

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



elrc

EDUCATION LABOUR
RELATIONS COUNCIL

**COLLECTIVE AGREEMENT
NO. 2 OF 2007**

31ST JULY 2007

SHOP STEWARDS IN EDUCATION

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**EDUCATION LABOUR RELATIONS COUNCIL
COLLECTIVE AGREEMENT NO. 2 OF 2007**

SHOP STEWARDS IN EDUCATION

1. PURPOSE OF THIS AGREEMENT

- 1.1 The purpose of this agreement is to enable the Council to deliver dispute prevention support services, in public education, and the appointment of trade union officials to facilitate negotiations, consultations, dispute resolution and dispute prevention.
- 1.2 The parties acknowledge that:
- 1.2.1 Trade unions are able to effectively represent their members in accordance with the applicable legislation and procedures will greatly enhance labour relations in the public education sector. This will be to the benefit of all concerned: the employer, educators and learners;
- 1.2.2 There is a need to develop capacity among trade union officials in order to engage effectively in the applicable labour relations structures, procedures and processes; and
- 1.2.3 The effective utilisation of Shop Stewards in Education will lead to non-disruption of the teaching/learning environment.

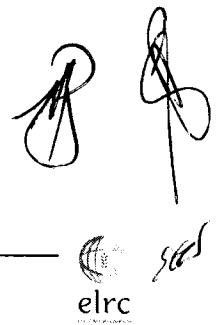
2. SCOPE OF THIS AGREEMENT

This agreement applies to and binds the parties to the agreement:

- 2.1 The employer;
- 2.2 The trade unions; and
- 2.3 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 AGREES AS FOLLOWS:

- 3.1 The Council is duly mandated to formally provide for and discharge dispute prevention support services in public education.



- 3.2 The Council is further mandated to provide appropriate resources and personnel and/or officers to discharge the above services.
- 3.3 Election, nomination and appointment of Shop Stewards (SS) in Education:
- 3.3.1 Eligibility for appointment as a SS.
- 3.3.2 In order to be appointed, as a SS a person must:
- (a) Be a post level one and a permanent educator at a school-based institution;
 - (b) Have been elected or nominated by the trade union of which that person is a member.

(NOTE: Heads of Departments and Deputy Principals, who were SSs in 2006 and extended or nominated in 2007, may continue as SSs, until replaced.)

3.3.3 Allocation and Distribution of SS

- (a) The maximum number of SSs that may be appointed in terms of this agreement is 120.
- (b) The distribution of the SSs from the 1st August 2007 shall be as reflected in Annexure A.
- (c) The determination by the General Secretary of the distribution of the SSs shall take into cognisance the size of the province and the vote weights of the admitted trade unions in that province.
- (d) The determination, in Annexure A, is based on the vote weights calculated as 31st December 2006; and this takes effect from 1st July 2007.
- (e) The determination for the succeeding years shall be based on the vote weights calculated as at the 30th September of the preceding year, and shall be valid for the period 1 January to 31 December of each calendar year (no change in allocations during the course of the year).
- (f) The General Secretary must issue the determination by mid-November at the latest to all parties concerned.





3.3.4 Notice of the elected or nominated SS

- (a) In submitting an appointee as proposed SS, the trade union parties to the Council must ensure that SS nominated or elected by them are allocated to deal with the trade union's functions and interaction with the employer at national, provincial and or regional/district level.
- (b) Once the trade unions have nominated or elected their SS, the trade unions must notify the national and the respective provincial education departments and the General Secretary, in writing, of these names and details of the educator, on the prescribed form.
- (c) In its notification the trade union must specify all the details required, for the notification to be valid.

3.3.5 Appointment of the SS

- (a) The persons nominated or elected to the position of SS will be duly appointed once the national and the respective provincial departments of education and the General Secretary have received the notifications referred to in paragraph 3.3.4. Their appointment will be by way of a secondment.
- (b) The provincial education departments undertake to inform all educators by means of a circular distributed to all the education institutions of the contact details of the appointed SS's for that province.
- (c) The trade unions undertake to inform all their members of the contact details of their appointed SSs for the province concerned.

3.3.6 Period of appointment

- (a) The trade union must determine the period of appointment of the SS; but not less than one year at a time.
- (b) The SS will be seconded from the date of appointment and until the expiry of the period or when replaced, by the relevant trade union, whichever is applicable.

