

School fees: Your rights



Contents

- What is this booklet for? 1
- What laws cover school fees? 1
- “No-fee” and “fee-charging” schools 2
- What does the government contribute? 2
- How are “no-fee” schools defined? 3
- How can a parent find out whether their school is a “no-fee” school? 4
- How to find out if you can apply for an exemption in a “fee-charging” school 5
- How to calculate your exemption 6
- Full exemptions 7
- Partial exemptions 8
- To check your calculations 9
- Table for calculating exemptions from school fees 10
- Conditional exemptions 11
- Automatic exemptions 12
- Applying for an exemption 12
- Help to make the application 13
- How to appeal 13
- What are the obligations of the School Governing Body and the Principal? 14
- Ban on discrimination 15
- When can a school sue a parent? 15
- Legal processes 16
- What can you do if a school is abusing these laws? 17
- Shortened example of an Exemption Application Form 18
- School fees exemption Checklist Form 19
- Explaining words (glossary) 20
- Reaching your Provincial Education Department 21
- Contact details (*back cover*)

What is this booklet for?

This booklet is to help parents and learners to find out:

- 1 What to do if you can't afford to pay school fees; *and*
- 2 What to do if the school penalises you or your child for unpaid fees.

This booklet also aims to help:

- Educators; *and*
- Members of the elected School Governing Body, to understand and apply the law governing school fees.

The **Education Law Project (ELP)**, based at the Centre for Applied Legal Studies, University of the Witwatersrand, Johannesburg has produced this booklet to cover the changes in the law on school fees and school funding.

What laws cover school fees?

This booklet sets out the changes in the laws governing school fees under:

- The South African Schools Act (Act 84 of 1996), as amended by the Education Laws Amendment Bill, 2004 ("SASA");
- The Regulations for the Exemption of Parents from the Payment of School Fees, 2004 ("the Regulations");
- The policy document National Norms and Standards for School Funding (Notice 2362 of 1998), as amended in 2004 ("the Norms and Standards"); *and*
- The Admission Policy for Ordinary Public Schools, 1998.

Please note: this booklet applies to fees in public schools, not independent (formerly called "private") schools.

“No-fee” and “fee-charging” schools

Schools are divided into:

- **No-fee** schools; *and*
- **Fee-charging** schools.

All the schools in South Africa are divided into five categories, called “quintiles”. Each category contains 20% of all learners.

The category a school belongs to is decided by:

- Where the school is located;
- The wealth of the community (measured by household incomes, numbers of dependants and household education levels); *and*
- Physical conditions at the school e.g. crowding (*paragraph 101C of the Norms and Standards*).

What does the government contribute?



The government pays most of the teachers’ salaries and bigger building costs, and makes some contribution, per learner, to pay for equipment and running costs. This government contribution per learner is supposed to be an average amount of R527 for each learner in 2006, increasing to R554 per learner in 2007, and R581 per learner in 2008. The Department of Education has not explained how this amount is calculated.

Poorer schools will get more (up to R703 per learner) and richer schools will get less (under R117 per learner) according to the category they are in (see the table on page 10).

Schools use fees, paid by parents, to make up the shortfall in their expenses.

Presently the government's contributions cover learners in all grades. The Minister of Education could decide to pay for learners only up to Grade 9, that is, the end of the compulsory school attendance period. We hope this will not happen as it will make it even more difficult for parents to pay for this phase of education (part 2 of the introduction to the Norms and Standards proposal for amendments).

How are “no-fee” schools defined?

Schools in the poorest two categories, or 40% of communities, are supposed to become “no-fee” schools (see page 4).

Some schools in wealthier areas have a majority of poorer learners from nearby areas e.g. where there are informal settlements and no schools. These schools should fall in the poorer categories of schools (*par 101E of the Norms and Standards*).

Schools in the poorest two categories are not allowed to charge any school fees.

How can a parent find out whether their school is a “no-fee” school?



