

PROVINCIAL EDUCATION LABOUR RELATIONS CHAMBER: EASTERN CAPE

RESOLUTION NO. 1 OF 2002

**PROCEDURE FOR THE ABSORPTION OF EDUCATORS DECLARED
ADDITIONAL TO THE POST ESTABLISHMENT**

1. SCOPE OF THE AGREEMENT:

This agreement applies and shall bind:

- 1.1 The *employer*
- 1.2 All the *employees* of the *employer* as defined in the *Employment of Educators Act of 1998 as amended (EEA)*, whether such *employees* are members of *trade union* parties to this agreement or not.

2. OBJECTIVE:

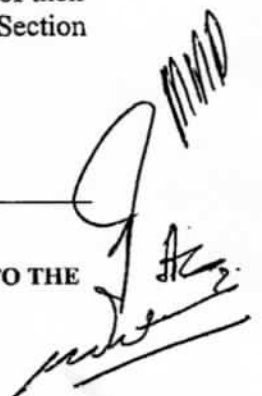
- 2.1 To ensure the continued employment of educators who have been declared as additional to the post establishment in terms of Resolution no. 6 of 1998 signed in the *Education Labour Relations Council (ELRC)*.

3. PARTIES TO CHAMBER NOTE:

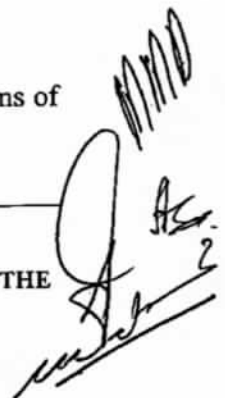
- 3.1 Resolution no. 6 of 1998 signed in the ELRC.
- 3.2 Resolution no. 2 of 2001 signed in the ELRC.
- 3.3 Agreement case no. PSES 934EC – PSES 1029EC between R.R. Nelson and 100 others and The Department of Education Eastern Cape Province dated 8 November 2001.
- 3.4 Section 23 of the *Labour Relations Act of 1995 (LRA)* on the termination of collective agreements.
- 3.5 The role and obligations of *School Governing Bodies (SGB)* and *Councils of Further Education and Training Institutions (FET)* regarding recommendations for appointment and towards educators declared in excess in terms of the *South African Schools Act of 1996 (SASA)* and the *Employment of Educators Act of 1998 as amended*.
- 3.6 The need to fill vacancies through the normal processes and procedures as contained in the *PAM, Chapter B, paragraphs 2 and 3* with a view of attracting serving and non-serving educators as well as to promote promotion opportunities within the education department.

4. PARTIES TO CHAMBER AGREE THAT:

- 4.1 The Eastern Cape Education Department shall absorb all educators declared in excess in terms of *Resolution no. 6 of 1998*.
- 4.2 All outstanding disputes, except for disputes referred to in clause 4.3 below, declared in terms of *Resolution no. 6 of 1998* shall be dealt with in terms of the following procedure:
- 4.2.1 All affected educators are re-instated at their respective schools at which they were based prior to their redeployment;
- 4.2.2 They will remain as educators in excess; subject to
- 4.2.2.1 The entitlement of the *employer* to fill vacant posts; and
- 4.2.2.2 To deal with such educators in excess in accordance with the relevant legislation.
- 4.3 Educators who have declared disputes with the *Education Labour Relations Council* in terms of *Resolution no. 6 of 1998* may independently pursue their disputes relating to their identification as educators in excess.
- 4.4 All disputes declared and resolved in terms of *Resolution no. 6 of 1998* are not affected by this agreement.
- 4.5 All disputes declared after the termination of *Resolution no. 6 of 1998* are deemed to fall outside the scope of the *redemption process* in terms of the said resolution.
- 4.6 All *other processes*, other than outstanding disputes referred to in clause 4.3 above, concluded in terms of *Resolution no. 6 of 1998* are not affected by this agreement,
- 4.7 *Excess educators* referred to in clause 4.2 above must be incorporated into the full academic and non-academic curricula of their respective education institutions they were based prior their redeployment, until such time they are absorbed into available vacant posts;
- 4.8 *Excess educators* referred to clause 4.7 above who refuse to be incorporated into the full academic and non-academic curricula of their respective education institutions shall be dealt with in terms of Section 18 of the *Employment of Educators Act of 1998 as amended*.

