



SOLIDARITEIT  
SOLIDARITY

POSSIBLE IMPACT OF  
**BELA**  
IN GAUTENG

# Content

|  |           |
|--|-----------|
| <b>Introduction</b>                    | <b>3</b>  |
| Assumptions                            | 3         |
| Methodology                            | 3         |
| <b>Language and Admission</b>          | <b>4</b>  |
| Admission                              | 4         |
| Language                               | 6         |
| Education districts                    | 9         |
| Conclusion                             | 10        |
| <b>Gauteng Department of Education</b> | <b>11</b> |
| Hostile Statements                     | 11        |
| BELA                                   | 11        |
| Panyaza Lesufi                         | 12        |
| Overvaal                               | 20        |
| Conclusion                             | 27        |
| <b>State of Education</b>              | <b>28</b> |
| <i>School Realities Report</i>         | 28        |
| Gauteng                                | 28        |
| South Africa                           | 29        |
| Conclusion                             | 29        |
| <b>Impact of BELA in Gauteng</b>       | <b>30</b> |

# Introduction

The BELA legislation was signed into law by President Ramaphosa on Friday 13 September 2024. Although the President indicated that there was great unhappiness about the legislation – especially among his coalition partners in the Government of National Unity (GNU) – he nevertheless signed the legislation.

President Ramaphosa, however, has stated that the most controversial clauses – sections 4 and 5 of the Amendment Act and sections 5 and 6 of the South African Schools Act – will not come into effect immediately. Three months have been granted in order to negotiate possible solutions regarding these clauses.

The two clauses are those that deal specifically with language and admission policy for schools. Great unhappiness prevails specifically in the Afrikaans community about the government's attempts to centralise power by means of the BELA legislation.

This report attempts to make a projection of what the possible impact on Afrikaans schools specifically in Gauteng could be if BELA's language and admission sections do come into effect on 14 December 2024.

## Assumptions

Gauteng is specifically highlighted for the first report simply because it is the province where most of Solidarity's members reside. Gauteng also has the second largest group of Afrikaans speakers, and several high-profile Afrikaans single-medium schools are situated in Gauteng.

With a view to making predictions, the report assumes that the BELA legislation is implemented in its entirety and that all attempts to delete the sections in question through public pressure or litigation have failed.

## Methodology

The BELA Act itself states that the head of the education department must, among other things, take into account the broader demographics of the education district when directing a school to become dual medium.

As a result, it was determined which wards specifically fall in each education district in Gauteng. Because of the term "broader community", any ward that even partially falls within the education district was added as part of the education district's broader language demographics.

As a basic source, the 2011 census data was used at ward level. Apart from the fact that Census 2022 data is not yet available at ward level, there are also serious concerns about the credibility of Census 2022 figures at such granular levels.

Since a relative decrease in Afrikaans is shown in Gauteng in the Census 2022 data, this situation should rather be considered a best case for Afrikaans.



# Language and Admission

## Admission

Amendment of section 5 of Act 84 of 1996, as amended by section 2 of Act 50 of 2002

### Amendment of section 5 of Act 84 of 1996, as amended by section 2 of Act 50 of 2002

4. Section 5 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) A *public school* must admit, and provide education to, *learners* 40  
and must serve their educational requirements for the duration of their  
*school attendance* without unfairly discriminating in any way.”;

(b) by the insertion after subsection (1) of the following subsections:

“(1A) Any *learner* whose *parent* or guardian has not provided any 45  
*required documents*, whether of the *learner* or such adult person acting  
on behalf of the *learner*, during the application for admission, shall  
nonetheless be allowed to attend *school*.

(1B) The *principal* of the *school* must advise the *parent* or guardian to  
secure the *required documents*.”;

(c) by the substitution in subsection (4) for paragraph (a) of the following 50  
paragraph:

“(a) The admission age of a *learner* to a *public school* to *grade R* is age  
four turning five by 30 June in the year of admission: Provided that,





if a *school* has limited capacity for admission in *grade R*, preference must be given to *learners* who are subject to compulsory attendance.”;

(d) by the substitution for subsection (5) of the following subsection:

“(5) Subject to *this Act* and any applicable provincial law, the admission policy of a *public school* is determined by the *governing body* of such *school* in line with the *Constitution* and relevant legislation:

Provided that—

(a) the *governing body*, when considering the admission policy or any amendment thereof for approval, must be satisfied that the policy or the amendment thereof takes into account the needs, in general, of the broader community in the *education district* in which the *public school* is situated, and must take into account factors including, but not limited to—

(i) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution*, and equity;

(ii) whether there are other *schools* in the community that are accessible to *learners*;

(iii) the available resources of the *school* and the efficient and effective use of state resources; and

(iv) the space available at the *school* for *learners*; and

(b) the *Head of Department*, after consultation with the *governing body* of the *school*, has the final authority, subject to subsection (9), to admit a *learner* to a *public school*; and

(c) the *governing body* must review the admission policy determined in terms of this section every three years or whenever the factors referred to in paragraph (a) have changed when circumstances so require, or at the request of the *Head of Department*.”;

(e) by the substitution for subsection (9) of the following subsection:

“(9) Any *learner* or *parent* of a *learner* who has been refused admission to a *public school* may appeal against the decision to the *Member of the Executive Council* within 14 days of receiving the notification of the refusal of admission to the *public school*.”; and

(f) by the addition of the following subsections:

“(10) If an appeal contemplated in subsection (9) has been received, the *Member of the Executive Council* must, within 14 days after receiving such an appeal, consider and decide on the matter and inform the *learner* or the *parent* of the *learner* of the outcome of the appeal.

(11) If the *governing body* is not satisfied with the decision of the *Head of Department* as contemplated in subsection (5)(b), the *governing body* may appeal against the decision to the *Member of the Executive Council* within 14 days after receiving the decision of the *Head of Department*.

(12) If an appeal contemplated in subsection (11) has been received, the *Member of the Executive Council* must, within 14 days after receiving such appeal, consider and decide on the matter and inform the *governing body* of the outcome of the appeal.

(13) While the *Member of the Executive Council* considers the appeal, the admission policy shall remain valid and applicable, and only the provisions that are the subject of the appeal shall be suspended pending the finalisation of the appeal process.”.

As can be seen, the Head of Department is given the final authority to place learners in a school after consultation with the governing body. In terms of the amendment, there is a duty on

governing bodies to take into account the broader community in the education district of the school in question when they draw up admission policies.

## Language

Section 6 of the Schools Act is amended by the BELA legislation as follows:

### Amendment of section 6 of Act 84 of 1996

5. Section 6 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) The *governing body* of a *public school* may, subject to subsection (7), determine the language policy of the *school* subject to the Constitution, this Act and any applicable provincial law: Provided that the language policy of a *public school* must be limited to one or more of 55  
Constitution.”;

(b) by the substitution for subsection (4) of the following subsection:

“(4) [A recognised] South African Sign Language has the status of an official language for purposes of learning at a *public school*.”; and 5

(c) by the addition of the following subsections:

“(5) The *governing body* of a *public school*, when determining the language policy of the *school* or any amendment thereof, must be satisfied that the policy or the amendment thereof takes into account the language needs, in general, of the broader community in the *education district* in which the *public school* is situated, and must take into account factors including, but not limited to— 10

(a) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution* and equity;

(b) section 6(2) of the *Constitution*; 15

(c) section 29(2) of the *Constitution*;

(d) the changing number of *learners* who speak the language of learning and teaching at the *public school*;

(e) the need for effective use of classroom space and resources of the *public school*; and 20

(f) the enrolment trends of the *public school*.