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4. BENEFITS

- 4.1 The relevant provincial department must pay the appointed SS his or her full remuneration package.
- 4.2 A SS who returns to his or her educator duties must be assigned the post he or she left prior to his appointment. If this is impossible and/or impractical or not in the best interest of education, then the provincial department must offer the SS a suitable alternative, commensurate with the post that the SS held prior to his or her appointment as a SS.
- 4.3 Notwithstanding the above, the educator concerned, during the period of appointment as a SS, shall retain all the rights and benefits attached to his or her educator post, including salary increases, promotion opportunities and benefits associated with his or her seniority as if he or she had not been seconded.

5. THE RIGHTS, DUTIES AND OBLIGATIONS OF A SS

- 5.1 The role and functions of a SS include, but are not limited to, the following:
- 5.1.1 to assist and communicate with educators about education, employment and trade union related matters;
- 5.1.2 to assist and represent his or her trade union's members in disciplinary hearings, in processing grievances and in appeal procedures in terms of the Employment of Educators' Act, 1998;
- 5.1.3 to assist and represent his or her trade union's members in dispute resolution procedures declared in terms of the Council's dispute resolution procedures;
- 5.1.4 to represent his or her trade union and participate in collective bargaining processes, including consultations and negotiations with the employer and its representatives;
- 5.1.5 to assist his or her trade union in monitoring the employer's compliance with the provisions of any workplace-related laws and any collective agreement binding on the employer; and
- 5.1.6 to report any alleged contravention of a workplace-related provision of any law and any collective agreement binding on the employer to the employee, his or her trade union or any responsible authority or agency.

- 5.2 The SS, in performing his or her functions, must endeavour:
- 5.2.1 to establish and maintain good relations between his or her trade union and its members, and the employer;
 - 5.2.2 to follow all applicable procedures regulating the employer-employee relationship and advise his or her trade union's members to follow these procedures; and
 - 5.2.3 to put all his/her time at the disposal of employer/employee interactions.
- 5.3 The SS must represent the interests of the union and its members in accordance with the instructions and mandate of the trade union that elected or nominated him or her.
- 5.4 The SS must report to his or her trade union regarding his or her work, any matter associated with the carrying out of his or her duties and the SS is accountable to his or her trade union with respect to his or her performance as a SS. The trade union shall provide the General Secretary of the Council with a report of the performance of the SS by the 7th of April of each year.
- 5.5 A SS may not interfere with any lawful and legitimate instruction given by the employer or his or her representative to an employee. A SS may not unlawfully interfere with the performance of any employee's duties, failing which; the employer will deal with the SS according to the Labour Relations Act, 1996 (as amended).
- 5.6 The SS may provide advice to his or her trade union's members. The SS may encourage or direct any of the SS's trade union's members to comply with any lawful decision of his or her trade union.
- 5.7 The SS may exercise all the trade unions' organisational rights and obligations as set out in various statutes of parliament and collective agreements of the Council.
- 5.8 Right of access
- 5.8.1 The SS may meet with educators on the premises of the educational institution or departmental office of the employer; provided that the SS has obtained prior permission from the head of the relevant educational institution or, in the case of a departmental office, the appropriate representative of the employer. Office hours and teaching time does not include tea and lunch breaks.
 - 5.8.2 The SS may hold meetings with educators provided that:

- (a) in the case of educational institutions, the meeting takes place outside the formal teaching or learning day and does not interfere with the functioning of the educational institution; and
- (b) in the case of an office of the employer, the meeting takes place outside office hours and does not interfere with the functioning of the respective office.

5.8.3 The SS may only hold meetings with individual educators during office hours or teaching time under the conditions stipulated in the PAM and provided that the SS has the prior approval of the relevant heads of the educational institutions or, in the case of departmental offices, the appropriate representatives of the employer. An SS must, as far as possible, try to meet with an educator outside of actual teaching or learning time.

5.9 Disclosure of information

A SS is entitled to full disclosure of all relevant information in accordance with and subject to the qualifications provided in section 16 of the Act and the Promotion of Access to Information Act, 2001.

