

# EDUCATION LABOUR RELATIONS COUNCIL

*Established in terms of the LRA of 1995 as amended*



## RESOLUTION 2 OF 2001

*6 JULY 2001*

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



# EDUCATION LABOUR RELATIONS COUNCIL

## RESOLUTION NO 2 OF 2001

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

#### 1. PURPOSE

- 1.1 To create an environment that fosters commitment and confidence among educators.
- 1.2 To promote the values of fairness and equity in the appointment of educators to institutions.
- 1.3 To ensure the continued employment of educators who were declared as additional to the post establishment in terms of ELRC Resolution No. 6 of 1998.

#### 2. PARTIES TO COUNCIL NOTE:

- 2.1 Resolution 6 of 1998.
- 2.2 The provisions of section 23 of the Labour Relations Act, 1995 (LRA) on the termination of collective agreements.
- 2.3 The obligations of the employer regarding fair labour practise in terms of the Constitution of the Republic of South Africa and applicable legislation.
- 2.4 The obligations of the employer towards newly qualified educators and applicants for employment in terms of the Employment Equity Act, 1998.
- 2.5 The role and obligations of School Governing Bodies and the Councils of Further Education and Training institutions regarding recommendations for appointment and towards educators declared in excess in terms of the South African Schools Act, 1996 (SASA) and the Employment of Educators Act, 1998 (EEA).
- 2.6 The need to request the Minister of Education to amend paragraph 2.4 of the Personnel Administration Measures (PAM), 1999 to provide for the transfer of post level one serving educators as a result of operational requirements.

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2.7 All Provincial Departments of Education have gone through at least one round of advertising posts in a closed vacancy list.

### 3. PARTIES TO COUNCIL AGREE THAT:

3.1 The relevant Provincial Education Departments shall absorb all educators declared in excess in terms of Resolution 6 of 1998.

3.2 The absorption of educators declared in excess may include:

3.2.1 Absorption by appointment into vacant posts at the same institution or another institution or office.

3.2.2 Transfers in accordance with the EEA, as amended.

3.2.3 Where applicable, through secondment in terms of the EEA.

3.2.4 Retraining.

3.3 Resolution 6 of 1998 is terminated on 16 July 2001.

3.4 All educator posts in future be filled in accordance with ELRC resolutions and applicable legislation.

### 4. TRANSITIONAL MEASURES

4.1 All educators declared in excess in terms of Resolution 6 of 1998, shall be held additional to the establishment of the institution at which they are currently employed until dealt with in accordance with any of the alternatives in paragraph 3 above.

4.2 Processes that have already commenced in terms of Resolution 6 of 1998 must be completed in accordance with the provisions agreed to in the said resolution.

### 5. SCOPE OF THE AGREEMENT

This agreement applies and shall bind:

5.1 The employer.

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

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## 6. INTERPRETATION

That this agreement be interpreted as follows:

- 6.1 Any reference to one sex is deemed to include both sexes unless the context indicates otherwise.
- 6.2 The primary objective of this agreement is the guiding principle.
- 6.3 In compliance with applicable legislation.

## 7. ADOPTION AND DATE OF IMPLEMENTATION

- 7.1 This agreement shall, in respect of parties and non-parties to the ELRC, come into effect on the day it is signed in Council.

## 8. DISPUTE RESOLUTION

- 8.1 Any dispute arising from the provisioning of this agreement shall be referred to the ELRC for resolution.

## 9. DEFINITIONS

- 9.1 "Council" means the Education Labour Relations Council (ELRC).
- 9.2 "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 (FET) 1998.
- 9.3 "Educator" means educator as defined in the Employment of Educators Act, 1998 (EEA).
- 9.4 "Educator in excess" means an educator declared in excess in terms of Resolution 6 of 1998.
- 9.5 "Employee" means an educator as defined in section 1 of the EEA, 1998.
- 9.6 "Employer" means employer as contemplated in section 1 of the EEA, 1998.
- 9.7 "Employing department" means the relevant Provincial Department of Education or the Department of Education.
- 9.8 "EEA" means the Employment of Educators Act No. 76 of 1998.

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- 9.9 "Operational Requirement" means requirements based on economic, technological, structural or similar needs of an employer as contemplated in section 213 of the Labour Relations Act, 1995 (LRA) which in education may include but not limited to change in learner enrolment, curriculum changes within a specific education institution and the financial restraints.
- 9.10 "Open vacancy list," means a list advertising vacant educator posts where all educators including non-serving educators who qualify to apply in terms of the regulations, may apply.
- 9.11 "MTEF" means medium term expenditure framework.
- 9.12 "Personnel Administration Measures, 1998 (PAM)" means measures on the terms and conditions of employment of educators determined in terms of section 4 of the EEA, 1998 as promulgated in Government notice 222 (Government Gazette 19767 of 18 February 2000).
- 9.13 "Resolution 6 of 1998" means the Education Labour Relations Council (ELRC)'s resolution on the procedure for rationalisation and redeployment of educators in the provisioning of educator posts signed on 11 November 1998.
- 9.14 "SASA" means the South African Schools Act No. 84 of 1996.
- 9.15 "School Governing Body" means the governing body as contemplated in section 16(1) of the South African Schools Act, 1996 (SASA).
- 9.16 "Trade Union" means any trade union, which is admitted to the Education Labour Relations Council.
- 9.17 "Transfers" means the transfer of educators as contemplated in section 8 of the EEA.
- 9.18 "PSCBC" means the Public Service Co-ordinating Bargaining Council.

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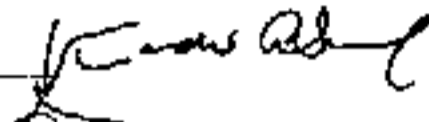
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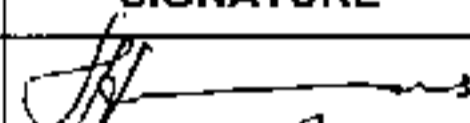

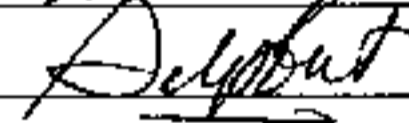


Thus done and signed at Centurion on the 6<sup>th</sup> day of July 2001 by:

**ON BEHALF OF THE STATE AS EMPLOYER**

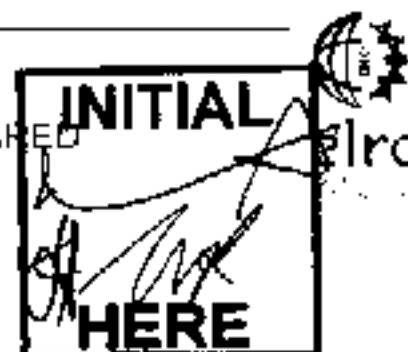
DEPARTMENT	NAME	SIGNATURE
EDUCATION	VIADER ASMAM D. KINOSILE	

**ON BEHALF OF THE EMPLOYEE PARTIES**

TRADE UNION	NAME	SIGNATURE
NAPTOSA	A. Hendricks	
SADTU	M. Pillay	
SAOU	P. Delyout	

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**PRIVATE BAG X126  
CENTURION  
00046  
TEL: (012) 663 7446**

**261 WEST STREET  
CENTURION  
0046  
FAX: (012) 663 9604**

E-mail: [admin @ elrc.co.za](mailto:admin@elrc.co.za)  
Website: [elrc-rsa.com](http://elrc-rsa.com)  
[elrc.co.za](http://elrc.co.za)