(6) The *governing body* must review the language policy determined in terms of this section every three years or whenever the factors referred to in subsection (5) have changed, when circumstances so require, or at the request of the *Head of Department*. 25

(7) Notwithstanding the provisions of subsection (2), the *Head of Department* may, where it is practicable to do so and subject to subsection (5), direct a *public school* to adopt more than one language of instruction.



- (8) The *Head of Department*, in determining whether it is practicable for a *public school* to have more than one language of instruction, must take into account factors including, but not limited to—
- (a) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution* and equity;
  - (b) the changing number of *learners* who speak the language of learning and teaching at the *public school*;
  - (c) the need for effective use of classroom space and resources of the *public school*; and
  - (d) the language needs, in general, of the broader community in the *education district* in which the *public school* is situated.
- (9) The *Head of Department* may not act in terms of subsection (7) unless he or she has—
- (a) in writing, informed the *school* and the *governing body* of his or her intention to act as contemplated in subsection (7) and his or her reasons therefor;
  - (b) notified the *parents* associated with the *school*, and the community in which the *school* is situated, of his or her intention so to act and the reasons therefor—
    - (i) by means of a notice in at least one newspaper circulating in the area where the *school* is situated, if any newspapers circulate in that area;
    - (ii) by causing the *principal* of the *school* to—
      - (aa) hand to every *learner* a notice containing the relevant information; and
      - (bb) instruct the *learners* to hand the notice to their *parents*; and
    - (iii) by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible;
  - (c) granted the *school*, the *governing body*, the *parents* associated with the *school*, and the community in which the *school* is situated, a reasonable opportunity to make representations to him or her in relation to such action;

- (d) conducted a public hearing, on reasonable notice, to enable the community to make representations to him or her in relation to such action; and
  - (e) given due consideration to any such representations received.
- (10) The *Head of Department* must— 5
- (a) inform the *school* and the *governing body* of his or her decision contemplated in subsection (7) and his or her reasons therefor; and
  - (b) by means of the methods listed in subsection (9)(b), notify the *parents* associated with the *schools*, and the communities in which the *schools* are situated, of the decision. 10
- (11) If the *Head of Department* acts in terms of subsection (7), he or she must, before his or her directive is implemented, take all necessary steps to ensure that the *public school* concerned receives the necessary resources, including, but not limited to— 15
- (a) *educators*; and
  - (b) learning and teaching support material,
- to enable that *public school* to provide adequate tuition in the additional language or languages of instruction.
- (12) If the *governing body* is not satisfied with the directive of the *Head of Department* as contemplated in subsection (7), the *governing body* may appeal against the directive to the *Member of the Executive Council* within 14 days after receiving the directive. 20
- (13) If an appeal contemplated in subsection (12) has been received, the *Member of the Executive Council* must, within 14 days after receiving such appeal, consider and decide the matter and inform the *governing body* of the outcome of the appeal. 25
- (14) While the *Member of the Executive Council* considers the appeal, the language policy of the *public school* shall remain valid and applicable, and only the provisions that are the subject of the appeal shall be suspended pending the finalisation of the appeal process.” 30

In terms of **subsection (2)(c)**, a duty is placed on the governing body of a school to take into account the language needs of the broader community in the education district in which the school is situated, when determining a language policy.

Nevertheless, the Head of Department once

again is given the final authority in matters regarding language policy and in terms of subclauses (7) and (8) he can even direct a school to become dual medium subject to certain criteria, including once again the language needs of the broader community in the education district in which the public school is situated.



## Education districts

From the BELA legislation it is clear that the language demographics of the education district in which a public school is situated is one of the most important factors when setting up and determining language and admission policies. Likewise, it is one of the factors that the Head of Department must take into account when he wants to instruct a school to become dual medium.

Because this report only focuses on the possible impact of BELA in Gauteng, the language demographics of all 15 education districts in Gauteng are looked at in summary.

Table 1– Education districts and language demographics in Gauteng

| Onderwysdistrik       | % Afrikaans |
|-----------------------|-------------|
| Sedibeng-Oos          | 25%         |
| Tshwane-Noord         | 21%         |
| Tshwane-Suid          | 20%         |
| Gauteng-Noord         | 20%         |
| Gauteng-Wes           | 17%         |
| Ekurhuleni-Noord      | 15%         |
| Ekurhuleni-Suid       | 15%         |
| Tshwane-Wes           | 13%         |
| Gauteng-Oos           | 12%         |
| Johannesburg-Noord    | 11%         |
| Johannesburg-Wes      | 11%         |
| Sedibeng-Wes          | 10%         |
| Johannesburg-Suid     | 7%          |
| Johannesburg-Sentraal | 6%          |
| Johannesburg-Oos      | 4%          |

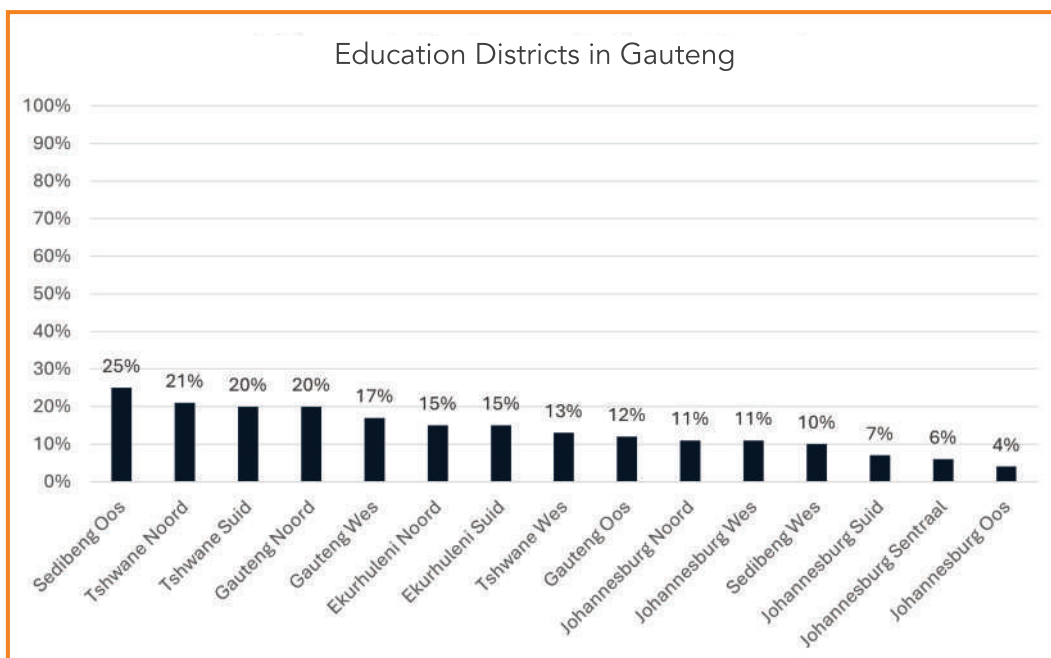


Figure 1- Education Districts in Gauteng

As can be seen, the education district with the highest percentage of Afrikaans is the Sedibeng East education district with 25%. This education district falls between the municipalities of Emfuleni (Vereeniging), Midvaal and Lesedi (Heidelberg). The next two districts with the highest percentage of Afrikaans are in Pretoria and Centurion (Tshwane North and Tshwane South). From this language-demographic distribution it is clear that there is not a single education district in Gauteng where Afrikaans is the majority language.

