 AGREEMENT ON AN EXPEDITED PROCESS 
 TO ERADICATE THE BACKLOG OF 
 DISPLACED EDUCATORS 

18 November 2011 

KwaZulu-Natal Chamber
AGREEMENT ON AN EXPEDITED PROCESS TO ERADICATE THE BACKLOG OF DISPLACED EDUCATORS

1. PURPOSE

The purpose of this agreement is to develop a process to fast track the absorption and effective utilization of all educators who allege to have been displaced from their work-place as a result of violence and 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;

c) All parties that are members of the KZN Provincial Chamber of the Education Labour Relations Council.

3. LEGISLATIVE FRAMEWORK

a) The Employment of Educators Act No 76 of 1998 as amended;

b) The South African Schools Act No 84 of 1996 as amended;

c) The Labour Relations Act No 66 of 1995 as amended;

d) The Public Finance Management Act 1 of 1999 as amended

4. PARTIES TO THE EDUCATION LABOUR RELATIONS COUNCIL (ELRC)

NOTE:

a) The KwaZulu-Natal Education Summit Resolutions of 2011 in general but specifically relating to:

i) Building the quality of education towards improving learner performance;

ii) The Quality Teaching and Learning Campaign;

iii) The proper and appropriate utilization of educators who have been displaced from their schools.

b) Resolution 2 of 2008 relating to the Procedure for Dealing with Institution Based Educators who have been displaced as a result of work related violence or intimidation;
c) The urgency to obviate fruitless expenditure by effectively utilizing the services of educators who are not at their workstations;

d) The existing transfer policy of the Department

e) The statutory powers and responsibilities of the School Governing Bodies; and

f) That the status of a "displaced educator" has the same status in law as a "surplus educator"; and

g) Security of tenure of educators

5. **PARTIES TO THE KZN ELRC CHAMBER AGREE:**

a) That an expedited process be undertaken to fast track the suitable placement/absorption of all educators who allege to have been displaced from their work-place as a result of violence and intimidation.

b) The ELRC will appoint facilitators to undertake the process;

c) The displaced educator shall have the right to be represented by his or her trade union and the employer shall also have the right to representation.

d) The facilitator's determination will be final and binding on all parties.

e) Resolution 2 of 2008 is suspended from the date that this agreement is signed for a period of six months or for such extended period as may be determined by the General Secretary of the ELRC on the recommendation of the facilitators;

f) All educators who are currently displaced in terms of Resolution 2 of 2008 but whose cases have not yet been finalized, shall be deemed to be included in this process.

g) All new applications for displacement will be dealt with in terms of this process.

h) The existing transfer policy insofar as it relates to promotion post holders will, for the purpose of this exercise, be relaxed to allow temporary transfers of displaced promotion post holders to equal grade appropriate posts.

i) The Department of Education will ensure that School Governing Bodies are given the opportunity to permanently absorb these educators.
j) The process will be undertaken as follows:

i) All applicants contemplated in points e and f above, shall complete the prescribed form DE 1 (Annexure A)

ii) The ELRC facilitator will engage with the affected educator to determine the reasons for the displacement and to assist the educator to return to his/her workstation.

iii) The facilitator shall engage with the School Governing Bodies, Ward Managers, school principals or any other stakeholder that may assist the process.

iv) At the end of the facilitation, the facilitator will make a binding determination in writing as to whether the educator must return to the original school or whether the educator must be placed elsewhere by way of a temporary transfer.

v) If the determination is that the educator must be placed elsewhere, the Department shall provide the facilitator with a list of vacancies to which these educators could be temporarily transferred, pending finalization as contemplated in 5(h) above.

vi) Such a list shall be made up of vacancies within the wards and circuits or Districts where the educator was originally placed/or resides and shall include full details that would establish the needs of the specific vacancy.

vii) Having matched the educator's profile to the vacant posts, the facilitator shall, in consultation with the employer representative and the educator/educator's trade union representative, identify a suitable post to which the educator shall be temporarily transferred pending finalization as contemplated in 5(h) above.

viii) Once the determination is made, the facilitator shall direct the Department to issue a letter of temporary transfer to the affected educator. The determination made by the facilitator is final and binding.