5.10 Victimisation and Prejudice

The employer undertakes not to victimise or prejudice an educator by virtue of:

- 5.10.1 his or her election, nomination or appointment as a SS;
- 5.10.2 his or her possible election, nomination or appointment as a SS; and
- 5.10.3 the performance by the SS of his or her duties.

6. **WITHDRAWAL OR TERMINATION OF THE APPOINTMENT OF A SS**

- 6.1 A SS's appointment terminates at the end of his or her period of appointment, if applicable.
- 6.2 A SS's appointment shall terminate if:
 - 6.2.1 the SS is transferred to another provincial education department;

- 6.2.2 the SS ceases to be a member of the trade union that nominated and elected him or her;
 - 6.2.3 the SS ceases to be an educator;
 - 6.2.4 the SS resigns in writing as an SS; and
 - 6.2.5 the SS's appointment is terminated in terms of paragraph 6(3) of this agreement.
- 6.3 A SS may be withdrawn if:
- 6.3.1 the SS accepts a promotion to a higher post level at an institution or into a departmental office based post;
 - 6.3.2 if the trade union, which appointed him or her, decides so.
- 6.4 Withdrawal of a SS for misconduct
- 6.4.1 The employer may refer the matter in writing to the SS's trade union, if the employer is not satisfied with the manner in which a SS is conducting him or herself. In the referral the employer must specify the conduct complained of. A copy of the referral must be sent to the SS.
 - 6.4.2 The employer may refer the matter to the General Secretary for resolution in terms of the Council's dispute resolution procedures if the matter is not resolved, between the employer and the relevant trade union, within 14 days from the date on which the referral referred to in paragraph 6.4.1 reaches the trade union.
 - 6.4.3 The employer may refer the matter to arbitration if the dispute is not settled at conciliation. At arbitration the employer may seek an order withdrawing the SS.
 - 6.4.4 The arbitrator, when deciding whether to grant an order withdrawing the SS, must consider amongst others, the following:
 - (a) the seriousness of the misconduct complained of;
 - (b) the steps taken to correct the conduct complained of;
 - (c) the inherent nature of the conflict between a trade union and the employer;

- (d) the SS's and the trade union's freedom of association rights as set out in the ACT; and
- (e) the impact that any order terminating the appointment of the SS will have upon the employer, the trade union, the SS and labour relations generally.

6.4.5 Notwithstanding the above, the employer may, where necessary and applicable, follow the disciplinary procedure outlined in the Employment of Educators Act of 1998 as amended.

- 6.5 In the event of a vacancy arising from the withdrawal of a SS, the trade union concerned may appoint another member as a replacement for the duration of the outstanding period, if applicable.
- 6.6 In the event that the relevant provincial department has to appoint another substitute in the place of the new SS and pay the salary for two substitutes, the relevant trade union shall bear the cost of the additional substitute, which is payable to the relevant employing department.

7. THE TRADE UNION'S OBLIGATIONS

- 7.1 The trade unions undertake not to use other trade union representatives, who are not SSs, in activities that take place during the period when these trade union representatives are supposed to be attending to their teaching duties; except in circumstances prescribed in the PAM.
- 7.2 The undertaking in paragraph 7.1 does not:
 - 7.2.1 prevent full-time office-bearers and officials of trade unions from attending to these activities; and
 - 7.2.2 affect the right of other union officials/representatives to perform their trade union functions and duties.
- 7.3 The trade union must try to ensure that a SS is available to attend to the functions set out in paragraph 5.1.
- 7.4 The SS's trade union must pay for all expenses and meet all the other needs associated with the performance of the SS's activities, excluding the SS's remuneration.
- 7.5 The SS must be based at the offices of their trade union in the province to which they are allocated.



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8. PROVISIONS OF THE PERSONNEL ADMINISTRATION MEASURES (PAM)

8.1 The provisions of sub-clause 3.1(a)-(c) of chapter G of PAM are further clarified: -

8.1.1 These functions will be performed primarily by SS appointed in terms of this agreement; and

8.1.2 Subject to this provision, unions may utilise other identified union representative/s for agreed upon interaction with the employer at the level of the circuit/district, regional or provincial after negotiating with the identified employer representative/s designated by the Head of Department.

9. FUNDING

9.1 The Education Labour Relations Council shall fund the provisioning of the SSs as follows:

(a) The amount budgeted for the SSs shall be divided by the total number of SSs (120) to determine the cost of one SS per annum.