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- 4.9 Vacancies created as a result of clause 4.2.1 above must be filled through the following procedure:
- 4.9.1 Post level 1 vacancies must be advertised and filled through an *open bulletin*;
 - 4.9.2 Post level 2 and 3 vacancies must first be offered to college lecturers and deputy principals on the same post levels who are still in excess;
 - 4.9.3 College lecturers on post level 2 and 3 and deputy principals on post level 3 must be absorbed horizontally into the above vacancies, i.e. a college lecturer in excess on post level 2 can only be absorbed into a post level 2 vacancy; and
 - 4.9.4 Vacancies not filled in terms of clause 4.9.3 above shall be advertised and filled in terms of the *PAM, Chapter B, paragraphs 2 and 3*.
- 4.10 *Excess educators* shall be dealt with as follows:
- 4.10.1 In the case of a vacancy arising on the same post level at the *excess educator's* current institution, the *excess educator* shall be absorbed into the vacancy, provided that she/he fits the profile of the post;
 - 4.10.2 *Excess educators* may be absorbed into suitable vacant posts at other institutions with the agreement of the *School Governing Body* of the receiving institution concerned.
 - 4.10.3 In addition to the above, *excess educators* should also apply for vacant posts of their choice through the *Open Bulletin dated January 2002* and similar provincial bulletins to follow.
- 4.11 Absorption of *excess educators* into vacant posts in a permanent capacity in terms of this agreement shall be effected through:
- 4.11.1 The recommendation of the *School Governing Bodies* as provided for in terms of the *South African Schools Act of 1996*.
 - 4.11.2 *Transfers* in accordance with the *Employment of Educators Act of 1998 as amended*;
 - 4.11.3 *Retraining of excess educators*.
- 4.12 *Excess educators* on post levels 2 and 3 shall be dealt with in terms of the *PAM, Chapter B, paragraph 2.4*.



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4.13 All excess educators must be absorbed into vacancies by 31 December 2002.

5. DATE OF IMPLEMENTATION:

5.1 This agreement shall, in respect of parties and non-parties to the *Provincial Education Labour Relations Chamber (PELRC)*, come into effect on the day it is ratified in the *Education Labour Relations Council*.

6. DISPUTE RESOLUTION:

6.1 Any dispute arising from the ^{implementation} ~~provisioning~~ of this agreement shall be referred to the *Education Labour Relations Council* for resolution.

7. DEFINITIONS:

7.1 "Agreement case no. PSES 934EC – PSES 1029EC" means the agreement reached between R.R. Nelson and 101 others and the Eastern Cape Education Department dated 8 November 2001.

7.2 "Chamber" means the Provincial Education Labour Relations Chamber (PELRC).

7.3 "Council" means the Education Labour Relations Council (ELRC).

7.4 "Council of Further Education and Training Institution" means the Council for further education and training as contemplated in section 1 of the Further Education and Training Act of 1998.

7.5 "Educator" means educator as defined in the EEA.

7.6 "EEA" means the Employment of Educators Act of 1998 as amended.

7.7 "Employee" means an educator as defined in section 1 of the EEA.

7.8 "Employer" means employer as contemplated in section 1 of the EEA.

7.9 "Excess educators" means educators declared in excess in terms of Resolution no. 6 of 1998.

7.10 "LRA" means the Labour Relations Act of 1995.


7.11 "Open bulletin" means a bulletin advertising vacant educator posts where all educators including non-serving educators who qualify to apply in terms of the regulations, may apply.

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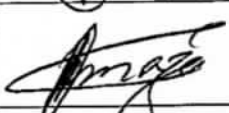
- 7.12 "PAM" means the personnel administration measures in terms of the EEA.
- 7.13 "Resolution no. 6 of 1998" means the ELRC's resolution on the procedure for rationalisation and redeployment of educators in the provisioning of educator posts signed on 11 November 1998.
- 7.14 "SASA" means the South African Schools Act of 1996.
- 7.15 "School Governing Body" means the governing body as contemplated in section 16(1) of SASA.
- 7.16 "Secondment" means the secondment of educators as contemplated in section 9 of the EEA.
- 7.17 "Trade Union" means any trade union, which is admitted to the ELRC.
- 7.18 "Transfer" means the transfer of educators as contemplated in section 8 of the EEA.

Thus done and signed at BISHO on the 20th day of FEBRUARY 2002 by:

ON BEHALF OF THE STATE AS EMPLOYER

DEPARTMENT	NAME	SIGNATURE
EDUCATION	R. PRETORIUS	

ON BEHALF OF EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
NAPTOSA	G. GILMOUR	
SADTU	M. DIMAZA	
SAOU	A. OLIVIER	