

Resolution

No 6

EDUCATION LABOUR RELATIONS COUNCIL

RESOLUTION NO: 6 OF 98

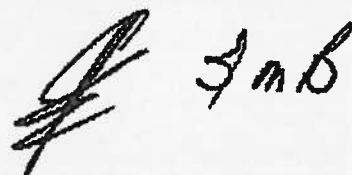
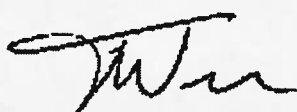
PROCEDURE FOR RATIONALISATION AND REDEPLOYMENT OF EDUCATORS IN THE PROVISIONING OF EDUCATOR POSTS

1. Parties to Council Note the following:

- 1.1 The obligations of the State as the employer in terms of sections 195 and 197 of the Constitution of the Republic of South Africa (Act 108 of 1996).
- 1.2 The three agreements signed between the Ministry of Education and the three trade union parties to Council.
- 1.3 The regulations for the determination of the educator post establishment of a provincial education department by the Member of the Executive Council for Education.
- 1.4 The regulations for the determination of educator post establishments of educational institutions by a Head of a provincial education department.
- 1.5 The need to reach equity in educator provisioning between educational institutions within a province and between provinces.
- 1.6 The budgetary processes with particular reference to education and the MTEF process.
- 1.7 The previous procedure for rationalisation and redeployment.
- 1.8 In the light of past practices, the need to "Protect" certain categories of educators, thereby introducing redress.
- 1.9 The skills audit to be undertaken by the PSCBC, which includes education as a sector.

2. The parties therefore agree as follows:

- 2.1 Parties to Council agree to the attached document (Annexure A) titled "Procedurè for rationalisation and redeployment of educators in the provisioning of educator posts".

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- 2.2 The attached procedure does not result in declaring educators as redundant and therefore to be retrenched .
- 2.3 To the establishment of a task team, to fully investigate and provide recommendations on the matter of "unqualified" and "under-qualified" educators.

The task team shall:

- 2.3.1 be represented by an equal number of employer and employee members,
- 2.3.2 commence with its work within 30 days from signing of this agreement, and
- 2.3.3 submit the final report to the ELRC within four months.

2.4 Voluntary redeployment:

2.4.1 A provincial education department may redeploy an educator from one institution to another in the province; Provided that:

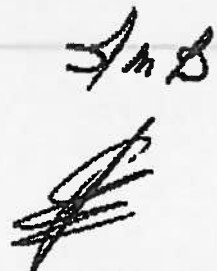
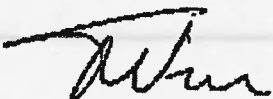
- a) there is agreement between all parties concerned, i.e the educator, the receiving and releasing institutions and the respective school governing bodies;
- b) the educator is transferred into a vacant substantive post:

2.4.2 An educator transferred through this process of redeployment will be part of the rationalisation procedure at the receiving institution.

2.5 Scope of Agreement

This agreement applies to and binds:

- 2.5.1 the employer; and
- 2.5.2 all the employees of the employer as defined in the Employment of Educators Act of 1998, whether such employees are members of a trade union party to this agreement or not.



2.6 Interpretation

That this agreement be interpreted as follows:

2.6.1 Any reference to one sex be deemed to include both sexes unless the context indicates otherwise.

2.6.2 That the primary objective of this agreement be the guiding principle.

2.6.3 In compliance with applicable legislation.

2.7 Date of Implementation

This agreement shall, in respect of parties and non-parties to the ELRC, come into effect on the date it is signed in Council.

2.8 Dispute Resolution

Any dispute about the interpretation or application of this agreement shall be resolved in terms of this agreement, paragraph 15 of Annexure A, and the constitution of the Council.

2.9 Definitions

2.9.1 "Council" means the Education Labour Relations Council.

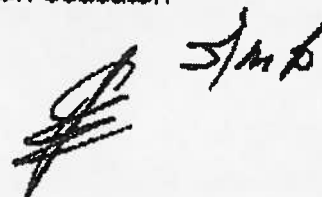
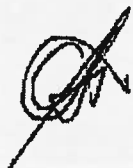
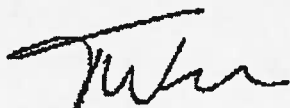
2.9.2 "Employee" means an educator as defined in the Employment of Educators Act of 1998.

2.9.3 "Employer" means the employer as defined in the Employment of Educators Act of 1998.

2.9.4 "Principal" means the head of the institution.

