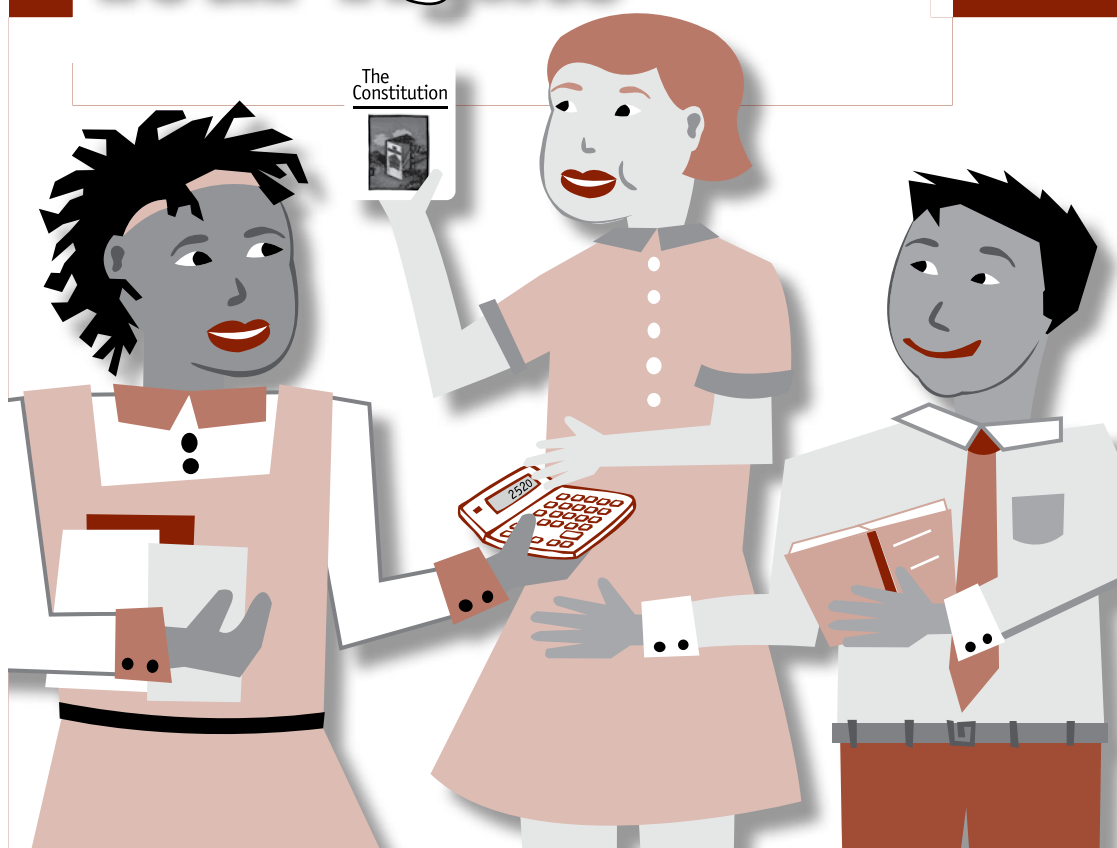


School fees: Your rights

ENGLISH



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Acronyms used in the booklet:

Provincial Department of Education (PDE)
School Governing Body (SGB)

1. What is this booklet for?

This booklet is to help parents and learners to find out:

- 1 What to do if you can't afford to pay school fees; *and*
- 2 What to do if the school penalises you or your child for unpaid fees.

This booklet also aims to help:

- **Educators;** *and*
- Members of the elected **School Governing Body (SGB)**, to understand and apply the law governing school fees.

The **Education Law Project (ELP)**, based at the Centre for Applied Legal Studies (CALS), University of the Witwatersrand (Wits), Johannesburg has produced this booklet to cover the changes in the law that came into force in January 2007.

2. What laws cover school fees?

This booklet sets out the changes, from 2006, in the laws governing school fees under:

- The South African Schools Act (Act 84 of 1996), as amended by the Education Laws Amendment Act, 2005 ("SASA");
- The Regulations Relating to the Exemption of Parents from the Payment of School Fees, 2006 ("the Regulations");
- The Amended National Norms and Standards for School Funding, 2006 ("the Norms and Standards"); *and*
- The Admission Policy for Ordinary Public Schools, 1998.

