PROVINCIAL EDUCATION LABOUR RELATIONS COUNCIL
NORTH WEST CHAMBER

COLLECTIVE AGREEMENT NO: 1 OF 2010
14 JUNE 2010

PERMANENT APPOINTMENT OF TEMPORARY EDUCATORS
1. PURPOSE OF THE AGREEMENT

1.1. To provide for a due process and regularize the permanent appointment of qualified educators (REQV 13 and higher) appointed on a temporary, fixed term contract in substantive posts and who, served the Department for a continuous period of 24 months or more.

2. SCOPE OF THE 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 76 of 1998 (as amended) whether such employees are members of trade union parties to this agreement or not.

3. PARTIES TO THE CHAMBER NOTE THE FOLLOWING:-

3.1. The appointment of all educators in Public Schools is regulated in terms of Chapter B paragraph 2 of PAM and Chapter 3 of the Employment of Educators Act, No 76 of 1998 (as amended).

3.2. Chapter 3, section 21 (2) of the SACE Act, No 31 of 2000 which determines that no one may be employed as an educator if the person is not in possession of a SACE registration.

3.3. Section 6A and 6B of the Employment of Educators Act, No 76 of 1998 (as amended) are not utilized effectively.

3.4. Temporary educators are a vulnerable group whose services are terminated after a fixed term contract, some of whom served the Department for a continuous contracted period exceeding 24 months.

3.5. The services rendered by temporary educators are integral to the effective delivery of the required curriculum outcomes of learning institutions.

3.6. The disruptive effect the short-term contracts have on learning institutions.

3.7. The need to promote job security and labour stability.

3.8. ELRC Resolution 2 of 2001 which provides procedures for the absorption of educators declared additional to the post establishment.
3.9. ELRC Resolution 4 of 2001 which provided measures for the permanent appointment of under-qualified (REQV 11 and 12) temporary educators.

3.10. PELRC Resolution 1 of 2003 which provided measures for the permanent employment of un-qualified educators (REQV 10) as Administrative Assistants.

3.11. PELRC Resolution 1 of 2006 which provided measures for the permanent appointment of temporary educators who served for two or more years in vacant substantive posts.

3.12. PSCBC Resolution 1 of 2007 which makes provision for:

3.12.1. the payment of 37% in lieu of benefits to a contract worker employed for less than six months; and

3.12.2. EITHER the payment of 37% in lieu of benefits OR benefits to a contract worker employed for six months or longer.

3.13. The salaries and benefits of employees comprise of two categories namely guaranteed and potential benefits:

3.13.1. Guaranteed benefits include a basic salary, service bonus (13th cheque) and the employers contribution to the GEPF; and

3.13.2. Potential benefits include a housing allowance and the maximum employers' contribution to an approved/registered medical scheme.

3.14. Employees who received any of the benefits above do not qualify for the payment of the 37% in lieu of benefits and/or a portion thereof.

3.15. Department circular 59 of 2008 which provides measures for the permanent appointment of temporary educators who are offering Mathematics and Physical Science.

3.16. Departmental circular 6 and 85 of 2009 which accords temporary educators third preference when filling vacancies in a situation where there is no applicant from either the excess list and/or ECD sector.

3.17. There are different categories of temporarily employed educators in the system. The following list indicates the main groupings:

3.17.1. Unguarded educators with REQV 10 (Grade 12 only) who are employed on a temporary, full time basis in substantive posts and should have been redeployed and translated to permanent Administrative Assistants in accordance with PELRC Resolution 1 of 2003. According to current legislation no such persons may be appointed in education in future;
3.17.2. **Under qualified educators** with REQV 11 and 12 (Grade 12 or lower with one or a two years' teaching qualification) **who are employed on a temporary, full time basis in substantive posts** and who did not have at least 10 years service on 31 December 2000, to be translated to permanent in accordance with ELRC Resolution 4 of 2001;

3.17.3. Educators **who are employed on a temporary, fixed term contract basis as substitutes in additional posts**. These educators are employed to perform the work of permanent educators who are temporarily absent for a period longer than one month (one post carries two educators); and

3.17.4. **Qualified educators (REQV 13 and higher) who are employed on a temporary, fixed term contract in vacant substantive posts** to ensure that there is a teacher in the class whilst the provisioning of educators are being dealt with via various processes such as the matching, placement and redeployment of educators in excess, transfers, advertisements etc.

### 4. PARTIES TO THE CHAMBER THEREFORE AGREE AS FOLLOWS:-

4.1. The Department will finalize the Educator Post Provisioning Consultations by 01 August and provide schools with their **draft post establishment for the next academic year by 31 August of each year**.