In fact, there is not a single education district where Afrikaans makes up more than 30% of the education district's language needs.

## Conclusion

The emphasis that the BELA legislation places on the language needs of the larger education district in which schools are situated implies that every single-medium Afrikaans school in Gauteng can be legally instructed to become dual-medium in terms of BELA. Single-medium Afrikaans schools in Gauteng are therefore completely left to the mercy of the Gauteng Department of Education regarding Afrikaans as a medium of instruction.



# Gauteng Department of Education

If BELA's language and admission clauses come into force, Afrikaans single-medium schools will run the risk of being instructed to become dual-medium. In order to make an accurate forecast of the possible impact of BELA in Gauteng, the focus must therefore be on the Gauteng Department of Education's attitude towards Afrikaans schools.

## Hostile Statements

In a media release issued on 12 September 2024, the Gauteng Department of Education encourages President Ramaphosa to sign the BELA legislation so that they can switch schools to dual medium without interference.

## BELA

Unfortunately, the Gauteng Department of Education has a long history of open hostility towards single-medium Afrikaans schools. In order to understand the possible impact of BELA in the hands of the Gauteng Department of Education, one must first look at the latest statements made by Mr Matome Chiloane, the MEC for Education, Art, Culture, Sport and Recreation.

*"We fully support the President in signing this bill into law. Changing demographics in our communities mean that it is unacceptable for schools to deny learners access to schools closer to their residence based on language. If numbers dictates that a school must be changed to be a dual medium of instruction, that should happen without interference. Public schools serve the public, and no learner should be excluded. The HOD will be empowered to ensure that language policies are inclusive and responsive to the needs of the community,"*<sup>1</sup>

This sentiment was further elaborated on during a media conference on 15 September 2024, where Mr Chiloane had the following to say when asked about BELA:

*"I have to say this we are happy as Gauteng Province about this bill. It will really, really, really take us forward in terms of transforming our schools. We can't have a single medium school, especially in our province...and it will also assist us to really increase spaces. Yeah, it is going to assist us to increase capacity greatly. In fact, the people of Gauteng they will see that perhaps we never had the challenge of spaces as we thought as much."*<sup>2</sup>

It is therefore clear from Mr Chiloane's statements that the Gauteng Department of Education intends to eradicate single-medium Afrikaans schools in Gauteng as soon as BELA comes into force.

Unfortunately, this view is not so far removed from the Department of Basic Education's own answers about BELA in parliament. During a question-and-answer session, the former Minister of Basic Education, Ms Angie Motshekga, replied that the law is necessary to prevent half-full Afrikaans schools from being protected.<sup>3</sup>

In reality, the average single-medium Afrikaans school in Gauteng is full to overflowing.<sup>4</sup>

When talking about hostility towards Afrikaans schools, special mention must also be made of Mr Panyaza Lesufi, former MEC for Education in Gauteng.

<sup>1</sup> <https://education.gauteng.gov.za/GDE%20Media%20Statements/2024/Media%20Statement%20-%20MEC%20Chiloane%20encourages%20President%20Ramaphosa%20to%20sign%20Bela%20Bill%20-%2012%20September%202024.pdf>

<sup>2</sup> <https://www.youtube.com/watch?v=DWvc9NZwdU0&t=2528s>

<sup>3</sup> <https://www.politicsweb.co.za/documents/angie-motshekga-lets-bela-bill-cat-out-of-the-bag->

<sup>4</sup> [https://skole.co.za/wp-content/uploads/2021/11/SOS\\_Afrikaanse-skole-verslag\\_web.pdf](https://skole.co.za/wp-content/uploads/2021/11/SOS_Afrikaanse-skole-verslag_web.pdf)

## Panyaza Lesufi

A timeline of Mr Lesufi's statements about Afrikaans single medium institutions is given below.

| Date       | Statement   | Reference   |
|------------|---|---|
| 25/06/2023 | <p>"Therefore, the insinuation by the DA and other organisations stating this Bill is being used to attack Afrikaans and mother-tongue education is senseless. This Bill intends to promote and defend all languages in all schools. They must not bring politics into the education space. Our children must be in the same classroom, learning and playing together," said Lesufi.</p>  | <p><a href="https://www.citizen.co.za/alberton-record/news-headlines/local-news/2023/06/25/bela-bills-language-policies-spark-concerns/">https://www.citizen.co.za/alberton-record/news-headlines/local-news/2023/06/25/bela-bills-language-policies-spark-concerns/</a></p>  |
| 05/07/2022 | <p>"If learners want to learn in Afrikaans, we will give them space to learn in Afrikaans and if they want to learn in Xhosa, they must be given space to learn in Xhosa, but that does not mean one language must dominate the entire school. But if a certain nation believes that an entire school must belong to them alone, we reject that," he said.</p> <p>"Go to Menlo Hoërskool (Die Hoërskool Menlopark) in Pretoria... you go there during a sporting activity you might think it's not even South Africa, you might think it's Orania where other people can't be in that particular school. Should we fold our arms because we are scared of the DA (when) they say don't touch our schools? We reject that, these schools belong to all our children. There might be where you stay there is an Afrikaner school closer to you, but you can't go there, it can't be. That school belongs to all of us, and it must admit all our children ... because you have a certain colour of skin, they think the school belong to them alone? We must reject that and I'm unapologetic about that aspect."</p> | <p><a href="https://www.iol.co.za/the-star/news/lesufi-dismisses-claims-that-he-seeks-to-attack-afrikaans-and-mother-tongue-education-in-schools-by-using-the-bela-bill-ef698de1-c927-4b8a-bf41-c0e80c6778e0">https://www.iol.co.za/the-star/news/lesufi-dismisses-claims-that-he-seeks-to-attack-afrikaans-and-mother-tongue-education-in-schools-by-using-the-bela-bill-ef698de1-c927-4b8a-bf41-c0e80c6778e0</a></p> <p><a href="https://www.sabcnews.com/sabcnews/all-schools-belong-to-all-races-panyaza-lesufi/">https://www.sabcnews.com/sabcnews/all-schools-belong-to-all-races-panyaza-lesufi/</a></p> |