(b) The provincial department would receive payment, in arrears, for SSs as calculated above, on a 6 monthly basis during November and May of each year.

10. REPORTING

10.1 The General Secretary shall develop a pro forma guideline to report on the functioning and performance of the SSs as per clause 5 above.

10.2 The trade unions, (either at a national or provincial level) would provide such report to the General Secretary on a quarterly basis (7th July, 7th October, 7th January and 7th April).

10.3 The General Secretary must maintain the privacy and confidentiality of details of grievance and dispute hearings; except for statistical purposes.

10.4 The General Secretary shall submit a quarterly report, in the accounting officer's report, to the Council on the effective utilisation and contributions of the SSs.




11. DATE OF IMPLEMENTATION

This agreement shall come into effect on the date signed.

12. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement the Council's dispute resolution procedures will apply.

13. DEFINITIONS

- 13.1 **"Council"** means the Education Labour Relations Council;
- 13.2 **"educator"** has the same meaning as in the Employment of Educators Act, 1998;
- 13.3 **"employer"** has the same meaning as in the Employment of Educators Act, 1998;
- 13.4 **"SS"** means a shop steward officer appointed in terms of this agreement;
- 13.5 **"General Secretary"** means the General Secretary of the Education Labour Relations Council.
- 13.6 **"institutions"** means all educational institutions including public schools, departmental offices and adult basic education centres that are under the control of the provincial departments of education or the Department of education, as defined in the Employment of Educators Act, 1998;
- 13.7 **"ACT"** means the Labour Relations Act No 66 of 1995, as amended;
- 13.8 **"PAM"** means the Personnel Administrative Measures;
- 13.9 **"provincial department"** has the same meaning as employer.
- 13.10 **"union representative"** means a member of a union either elected or nominated by the union concerned, excluding employees of the union.




Thus done and signed at **Centurion** on the **31st** day of **July** 2007

ON BEHALF OF THE STATE AS THE EMPLOYER

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

ON BEHALF OF THE EMPLOYEE PARTIES

| TRADE UNION | NAME | SIGNATURE |
|-------------|------------------|-------------------|
| CTU "SADTU" | D. J. PASQUALLIE | <i>Pasquallie</i> |
| CTU "SAOU" | E H DAVIES | <i>E H Davies</i> |

ANNEXURE A

SS DISTRIBUTION – CURRENT OR EXPIRED

| | KZN | EC | LIM | GAU | NW | MPL | WC | FS | NC | TOTAL |
|-----------------------|-------|-------|-------|-------|-------|-------|-------|-------|------|--------|
| Tot. No. of educators | 73979 | 69455 | 51152 | 40144 | 30503 | 25524 | 24768 | 24083 | 6317 | 346061 |
| Percentage | 15.83 | 14.16 | 12.5 | 11.6 | 10.8 | 10 | 9.16 | 8.3 | 7.5 | |
| No. of SS | 18 | 17 | 15 | 14 | 13 | 12 | 12 | 10 | 9 | 120 |
| CTU "SADTU" | 8 | 12 | 10 | 7 | 9 | 9 | 8 | 7 | 7 | 77 |
| CTU "SAOU" | 10 | 5 | 5 | 7 | 4 | 3 | 4 | 3 | 2 | 43 |

1ST AUGUST 2007 TO 31 DECEMBER 2007

| | KZN | EC | LIM | GAU | NW | MPL | WC | FS | NC | TOTAL |
|-----------------------|-------|-------|-------|-------|-------|-------|-------|-------|------|--------|
| Tot. No. of educators | 77135 | 65978 | 52159 | 41332 | 29543 | 30988 | 24132 | 24125 | 6465 | 351857 |
| Percentage | 15.83 | 14.16 | 12.5 | 11.6 | 10.8 | 10 | 9.16 | 8.3 | 7.5 | |
| No. of SS | 18 | 17 | 15 | 14 | 13 | 12 | 12 | 10 | 9 | 120 |
| CTU "SADTU" | 10 | 13 | 11 | 7 | 9 | 9 | 8 | 6 | 6 | 79 |
| CTU "SAOU" | 8 | 4 | 4 | 7 | 4 | 3 | 4 | 4 | 3 | 41 |