



Basic Education Laws Amendment Bill (BELA), 2022

Public Submission of the Democratic Alliance

13 June 2022

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1. Introduction

The **Basic Education Laws Amendment Bill (BELA)** was introduced into the National Assembly on 10 January 2022. The history of this Bill stems back to April 2013, when the Minister of Basic Education identified the need to review all basic education legislation as a strategic priority of the Department of Basic Education (DBE).

The DA has several concerns with this Bill, as well as with the method of calling for public participation, which we believe will disadvantage wide portions of the South African public. This is due to calls for public comment being placed only in national newspapers for English, while other languages were advertised in regional newspapers.

The DA believes the BELA Bill will give the Department Head far too great powers in determining language and admissions policies within schools, while simultaneously suppressing a local community's ability to oppose these changes made within their schools.

There has been a widespread public outcry against the most draconian elements of this Bill, and the DA's petition against the BELA Bill has already received more than **11 500 signatures**. Given this widespread outrage, the DA has taken the decision to submit our comments and objections during the public comment phase. In these comments we seek to address the concerns of our supporters and the South African public generally.

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2. Comments on the Bill

The Basic Education Laws Amendment Bill includes the following objectives:

- The Bill provides the Head of Department with the power to approve and make recommendations to change a school's language and admission policy.
- The Bill updates definitions relating to drugs and alcohol, and outlines conditions under which alcohol may be consumed on school premises.
- The Bill provides for a provincially centralised procurement system for teaching and learning support material.
- The Bill provides for the establishment of a national and provincial intergovernmental committee, that shall assist learners who have not submitted the required admissions documents to the school, with acquiring these missing required documents.
- The Bill requires parents of home-schooled children to register with the HOD, and related matters.
- The Bill provides additional regulatory powers to the Minister over a variety of miscellaneous matters.

After conducting a careful analysis of this Bill, together with inputs from the South African public, the DA submits the following comments:

1. Clause 2 – Making Grade R Compulsory

The DA supports the intention of making Grade R mandatory as this year serves as an important developmental tool. While it is commendable that the Department wished to extend grade R to all learners, there are ***serious practical concerns*** surrounding whether the schooling system will be able to cope with the influx in student demand. There are already shortages in teachers and inadequacies relating to school infrastructure across our schooling system. We do not believe the school system can admit such a large number of new Grade R learners at present. There will be a need for significant financial investment to expand Grade R classroom capacity and to employ additional teaching staff across the country.

We request that government first implement proper plans to ensure that scarcity of resources does not affect the adequate implementation of this aim, and simultaneously that the cost of implementing this provision is not overly burdensome on our already constrained fiscus.

2. Clause 4 – Admissions Policies

The DA opposes this clause as it will put the final decision of school admission policies into the hands of the Head of Department, with appeals being allowed to the MEC. We believe that local communities should have the right to determine their own school admissions policies as they will have the greatest grasp of their own needs.

The DA believes that the requirement that all admissions policies be sent to the Head of Department for approval within 30 days of the Bill coming into force, and with approvals being required within 60 days is far too great of an administrative burden and should be removed.

The DA believes that the power to determine admissions policies must remain with school governing bodies, and a suitable appeal mechanism be left in place to provide for adequate recourse in instances where a school abuses their right to determine admissions policies so as to exclude certain learners.

Furthermore, the DA believes that the proposed intergovernmental committee which aims to assist schools in obtaining the required documentation for learners admitted without this documentation is a waste of resources. The Department of Basic Education should not have to compensate for the failure of the Department of Home Affairs to perform their basic mandate.

3. Clause 5 - Language Policies

Clause 5 of the Bill requires that a school governing body must submit the language policy of any public school and any amendment thereof to the Head of Department for approval. The DA believes that this clause may be abused to force single language schools to change their language policies. We also believe that the administrative burden placed on the Head of Department to approve all language policies will be prohibitive.

Furthermore, the current timeline of 14 days for an appeal decision from the MEC is too short for any meaningful engagement with the issues of the appeal to have been conducted.

The DA submits that language policy decisions should remain with school governing bodies, and an appropriate appeal mechanism be established to provide adequate recourse when problems may arise.

4. Clause 19 – Power of the Minister to Determine the Number of School Governing Body Members, and their Manner of Election at Public Schools for Learners with Special Needs

The DA opposes this transferral of power as it amounts to an **unjustified intrusion** on the affairs of the provinces and constitutes an unnecessary centralisation of power within government.

The DA believes this power should remain with the MEC rather than the Minister.

5. Clause 21 – Dissolution of a School Governing Body by the Head of Department

This section provides that in instances where a school governing body has been dissolved by the HoD, any appeal against this decision must be decided within 14 days after receiving the appeal.

The DA believes this timeline is unrealistic and should be extended.

6. Clause 37 – Home Schooling

This clause provides that parents of a home-schooled child must apply to the Head of Department to register their learner, as well as the requiring additional assessments of a child's educational attainment up to the age of 15 or grade 9. A delegated official may also be required to perform a pre-registration home education site visit.

While the DA believes that there must be accountability measures in place to ensure home schools provide quality education standards, there is a need for **greater consultation** with the home schooling-sector to determine their views, and to consider their concerns with this clause.

7. Regulation of Online and Blended learning

The DA believes the Basic Education Laws Amendment Bill is missing an opportunity to **effectively regulate** online and blended learning. These forms of schooling are likely to grow in popularity in the near future. There is a need effectively regulate these new forms of learning so as to alleviate the pressure on existing physical schooling systems.

3. Conclusion

The Basic Education Laws Amendment Bill seeks to make wide and far – reaching changes to the education landscape, and its effects will be felt for many years to come. The comments contained within this submission highlight some of our most serious concerns with the Bill.

We believe that the proposed compulsory Grade R year, changes to admissions and language policies, and the regulation of home school education requires urgent reconsideration. There are also additional technical issues within the Bill that the DA will raise during the legislative process.

The DA will be conducting consultations with experts and the public over the coming months. Following these discussions, we will present our own alternatives to the BELA Bill.

Opposition to this Bill has already been expressed across wide spectrums of society. We trust that our comments and suggestions will be taken into consideration in formulating any future version of this Bill.

The DA intends to continue engaging with this Bill in Parliament, to ensure that the voice of our supporters and the public at large is heard.