Please note: this booklet applies to fees in public schools, not independent (formerly called "private") schools.

3. “No-fee” and “fee-charging” schools

Schools are divided into:

- “No-fee” schools; *and*
- “Fee-charging” schools.

All the schools in South Africa are divided into five categories, called “quintiles”. Each category contains 20% of all learners.

The category a school belongs to is decided by:

- Where the school is located;
- The wealth of the community (measured by household incomes, numbers of dependants and household education levels); *and*
- Physical conditions at the school e.g. crowding.

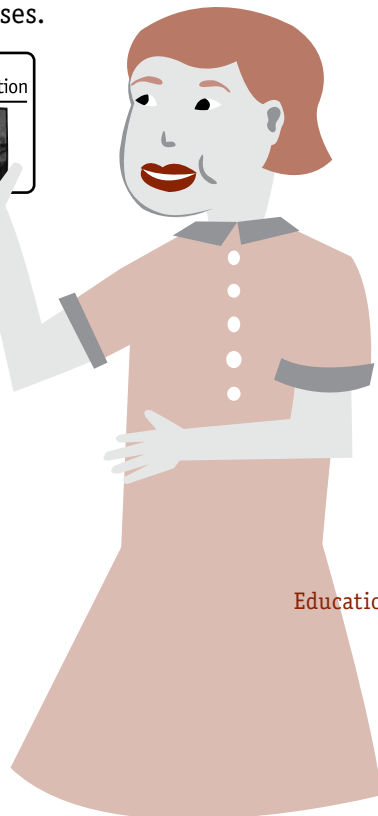
4. What does the government contribute?



The government pays most of the teachers’ salaries and bigger building costs, and makes some contribution, per learner, to pay for equipment and running costs. This government contribution per learner is supposed to be an average amount of R554 for each learner in 2007, increasing to R581 per learner in 2008, and R605 per learner in 2009. The Department of Education has not explained how this amount is calculated.

Poorer schools will get more and richer schools will get less according to the category they are in. For example in 2007, the poorest schools in quintile 1 should receive a government contribution of R738 while the wealthiest schools in quintile 5 should receive a government contribution of R123.

Schools use fees, paid by parents, to make up the shortfall in their expenses.



5. How are “no-fee” schools defined?

Schools in the poorest two or even three categories of schools are supposed to become “no-fee” schools (see page 4).

In some instances even though schools are in wealthier areas, these schools may have a majority of poorer learners from nearby areas e.g. where there are informal settlements and no schools. These schools should fall into the poorer categories of schools. Where a school is incorrectly categorised it can apply to the Provincial Department of Education (PDE) to be re-categorised (*see par 105 of the Norms and Standards*).

6. How can a parent find out whether their school is a “no-fee” school?



By the 30 September each year, the Minister of Education is supposed to publish information about the following year relating to which category your school is in; the government contribution for your school; and **WHETHER OR NOT YOUR SCHOOL HAS BEEN DECLARED A “NO-FEE” SCHOOL** (*paragraphs 156-161 of the Norms and Standards*).

To find out:

- Ask the school; *or*
- Ask the PDE (see page 21 of this booklet); *or*
- Ask the librarian in your closest municipal or university library to look in the Provincial Gazettes soon before 30 September each year; *or*
- Look it up on the Internet, try (www.SAGazettes.co.za or www.education.gov.za).

If a school is a “no-fee” school, you do not have to pay ANY fees, including registration or activity fees. All other schools are “fee-charging” schools.

Presently the government’s contributions cover learners in all grades.

Where a school has been declared a “no-fee” school, the Minister of Education could decide that only learners up to Grade 9 will not have to pay school fees. We hope this will not happen as school fees will then continue to be a burden for the poor parents with children in Grades 10-12.

7. How to find out if you can apply for an exemption from school fees at a "fee-charging" school

Parents/caregivers are **legally entitled** not to pay school fees if they do not earn enough money.

1.

First you have to find out how much the school will charge in fees for the whole year, including any extra expenses like a school trip or any extra school uniform (e.g. sports clothes for team members).

It is illegal for schools to charge any form of "registration fee".