2.9.5 "Under-qualified educator" means a person who is holding a teaching post on an establishment and is in possession of a professional education qualification evaluated as less than REQV 13. This category includes teachers who received two years of professional training or less, with or without Grade 12.

2.9.6 "Unqualified educator" means a person who is holding a teaching post on an establishment and who has not received any formal professional training as an educator.



THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE
11th DAY OF NOVEMBER 1998.

ON BEHALF OF THE EMPLOYER

DEPARTMENT	NAME	SIGNATURE
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J. M. Danga

ON BEHALF OF THE EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
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<i>S.A.D.P.U.</i>	<i>T. W. Nkomo</i>	<i>[Signature]</i>
<i>S.A.O.U.</i>	<i>J. C. Koorne</i>	<i>[Signature]</i>
<i>A.P.T.O.P.</i>	<i>H. A. Lewis</i>	<i>[Signature]</i>

ANNEXURE A

PROCEDURE FOR RATIONALISATION AND REDEPLOYMENT OF EDUCATORS IN THE PROVISIONING OF EDUCATOR POSTS.

Definitions

1. In this procedure, unless the context indicates otherwise:

"the Act" means the Employment of Educators Act of 1998 (No. 76 of 1998);

A word or expression to which a meaning has been assigned in the Act, shall have the same meaning so assigned to it.

"Educator" means a person currently employed, in a provincial education department or the Department of Education within the meaning of educator as defined in the Act.

Objectives

2. These procedures provide for the rationalisation and redeployment of educators within educational institutions to achieve equity in educator staff provisioning in the said institutions in terms of approved policy on educator post provisioning.

Principles

- 3.1 Rationalisation and redeployment of educators in the provisioning of educator posts in educational institutions must take into account National Policy, that may exist, in respect of post provisioning norms, determined by the Minister in terms of the National Education Policy Act, 1996.
- 3.2 All educators who are affected by the rationalisation and redeployment process will be treated fairly.
- 3.3 All avenues should be explored to ensure the continued employment in education of educators who occupy posts which are classified as in excess in terms of these procedures.
- 3.4 The transfer of educators in posts declared in excess in the process of rationalisation is compulsory. Educators who occupy posts which are classified as in excess at an educational institution are not automatically redundant.

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3.5 The employer will be guided by:-

- a) affirmative action measures for designated groups, namely Blacks (which include Indians, Coloureds and Africans), women and disabled educators; and
- b) representivity.

3.6 For the purpose of these procedures, all educators should be treated in the same way, except for the following temporarily employed educators:

3.6.1 An educator employed temporarily in the place of another educator who is occupying the relevant post but is absent from his/her duties with approval;

3.6.1 An educator who, after a post became vacant during the process of rationalisation, has been employed in a temporary capacity until the post can be filled by means of the redeployment of an educator who is currently employed in a post which has been declared in excess.

3.7 The allocation of educator posts to institutions must take into account the regulations determined by the Minister, after consultations in the ELRC.

3.8 An educator appointed in a substantive post (an approved educator post on an approved staff establishment) prior to 01 July 1996 and who meet the requirements for appointment, must be appointed on a permanent basis.

3.9 An educator:-

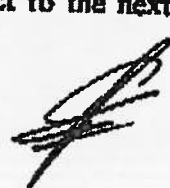
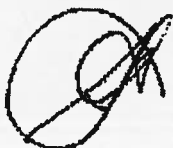
3.9.1 who does not meet the minimum requirements for appointment; and

3.9.2 who has been employed on a continuous basis by a provincial department of education or the Department of Education for longer than 10 years; and

3.9.3 who is teaching in a previously disadvantaged institution (ie. an institution that fell under the control of the ex-Department of Education and Training, a Self Governing Territory or a TBVC State),

shall be treated in the same way as a permanently employed educator for the purposes of rationalisation and redeployment.


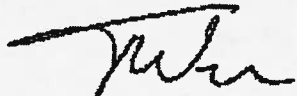
(Continuous basis means a period where there is no break in service, including instances where annual fixed term contracts were used, provided that the period of non service from one contract to the next was 120 days or less)

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- 3.10 An educator declared in excess in terms of previous processes and who currently finds himself/herself on a redeployment lists of a provincial education department, shall revert to being a full member of his/her current staff establishment. This educator will be treated in the same manner as all the other educators at his/her educational institution for the purposes of this procedure, once status has been reverted.
- 3.11 An educator seconded to another province in terms of a previously approved procedure relating to redeployment and who occupies a substantive post at the institution of secondment, shall be appointed to the post on a permanent basis; Provided that s/he meets the minimum requirements for appointment and s/he wishes to be appointed at that institution. S/he will be treated in the same manner as all the other educators at his/her institution for the purposes of this procedure, once permanently appointed.