The Minister of Education is supposed to publish information about which category your school is in, and the government contribution for your school, in the third term of each year (*paragraphs 103A-H of the Norms and Standards*).

To find out:

- Ask the school; *or*
- Ask the Provincial Department of Education (see page 21 of this booklet); *or*
- Ask the librarian in your closest municipal or university library to look in the Provincial Gazettes soon before 30 September each year; *or*
- Look it up on the Internet (try www.SAGazettes.co.za or www.education.gov.za).

*If a school is a “no-fee” school, you do not have to pay ANY fees, including registration or activity fees.
All other schools are fee-charging schools.*

How to find out if you can apply for an exemption in a “fee-charging” school

Parents/caregivers are **legally entitled** not to pay school fees if they do not earn enough money.

1.

First you have to find out how much the school will charge in fees for the whole year, including any extra expenses like a school trip or any extra school uniform (e.g. sports clothes for team members).

It is illegal for schools to charge any form of “registration fee”.

2.

Then work out how much you will earn in that year. This includes salaries, investments and any business profits. If you are a two-parent household you will have to work out the combined gross annual income of both parents.

3.

When you are calculating the relationship between your income and the school fees, parents can count more than one learner, even learners in other schools (*paragraphs 135A-135F of the Norms and Standards*).

HOW TO calculate your exemption

When you apply for an exemption from school fees, the School Governing Body will apply **the following formula** (*see the rough guide on page 10*):

$$\left[\frac{E + F + T + f \cdot y_o}{Y + y_o} \right] \div [I] \geq [10\%]$$

To calculate the formula, fill in the following values:

- E** = Per learner expenditure by parent in a school
- F** = Annual school fees charged to any parent in a school (*s.39 SASA*)
- T** = Additional monetary contributions demanded by the school
- f** = The lowest of the following three values must be used in the formula:
- The average government contribution per learner for the current year (see page 2);
 - The average fee charged to a parent in the current school; *or*
 - The average of the annual fee/s charged in the other school/s.
- y_o** = The number of learners in other schools
- Y** = The number of learners for which the parent is charged school fees in the current school
- I** = The combined gross annual income of the parents
- 10%** = Is 10 per cent of the gross income used towards education expenditure

Full exemptions

If the school fees are 10% or more of your total income, you will be entitled to a full exemption and will NOT have to pay school fees.

EXAMPLE 1 A single parent has one child in one school. This learner's annual school fees are R2500 and the additional school expenses over the year come to R20. The parent's gross income for that year is R25200.

See below:

- $\left[\frac{E = F + T \text{ fyo}}{(Y+yo)} \right] \div [I] \geq [10\%]$
- $\left[\frac{E = 2500 + 20 + 0}{(1+0)} \right] \div [25200] \geq [10\%]$
- $\left[\frac{E = 2520}{1} \right] \div [25200] \geq [10\%]$
- $\frac{2520}{25\ 200} \geq [10\%]$
- $0,1 \geq 10\%$
- $0,1 \times 100 \geq 10\%$
- $10\% = 10\%$

The parent qualifies for a full exemption, as the left hand side of the equation is equal to 10%.

EXAMPLE 2 Two parents have one learner in the current school, whose annual school fees are R2500 and where the additional expenses are R20. They also have another learner in another school, whose annual school fees are R1000. Parent A earns R8000 a year and parent B earns R9600 a year, so together they earn R17600. They ask for the second learner's fees to be taken into account.

See below:

- $\left[\frac{E = F + T \text{ fyo}}{(Y+yo)} \right] \div [I] \geq [10\%]$
- $\left[\frac{E = 2500 + 20 + 1000 \times 1}{(1+1)} \right] \div [17600] \geq [10\%]$
- $\left[\frac{E = 3520}{2} \right] \div [17600] \geq [10\%]$
- $\frac{17600}{17600} \geq [10\%]$
- $0,1 \geq 10\%$
- $0,1 \times 100 \geq 10\%$
- $10\% = 10\%$

The parent qualifies for a full exemption, as the left hand side of the equation is equal to 10%.