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| <p>21/06/2022</p> | <p>Today during a session of the Gauteng Legislature, the Gauteng MEC for Education, Panyaza Lesufi, continued his onslaught on Afrikaans schools. He let it slip that the planned BELA legislation is solely aimed at transforming, and thus destroying, Afrikaans schools.</p> <p>He made it very clear that the planned BELA legislation will be used to transform all single- and parallel-medium Afrikaans schools to schools where at least three different languages are simultaneously used as a medium of instruction. Lesufi once again ranted about the broader Afrikaans community as well, including the private Afrikaans Sol-Tech College and AfriForum.</p>  | <p><a href="https://www.politicweb.co.za/politics/bela-lesufi-accidentally-gives-away-actual-purpose">https://www.politicweb.co.za/politics/bela-lesufi-accidentally-gives-away-actual-purpose</a></p>   |
| <p>22/09/2019</p> | <p>"I and many South Africans are not opposed to the Afrikaans, Afrikaner culture and its trappings. But we will never support those who want to hijack this language, just like they did during the dark days of apartheid, to conceal their hatred of a democratic South Africa."</p> <p>"Over 25 years into our democratic dispensation, any school district, university or tertiary institution that wishes to short-change students is anathema to our society and a disgrace to the constitution of the republic."</p> <p>"Lest we forget that this Afrikaans only university was conceived soon after the Constitutional Court saw nothing wrong with the universities of South Africa, Pretoria, Free State, Stellenbosch and Potchefstroom, in changing their language policies to accommodate all South Africans. Instead of supporting the apex court, they angrily decided to use their apartheid acquired wealth and skills to desecrate the graves of people like Beyers Naude who believed in an all-inclusive South Africa."</p> <p>"The opening of this language-based university, especially a language that was used to oppress us, is not good for the future of our country."</p> | <p><a href="https://www.news24.com/Columnists/GuestColumn/panyaza-lesufi-a-language-based-university-is-anathema-to-our-society-and-a-disgrace-to-our-constitution-20190922">https://www.news24.com/Columnists/GuestColumn/panyaza-lesufi-a-language-based-university-is-anathema-to-our-society-and-a-disgrace-to-our-constitution-20190922</a></p> |

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| <p>17/09/2019</p> | <p>"I just hate racism when I see one! A race based institution in a non racial society won't succeed. Please don't remind us about apartheid <a href="#">#AfrikaansOnly</a> "</p> <p>"If it accommodates all why the sod turning represent one race, we have been here before don't remind us what your ancestors used to say to us that apartheid was good for us! "</p> <p>"It's not innocent unfortunately. They are angry because RAU, Tukkies, Stellenbosch University, etc are now accommodating other races and languages. We can't go back to RAUs whether private or public, non racialism is the future. Let's defend it!"</p> <p>"It's very important to understand where we come from, that there was a certain language that was used to oppress people in this country. "</p> <p>"We're not saying this because we are attacking Afrikaans but because the message of 'we only need one language' is bad."</p> | <p><a href="https://www.timeslive.co.za/news/south-africa/2019-09-17-panyaza-lesufi-slams-new-afrikaans-university-dont-remind-us-of-apartheid/">https://www.timeslive.co.za/news/south-africa/2019-09-17-panyaza-lesufi-slams-new-afrikaans-university-dont-remind-us-of-apartheid/</a></p> |
| <p>15/09/2019</p> | <p>"I just hate racism when I see one ! A race-based institution in a non-racial society won't succeed. Please don't remind us about apartheid."</p> <p>"It is not innocent, unfortunately. They are angry because RAU, Tukkies, Stellenbosch, etc are now accommodating other races and languages. We can't go back to RAUs whether private or public, non-racialism is the future. Let's defend it."</p>  | <p><a href="http://www.702.co.za/articles/360944/panyaza-lesufi-takes-a-swipe-at-private-afrikaans-university-under-construction">http://www.702.co.za/articles/360944/panyaza-lesufi-takes-a-swipe-at-private-afrikaans-university-under-construction</a></p>                               |

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| 09/08/2019 | <p>Panyaza Lesufi said that schools should be representative of all groups in the country and that there is no place for schools that only represent one group.</p> <p>He also said language cannot be used to exclude pupils. He emphasised that he was not running a campaign against Afrikaans schools in particular, but also has a problem with schools that only offer instruction in Zulu or Venda.</p>   | <a href="https://maroelamedia.co.za/nuus/sa-nuus/lesufi-se-uitsprake-druis-in-teen-saners-se-grundwetlike-regte/">https://maroelamedia.co.za/nuus/sa-nuus/lesufi-se-uitsprake-druis-in-teen-saners-se-grundwetlike-regte/</a> |
| 14/06/2019 | <p>"I do not hate Afrikaans. I respect all of the official languages and I will respect mother tongue education. But if you want to learn in Afrikaans, it doesn't mean that the whole school must be taught in Afrikaans. There can be English and Sepedi in one school. Our children can learn together."</p> <p>"Let me fight them, I don't hate any languages, but I will defend non-racialism, whatever it takes."</p> <p>"Apartheid was man-made and it will be destroyed by humankind."</p> | <a href="https://www.news24.com/SouthAfrica/News/i-dont-hate-afrikaans-panyaza-lesufi-20190614">https://www.news24.com/SouthAfrica/News/i-dont-hate-afrikaans-panyaza-lesufi-20190614</a>                                     |

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| <p>20/05/2019</p> | <p>"No racist will prevent us from creating a non-racial education system."</p> <p>"In South Africa, a certain race has skills and another race does not have skills. A certain race is at university and another race smokes nyaope in the townships. We have to break the trend."</p> <p>"Apartheid was created by humans and will be destroyed by mankind."</p> <p>"Those who thought our children should be garden boys and tea girls are now afraid our children will become actuarial scientists."</p> <p>"Those who speak a certain language felt they had to band together against the department outside of the formal consultation process. These are the SOS, AfriForum and the SAOU."</p> <p>Lesufi also said it was beyond his comprehension that the parties were fighting for Afrikaans education.</p> <p>"There are no more Afrikaans universities in our country. If you insist on Afrikaans teaching, you are destroying the children's future. Where are these children going to study after school?"</p> <p>"However, I want to emphasise that our children can apply to any school. Language is not a precursor to being accepted."</p> <p>"If the majority of pupils speak Afrikaans and they use all the classrooms, we will allow them to do so. But if they don't use all the classrooms, we are in a position to introduce another language."</p> | <p><a href="https://www.netwe rk24.com/Nuus/On derwys/lesufi-kap- die-wat-vir- afrikaans-baklei- 20190519#loggedi n">https://www.netwe rk24.com/Nuus/On derwys/lesufi-kap- die-wat-vir- afrikaans-baklei- 20190519#loggedi n</a></p> |
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|-------------------|---|--|
| <p>18/09/2018</p> | <p>(Regarding complaints made against him to the integrity commissioner regarding his breach of section 29 of the Constitution)</p> <p>"I have 272 complaints against me because I want to introduce a non-racial education system for everyone. I will not be intimidated, especially not by people who think this is a violation of the Constitution."</p> <p>"The FF+ claims I am targeting Afrikaans. Non-racialism is the future and no one can stop it. I am prepared to take on these frivolous and time-wasting charges."</p> | <p><a href="https://maroelamedia.co.za/nuus/sa-&lt;br/&gt;nuus/lesufi-nie-&lt;br/&gt;geintimideerd-&lt;br/&gt;deur-klachtes-&lt;br/&gt;teen-hom/">https://maroelamedia.co.za/nuus/sa-<br/>nuus/lesufi-nie-<br/>geintimideerd-<br/>deur-klachtes-<br/>teen-hom/</a></p>   |
| <p>23/08/2018</p> | <p>(At a discussion on the proposed changes to the province's admission requirements for public schools for 2019 – at Montana High School)</p> <p>"The government offered farmers money for their land and the farmers showed the government a middle finger. Now we want the land back. All the land, without compensation."</p> <p>"You can be grateful that I am standing here and trying to talk to you nicely. The MEC after me is not going to negotiate with you, but will force you to do what we want."</p>                  | <p><a href="https://maroelamedia.co.za/nuus/sa-&lt;br/&gt;nuus/lesufi-maak-&lt;br/&gt;talle-omstred-&lt;br/&gt;utlaytings-by-&lt;br/&gt;informationsession/">https://maroelamedia.co.za/nuus/sa-<br/>nuus/lesufi-maak-<br/>talle-omstred-<br/>utlaytings-by-<br/>informationsession/</a></p>                               |
| <p>22/08/2018</p> | <p>"I have absolutely no intention of closing down any Afrikaans schools. And let's understand that the department has built more schools than ever before, and beautiful ones at that. Africans are still obsessed with who is black and who is white."</p> <p>"We championed the creation of governing bodies for parents to be involved. I'm proud to say 87% of the day-to-day decisions are made by the parents because I don't want power; I want results."</p>   | <p><a href="https://www.iol.co.za/pretoria-&lt;br/&gt;news/lesufi-a-&lt;br/&gt;dictator-who-was-&lt;br/&gt;silently-trying-to-&lt;br/&gt;attack-afrikaans-&lt;br/&gt;16681664">https://www.iol.co.za/pretoria-<br/>news/lesufi-a-<br/>dictator-who-was-<br/>silently-trying-to-<br/>attack-afrikaans-<br/>16681664</a></p> |