Establishment of bodies to facilitate rationalisation and redeployment

- 4.1 A Provincial Task Team (PTT) is established for each provincial education department.
- 4.1.1 The PTT shall consist of representatives from the provincial education department and 5 representatives from the employee parties to the Council.
- 4.1.2 The number of representatives from each trade union shall be proportional to that trade union's vote weight in the provincial chamber, or unless otherwise agreed to; provided that a party to Council shall have at least one representative.
- 4.1.3 The ELRC shall appoint an independent chairperson, after consulting the provincial chamber, to chair all PTT meetings and also to act as facilitator of the rationalisation and redeployment processes within the province. He/she shall function within an approved mandate of Council.
- 4.1.4 The chairperson shall provide written reports to the PTT and the IPTT.
- 4.1.5 The provincial education department shall provide secretarial services to the PTT and the records of the PTT shall be lodged with the provincial education department and the ELRC.
- 4.1.6 The PTT shall meet at least every 2 weeks, but may meet more often, should this be necessary.

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4.1.7 It is the responsibility of the employer to implement and co-ordinate the rationalisation and redeployment process.

4.2 The PTT shall perform the following functions:

4.2.1 Monitoring the co-ordination and implementation of the rationalisation and redeployment process in a provincial education department.

4.2.2 Promoting redeployment and making recommendations in this regard to the Head of the provincial education department, the IPTT and the ELRC.

4.2.3 Monitoring the establishment and updating of the provincial redeployment list.

4.2.4 Resolving disputes between the parties that may arise and which relate to the general application of this agreement and the model for post provisioning, (ie. Implementation of the rationalisation and redeployment process).

4.2.5 Other functions are those:-

- a) assigned to the PTT by the IPTT;
- b) allocated to the PTT elsewhere in this agreement; and
- c) which are incidental to the PTT's functioning, provided the IPTT has agreed thereto.

4.3. An Inter-Provincial Task Team (IPTT) is established at national level which shall meet at least once every month. The IPTT shall consist of an equal number of employer and employee members, constituted as set out below:

4.3.1 An independent chairperson appointed and funded by the Council.

4.3.2 Representatives of the Department of Education appointed by the Director-General.

4.3.3 Representatives from provincial education departments.

4.3.4 Ten representatives from the trade union parties to the ELRC. The number of representatives from each trade union shall be proportional to that trade union's vote weight in the ELRC

4.3.5 Chairpersons of the PTTs.



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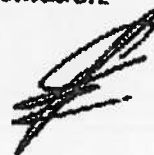
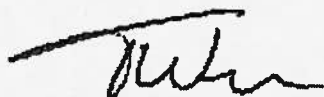
NOTE: The employer may increase its members, at its own cost and the trade unions may bring additional members, as observers, at the cost of the trade union concerned.

- 4.4 The ELRC shall provide secretarial services to the IPTT and the records of the IPTT shall be lodged with the Department of Education and the ELRC.
- 4.5 The IPTT shall perform the following functions:
- 4.5.1 Monitoring the co-ordination and implementation of the rationalisation and redeployment processes, nationally.
- 4.5.2 Promoting redeployment by submitting reports and making recommendations in this regard to the Heads of the provincial education departments, the Director-General of the Department of Education, the Heads of Education Departments Committee, PTTs and the ELRC.
- 4.5.3 Monitoring the establishment and updating of provincial redeployment lists.
- 4.5.4 Resolving disputes between the parties that may arise and which relate to the general interpretation and application of this agreement and the allocation of educator posts to institutions, (ie. Implementation of the rationalisation and redeployment process).
- 4.5.5 Other functions are those:
- a) allocated to the IPTT elsewhere in this agreement; and
 - b) which are incidental to the functioning of the IPTT.
- 4.6 The chairperson shall draw up and submit the reports as contemplated at paragraph 4.5.2. He/she shall also be responsible for submitting written reports to the IPTT prior to each meeting.

NB: The appointment of independent chairpersons to the PTTs and the IPTT may be on a full-time contract basis or on a part-time contract basis, depending on provincial factors and Council determination.

**RATIONALISATION OF AN EDUCATIONAL INSTITUTION
(DETERMINING POST/S IN EXCESS AND VACANT)**

- 5.1 Subject to regulations on educator post provisioning for educational institutions, a Head of a provincial education department shall notify all educational institutions of its educator post provisioning, which may increase or decrease the number of posts at that particular institution.