Partial exemptions

If the school fees are between 2,5% and 10% of your total income, you will be entitled to a partial exemption from paying school fees. See the table on page 10 (*paragraphs 21 and 22 of Introduction to Norms and Standards*).

EXAMPLE A parent has one learner whose school fees are R2500 and the additional expenses are another R20. The parent's gross annual income is R30 000.

See below:

- $\left[E = \frac{F + T \text{ fyo}}{(Y+y_0)} \right] \div [I] \geq [10\%]$
- $\left[E = \frac{2500 + 20 + 0}{(1+0)} \right] \div [30000] \geq [10\%]$
- $\left[E = \frac{2520}{1} \right] \div [30000] \geq [10\%]$
- $\frac{2520}{30\ 000} \geq [10\%]$
- $0,84 \geq 10\%$
- $0,84 \times 100 \geq 10\%$
- $8,4\% < 10\%$

Since 8,4% is less than 10%, the parent qualifies for partial exemption. To find out how much the exemption will be, look at the table on page 10. As the parent's expenditure on education, divided by their income, is 8,4% the table shows that they qualify for an exemption of 91%. So 91% of the annual school fee of R2500 is R2275. The parent only has to pay the remaining non-exempted portion of the fees or 9%. And 9% of R2500 is R225. The parent only has to pay R225 instead of R2500 in school fees for that learner in that year.

To check your calculations



The formula is hard to apply. For a rough estimate, divide the amount of the school fees by the amount of your income.

If the answer is that school fees cost up to 9,5% of your income, you will still have to pay fees. But the amount of the fees you pay will be reduced. There may be further reductions if you have more than one child at school.

For example:

- If the school fees are 10% of your annual income, you do not have to pay school fees at all;
- If the school fees are 8% of your annual income, you will get an exemption of 88% or more for each learner;
- If the school fees are 6% of your annual income, you will get an exemption of 67% or more for each learner;
- If the school fees are 4% of your annual income, you will get an exemption of 25% for the first each learner, and 40% or more for the second learner up to four learners; *and*
- If the school fees are 3.5% of your annual income, you will get an exemption of 7% or more for each learner.

Table for calculating exemptions from school fees

The actual formula for calculating this is more complicated (see page 6), so for a **rough guide**, look at the table below:

Levels of fee exemptions				
<i>Number of learners</i>				
	1 learner	2 learners	3 learners	4 learners
2.0%	0%	0%	0%	0%
2.5%	0%	0%	0%	14%
3.0%	0%	7%	22%	33%
3.5%	7%	26%	38%	47%
4.0%	25%	40%	50%	57%
4.5%	39%	51%	59%	65%
5.0%	50%	60%	67%	71%
5.5%	59%	67%	73%	77%
6.0%	67%	73%	78%	81%
6.5%	73%	78%	82%	85%
7.0%	79%	83%	86%	88%
7.5%	83%	87%	89%	90%
8.0%	88%	90%	92%	93%
8.5%	91%	93%	94%	95%
9.0%	94%	96%	96%	97%
9.5%	97%	98%	98%	98%
10.0%	100%	100%	100%	100%

Percentage of parental income spent on school fees (total annual school fees, divided by parents annual income).

The actual **formula** (on page 6) for calculating this is more complicated, **so use this table as a rough guide.**

Also, there is no limit to the number of children, for more than four you need to consult paragraphs 135A-135F of the Norms and Standards policy document.

Conditional exemptions

These exemptions apply when the parent qualifies for either a partial exemption only, or no exemption. But in addition, the parent gives information to the school governing body, which shows “inability to pay compulsory school fees due to personal circumstances beyond his or her control”.

The guidelines in the Norms and Standards do not say what these circumstances might be. An example might be when one parent dies.

The School Governing Body will grant the exemption but only on condition that a parent/caregiver informs the school of any change in his/her financial position. At that stage, the school governing body may want to think again about whether the parent/caregiver should have an exemption, or what kind of exemption s/he should have.

