



The right to education is a crucial human right protected by international and national law. It applies to citizens and non-citizens, including refugees, asylum seekers and undocumented and stateless persons. Despite generous legal protection, in practice there are often obstacles to non-citizens accessing this right.

SOUTH AFRICAN LAW SAYS THE FOLLOWING:

Constitution – section 29 provides that everyone has the right to basic education which is an ‘immediately realisable’ right.

Phakamisa judgment – the High Court of South Africa confirmed that section 29 of the Constitution applies to everyone, whether or not they have a birth certificate or are in the country legally.

Basic Education Laws Amendment Act – a learner will be allowed to attend school even if their parent/guardian did not provide the required documentation – of the learner or the adult acting on behalf of the learner – during the application process.

School’s Act – public schools must admit learners and serve their educational requirements without unfairly discriminating in any way.

The Department of Education also publishes circulars, which are updates to official policy.

The Department of Education Circular 2024 provides that: undocumented learners may not be denied the right to admission to a school on account of not having the necessary documentation such as, amongst others, a birth certificate or identity document. Undocumented learners also have the right to sit for National Senior Certificate Examinations. An identity document is not compulsory for the issuing of a National Senior Certificate

The Western Cape Education Department Circular 2021 says that: children not in possession of official identification documents must not be refused admission solely on the basis that they cannot provide documentary identification in South Africa or of a foreign country. Asylum seeker and refugee children must be admitted to public schools and they do not need to produce a study permit to guarantee access.

ONLINE APPLICATION FOR PLACEMENT

The Western Cape and Gauteng Education Department currently make use of an online application system for school admissions, which was introduced by the National Department of Basic Education. The application requires an identity number of both the parents and the child, and without completion of this ‘compulsory’ section, the application cannot be submitted. Therefore, for children without an identity number, they are unable to be registered in school. Parents are often forced to

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approach the school in person and complete a form, and by this time many of the schools are already full. Rather, parents should approach the Provincial Education Department for placement into a school, which can be a school that is a far distance from the child's residence.

HOW TO APPLY ONLINE FOR PLACEMENT:

For a detailed guide on how to complete the online application, please look at this:



SCAN QR CODE

Make sure to have all of the correct documentation.

FEE EXEMPTIONS:

While school fees are important to maintain the functioning of a school, there are arrangements for when parents cannot afford the full school fees. These are fee exemptions. Parents are not required to pay school fees if they are unable to afford them, and if fees exceed 10% of the total family income. You may also apply for a fee exemption if you are caring for orphaned learners or are experiencing financial crisis or other hardships affecting your ability to pay. Fee exemptions can be:

1. Full – Parents are not required to pay any school fees.
2. Partial – Parents pay a reduced amount based on their financial capacity.
3. Conditional – Exemptions granted under specific conditions determined by the School Governing Body (SGB).



WHO CAN APPLY FOR FEE EXEMPTIONS?

In addition to citizens, parents or guardians with refugee or asylum seeker status may apply for a fee exemption. Undocumented parents are not eligible to apply for fee exemptions. Fee exemptions can be applied for at any public school and the process is the same for non-citizens and citizens. Take note that it can often be difficult for refugees to receive an exemption, and more so for asylum seekers. Despite that, learners cannot be excluded from participation in any official school programmes due to non-payment of school fees by the parent.

HOW DO I APPLY FOR A FEE EXEMPTION?

You will need to complete and submit the application form to the School Governing Body or School Fees Committee and submit the correct documentation.



Contact information:

OTHER ORGANISATIONS YOU CAN CONTACT FOR ASSISTANCE:

Scalabrini Centre of Cape Town

43 – 47 Commercial Street, Cape Town, 8001

T: +27 21 465 6433

E: info@scalabrini.org.za

Legal Resources Centre

Block D, Ground Floor, Aintree Office Park,
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