6. Logistical and Administrative Arrangements

a) The Provincial Secretary of the KZN Chamber of the ELRC shall serve as co-ordinator of the process.

b) The Department of Education will provide the facilitators with statistical data necessary to undertake the process.

c) The Department shall ensure that the affected educators and relevant stakeholders are present at the facilitation process.
d) The ELRC in conjunction with the Department, shall arrange the venues for the facilitation process.

e) The Department shall provide administrative personnel to assist with the necessary administrative and logistical arrangements.

THUS DONE AND SIGNED AT THE KWAZULU-NATAL PROVINCIAL CHAMBER OF THE ELRC ON THE

18th DAY OF NOVEMBER 2011

BY:

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<tr>
<th>DEPARTMENT</th>
<th>NAME</th>
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<tr>
<td>KZN-DEPARTMENT OF EDUCATION</td>
<td>NKOSINATHI NGCIBA</td>
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ON BEHALF OF THE STATE AS EMPLOYER,

AND

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<tr>
<td>CTU 'ATU'</td>
<td>ANTHONY PIERCE</td>
<td></td>
</tr>
<tr>
<td>CTU 'SADTU'</td>
<td>CALUZA NOMARAHHAY</td>
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READ THIS FIRST

WHAT IS THE PURPOSE OF THIS FORM?
This form enables an employee who alleges displacement due to violence or intimidation, and who is covered by the scope of the ELRC constitution, to request facilitation for appropriate placement in terms of the expedited process agreed to by the parties to the KZN Provincial Chamber of the ELRC.

WHO ISSUES THIS FORM?
This form will be issued by a representative of the employer in the District Office under which the alleged displacement is claimed.

WHO FILLS IN THIS FORM?
Part A of this form must be filled by the educator who alleges displacement.

Part B must be filled by the representative of the employer who issues this form in respect of educator who applied for relief in terms of Resolution 2 of 2008 but whose case has not been finalised.

WHERE DOES THIS FORM GO?
The employee, after completing part A, must hand the form back to the representative of the employer at the relevant District Office.

The representative of the employer, after completing part B must hand the form to the ELRC facilitator when facilitation commences at the relevant District.
PART A
DETAILS OF THE EDUCATOR CLAIMING DISPLACEMENT

PERSONAL DETAILS
Surname: ____________________________
First Names: _________________________
Identity number: ______________________
PERSAL number: _____________________

Residential Address: ________________________________
_________________________________________________
_________________________________________________
_________________________________________________
Postal Code: __________________________ Post Code: __________________________
Tel: _____________________ Cell: ______________________
Fax: _____________________ Email: ____________________

WORK DETAILS
Rank ________________________________
Post Level: (Salary level in case of Principal) __________________

Subjects Taught:
__________________________________________
__________________________________________
__________________________________________

School Displaced from: _______________________
Ward: _____________________ Circuit: ___________
District: ________________________________
School Currently In: 

Ward: 

District: 

Current level of functioning, e.g., PL1 Educator/ HOD/ DP/ Principal): 

If you belong to a trade union, indicate which one? 

Reason for Displacement (use ONE additional page if required) 

Date allegation reported to SAPS (where applicable): 

SAPS Case No/ Proof of Report: 

Signature 

Date 

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PART B

REPORT (To be completed by the Employer in respect of the educator who applied for relief in terms of Resolution 2 of 2008 but whose case has not been finalised)

1. Date on which application for displacement was received: ____________________________

2. Date of investigation (if any): ____________________________

3. Name and designation of investigating officer:

   ____________________________________________________________________________

4. Outcome of investigation and recommendation (where applicable)

   ____________________________________________________________________________

   ____________________________________________________________________________

   ____________________________________________________________________________

   ____________________________________________________________________________

   ____________________________________________________________________________

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5. Any other pertinent information regarding the application

NAME: __________________________
District Deputy Manager: ER & HRD

SIGNATURE

Date ____________________________

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