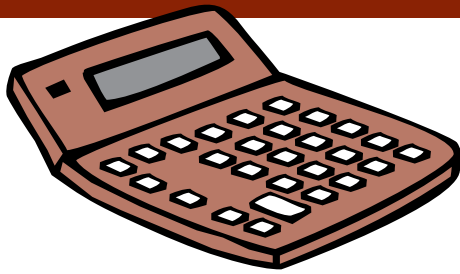
2.

Then work out how much you will earn in that year. This includes salaries, investments and any business profits. If you are a two-parent household you will have to work out the combined gross annual income of both parents.

3.

When you are calculating the relationship between your income and the school fees, parents can count more than one learner, even learners in other schools but these schools must be "fee-charging" schools.

8. HOW TO calculate your exemption



When you apply for an exemption from school fees, the SGB will apply **the following formula:**

$$E = 100 \left[\frac{F + A}{C} \right]$$

To calculate the formula, fill in the following values:

E = School fees as a proportion of the family income.

F = Annual school fees, for one child.

(Note: If a parent has more than one child at the same school and the fees are not the same for all of them, the highest fees must be used in the calculation).

A = Additional monetary contributions demanded by the school.

C = Combined gross income of parents.

100 = The number by which the answer arrived at in brackets is multiplied so as to convert it into a %.

9. Full exemptions

If the school fees are 10% or more of your total income, you will be entitled to a full exemption and will NOT have to pay school fees.

EXAMPLE 1

A single parent has one child in one school. This learner's annual school fees are R2 500 and the additional school expenses over the year come to R20. The parent's gross income for that year is R25 200.

See below:

- $E = 100 \left[\frac{F + A}{C} \right]$
- $E = 100 \left[\frac{2500 + 20}{25200} \right]$
- $E = 100 \left[\frac{2520}{25200} \right]$
- $E = 100 \times 0,1$
- $E = 10\%$

The parent qualifies for a full exemption because the school fees are 10% of her income.

EXAMPLE 2

Two parents have one child in a school and the annual school fees are R5 000. The annual additional monetary contributions are R500. The mother's annual income is R12 000 and the father's annual income is R8 000.

See below:

- $E = 100 \left[\frac{F + A}{C} \right]$
- $E = 100 \left[\frac{5000 + 500}{12000 + 8000} \right]$
- $E = 100 \left[\frac{5500}{20000} \right]$
- $E = 100 \times 0,275$
- $E = 27,5\%$

E is greater than 10%. The parents therefore qualify for a full exemption.

10. Partial exemptions

If the school fees are between 3,5% and 10% of your total income a parent will qualify for a partial exemption.

If the school fees are 2,5% of a parent's total income, the parent does not qualify for any exemption unless s/he has three or more children at the same public school or at another public school that has not been declared a "no-fee" school.

If the school fees are 3% of a parent's total income, the parent does not qualify for any exemption unless s/he has two or more children at the same public school or at another public school that has not been declared a "no-fee" school.

Note: to find out the level of exemption, **THE TABLE** in the regulations (page 10), must be used.

EXAMPLE 3

A parent has one child in a school. The annual school fees are R2 500, annual additional monetary contributions amount to R20. The parent's gross annual income is R30 000.

See below:

- $E = 100 \left[\frac{F + A}{C} \right]$
- $E = 100 \left[\frac{2500 + 20}{30000} \right]$
- $E = 100 \left[\frac{2520}{30000} \right]$
- $E = 100 \times 0,84$
- $E = 8,4\%$ (round off to 8,5)

The school fees are between 3,5% and 10% of the parent's total income. The parent will therefore qualify for a partial exemption.

To find out how much the exemption will be, look at the table on page 10.

- A parent with one child at the school who spends 8,5% of her income on school fees qualifies for a 91% fee exemption.
- 91% of R2 500 is R2 275
- $R2\ 500 - R2\ 275 = R225$
- The parent will therefore have to pay R225 in school fees for one child.

EXAMPLE 4

A parent has four children in school. The parent's annual gross income is R28 000. Annual school fees for **one learner** are R2 500 and the additional monetary expenses are R20. The parent also has one other child in the same school and two other children in another public school that has not been declared a "no-fee" school.

