

**EDUCATION LABOUR RELATIONS COUNCIL**  
*Established in terms of the LRA of 1995 as amended*



**elrc**

EDUCATION LABOUR  
RELATIONS COUNCIL

# **COLLECTIVE AGREEMENT NUMBER 2 OF 2003**

**10 APRIL 2003**

**TRANSFER OF SERVING EDUCATORS  
IN TERMS OF OPERATIONAL  
REQUIREMENTS**

INITIAL  
*[Handwritten initials]*  
HERE

## EDUCATION LABOUR RELATIONS COUNCIL

### COLLECTIVE AGREEMENT NO 2 OF 2003

#### Transfer of Serving Educators in terms of operational requirements

#### 1. PURPOSE OF THIS AGREEMENT

The purpose of this agreement is to amend measures regarding the transfer of serving educators in terms of operational requirements.

#### 2. SCOPE OF THIS AGREEMENT

This agreement applies to and binds:

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

#### 3. THE PARTIES TO COUNCIL NOTE AS FOLLOWS:

- 3.1 Education Labour Relations Council Resolution No.2 of 2001.

#### 4. THE PARTIES TO COUNCIL THEREFORE AGREE AS FOLLOWS:

- 4.1. To request the Minister of Education to amend paragraph 2.4 of Chapter B of the Personnel Administration Measures by including the attached document. (Annexure A)



## 5. DATE OF IMPLEMENTATION

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

## 6. DISPUTE RESOLUTION

Any dispute about the interpretation or application of this agreement shall be resolved in terms of the dispute resolution procedure of the Council.

## 7. DEFINITIONS

- 7.1 "constitution" means the constitution of the Education Labour Relations Council.
- 7.2 "Council" means the Education Labour Relations Council.
- 7.3 "employee" means an educator as defined in the Employment of Educators Act, 1998, as amended.
- 7.4 "employer" means the employer as defined in the Employment of Educators Act, 1998, as amended.
- 7.5 "Labour Relations Act" means the Labour Relations Act No. 66 of 1995, as amended.
- 7.6 "workplace" means the registered scope of the Council.



Thus done and signed at Centurion on this 10 day of April 2003 by:

ON BEHALF OF THE STATE AS EMPLOYER

DEPARTMENT	NAME	SIGNATURE
EDUCATION	S. G. PADAYACHEE	<i>Padayachee</i>

ON BEHALF OF THE EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
NAPTOSA	H. HENDRICKS	<i>H. Hendricks</i>
SADTU	T. W. NXE	<i>T. W. Nxe</i>
SAOU	P. DELPORT	<i>P. Delport</i>



## ANNEXURE A

### 2.4 TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS

- a) Operational requirements for education institutions are based on, but not limited to the following:
- i) Change in learner enrolment.
  - ii) Curriculum changes or a change in learners' involvement in the curriculum.
  - iii) Change to the grading or classification of an institution.
  - iv) Merging or closing of institutions.
  - v) Financial constraints.
- b) Subject to regulations on post provisioning, a head of a provincial department of education must, from time to time, inform each institution of its new educator post establishment. As a result of operational requirements the new staff establishment may provide for fewer posts than the existing staff establishment or the skills requirements of the new establishment may not match the skills profile of the incumbent educators. As a result, some serving educators may be in addition to the new establishment.
- c) Each principal must inform his/her staff of the institution's new educator post establishment and of the procedure, as set out in the next paragraph, that will be followed in identifying educators who cannot be accommodated on the new establishment. This information must be accessible to all members of staff.
- d) The procedure for the identification of serving educators in addition to the establishment as a result of operational requirements shall be:
- i) The Principal, after consulting with the educator staff of the institution at a formal staff meeting, may recommend that educators who may be declared in addition, be absorbed in vacancies that exist or will exist in the near future (not longer than six months) at that education institution.

Vacancies that will exist in the near future refers to vacancies as a result of educators, at the particular institution, leaving as a result of retirement, boarding, resignation, promotion and employer initiated discharges, where the date of exit is known.

- ii) After considering (i) above, the Circuit/District Manager together with the Principal shall identify the educators in addition, taking into account the following:
  - The views of the educator staff of the institution as expressed at a formal meeting convened by the principal;
  - The needs of the institution, more particularly in relation to its specific curriculum obligations, the number of classes, the timetable and the allocation of learners to classes;



- The Circuit/District Manager shall take cognizance of the fact that there is not necessarily a direct relation between the posts identified as in addition and an educator who will be declared in addition, as there may be more than one post with substantially the same duties attached to it;
  - If a decision has to be taken regarding two or more educators competing for the same post, the principle of "last in, first out" (LIFO) shall be applied. An educator's service period for the application of LIFO shall include all continuous service rendered at any public education institution.
  - One representative per trade union party to the ELRC shall be invited by the District/Circuit Manager to observe the process.
- iii) An educator who has been identified as in addition shall be so informed, in writing, by the provincial education department concerned.
- e) The following procedure shall be followed in filling vacancies in cases where a department has educators in addition of a staff establishment:
- All vacancies must be advertised and filled in terms of paragraph 3. (The advertising and filling of Educator Posts). With the proviso that:
    1. Applications of suitably qualified educators in addition as a result of operational requirements must be considered before any other applications may be considered.
    2. A provincial education department may publish a CLOSED VACANCY LIST for which only serving educators in addition may apply.
- f) All applicants, who are in addition as a result of operational requirements and who are suitable candidates for a vacant post in an education institution or office must be considered. The short listing procedure to be followed by a Governing body must ensure that all such candidates, identified by the relevant department as suitable for the vacancy, are interviewed before any other candidate is considered.
- g) In terms of section 6 or section 8 of the Employment of Educators Act, (1998) the Head of a Provincial Education Department may transfer an educator who is in addition to another post in the department that matches his/her skills and experience.



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SADTU	T. W. NXESI	<i>T. W. Nxesi</i>
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