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| <p>27/07/2018</p> | <p>(About Overvaal)</p> <p>Panyaza Lesufi welcomed the Constitutional Court's ruling, but said it does not change the department's position.</p> <p>He said the decision was just a challenge for the department's administration.</p> <p>"The ruling only says the department made a mistake by not considering English schools in time. This challenges the administration of the department and does not mean the department cannot bring together learners from different languages and cultures."</p> <p>He insisted on tackling the "race issue".</p> <p>"We are all human beings. No one has made a decision that one person is more important than another. We don't need a court to build a non-racial South Africa."</p>  | <p><a href="https://maroelamedia.co.za/nuus/sa-nuus/lesufi-reageer-na-overvaal-uitspraak/">https://maroelamedia.co.za/nuus/sa-nuus/lesufi-reageer-na-overvaal-uitspraak/</a></p>   |
| <p>19/01/2018</p> | <p>"This philosophy of racial division, and cultural and language individualism remain entrenched in our education system. That is why Hoërskool Overvaal's legal victory in keeping out 55 grade 8 English learners from the Afrikaans school in Vereeniging was a major setback for transformation and the struggle for a non-racial society."</p> <p>"But that is not what advocates of language policies want. They sneer at the principle of colour-blindness. They use language as a proxy for racism. They want admissions to some schools to be made exactly as the vilest of racists make them: by bloodline. They insist that whatever is a result of your own choices – your ideas, your character, your accomplishments – are to be dismissed, while that which is outside your control – the accident or skin colour – is to define your life."</p> <p>"It is time our society identifies language policies as nothing more than crude forms of racism."</p> | <p><a href="https://www.news24.com/news24/panyaza-lesufi-language-being-used-as-a-false-shield-for-exclusion-20180119">https://www.news24.com/news24/panyaza-lesufi-language-being-used-as-a-false-shield-for-exclusion-20180119</a></p> |

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|------------|---|--|
| 17/01/2018 | <p>(About Overvaal – children placed elsewhere)</p> <p>"We do not want these children to be treated as children of Overvaal. They are children of South Africa and must be integrated into classes as such. They should not have their own class as if they were part of a zoo. They must be part of the whole system."</p>   | <p><a href="https://maroelamedia.co.za/nuus/sa-&lt;br/&gt;nuus/overvaal-&lt;br/&gt;engelsprekende-&lt;br/&gt;leerders-kry-&lt;br/&gt;elders-plek/">https://maroelamedia.co.za/nuus/sa-<br/>nuus/overvaal-<br/>engelsprekende-<br/>leerders-kry-<br/>elders-plek/</a></p>             |
| 13/11/2017 | <p>(On the proposed amendments to the Basic Education Act)</p> <p>"It is clear that those who benefited from the remnants of segregation and colonialism at the expense of the majority are still determined to exclude people from access to quality education. The disturbing clamour against this amendment bill is proof that people want to keep these benefits exclusively for themselves."</p> | <p><a href="https://maroelamedia.co.za/nuus/sa-&lt;br/&gt;nuus/lesufi-&lt;br/&gt;waarsku-haters-&lt;br/&gt;van-&lt;br/&gt;oudejstransformasi-&lt;br/&gt;e/">https://maroelamedia.co.za/nuus/sa-<br/>nuus/lesufi-<br/>waarsku-haters-<br/>van-<br/>oudejstransformasi-<br/>e/</a></p> |
| 23/11/2017 | <p>"Economically and educationally the country cannot afford single-medium schools (read: Afrikaans language schools) when the demand for education is so great."</p>   | <p><a href="https://www.sanews.gov.za/south-&lt;br/&gt;africa/high-time-&lt;br/&gt;change-education-&lt;br/&gt;says-mec-lesufi">https://www.sanews.gov.za/south-<br/>africa/high-time-<br/>change-education-<br/>says-mec-lesufi</a></p>   |
| 03/06/2016 | <p>But Lesufi said Afrikaans schools are exclusively white and it's time for that to change.</p> <p>Lesufi says he's only trying to undo what the apartheid government did.</p> <p>"We've paid a heavy price to believe in non-racialism. We've accepted reconciliation as a root to build this country."</p>   | <p><a href="https://ewn.co.za/2016/06/03/Lesufi-&lt;br/&gt;Afrikaans-&lt;br/&gt;language-is-not-&lt;br/&gt;under-threat">https://ewn.co.za/2016/06/03/Lesufi-<br/>Afrikaans-<br/>language-is-not-<br/>under-threat</a></p>   |

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|------------|--|--|
| 27/05/2015 | <p>Johannesburg - Gauteng Education MEC Panyaza Lesufi has accused Afrikaans-medium schools of using language as a pretext for excluding other races from enrolling in their schools.</p> <p>The real reason, said Lesufi addressing a media conference in Pretoria, was that they wanted to keep such schools as Afrikaans enclaves. As such, Lesufi said, he was prepared to go all the way to the Constitutional Court to force such schools to become dual-medium.</p> | <p><a href="https://www.news24.com/news24/lesufi-afrikaans-schools-use-language-to-create-enclaves-20150527">https://www.news24.com/news24/lesufi-afrikaans-schools-use-language-to-create-enclaves-20150527</a></p> |
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## Overvaal

The incident that perhaps best demonstrates the Gauteng Department of Education's intentions towards single-medium Afrikaans schools is the case of Hoërskool Overvaal.