For example:

If you look at the table and you qualify for a 6% exemption, and the fees are R600 a year and you have one learner, you would get a 67% exemption of R402; or you would only have to pay 33% of the fees, about R198.

Automatic exemptions

It is illegal to charge any school fees for a learner:

- Who is an orphan, in an orphanage;
- Who is an orphan in a child-headed household;
- Who has a foster parent;
- Who has been placed in a youth care centre or a place of safety;
- Who has been placed in the care of a family member (“kinship caregiver”); *or*
- Whose parent receives a social grant on behalf of the same learner e.g. a child support grant (*par 127 of the Norms and Standards*).

Applying for an exemption



Parents/caregivers who qualify should apply in writing to the School Governing Body for an exemption from school fees. The parent/caregiver can request an application form from the school. An example of what the form looks like is included on page 18 of this booklet.

If the school has not already given a parent/caregiver a copy of the exemption policy, the parent/caregiver can demand a copy.

Help to make the application

A parent/caregiver who needs help to apply for an exemption may ask an educator, or any other person, to assist him/her with the application.

If these people are not able to help, the principal of the school must help the parent/caregiver.

How to appeal

calendar	S	M	T	W	T	F	S
		1	2	3	4	5	6
	7	8	9	10	11	12	13
	14	15	16	17	18	19	20
	21	22	23	24	25	26	27
	28	29	30				

The School Governing Body has 14 days (two weeks) to consider and decide on an application. The decision must follow what the law says in the Regulations. The School Governing Body then has 7 days (one week) to tell the parent/caregiver what it has decided.

If the parent/caregiver is unhappy with the decision, s/he has 30 days (one month) to appeal the decision in writing to the Head of the Department of Education in the province, who should reply within 21 days (three weeks) (*Sections 4-9 of the Regulations*).

Note: The contact details of the Head of your province's Education Department are set out on page 21 of this booklet.

What are the obligations of the School Governing Body and the Principal?

They must notify the parents of:

- The **amount** of school fees;
- The **exemption process**, if the parent is in arrears by one or two months – the School Governing Body must assess the possibility as to whether the parent qualifies for an exemption;
- The **form** to be completed, to show the parent is informed about the school fees regulations (see the checklist form on page 19);

- The **copy of the regulations**, which the governing body must display in the school;
- The parent's **right to privacy** for all the information in a parent's exemption application; *and*
- The **help available** from the school, if the parent needs help with the exemption application.

Note: The school is not allowed to charge for extra things like registration, or compulsory extra-curricular activities. If you pay the fees, or if you have an exemption, the child is entitled to the entire educational programme.

Ban on discrimination

- The school may not exclude any child from classes, or cultural, sporting or social activities at the school, whose parent cannot afford or has not paid school fees;
- The school cannot withhold report cards, matriculation certificates, or transfer cards; *and*
- The school cannot discriminate against any child in any way for parent's failure to pay school fees, including "verbal or non-verbal abuse" (see section 41(6) of SASA as amended for more details).

When can a school sue a parent?

- Before a school governing body can sue a parent for fees, they must show that the parents would not qualify for an exemption.
- The school governing body must show that the parent has been given all the necessary help and information to apply for an exemption.
- The parent knows they can appeal against any decision by the school governing body.
- If a parent is in arrears by one or two months the school governing body must investigate if that parent is entitled to an exemption.

Note: Any arrears from 2005 will be calculated according to the previous policy (*paragraph 134 of the Norms and Standards*).

Legal processes

The school governing body cannot sue you without following the proper legal processes:

- The school governing body must first send you a letter of demand warning you what they want and what they plan to do, and giving you a date by which you must respond; or they will not be able to get an order from the court.
- If you do not respond, or if the school governing body is not satisfied with your response, they must serve their summons on you in a formal way, calling you to the Magistrate's Court to explain why you have not paid.
- In the Magistrate's Court the magistrate will give you a chance to put your case before the court.
- If you ignore the summons and do not go to the court, the magistrate could make a default judgment against you in your absence, forcing you to pay all the fees due immediately.
- The magistrate will issue an order that you must follow. If you do not, the sheriff of the court could attach some of your possessions to sell in execution to pay off your debt.
- The school governing body cannot take legal steps to attach and sell a parent's house to pay school fees owing, without providing alternative accommodation.

