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**Education Labour Relations
Council
KwaZulu Natal Chamber**

Collective Agreement No. 2 OF 2008

**PROCEDURE FOR DEALING WITH INSTITUTION-BASED EDUCATORS WHO
HAVE BEEN DISPLACED AS A RESULT OF WORK RELATED VIOLENCE OR
INTIMIDATION**

1 August 2008

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The signature appears to be "S. S. S." or similar, written in a cursive style. Below it are the initials "SCN" written in a bold, blocky font.

1. PURPOSE

To refine the existing procedures to deal with institution-based educators who allege displacement as a result of work-related violence or intimidation.

2. SCOPE

This agreement applies to and binds:

- (a) The KwaZulu-Natal Department of Education as Employer;
- (b) All employees of the Employer whether they are signatories to this agreement or not; and
- (c) All Employee Parties that are members of the KZN Chamber of the Education Labour Relations Council.

3. LEGISLATIVE FRAMEWORK

- 3.1 The Employment of Educators Act No. 76 of 1998 as amended
- 3.2 The Labour Relations Act No. 66 of 1995
- 3.3 The South African Schools Act No 84 of 1996 as amended.
- 3.4 The Promotion of Administrative Justice Act

4. PARTIES TO THE CHAMBER NOTE THE FOLLOWING:

- 4.1 The impact of restructuring on policies and collective agreements of the KwaZulu-Natal Department of Education;
- 4.2 The Grievance Procedure as contained in Chapter H of the Personnel Administration Measures
- 4.3 That the existing procedures contained in HRM 12/1997 are too cumbersome.
- 4.4 The backlog of displacement cases arising from HRM12/1997.

5. PARTIES TO THE CHAMBER THEREFORE AGREE THAT:

The following procedure for dealing with educators who have been displaced as a result of work-related violence or intimidation shall apply.

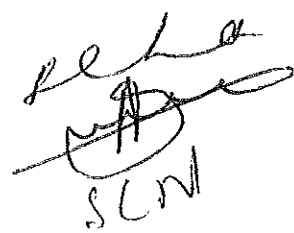
6. PROCEDURE FOR DEALING WITH DISPLACEMENT OF EDUCATORS

- 6.1 Educators who allege displacement from their place of work due to work-related violence and intimidation must first report such violence or intimidation to the South African Police Services.
- 6.2 The educator or a union acting on her/his behalf shall, at the earliest opportunity, but not later than 3 days from the date of the alleged action formally apply to the head of the institution for the matter to be investigated in terms of these procedures using the prescribed form (attached). If the educator is the head of

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the institution, such a notice must be sent to the District Manager. A copy of the notice must also be forwarded to the Chairperson of the School Governing Body.

- 6.3 The head of the institution or the head of the District Office, as the case may be shall, within 3 days of receipt of the notice, confer with the educator and/or the union and with any other party implicated in such displacement with the intention of resolving the matter.
- 6.4 The educator /trade union must be invited to participate in all proceedings relating to the investigation.
- 6.5 The educator shall, as of the date of alleged displacement, report for duty at the local District Office. The District Manager or his delegate shall in consultation with the affected educator/trade union and Circuit Manager, temporarily transfer the educator to a school within the District or within another District, by agreement with the District Manager of the other District, where his/her services will be gainfully utilised for the duration of the investigation.
- 6.6 Failing resolution of the matter within the period of 3 days allowed for this purpose, the District Manager must, within a period of 5 days thereafter, offer the educator/trade union a choice of three officials to enquire into the educator's application for displacement. The educator/trade union must, within a period of 3 days, nominate one of the three officials to conduct the investigation and deliver such nomination to reach the District Manager. However if the educator/union is dissatisfied with the list of names provided and gives acceptable written reasons in support thereof, the District Manager shall provide an alternate list of names within 3 days. The educator/trade union must furnish the nomination to reach the District Manager within 3 days.
- 6.7 The District Manager must immediately appoint the nominated official and direct that the investigation be conducted with 7 days from the date of appointment.
- 6.8 Should circumstances so warrant, the aforesaid period may be extended by a further 7 days within which time the investigation must be concluded.
- 6.9 The investigating officer shall have access to any official document relevant to this case and be permitted to obtain any relevant information from any official or educator.
- 6.10 The investigating officer shall keep detailed minutes and proper records of information obtained during the course of the investigation. Upon the conclusion of the investigation, the investigating officer must submit a report incorporating his findings and recommendations. Should any employee be implicated in the displacement which would give cause for disciplinary action against such employee, such must be motivated in the report and contained in the



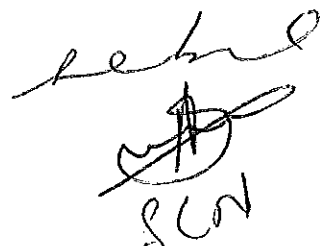
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recommendations. This report together with all relevant documentation pertaining to the investigation must be submitted to the District Manager.