See below:

- $E = 100 \left[\frac{F + A}{C} \right]$
- $E = 100 \left[\frac{2500 + 20}{28000} \right]$
- $E = 100 \left[\frac{2520}{28000} \right]$
- $E = 100 \times 0,9$
- $E = 9\%$

The school fees are between 3,5% and 10% of the parent's total income. The parent will therefore qualify for a partial exemption.

To find out how much the exemption will be, look at the table on page 10.

- A parent with four children attending "fee-charging" schools who spends at least 9% of his income on school fees qualifies for a 97% fee exemption.
- 97% of R2 500 is R2 425
- $R2\ 500 - R2\ 425 = R75$
- The parent will therefore have to pay R75 school fees for that particular child.



Note: the amount of school fees that the parent will have to pay in respect of each of the other children will also have to be worked out individually. This must be done by applying the same formula and using the highest amount of school fees at each particular school in respect of the value F.

% of parental income spent on school fees
(total annual school fees, divided by parents annual income)

*** TABLE for calculating exemptions from school fees**

Number of learners

E =	1	2	3	4	5	6	7	8	9	10
2.0%	0%	0%	0%	0%	0%	11%	20%	27%	33%	38%
2.5%	0%	0%	0%	14%	25%	33%	40%	45%	50%	54%
3.0%	0%	7%	22%	33%	42%	48%	53%	58%	61%	64%
3.5%	7%	26%	38%	47%	54%	59%	63%	66%	69%	71%
4.0%	25%	40%	50%	57%	63%	67%	70%	73%	75%	77%
4.5%	39%	51%	59%	65%	69%	73%	76%	78%	80%	81%
5.0%	50%	60%	67%	71%	75%	78%	80%	82%	83%	85%
5.5%	59%	67%	73%	77%	80%	82%	84%	85%	86%	87%
6.0%	67%	73%	78%	81%	83%	85%	87%	88%	89%	90%
6.5%	73%	78%	82%	85%	87%	88%	89%	90%	91%	91%
7.0%	79%	83%	86%	88%	89%	90%	91%	92%	93%	93%
7.5%	83%	87%	89%	90%	92%	93%	93%	94%	94%	95%
8.0%	88%	90%	92%	93%	94%	94%	95%	95%	96%	96%
8.5%	91%	93%	94%	95%	96%	96%	96%	97%	97%	97%
9.0%	94%	96%	96%	97%	97%	98%	98%	98%	98%	98%
9.5%	97%	98%	98%	98%	99%	99%	99%	99%	99%	99%
10.0%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

11. No exemptions

If the school fees are 2% of a parent's total income, the parent does not qualify for any exemption unless s/he has five or more children at the same public school or at another public school that has not been declared a "no-fee" school.

If the school fees are less than 2% a parent **does not qualify** for any exemption.

EXAMPLE 5

A parent has one child in school. The annual school fees are R2 500, annual monetary contributions amount to R20, and the parent's annual gross income is R126 000.

See below:

$$\bullet E = 100 \left[\frac{F + A}{C} \right]$$

$$\bullet E = 100 \left[\frac{2500 + 20}{126000} \right]$$

$$\bullet E = 100 \left[\frac{2520}{126000} \right]$$

$$\bullet E = 100 \times 0,02$$

$$\bullet E = 2\%$$

Since E is equal to 2% the parent does not qualify for any exemption and must pay the full fees.

Note: if the parent has five or more children s/he would qualify for a partial exemption.

12. Conditional exemptions

These exemptions apply when the parent qualifies for either a partial exemption only, or no exemption. But in addition, the parent gives information to the SGB, which shows "inability to pay compulsory school fees due to personal circumstances beyond his or her control". An example might be when one parent dies.

The SGB will grant the exemption but only on condition that a parent/caregiver informs the school of any change in his/her financial position. At that stage, the SGB may want to think again about whether the parent/caregiver should have an exemption, or what kind of exemption s/he should have.

13. Automatic exemptions

It is ILLEGAL to charge any school fees for a learner:

- Who is an orphan, in an orphanage;
- Who has a foster parent;
- Who has been placed in a youth care centre or a place of safety;
- Who has been placed in the care of a family member ("kinship caregiver");
- Who is a child who heads an household or is part of a child headed household; *or*
- Whose parent receives a social grant on behalf of the same learner e.g. a child support grant.