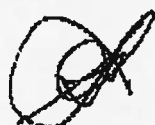


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- 5.2 The Circuit/District Manager (the official immediately above the school Principal) together with Principals within his/her circuit/district, shall determine the post/s in excess of the approved establishments as well as the vacant post/s, as the case may be.
- 5.3 In making such a determination the Circuit/District Manager must take into account the specific curricular needs and circumstances of the educational institution.
- 5.4 Prior to the meeting with other Principals and the Circuit/District Manager, all Principals must inform their respective staff on the procedure for rationalisation and redeployment and on the effect it will have on their respective staff establishments. This information must be accessible to all members of the staff.
- 5.5 One representative per trade union party to Council shall be invited by the District/Circuit Manager to observe the process identified at paragraphs 5.2 and 5.3 above and at 6.2.2 below. All information used at this meeting shall be made available, in writing, to the observers and to the unions on request.
- 5.6 Prior to making a determination, as contemplated at 5.2 above, the Circuit/District Manager must obtain all relevant information from the schools that fall within his/her circuit/district.
- 5.7 The Circuit/District Manager must declare an audit in terms of the schools that fall within his/her circuit/district. The audit must include, but not limited to, the following information:
- 5.7.1 Total number of educators per phase;
 - 5.7.2 Total number of pupils per phase;
 - 5.7.3 Total number of educators declared in excess per phase and subject field; and
 - 5.7.4 Total number of vacancies, including the requirements per vacancy.

NB. The above information must be submitted to the PTT upon request.

- 5.8 The Circuit/District Manager must recommend to the head of a provincial education department, which posts should be retained and which will be offered for abolition at educational institutions within his/her circuit/district.
- 5.9 The Circuit/District Manager shall state to what extent the specific curricular needs and circumstances of the educational institutions within

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his/her circuit/district, and any other factor/s in his/her view, supports the recommendation.

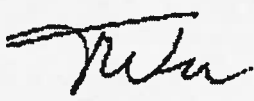
- 5.10 If the implementation of the educator post provisioning will result in the increase of the educator post establishment of an educational institution, the Principal shall recommend how the post(s) shall be utilised, taking into account the specific curricular needs and circumstances of the educational institution.

DETERMINING EDUCATORS IN EXCESS

- 6.1 Subject to paragraph 5 above, at the request of the Head of a provincial education department, the Circuit/District Manager, together with Principals, shall determine the number of posts in excess and the educator/s in excess.
- 6.2 the procedure for the determination of educators in excess shall be as follows:
- 6.2.1 The Principal, after consulting with the educator staff of the institution at a formal staff meeting, may recommend that educators who may be declared in excess be absorbed in vacancies that exist or will exist in the near future (not longer than 6 months) at that educational institution, to the head of the relevant provincial education department, via the circuit/district office, who may accept or reject such recommendation.

(Vacancies that will exist in the near future;- refers to vacancies as a result of educators, at the particular institution, leaving as a result of retirement, boarding, resignation, promotion and employer initiated discharges, where the date of exit is known).

- 6.2.2 After considering paragraph 6.2.1 above, the Circuit/District Manager together with Principals shall identify the educators in excess, taking into account the following :-
- a) The views of the educator staff of the institution as expressed at a formal staff meeting convened by the Principal;
 - b) The needs of the institution, more particularly in relation to the specific curriculum obligations of the institution, the number of classes, the timetable and the allocation of learners to classes;
 - c) The Circuit/District Manager shall take cognisance of the fact that there is not necessarily a direct relation between a post identified as in excess and an educator who will be declared in excess, as there may be more



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than one post with substantially the same duties attached to it.

- d) If a decision still has to be taken regarding two or more educators competing for the same post, the principle of "last in first out" (LIFO) shall be applied. The period of continuous service shall be the service period for the application of LIFO and shall include all continuous service rendered at any public educational institution.
- 6.3 An educator who has been declared in excess shall be so informed in writing by the provincial education department concerned.
- 6.4 The particulars of educators in excess shall be included in a provincial redeployment list, compiled by the provincial education department, and shall include the following particulars:
- 6.4.1 The name of the educator and other relevant details;
 - 6.4.2 Rank and level;
 - 6.4.3 Qualifications and experience;
 - 6.4.4 Present educational institution;
 - 6.4.5 Preferences with regard to redeployment.
- 6.5 The particulars of vacant posts shall be compiled by the provincial education department, and shall include the requirements for the posts.
- 6.6 The Circuit/District Manager together with Principals must complete the above tasks as per paragraphs 5 and 6 above, and submit his/her recommendations to the Head of the provincial education department within the period of being requested to do so.
- 6.7 In the event of the Circuit/District Manager failing to fulfil his/her responsibilities, as per paragraphs 5 and 6, the relevant provincial education department shall appoint a representative to complete the tasks and make his/her recommendations to the Head of the provincial education department.
- 6.8 The list (referred to at paragraph 6.4) and the particulars of vacant posts (referred to at paragraph 6.5) shall be made available to the unions on request.