In January 2018, the Gauteng Department of Education disregarded the language policy of Hoërskool Overvaal and unilaterally attempted to simply place a group of English-speaking learners in the school.

This is despite the fact that there are two English-

medium schools in the same catchment area as Hoërskool Overvaal. Mr Lesufi repeatedly railed against Hoërskool Overvaal and referred to the school itself as racist.<sup>5</sup>

Finally, the case went to court, and the verdict severely rebuked the Department of Education. Some of the most important paragraphs are posted below.

The first set of paragraphs deals with the Department's threats to the principal of Overvaal in order to make the school dual medium.

<sup>5</sup> <https://www.news24.com/news24/panyaza-lesufi-language-being-used-as-a-false-shield-for-exclusion-20180119>



Attached to the replying affidavit one finds a summary by Principal Rabie of what transpired as far as he was concerned at the 4 December meeting. I quote a few extracts representing parts of his version of exchanges between him and the second respondent which I trust fairly reflect the gist of the exchanges.

1. " Ek het ook gesê dat ons getransformeer het, net nie op taal van onderrig nie, sy het gesê ons kan sê wat ons wil, mense sien dit nie as transformasie nie.
2. Ek het ook gesê dat die onderwyser by Overvaal se moedertaal Afrikaans is en dat hulle, hulle self beter kan uitdruk in Afrikaans. Moedertaal onderrig bly die beste en ek wens alle kinders kan onderrig word in hulle moedertaal. Ek het gesê dat parallel medium werk in graad 8 en 9 maar sodra jy vakke kies moet jy dubbelmedium gaan. Die Direkteur het my gevra of het ons 'n studie gemaak van dubbelmedium en ons kan kyk na Drie Riviere.
3. Sy het my gevra of ek dink daar is 'n behoefte deur Engelse leerders om Overvaal by te woon. Ek het geantwoord dit kan so wees.
4. Ek het dit aan hulle gestel dat Mnr. Botha van Phoenix gesê het hy kort leerders en dat hy my geskakel het in die verband.
5. Ek het ook gesê dat hy aan my verduidelik het dat Falcon Ridge, Sonland Park, Arcon Park en Duncanville sy voedingsarea is. Hulle het my nie geantwoord nie.
6. Die Direkteur het aan my gevra hoe sal ek voel as die skool begin en Overvaal is op die voorblad van die koerante, wat gaan ek maak as daar massa aksie in die strate voor die skool is, as die MEC die skool besoek, as my gesin gedreig word.
7. Ek het ook gesê dat ek kan bedank waarop sy gesê het dat ek dit nie moet doen nie en 'n sterk leier moet wees.
8. Sy het ook gesê dat apartheid nie 'n goeie ding was nie en dat almal daaronder lei (sic). Sy het simpatie met my en ook met die Bhl.

9. Sy het gesê dat die saak van die 55 leerders teen die 6de afgehandel moet wees. Ek vra haar toe is die vergadering om my te vra om die Bhl te oortuig. Sy sê nee, ek moet oor al die goed gaan dink."

It is minuted that the meeting then adjourned and continued on 5 December between Mr Rabie and some officials evidently led by Ms Mathlare, another senior official who also attended the 4 December meeting and apologised for the absence of the second respondent. I quote a few extracts listing exchanges between Mr Rabie and Ms Mathlare.

1. "Me. Mathlare vra my of ek toe gedink het oor die saak. Ek sê aan haar dat dit die heel beste vir Overvaal sal wees om 'n Afrikaanse skool te bly.
- 10 2. Sy sê dat ek hulle verkeerd verstaan, ek sê nee, ek verstaan duidelik, hulle wil hê ek moet sê dat ek hulle sal ondersteun om 55 leerders te plaas. Ek sê dat hulle vir my die naamlys moet gee sodat ek dit met die beheerliggaam bespreek.
3. Sy sê ek moet die beheerliggaam uitlos waarop ek antwoord ek kan nie, my beheerliggaam is 'n aktiewe beheerliggaam wat oor sekere sake beheer vat en leiding gee en dat hulle my sal hof toe vat as ek teen beleid optree. Ek moet die saak met hulle bespreek.
- 20 4. Sy sê dat hulle van distrikskantoor sal bel om vir die ouers te sê dat hulle toegelaat word tot die skool. Ek het gesê dit kan nie gebeur nie, ek moet eers met die beheerliggaam praat en hulle toestemming kry.

5. Sy sê toe dat ek die 28 leerders moes gevat het aan die begin en dat sy namens die departement 'n brief sou skryf aan die ouers van die Engelse leerders om te sê dat dit nie haalbaar is nie omdat die departement nie die nodige finansies en hulpbronne

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JUDGMENT

het om hulle by Overvaal te plaas nie. Die Direkteur het toe vir my 'n brief gegee en 'n naamlys."

On 7 December the attorney of record of the applicants wrote a letter in answer to the 5 December instruction. It was addressed to the first respondent HOD and signed and copied to others including the second respondent, Mr Rabie and the principals of Phoenix and General Smuts High Schools. It is a letter dealing comprehensively with the 5 December instruction and also the 15 November letter which was never replied to.

The next set of paragraphs deals with the Department's intimidation of the principals of the nearby English-medium schools who said they still had space for the English-speaking learners.

Here is the contents of the Whatsapp exchanges forming part of this affidavit by the first applicant:

For explanatory purposes I will say who says what.

First applicant chairperson: "Hi KM ons saak is uitgestel na Donderdag 10:00. Kyk maar na News 24 en Eye Witness News."

Mr M: "Ek is by die Direkteur se kantoor. Sy het my ontbied."

First applicant chair person: "Laat weet ons asseblief as daar enige intimidasie is. Behou asseblief jou onafhanklikheid en dring aan op aparte regsverteenvoording indien hulle jou in 'n blik wil druk. Ons  
10 dink sy gaan jou probeer dwing om die verklaring terug te trek."

Mr M: "Ek is uit. Hulle wil my *fire* omdat ek 'n vals *statement* gemaak het oor my skool nie vol is nie. Volgens my klaskamers moet ek net 1 200 leerders hê en ek het 1 515. Hulle gooi my met die boek so ek het 'n nuwe *statement* gegee. Jammer maar my pensioen en alles op die spel."

The first applicant then continues with his affidavit as follows:

"15. As is evidence from the messages above, Mr M was  
summoned to the office of the District Director, and was  
threatened with dismissal. It can also be deduced, based on the  
20 messages, that Mr M out of fear of losing his pension, succumbed  
to the pressure and signed a further affidavit. What is noticeable  
from the timeline of the messages, is that Mr M entered the  
offices at approximately 11h29 and almost two hours later (13h25)  
left the offices. I am deeply concerned about the change in  
version in his affidavit that has now been produced after he was



called to the offices of the Department. It appears that he was placed under duress.

16. With the presence of possible intimidation apparent to me with regards to Mr M, I sent a Whatsapp message to Mr B advising him to tread with caution. I also tried phoning Mr B....