What can you do if a school is abusing these laws?



1. You could complain to the school principal;
2. You could complain to the School Governing Body;
3. You could complain to the provincial Department of Education (see the contact details on page 21 of this booklet); *and*
4. You could get advice and perhaps legal assistance from a non-governmental organisation, including:
 - The Education Law Project (see contact details on the back cover of this booklet);
 - The Legal Resources Centres;
 - The university law clinics;
 - The Justice Centres; *or*
 - Local advice offices.

Shortened example of an Exemption Application Form

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES APPLICATION FORM FOR EXEMPTION (South African Schools Act 84 of 1996)

PARTICULARS OF SCHOOL

Name:

Postal address:

Residential address:

Tel:

Fax:

PERSONAL PARTICULARS OF PARENT

Name of parent:

Name(s) of learner(s):

Residential address:

Tel:

Fax:

FINANCIAL PARTICULARS OF PARENT

A parent must supply, where applicable, the following:

- Combined gross annual income: R..... (salary advice if applicable)
- Money received from investment: R..... (documentary proof)
- Profit gained from any form of business: R..... (documentary proof)
- School fees for each of his or her learners at the school: R.....
- School fees for learners at other schools: R..... (documentary proof)
- Additional monetary contributions explicitly demanded by the school: R.....

School fees exemption Checklist Form

(South African Schools Act 84 of 1996)

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES

CHECKLIST FORM (mark with a cross in applicable box)

1. Has the principal informed you about the amount of the annual school fees to be paid?

YES	NO
-----	----
2. Has the principal informed you that you are liable to pay school fees unless you are totally exempted from paying school fees?

YES	NO
-----	----
3. Has the principal informed you about your right to apply for exemption from paying school fees?

YES	NO
-----	----
4. Do you wish to apply for such an exemption?

YES	NO
-----	----
5. Do you wish to be assisted in such an application?

YES	NO
-----	----
6. Has the principal provided you with the form (Annexure B) for application for exemption?

YES	NO
-----	----
7. Has the principal signed this particular form?

YES	NO
-----	----
8. Have you signed this particular form?

YES	NO
-----	----
9. Has the principal handed over the signed copy of this form to you?

YES	NO
-----	----

Explaining words (glossary)

- **Appeal**: If you are unhappy with a decision by the School Governing Body (SGB), you can go to a more senior person in the Department of Education to decide if the SGB was correct
- **Benchmark**: the minimum target amount or standard to be met
- **Exemption**: permission not to pay some or all of the annual school fees
- **Gross annual income**: all the money someone gets in a year from any person or place, before tax and other expenses are taken off
- **Law**: rules made by parliament or government
- **Parent or caregiver**: A learner's parent/caregiver includes the parent or guardian of a learner, any person entitled to legal custody of a learner, and anyone who undertakes to carry out the obligations of parents, guardians or custodians in relation to the learner's education at school (*Section 1(xiv) of the SA Schools Act*)
- **PDE**: provincial Department of Education
- **Sue**: to make a claim against a person in one of the law courts, usually to get the person to pay a debt or compensation

Reaching your Provincial Education Department

Eastern Cape

Dr D W M Edley

Superintendent General:
Education
Private Bag X0032
Bisho 5605
Tel (040) 608 4205
Fax (040) 608 4249

KwaZulu-Natal

Dr RC Lubisi

Superintendent General:
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Mr MS Rakometsi

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School fees: Your rights

helps people to
understand, and apply,
the law relating
to school fees.

*This booklet is
based on the laws applicable
as at April 2006.*

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Supported by: ICJ-Sweden

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