4.2. Principals must verify and confirm the correctness of the learner information and post establishment and submit it to the Department by 15 September. **The final post establishment will be provided to schools by 30 September of each year**.

4.3. Based on the final post establishment, Principals must identify:-

4.3.1. Educators in addition/excess to their post establishment;

4.3.2. Educators who will exit the system through natural attrition before or at the end of the current academic year; and

4.3.3. Vacant substantive posts for the next academic year.

4.4. If and when there is a **significant change in the enrolment of learners** according to the SNAP survey at the beginning of the new academic year, such information must be provided to the Department to effect the necessary changes to the post establishment. The amended post establishments must be finalized and provided to schools before or on **31 January of each year**.

4.5. Educators in addition to the establishment and / or temporary employed educators shall be appointed on vacant substantive posts identified in accordance with paragraph 4.3.3. This will be done to allow for the unfolding and finalization of the re/deployment process by 31 March of each year.
4.6. **As an interim measure** fully qualified educators may be appointed in the vacant substantive posts in a temporary capacity **on a fixed term contract for the period 1 January to 31 December and be paid basic salary plus benefits (both guaranteed and potential benefits depending on their personal circumstances),** subject thereto that if the post is filled via the redeployment process with an educator in excess, **one month's notice of termination** must be given to the temporary educator in advance.

4.7. The Department will **identify all qualified educators (REQV 13 and higher) appointed in a temporary capacity, in substantive posts by 30 April of each year** and determine the period for which the educator is employed.

4.8. If the period of employment in the substantive post is 24 months or more **continuous service** from any date of entry, then section 6B of the Employment of Educators Act, No 76 of 1998, as amended will be implemented.

4.9. The aforementioned implies that the nature of employment of temporary qualified (REQV 13 and higher) educators who served the Department continuously, without a break in service, for a period of 24 months or more, in a funded substantive post/s will be made permanent subject to paragraphs 4.7, 4.8, and 4.10.

4.10. The nature of appointment of temporary educators who meet the criteria as defined in paragraph 4.9 will be **converted to permanent** on PERSAL **with effect from 1 July of each year.**

4.11. All other vacancies will be advertised in a **vacancy list for filling 1 July and 1 January of each year.**

4.12. First time appointments will be dealt with in terms of Section 6A of the Employment of Educators Act as amended.

4.13. The process of filling posts identified in clause 4.5 above shall be implemented in the following sequence and educators shall receive the below mentioned preferences upon meeting all the requirements / criteria of the said vacant substantive post(s) in line with Chapter 3 of the PAM and Collective Agreement 5 of 1998.

4.13.1 Educators in addition to the establishment shall receive first preference;

4.13.2 Temporary qualified educators in vacant substantive posts, shall receive second preference;

4.13.3 Temporary qualified educators appointed as substitutes, in additional posts and who served the Department continuously, without a break in service for a period of 24 months or more, will be given **third preference in the filling of vacant funded substantive**
posts if and when advertised in the vacancy lists (Gazette) subject thereto that no educator in addition and/or no educator from ECD is available.

4.13.4 All other temporary qualified educators on the payroll of the department (as defined in clause 3.17) will be given fourth preference in the filling of vacant substantive posts if and when advertised.

4.14. Notwithstanding the above it is essential that the profiles of educators MUST match the requirements of the posts as advertised.

5. DATE OF IMPLEMENTATION

5.1 This agreement shall be effective from the date it is ratified by the ELRC, in accordance with clause 6.2.8 of the constitution of the ELRC.

6. DISPUTE RESOLUTION

6.1 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

“Continuous Service” means a period of service as contemplated in the PAM, Chapter J paragraph 22, i.e. where there is no break in service, including instances where annual fixed term contracts were used provided that the period of non service from one contract to the next was 120 days or less.

“Department” means the North West Department of Education.

“Council” means the Education Labour Relations Council.

“Employee” means an educator as defined in the Employment of Educators Act, No 76 of 1998.

“Employer” means an employer as defined in the Employment of Educators Act, No 76 of 1998.

“Temporary educator” means an educator appointed in a vacant funded substantive post for a predetermined period.

“Substitute educator” means an educator appointed in an additional post for a predetermined period, to substitute an educator who is absent for a period more than 30 days due to ill-health, maternity leave, suspension and/or secondment.

“Post establishment” means the number of approved posts of a school.
“Staff establishment” means the number of educators employed at a school.

“Post provisioning” means the number of posts distributed/allocated to a school in accordance with the post provisioning norms/model.

“SGB” means a governing body as contemplated in the South African Schools Act, No 84 of 1996.

Thus done and signed at Rustenburg on this 14th day of June 2010:

**ON BEHALF OF THE STATE AS EMPLOYER**

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**ON BEHALF OF THE EMPLOYEE PARTIES**

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