

MEMORANDUM

**TO : CENTRE FOR EDUCATION POLICY DEVELOPMENT**

**FROM : MARK PHILLIPS  
CHEADLE THOMPSON AND HAYSOM**

**DATE : 13 MAY 1994**

**RE : MINISTRY OF EDUCATION : PROCESS OF TRANSITION**

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1. Create new single national ministry of education by proclamation on 13 May or shortly thereafter.
2. National Minister of Education to appoint Director-General of new Education Department.
3. Amendments to Public Service Act to be proclaimed on 13 May or shortly thereafter will provide that all existing Departments of Education will be made accountable to the new Director-General. This effectively makes the new Director-General the Head of all seventeen Departments of Education.
4. In terms of NEC policy decisions on the transition, the Minister and Director-General should appoint a Strategic Management Team of key policy experts and experts in organisational development, change management, personnel management etc to assist in managing the transition, rationalising the existing Education Departments and negotiating with the provinces regarding the

distribution of powers and resources between national and provincial level.

5. The above arrangements will enable the new Minister and Director-General to take immediate policy control of the various Education Departments.
6. Once an appropriate distribution of powers between the national and provincial levels has been negotiated, the next legal step will be to prepare draft legislation for the national and provincial levels in order to reflect the agreed distribution of powers. This legislation would provide for the abolition of existing racial legislation and existing general education legislation and its replacement by new national and provincial legislation.
7. The Legal Task Team has worked through existing general education legislation and identified the key competencies, powers and functions created by the legislation. These competencies, powers and functions will form the basis of the negotiation between national and provincial levels regarding the distribution of powers and functions between these two levels.
8. The Legal Task Team has also identified all of the structures, bodies, councils etc created by existing legislation with a view to replacing these with new structures, bodies and councils in terms of the policy of the ANC and the government of national unity. It has briefed Counsel to advise on the implications of provisions in the interim Constitution requiring negotiation before the powers and functions

of certain of these bodies can be amended. The Legal Task Team has also identified as a priority area the general education policy principles laid down in legislation which require urgent amendment.

9. The Legal Task Team also suggests that all regulations issued under existing legislation be carefully scrutinised with a view to standardisation and amendment where necessary.
10. The Legal Task Team has also scrutinised proposed amendments to the Education Labour Relations Act to extend it to the homelands and has approved these changes which should be issued by proclamation on 13 May or shortly thereafter.
11. The next area for the Legal Task Team to begin working will be to look at legislation governing higher education. This can be started as soon as required.