MPUMALANGA CHAMBER

COLLECTIVE AGREEMENT

NUMBER 1 OF 2014

TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS AND PERMANENT APPOINTMENT OF TEMPORARY TEACHERS IN VACANT SUBSTANTIVE POSTS

The GS hereby certifies that this Collective Agreement was ratified by Council on this date

2014 -04- 04

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COLLECTIVE AGREEMENT NO 1 OF 2013
EDUCATION LABOUR RELATIONS COUNCIL
Mpumalanga Chamber

COLLECTIVE AGREEMENT NO 1 OF 2014

TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS AND PERMANENT APPOINTMENT OF TEMPORARY TEACHERS IN VACANT SUBSTANTIVE POSTS

1. OBJECTIVES
   a) To provide procedures for the equitable distribution of educators posts and the transfer of educators affected by operational requirements.
   b) To provide a procedure for the permanent appointment of temporary teachers in vacant substantive posts.

2. DEFINITIONS AND INTERPRETATION
   a) “CTT” means the Circuit Task Team, established in terms of this collective agreement
   b) “Institution-based educator” means an educator employed in terms of the Employment of Educators Act, 1998 who works in a Public School.
   c) “DTT” means the District Task Team, established in terms of this Collective agreement
   d) “Employer” means the Head of Department or an official to whom he has delegated his authority
   e) “PTT” means the Provincial Task Team formed by the parties to the Chamber of the ELRC.
   f) Whenever a personal pronoun is used herein, it is understood that such usage shall include both singular and plural, masculine, feminine and neuter and refer in appropriate cases to juristic persons as well as natural persons

3. SCOPE
   This agreement applies to and binds:
   a) The employer,
   b) All employees employed by the Mpumalanga Department of Education as defined in the Employment of Educators Act, 1998 whether such employees are members of Trade Union parties to this agreement or not.
   c) The employer and the employees who fall within the registered scope of the ELRC.

4. THE PARTIES TO THE PROVINCIAL CHAMBER NOTE AS FOLLOWS:

4.1 That Section 6B of the Employment of Educators Act, 1998 allows the Head of Department after consultation with the Governing Body of a Public School to convert the temporary appointment of an educator appointed to a post on
the educator establishment of the Public School into a permanent appointment in that post without the recommendation of the Governing Body.

4.2 That subject to the Regulations G.N. 1451 of 2002 published in Government Gazette No. 24077 dated 15 November 2002 on educator post provisioning for educational institutions, the Head of Department is required to notify all educational institutions of their educator post provisioning which may increase /or decrease the number of posts at a particular institution.

4.3 That the employer shall annually notify all public schools of their post establishments for the following academic year by the end of September.

4.4 That the post establishments referred to in 4.3 above may have an impact on the job security of educators.

4.5 That ELRC Resolution 2 of 2003 governs the identification and transfer of educators in addition to the staff establishment of public schools

5. THE PARTIES TO THE PROVINCIAL CHAMBER AGREE AS FOLLOWS:

5.1 Identification and Transfer of Educators in Addition

In addition to the procedures agreed to in ELRC Resolution 2 of 2003, the following principles and procedures shall apply in Mpumalanga province in respect of the identification and transfer of educators in addition:

5.1.1 That all role-players must ensure that the timeframes as indicated in Departmental Management Plan(s) are strictly adhered to and that the required documentation are fully completed and timeously submitted to the delegated official(s) in question.

5.1.2 That the voluntary transfer of educators in addition is encouraged and will be given priority.

5.1.3 All information used at the meeting provided for in clause d of Annexure A of Resolution 2 of 2003 shall be made available in writing to the observers and to the trade unions on request.

5.2 Composition and Role of District Task Teams pertaining to educators in addition

5.2.1 A District Task Team (DTT) must be established for every district.

5.2.2 The DTT shall consist of:

5.2.2.1 Relevant Labour Relations officials, relevant HR officials and co-opted Circuit Managers;

5.2.2.2 Proportional representatives collectively nominated from the employee parties, unless otherwise agreed to by parties at the district level.

5.2.2.3 The Head of Labour Relations in the District shall be the chairperson of the DTT.

5.2.3 The chairperson must chair all DTT meetings and also act as a facilitator of the transfer process within the district.
5.2.4 The chairperson must function in terms of this agreement and provide written reports to the DTT and PTT.

5.2.5 The District concerned must provide secretarial services to the DTT and its records must be lodged with the PTT and the Provincial Chamber.

5.2.6 The DTT must meet at least once a month but may meet more often as may be necessary.

5.2.7 The DTT must perform the following functions:

5.2.7.1 Monitor the co-ordination and implementation of the identification and transfer of educators in addition in the district;

5.2.7.2 Oversee transfers and make recommendations in this regard to the PTT and the Provincial Chamber. The word "oversee" in this context also means to ensure that the process has been finalised correctly within the framework of this collective agreement.

5.2.7.3 Monitor the department's establishment and updating of the list of educators in addition;

5.2.7.4 Report any irregularities in respect of the process of matching and placement to the PTT and Provincial Chamber;

5.2.7.5 Receive and discuss reports from the District Management and Circuit Task Teams, and make recommendations where necessary;

5.2.7.6 Resolve grievances of educators who are in addition which could not be resolved by the Circuit Task Teams.

5.2.7.7 Other functions assigned to the DTT by the PTT or elsewhere in this agreement.

5.3 Composition and Role of Circuit Task Teams pertaining to educators in addition

5.3.1 A Circuit Task Team (CTT) must be established for each Circuit.

5.3.2 The CTT may consist of:

5.3.2.1 The Circuit Manager and co-opted principals, and co-opted Labour Relations officials if and when required.

5.3.2.2 Proportional representatives collectively nominated from the employee parties, unless otherwise agreed to by parties at the circuit level.

