

Are parents allowed not to send their children to school?

President Cyril Ramaphosa's remark in his address on Sunday 24 May 2020 that no parent will be forced to send their parents to school has caused widespread confusion.

Parents have a statutory duty to send their children to school, which the president cannot amend by way of an address or even through COVID regulations.

Section 3 of the South African Schools Act 84 of 1996 stipulates as follows (own underlining):

(1) Subject to this Act and any applicable provincial law, every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of seven years until the last school day of the year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

Parents who fail to comply with this provision are guilty of an offence. The Head of Department (HOD) may investigate the circumstances surrounding the learner's non-attendance and take appropriate measures to remedy the matter (section 3(5)).

What are parents permitted to do?

There are three potential scenarios:

1. Parents may wish to keep their child in the formal schooling system (public schools or independent schools), but the learner has an underlying health condition.

2. Parents may wish to keep their child in the formal schooling system (public schools or independent schools), and the child has no underlying health condition, but the parents are concerned about the child's safety.
3. Parents want to remove their child from the formal schooling system, and rather switch to homeschooling.

Scenario 1 (formal schooling system WITH underlying health condition)

It is the parents' responsibility to notify the school of the learner's underlying condition and increased risk (see paragraph 13 of the National Learner Attendance Policy).

In such a case, the non-attendance may still be dealt with in terms of the national policy, and the school must take reasonable measures to assist the learner to continue with distance learning. The parents will have to accept responsibility along with the school to ensure that the learner takes part and keeps up.

Scenario 2 (formal schooling system WITHOUT underlying health condition)

This scenario seems to be creating most confusion, which has been compounded by the president's remark. Moreover, the uncertainty about the reopening of schools, schools' readiness, unions' demands and insufficient communication by the national and provincial education departments are not helping to allay parents and learners' fears. Therefore, we must have empathy with this group.

For this reason, schools must do everything in their power to communicate properly with these parents and convince them that formal school education is both safe and best for the learner. There is a good chance that these parents may themselves decide to send

their children back to school after a few weeks, once they have seen that the system is working – it may just take a little longer.

Do schools have a statutory duty to provide education to these learners in the meantime? Technically speaking, no – ultimately, they must be at school. But do we want to lose these learners?

Schools may want to consider reasonably accommodating this group with a possible blended model of distance and contact teaching, while they attempt to establish proper communication. Offer parents an opportunity to discuss the matter with the school.

Paragraph 56 of the National Learner Attendance Policy provides that the principal must contact the parents if the learner has been absent from school for more than ten consecutive days and is at risk of being scrapped from the school register.

Keep in mind that staff provisioning is informed by the number of enrolled learners and has a direct impact on school fees. Therefore, rather think of a strategy to retain learners – with a view to the short as well as the long term.

Scenario 3 (homeschooling)

In this scenario, the learner leaves the formal schooling system and is no longer enrolled at the school. The school may not refuse to let the learner leave and, therefore, has no further obligations towards the learner. This is possibly what the president meant with his remark.

Section 51 of the Schools Act provides that a parent may apply to the HOD to register a learner for homeschooling. The HOD may proceed to register the learner as such if (s)he is satisfied that:

- the registration is in the learner's best interests;
- the education the learner will be receiving at home:
 - will comply with the minimum curriculum requirements; and
 - will not be of a lower standard than that in public schools; and
- the parent complies with any other reasonable conditions set by the HOD.

If parents choose to homeschool their children, but decide to re-enrol them at a school at a later stage, the following must be kept in mind:

- Parents must notify the school that the learner will be homeschooled in future. Paragraph 55 of the National Learner Attendance Policy provides that a learner's record must be scrapped from the class register if (s)he is registered for homeschooling (paragraph 55(d)), and that the learner must be re-entered into the class register if readmitted to the school (paragraph 59).
- Parents must register the learner with a curriculum provider. If not, there will be no evidence of the child's learning for the year, and no formal certificate (report card) can be issued.
- Any public school will have the right to determine the standard of homeschooling received, irrespective of whether or not a certificate has been issued.

What schools should know in addition to the above:

- The school may not refuse to let a parent homeschool his/her child.
- The school must remove such learner's record from the class register.
- Neither the school nor any staff member has any duty to provide any level of support or assistance to a learner who is registered for homeschooling.

"Die leier in skoolbeheer en -bestuur"

How should schools respond?

- Communicate regularly and clearly.
- Comply with all the safety standards and practices.
- Acknowledge parents' fears and be prepared to listen and give advice.
- Respect parents' decisions.
- Do everything that is reasonably practicable to accommodate and retain learners at the school.
- Develop a strategy for scenario 2 – the more normal the school's functioning, the more likely learners will return.
- Keep the door open for parents and learners for as long as possible.
- Help parents take good decisions.

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