14. Applying for an exemption



Parents/caregivers who qualify should apply **every year** in writing to the SGB for an exemption from school fees. The parent/caregiver can request an application form from the school. An example of what the form looks like is included on page 18 of this booklet.

If the school has not already given a parent/caregiver a copy of the exemption policy, the parent/caregiver can demand a copy.

15. Help in making the application

A parent/caregiver who needs help to apply for an exemption may ask an educator, or any other person, to assist him/her with the application.

If these people are not able to help, the principal of the school **must** help the parent/caregiver.

16. How to appeal

calendar	S	M	T	W	T	F	S
		1	2	3	4	5	6
	7	8	9	10	11	12	13
	14	15	16	17	18	19	20
	21	22	23	24	25	26	27
	28	29	30				

The SGB has 30 days (one month) to consider and decide on an application. The decision must follow what the law says in the Regulations. The SGB then has 7 days (one week) to tell the parent/caregiver what it has decided.

If the parent/caregiver is unhappy with the decision, s/he has 30 days (one month) to appeal the decision in writing to the Head of the Department of Education in the province. A parent should be informed of the decision of the Head of Department within seven weeks from the date the appeal was first made.

Note: the contact details of the Head of your province's Department of Education are set out on page 21 of this booklet.

17. What are the obligations of the School Governing Body (SGB) and the Principal?

They must notify the parents of:

- The **amount** of school fees;
- The **exemption process**, if the parent is in arrears by one or two months – the SGB must assess the possibility as to whether the parent qualifies for an exemption;
- The **form** to be completed, to show the parent is informed about the school fees regulations (see the checklist form on page 19);
- The **copy of the regulations**, which the governing body must display in the school;
- The parent's **right to privacy** for all the information in a parent's exemption application; *and*
- The **help available** from the school, if the parent needs help with the exemption application.

Note: the school is not allowed to charge for extra things like registration, or compulsory extra-curricular activities. If you pay the fees, or if you have an exemption, the child is entitled to the entire educational programme.

18. Ban on discrimination

- The school may not exclude any child from classes, or cultural, sporting or social activities at the school, whose parent cannot afford or has not paid school fees;
- The school cannot withhold report cards, matriculation certificates, or transfer cards; *and*
- The school cannot discriminate against any child in any way for parent's failure to pay school fees, including "verbal or non-verbal abuse" (see section 41(6) of SASA as amended for more details).

19. When can a school sue a parent?

- Before a SGB can sue a parent for fees, they must show that the parents would not qualify for an exemption.
- The SGB must show that the parent has been given all the necessary help and information to apply for an exemption, and that the parent knows they can appeal against any decision by the SGB to refuse any exemption.
- If a parent is in arrears by one or two months the SGB must investigate if that parent is entitled to an exemption.

Note: any arrears from 2005 will be calculated according to the previous policy.

20. Legal processes

The SGB cannot sue you without following the proper legal processes:

- The SGB must first send you a letter of demand warning you what they want and what they plan to do, and giving you a date by which you must respond; or they will not be able to get an order from the court.
- If you do not respond, or if the SGB is not satisfied with your response, they must serve their summons on you in a formal way, calling you to the Magistrate's Court to explain why you have not paid.
- In the Magistrate's Court the magistrate will give you a chance to put your case before the court.
- If you ignore the summons and do not go to the court, the magistrate could make a default judgment against you in your absence, forcing you to pay all the fees due immediately.
- The magistrate will issue an order that you must follow. If you do not, the sheriff of the court could attach some of your possessions to sell in execution to pay off your debt.
- The SGB cannot take legal steps to attach and sell a parent's house to pay school fees owing, without providing alternative accommodation.

21. What can you do if a school is abusing these laws?



1. You could complain to the school principal;
2. You could complain to the SGB;
3. You could complain to the PDE (see the contact details on page 21 of this booklet); *and*
4. You could get advice and perhaps legal assistance from a non-governmental organisation, including:
 - The Education Law Project (see contact details on the back cover of this booklet);
 - The Legal Resources Centres;
 - The university law clinics;
 - The Justice Centres; *or*
 - Local advice offices.

