

28 NOVEMBER 2024

MEDIA STATEMENT BY THE MINISTER OF BASIC EDUCATION ON THE SETTLEMENT OF BELA DISPUTE WITHIN NEDLAC

On 1 October 2024, Solidarity initiated a dispute process through NEDLAC to seek authorisation to undertake a protected protest to express opposition to sections 4 and 5 of the Basic Education Laws Amendment Act, 2024 (**BELA Act**). The Minister of Basic Education and the Presidency were cited as respondents in the matter.

Following weeks of NEDLAC consultations between delegations representing Solidarity, the Minister of Basic Education and the Presidency and following bilateral consultations between delegations representing Solidarity and the Minister of Basic Education, the Minister of Basic Education is happy to announce that a settlement of the dispute was reached on 27 November 2024. NEDLAC has confirmed that the dispute has been settled.

It must be noted that this NEDLAC process was separate from and does not in any way serve as a substitute for the consultations that are currently underway between the parties within the Government of National Unity (GNU).

Bilateral Settlement Agreement between the Minister of Basic Education and Solidarity

The Minister of Basic Education and Solidarity have entered into a Bilateral Settlement Agreement, dated 25 November 2024 (attached), in terms of which the parties have reached an understanding of how concerns relating to sections 4 and 5 of the BELA Act may be addressed. This understanding was forged based on constructive engagements. “This validates my long-held view that dialogue is the best remedy for conflict resolution,” said Minister Siviwe Gwarube.

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She further added that, “In terms of the Bilateral Settlement Agreement, and as part and parcel of my constitutional mandate to be a true and faithful counselor to the President, I will make recommendations to President Ramaphosa on the commencement arrangements for the BELA Act – recommending that sections 4(d), 4(f) and 5(c) of the BELA Act be commenced once certain national policies, national norms and standards and national regulations have been made to support the implementation of these sections”.

Full details of these recommendations are set out in the attached Bilateral Settlement Agreement.

The national policies, national norms and standards and national regulations to be developed in this regard must provide greater legal clarity on the factors to be considered and more comprehensive consultation mechanisms that need to be followed in relation to the following decision-making processes:

- The decision by the Head of a Provincial Education Department to depart from the admission policy determined by a School Governing Body for a public school;
- The decision by the Head of a Provincial Education Department to direct a public school to add an additional language of instruction; and
- The decision by the Head of a Provincial Education Department to request a School Governing Body to review its admission policy or language policy.

All recommendations that the Minister of Basic Education will make to the President in respect of sections 4(d), 4(f) and 5(c) of the BELA Act are informed by:

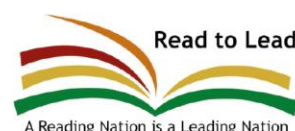
- the need to protect and preserve the careful balance of powers and functions that have been conferred by law on the three partners in basic education,

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namely National Government, Provincial Government and Public Schools represented through their School Governing Bodies;

- the constitutional right of every learner to receive a basic education (which right is immediately realisable);
- the constitutional right of every learner to be taught in their mother tongue where this reasonably practicable, taking into account considerations of practicability, equity and redress; and
- the constitutional imperative to protect and promote the best interests of learners.

These recommendations have been developed in line with landmark decisions of the Constitutional Court.

The recommendations to be made by the Minister of Basic Education to the President in this regard will supplement any other recommendations to the President that the Minister considers necessary for the proper implementation of other parts of the BELA Act.

Multilateral Settlement Agreement between the Minister of Basic Education, Presidency and Solidarity

The Minister of Basic Education, the Presidency and Solidarity have also entered into a Multilateral Settlement Agreement, dated 27 November 2024 (attached), in terms of which they have reached an understanding of the process that will be followed by the Minister of Basic Education in this matter.

In this regard, the parties have agreed that the Minister of Basic Education will present the recommendations detailed in the Bilateral Settlement Agreement to the President for his consideration.

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The BELA Act requires the President to proclaim the commencement arrangements applicable to the Act.

The Minister of Basic Education wishes to thank NEDLAC for facilitating this process and expresses thanks and gratitude to each of the social partners involved for the constructive way this matter has been resolved at NEDLAC.

ISSUED BY THE DEPARTMENT OF BASIC EDUCATION

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