told *GroundUp* this had become a systemic issue over the past five years. He said the department had claimed that 99.4% of learners had been placed. “What about the others? Those learners are entitled to the same as those that are at school.”

Noncedo Madubedube, general secretary at Equal Education, told *GroundUp* that the constitutional right to education of these learners is being infringed. “If the demographic of these learners were different, and they weren’t specifically from the metro-east area, which has got marginalised working-class communities, then the response would be different,” she said.

Madubedube said that EE understands that with migration into the Western Cape, space in schools could become an issue, but the department should prepare better.

David Maynier, Western Cape Provincial Minister of Education, said to *GroundUp*, “We were surprised that Equal Education brought this action, given that the learners named in their case were almost all placed before they brought the initial application. We are currently resolving the remaining cases where Equal Education initially provided us with insufficient information to identify and place the learners.”

Maynier said whenever the WCED is made aware of learners needing a place, the department acts immediately to find a place.

“So it is deeply disappointing that Equal Education has again approached the court on matters that have already been resolved, or could have been resolved through engagement with the WCED,” he said.

The matter will be heard in court on 14 May.

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