- 6.11 The District Manager shall within 5 days of receipt of the report, inform the educator of the decision in writing.
- 6.12 If the decision is that the claim of displacement by the educator has no basis, the educator must be advised accordingly by registered or hand-delivered mail and that she/he must, on the first working day after receipt of the letter, report to the appointed place of work.
- 6.13 If the educator fails to report for duty as directed, the Department shall invoke the necessary disciplinary procedures encapsulated in the Employment of Educators Act, 1998, as amended.
- 6.14 If the educator/trade union alleges that the collective agreement has been breached procedurally and/or substantively, he/she should follow the dispute resolution procedures contained in this agreement.
- 6.15 Should it be found that there exists a justifiable basis for displacement, the educator shall be deemed to be excess to the educator establishment of his/ her School and will be dealt with in accordance with the provisions relating to excess educators. Pending the absorption of the educator in a substantive post, the District Manager shall temporarily transfer the educator to any school within the District, or to another District in consultation with the District Manager of the other District, as the case may be, for a stated period. Such transfer shall be effected in accordance with the provisions of Section 8 (5) of the Employment of Educators Act, 1998 (Act 76 of 1998)(as amended).

7. TRANSITIONAL MEASURES

- 7.1 All applications for displacement currently lodged with the Department of Education, prior to the ratification of this agreement, shall be deemed as applications with just cause. The placement of these affected educators shall be dealt with in terms of the transfer provisions provided for in the Employment of Educators Act. Displaced educators in promotion posts shall be placed in terms of a closed vacancy list as agreed upon by parties to the Provincial Chamber.
- 7.2 In this regard, parties to the Chamber undertake to conduct a joint audit of all cases of displacement and compile a closed vacancy list for the placement of displaced educators.
- 7.3 All new cases of displacements lodged after the date of implementation of this agreement shall be dealt with in terms of the procedures contained in this collective agreement.



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8. DATE OF IMPLEMENTATION


The procedure contained in this agreement replaces the procedures contained in circular HRM 12 of 1997 and shall come into effect as of the date of ratification by the Education Labour Relations Council in accordance with the provisions of the Constitution.

9. DISPUTE RESOLUTION

Any dispute arising from the interpretation and/or application of this agreement shall be referred to the Education Labour Relations Council in accordance with its constitution.


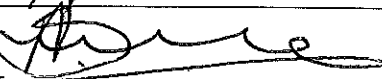
**THUS DONE AND SIGNED AT THE KZN PROVINCIAL CHAMBER OF THE ELRC,
55 CHURCH ROAD, REDHILL, DURBAN ON THE**

1st DAY OF August 2008.

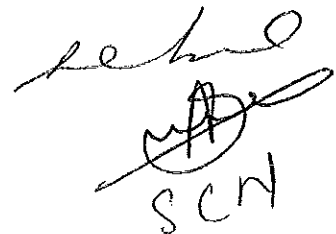
DEPARTMENT	NAME	SIGNATURE
EDUCATION	Sunil Mahabeer	

ON BEHALF OF THE STATE AS EMPLOYER

AND

TRADE UNIONS	NAME	SIGNATURE
CTU - "SADTU"	SIPHOC. NKOSI	
CTU - "SAOU"	ALLEN THOMPSON	

ON BEHALF OF LABOUR


SCN

APPLICATION TO BE REGARDED AS A DISPLACED EDUCATOR

1. Personal Details of the Educator

(a) Surname: _____
(b) First Name/s: _____
(c) I. D. No: _____
(d) Persal No. _____
(e) Postal Address _____ Residential Address _____

Postal Code: _____
Tel: (W) _____ (H) _____
Fax: _____
Cell: _____

2. WORK DETAILS

School from which the educator is alleging displacement:

Ward: _____
Circuit _____
District: _____
Rank of Educator _____ Post Level: _____
Is the educator represented by a Trade Union? Yes No
If "yes", Indicate which union? _____
Postal address: _____

Tel: _____ Fax: _____
Contact person: _____ Cell: _____

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3. DETAILS OF ALLEGED DISPLACEMENT

(Should the space be insufficient, attach additional pages)

4. This displacement arose on:

Date Reported to SAPS:

SAPS Case No.:

Address of Police Station:

Telephone No.:

Fax:

I confirm that all the information presented above is true and correct.

SIGNATURE OF APPLICANT/ UNION

DATE

helo
SCN