5.3.3 The Circuit Manager shall be the Chairperson of the CTT.

5.3.4 The chairperson must chair all CTT meetings and also act as a facilitator of the transfer process within the circuit.

5.3.5 The chairperson must function in terms of this agreement and provide written reports to the CTT and DTT.

5.3.6 The Circuit Office concerned must provide secretarial services to the CTT and its records must be lodged with the DTT.

5.3.7 The CTT must meet at least once a month but may meet more often as may be necessary.

5.3.8 The CTT must perform the following functions:

5.3.8.1 Facilitate the identification of educators in addition in the circuit;
5.3.8.2 Facilitate the process of matching and placement of educators identified in addition in the circuit, in appropriate vacant posts both inside and outside the circuit;

5.3.8.3 Resolve grievances of educators who are in addition, and refer those grievances which cannot be resolved to the District Task Team;

5.3.8.4 Maintain updated records of the identification of educators in addition as well as their matching and placement; and submit reports as required.

5.4 Permanent Appointment of Temporary Teachers in Public Schools

5.4.1 That temporary educators on post level 1 who meet the minimum requirements for permanent appointment prescribed by law and have been teaching in a vacant substantive post for a continuous period of at least 12 months, will, subject to the following conditions, qualify to be considered for conversion from temporary employment status to permanent employment in that vacant substantive post:

5.4.1.1 The employer must in terms of section 6B of the Employment of Educators Act consider all temporary educators on post level 1, who meet the minimum requirements for permanent appointment prescribed by law and have been teaching in a vacant substantive post for a continuous period of at least 12 months, for conversion to permanent appointment.

5.4.1.2 Teacher posts that become vacant through attrition, retirement, resignation or promotions will in the 1st place be reserved for the placement of permanent teachers who are in addition due to operational requirements, and in the 2nd place for the placement of bursars. Where such placements are not applicable, the employer shall consult its database to identify temporary teachers whose contracts were terminated due to the placement of educators in addition and due to the placement of bursars and shall thereafter match their profiles against vacant substantive posts in the entire province and shall after consultation with the relevant governing bodies consider them for permanent appointment before considering other educators for permanent appointment.

5.4.1.3 The permanent appointment of a temporary educator shall be deemed to be completed when a temporary educator receives written confirmation of such permanent appointment from the employer.

5.4.2 That the minimum requirements prescribed by law for permanent appointment are determined and amended by the Minister for Basic Education. At the time of signature of this collective agreement the requirements for permanent appointment prescribed by law are as follows:

5.4.2.1.1 Professionally qualified with at least an REQV 13 qualification;

5.4.2.1.2 Registration with the South African Council for Educators;

5.4.2.1.3 South African citizenship or permanent South African residency.
5.4.3 That the process of identifying and translating temporary teachers to permanent shall be done in terms of their schools’ approved educator post establishments for the academic year as distributed by the employer.

5.4.4 That - to allow for the processes related to the transfer of educators in addition - the identifying and translating temporary teachers to permanent shall annually begin on 1 June based on the PERSAL data as on 31 May, and it shall annually be finalized within 3 months i.e. by 31 August.

5.4.5 Phase 1 of the Permanent Appointment of Temporary Teachers

5.4.5.1 That where the number of serving qualifying temporary teachers at a school is the same or less than the number of substantive vacant teacher posts available in terms of the approved post establishment, the employer shall consider the conversion of all educators who are eligible for conversion to permanency in terms of this collective agreement. The employer must consult the School Governing Body in terms of Section 6B of the Employment of Educators Act, 1998.

5.4.6 Phase 2 of the Permanent Appointment of Temporary Teachers where the number of Serving Temporary Teachers exceeds the number of Substantive Vacant Teachers Posts

5.4.6.1. The Department shall notify all schools which could not be included in Phase 1 in view of the fact that the number of serving qualifying temporary teachers exceeds the number of substantive vacant teacher posts.

5.4.6.2 The principal shall –

a. call a staff meeting and the union representative at the site to inform them of this Collective Agreement as well as of the intent to recommend a qualifying teacher(s) for permanent appointment;

b. at this meeting, the principal and the staff must in the presence of the union representative discuss the curricular needs of the school and the number of posts available for such;

c. ensure that the selection of qualifying candidates is - as a first step - based on the curricular needs of the institution as the guiding principle.

d. only if there are more qualifying temporary teachers who meet the curricular needs of the institution than the number of substantive vacant posts, must the principal apply the principle of “last in first out” (LIFO) as the last resort to select the qualifying teacher(s). LIFO must be calculated from the total number of months or years of uninterrupted service worked by a temporary teacher in public schools;

e. The employer must consult the School Governing Body in terms of Section 6B of the Employment of Educators Act, 1998.

5.4.6.3 The principal of the school must within 5 working days of receipt of the notification mentioned in clause 5.4.6.1, and after the meetings mentioned in clause 5.4.6.2, make and submit a recommendation in the format required
indicating who of the qualifying temporary teachers(s) should be appointed permanently in the substantive vacant post(s) available in terms of the approved post establishment.

6
RATIFICATION AND IMPLEMENTATION OF THIS AGREEMENT

6.1 This agreement shall come into effect on the day it is ratified by the Education Labour Relations Council.

7.
DISPUTE RESOLUTION PROCEDURE

7.1 Any dispute about the interpretation or application of this agreement shall be dealt with according to the dispute resolution procedure of the ELRC.

This done and signed at NELSPRUIT on this 24th day of FEBRUARY 2014.

On behalf of the Provincial Employer

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On behalf of Employee Parties

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