22. Shortened example of an Exemption Application Form

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES
APPLICATION FORM FOR EXEMPTION (South African Schools Act 84 of 1996)

PARTICULARS OF SCHOOL

Name:
Postal address:
Residential address:
Tel:
Fax:

PERSONAL PARTICULARS OF PARENT

Name of parent:
Name(s) of learner(s):
Residential address:
Tel:
Fax:

FINANCIAL PARTICULARS OF PARENT

A parent must supply, where applicable, the following:

- Combined gross annual income: R..... (salary advice if applicable)
- Money received from investment: R..... (documentary proof)
- Profit gained from any form of business: R..... (documentary proof)
- School fees for each of his or her learners at the school: R.....
- School fees for learners at other schools: R..... (documentary proof)
- Additional monetary contributions explicitly demanded by the school: R.....

23. School fees exemption Checklist Form

(South African Schools Act 84 of 1996)
REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES
CHECKLIST FORM (mark with a cross in applicable box)

- | | | | |
|---|--|-----|----|
| 1. Has the principal informed you about the amount of the annual school fees to be paid? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 2. Has the principal informed you that you are liable to pay school fees unless you are totally exempted from paying school fees? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 3. Has the principal informed you about your right to apply for exemption from paying school fees? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 4. Do you wish to apply for such an exemption? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 5. Do you wish to be assisted in such an application? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 6. Has the principal provided you with the form (Annexure B) for application for exemption? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 7. Has the principal signed this particular form? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 8. Have you signed this particular form? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |
| 9. Has the principal handed over the signed copy of this form to you? | <table border="1"><tr><td>YES</td><td>NO</td></tr></table> | YES | NO |
| YES | NO | | |

24. Explaining words (glossary)

- **Appeal**: If you are unhappy with a decision by the School Governing Body (SGB), you can go to a more senior person in the Department of Education to decide if the SGB was correct
- **Benchmark**: the minimum target amount or standard to be met
- **Exemption**: permission not to pay some or all of the annual school fees
- **Gross annual income**: all the money someone gets in a year from any person or place, before tax and other expenses are taken off
- **Law**: rules made by parliament or government
- **Parent or caregiver**: A learner's parent/caregiver includes the parent or guardian of a learner, any person entitled to legal custody of a learner, and anyone who undertakes to carry out the obligations of parents, guardians or custodians in relation to the learner's education at school (*Section 1(xiv) of the SA Schools Act*)
- **PDE**: Provincial Department of Education
- **SGB**: School Governing Body
- **Sue**: to make a claim against a person in one of the law courts, usually to get the person to pay a debt or compensation

25. Provincial Departments of Education (PDEs)

Eastern Cape

Dr D W M Edley

Superintendent General:
Education
Private Bag X0032
Bisho 5605
Tel (040) 608 4205
Fax (040) 608 4249

KwaZulu-Natal

Dr RC Lubisi

Superintendent General:
Education
Private Bag X 9137
Pietermaritzburg 3200
Tel (033) 846 5125
Fax (033) 846 5180

Northern Cape

Mr EAB Williams

Deputy Director - General:
Education
Private Bag X5029
Kimberley 8300
Tel (053) 839 6500/6683
Fax (053) 839 6640

Free State

Mr MS Rakometsi

Superintendent General:
Education
Private Bag X20565
Bloemfontein 9300
Tel (051) 404 8428/9
Fax (051) 404 8269

Limpopo

Prof RH Nengwekhulu

Superintendent General:
Education
Private Bag X9489
Polokwane 0700
Tel (015) 297 0895
Fax (015) 297 0937

North West

Mr HM Mveli

Acting Superintendent
General: Education
Private Bag X2044
Mmabatho 2735
Tel (018) 387 3428/9
Fax (018) 387 3430

Gauteng

Mr M Petje

Superintendent General:
Education
P O Box 7710
Johannesburg 2000
Tel (011) 355 1510/8
Fax (011) 333 5546/8

Mpumulanga

Mr R Tywakadi

Superintendent General:
Education
Private Bag X11341
Nelspruit 1200
Tel (013) 766 5552
Fax (013) 766 5577

Western Cape

Mr RB Swartz

Superintendent General:
Education
Private Bag X9114
Cape Town 8000
Tel (021) 467 2000/6/2535
Fax (021) 461 3694