17. Mr B sent me a Whatsapp message at 16h54 on the same date (9 January 2018) confirming that he too was summoned to district office. At 18h36 on the said date I had a telephonic discussion with Mr B in which he confirmed (telephonically) that he was summoned to the District Director's office. He said that he was i) threatened with dismissal. ii) that he was accused of being a racist, iii) that he was accused of not looking after the interest of his School, and iv) how does he dare help an Afrikaans School. At this point according to him he expressly stated that he was all in favour of getting more English Learners. It would be to the benefit of his School.

18. It was also conveyed to Mr B according to him at the meeting that he is not to divulge any statistics of his school and that he is not a spokesperson for the Department.

19. In the light of the developments he apologised for his revised statements and wished us well in the case.

20. These are obviously very troubling revelations made by him regarding the conduct of officials of the Department."

Inasmuch as these communications may amount to hearsay, in particular when the first applicant says what Mr B told him, I exercise my

discretion in terms of Section 3 of the Law of Evidence Amendment Act No 45 of 1988. I declare the evidence as duly admitted. This is obviously in the interests of justice.

The following paragraphs deal with the judge's handling of the behaviour of senior officials of the Gauteng Department of Education:

I conclude on this disturbing topic by observing that the uncompromising and biased approach exhibited by the respondents can also be gleaned from Mr Rabie's comments on the meetings of 4 and 5 December.

It also saddens me to refer to the following unsolicited remarks by

the second respondent, who played the leading role in respect of these occurrences, in the answering affidavit:

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"4.6. If one is to look at the heart of the application, it has nothing to do with capacity of the school, but the admission of English learners at the school. It is unbelievable and / or unfortunate that even until today, in this constitutional democracy, we still have a society that sees nothing wrong with a language that was used as a tool of segregation and discrimination during apartheid which 90% of South Africans bemoan. A language whose legacy is sorrow and tears to the majority of those whom it was not their mother tongue. Today, in this constitutional democracy, we still fight the same separatist language exacerbated by a denial of

transformation by certain sectors of society. This is not acceptable."

She expressed the same sentiments more than once in the answering affidavit.

It is, regrettably, difficult to see how one can realistically expect any measure of objectivity or fair play towards the embattled minority group and their language by a senior official, intimately involved in these proceedings, who is prepared to disclose her obvious bias in the answering affidavit.

In my view there are clear signs of an attempt by the second respondent to defeat the ends of justice for the reasons mentioned, and I respectfully suggest that some senior peers of hers may consider investigating her conduct.

## Conclusion

Given the long history of hostile statements against Afrikaans single-medium schools by the Gauteng Department of Education, it is highly unlikely that the Department will protect Afrikaans single-medium schools.

On the contrary – the words of Ms Criselda Makhubela, at that stage director of the Sedibeng East education district, echoed almost verbatim the words of Mr Lesufi in his column about Overvaal a few months later. These words in turn were used almost verbatim by Mr Chiloane in his media conference on 15 September 2024.

The pattern over the past decade shows that the Gauteng Department of Education views Afrikaans single-medium schools as something that has to be eradicated because these schools stand in the way of transformation. The department not only has made statements about this but also acted unlawfully in the case of Overvaal in order to anglicise an Afrikaans single-medium school.

# State of Education

South Africa and Gauteng's education system has been under enormous demographic pressure for some time. In order to understand the picture of the education landscape, it is necessary to examine the facts.

## School Realities Report

The best indicator of the extent of the education crisis is the *School Realities Report*<sup>6</sup> published annually by Statistics South Africa.

### Gauteng

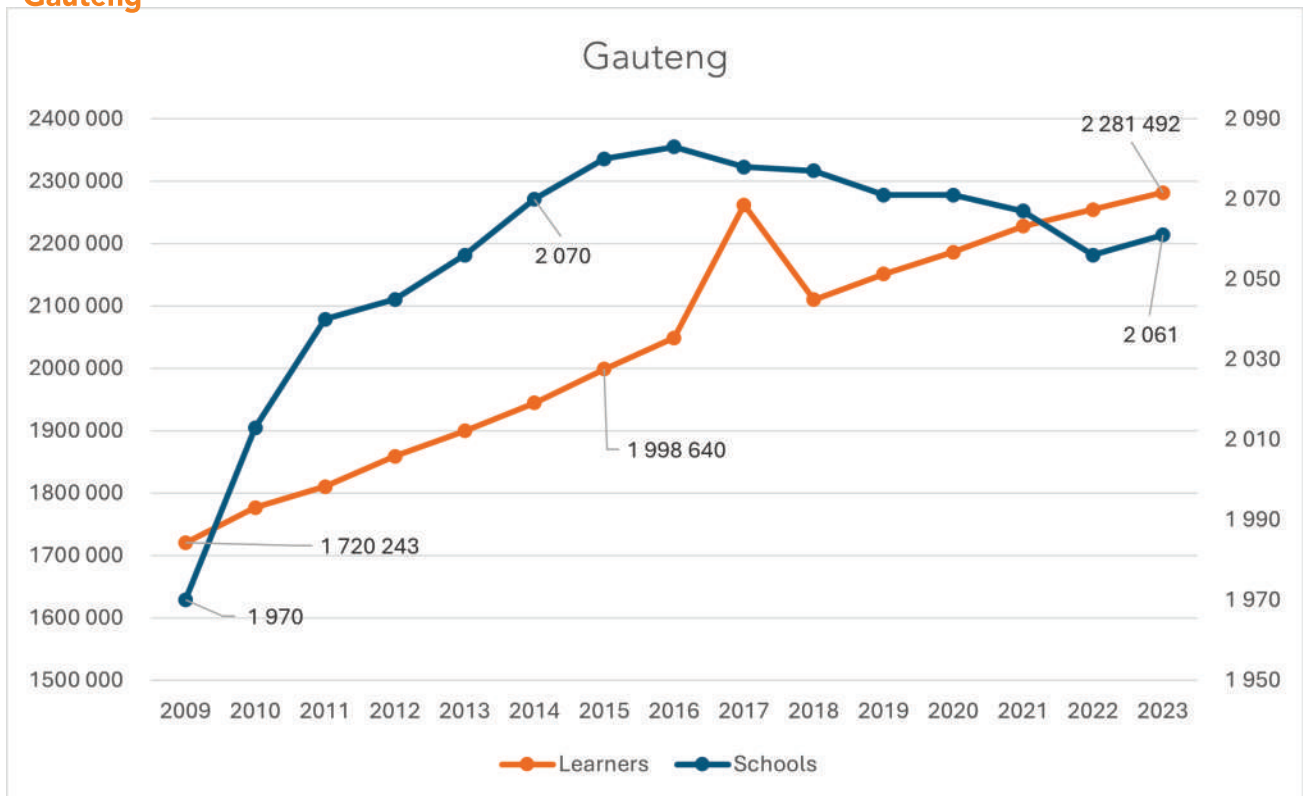


Figure 2- School Realities in Gauteng

From the data it is clear that although there were approximately 560 000 more learners in 2023 than in 2009, only 91 more public schools were built in 14 years. This would imply that from 2009 each new school had to have approximately 6 168 pupils.

Even worse is that in 2014, when Mr Lesufi was appointed MEC for Education, there were 2 070 public schools in Gauteng, but by December 2023, according to the report, there were only 2 061 public schools in Gauteng, while there were 282 852 more learners in the province.

The enormous pressure that schools in Gauteng are experiencing regarding placements is due to the simple fact that not enough schools have been built during the last 15 years. On the contrary, since Mr Lesufi's appointment as MEC there has been negative growth as far as schools are concerned.

Mr Chiloane's comments on 15 September 2024 therefore are totally false – the problems regarding places in Gauteng schools are not going to be solved by forcing single-medium

<sup>6</sup> <https://www.education.gov.za/EMIS/StatisticalPublications/tabid/462/Default.aspx>



## South Africa

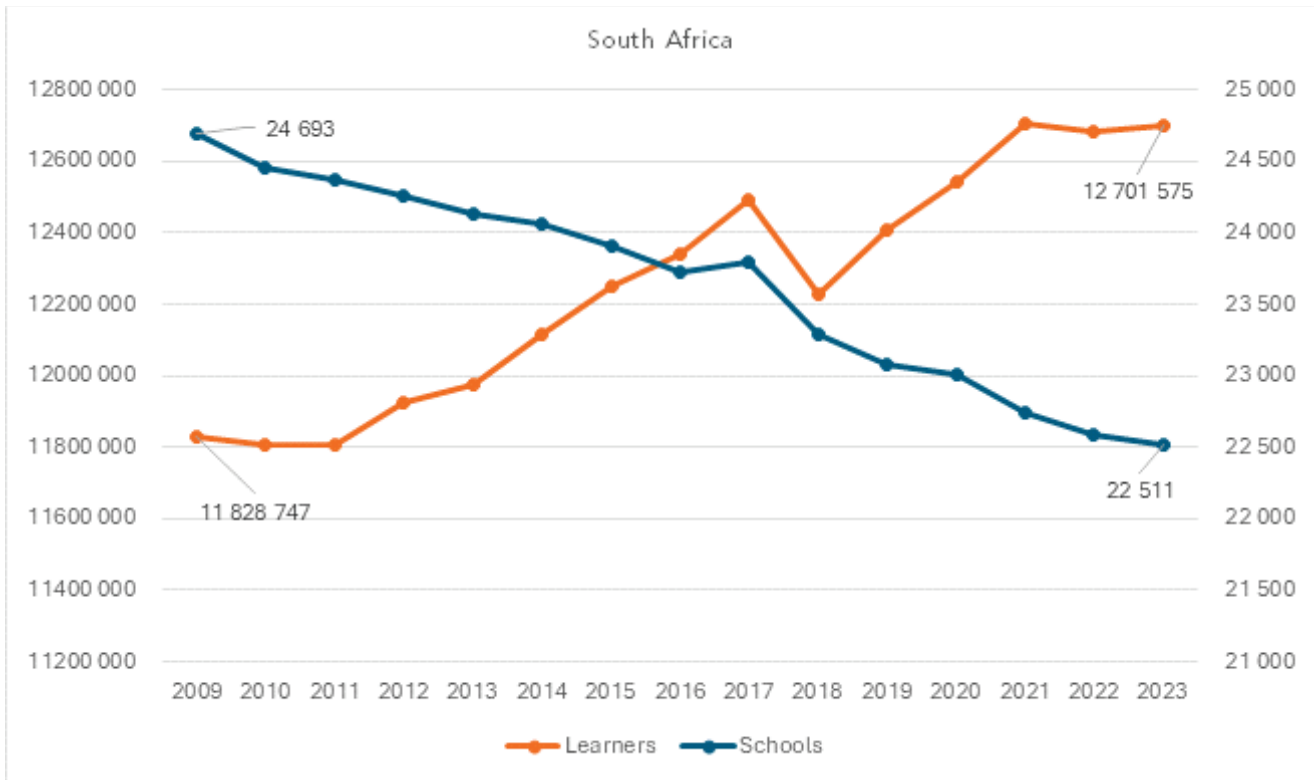


Figure 3- School Realities Report - South Africa

The situation in greater South Africa is unfortunately not much better than in Gauteng. The data clearly shows that in the last 14 years there has been negative growth of approximately 8,8% in the number of public schools in South Africa, while there has been positive growth of 7,4% in the number of learners.

The number of children per school increased from 479 children per school in 2009 to 564 children per school in 2023.

Consequently, South African public schools are under enormous pressure in terms of learner numbers. It is against this background that the government's BELA legislation stands to be implemented.

## Conclusion

The number of children per school nationally stands at 564 children per school at present, but

the situation in Gauteng is significantly worse. In Gauteng, according to the latest data, the average is 1 107 children per school.

To get the provincial average for Gauteng close to the national average, 1 984 new schools will have to be built. In fact – just to get the ratio of learners to schools in Gauteng back to 2009 levels would require 552 additional schools. Mr Lesufi announced on 4 October 2024 that 60 new schools are on their way in Gauteng.<sup>7</sup>

Even with 60 new schools in Gauteng in 2025, this will take virtually no pressure off existing schools and the schools will continue to be overcrowded.

Therefore, there is no indication that the Gauteng Department of Education at any level will actually manage to build more schools in real terms for the growing population. Consequently, the relentless demographic pressure of children demanding education is only going to continue.

<sup>7</sup> <https://www.netwerk24.com/netwerk24/nuus/onderwys/geen-onderwysposte-in-gauteng-besnoei-lesufi-20241004>

# Impact of BELA in Gauteng

**T**he three factors mentioned above must be read together in order to be able to predict what the possible impact of BELA in Gauteng will be.

Firstly, it must be taken into account that there is not a single education district where Afrikaans makes up more than 30% of the language needs. In terms of the wording of the BELA legislation, this puts Afrikaans single-medium schools directly at risk because they may not sufficiently take into account the language demographics of the education district in which they are situated. Ultimately, this means that a single-medium Afrikaans school will be at the mercy of the Head of Department.

Secondly, the Gauteng Department of Education has been openly hostile to single-medium Afrikaans schools for some time. This behaviour is embodied in the words and actions of Mr Panyaza Lesufi during his term as MEC for Education in Gauteng. It appears that his successor, Mr Chiloane, is simply continuing in the same vein. Mr Chiloane's most recent comments regarding the future of single-medium schools in Gauteng indicate that the Gauteng Department of Education's hostility towards Afrikaans single-medium schools has by no means subsided.

Thirdly, the harsh reality is that the Gauteng Department of Education has failed miserably in building enough schools for the number of learners in Gauteng. On the contrary, since 2014 during Mr Lesufi 's term there has been negative growth in schools. This failure creates an untenable situation with existing schools being overcrowded.

All these factors together paint a dark picture for the future of public Afrikaans single-medium schools.

In short – if the BELA legislation's provisions pertaining to language and admission come into force and are implemented, it is highly likely that in 10 years' time there will not be a single public Afrikaans single-medium school remaining in Gauteng.

Given the enormous demand for education – and Afrikaans education in Gauteng specifically – it is inevitable that there will be an enormous boom in independent Afrikaans schools.

# B E L A