FILLING OF VACANCIES

- 7.1 The State may introduce measures to promote redeployment by allowing educators to retire voluntarily provided the educator concerned is declared in excess and the post is to be abolished. Such measures will run concurrently with the redeployment process for as long as they are valid and will be regulated separately from these measures.



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The Department of Education and provincial departments of education will keep the IPTT and PTTs informed on the implementation and the financial implications of these measures.

7.2 All post level 1 educator posts:-

7.2.1 vacant at the commencement date of these measures;

7.2.2 becoming vacant after the said date for whatever reason;

7.2.3 created after the said date; or

7.2.4 occupied by temporary educators appointed on or after 01 July 1996 and which will continue to exist in terms of the approved establishment of the educational institution,

are reserved for purposes of accommodating educators that should be redeployed.

7.3 The vacancies referred to in paragraph 7.2 above may be filled in a temporary capacity until the redeployment of educators has been completed in a specific year, provided that the filling of such vacancies in a temporary capacity :-

7.3.1 should not delay the filling of posts by means of redeployment; and

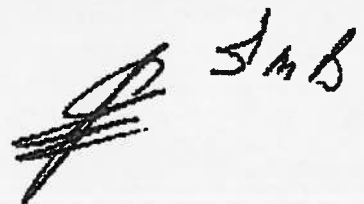
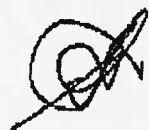
7.3.2 do not confer on educators so employed a right to be included in the redeployment process or a right to the post.

REDEPLOYMENT OF EDUCATORS

8.1 The relevant education department receives the details of all educators declared in excess (refer paragraph 6.6) and the requirements of all posts as per paragraph 7.2.

8.2 The relevant education department releases a closed vacancy list of post level 1 posts identified at paragraph 7.2. The closed vacancy list should be drawn up in such a manner that it reflects vacancies per circuit/district level. Only educators in excess, currently serving temporary educators and former educators who have served the departments of education in a temporary or substitute capacity, in the immediate past, including those educators identified at paragraph 13.2, may apply.

(Immediate past is defined as the period from 01/07/96 to the present).



8.3 The relevant education department receives all applications and matches educators with identified posts taking into account the profile of the educator and the requirements of the post. The matching process must follow the following steps in order of priority:-

8.3.1 Permanent educators declared in excess in order of seniority.

8.3.2 Temporary educators who are currently in the employ of the relevant education department, including those educators identified at paragraph 13.2, together with former educators who have served the departments of education in a temporary or substitute capacity in the immediate past, in order of seniority.

(Seniority is determined as the period of continuous service and shall include continuous service rendered at any public educational institution)

NB:1) Two separate lists are drawn up in terms of paragraphs 8.3.1 and 8.3.2 respectively. These lists are supplied, separately, to a school governing body, ie. the school governing body shall only receive the second list once they have considered the first list.


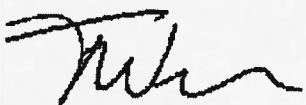
2) The educators identified at 8.3 above, must meet the minimum requirements for appointment.

8.4 In accordance with chapter 3 of the Employment of Educators Act of 1998, the school governing body will recommend the appointment of an educator to its school from a list drawn up by the Head of the provincial education department and which list must adhere to the priorities as at paragraph 8.3.

8.5 The school governing body must consider the names on the list in terms of the ranking order and must make a recommendation to the Head of the provincial education department. The school governing body must submit its recommendation to the provincial education department in its order of preference.

One representative per employee party to Council shall be invited by the school governing body to observe the process of arriving at a recommendation.

The recommendation shall be made in accordance with the principles as contemplated at paragraph 3.2. Qualifications, or the lack thereof, above the minimum requirements for appointments shall not constitute a sufficient reason for non recommendation.

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- 8.6 Educators are transferred to the new post. The educator concerned, the receiving institution and the releasing institution are informed in writing of the transfer.
- 8.7 In the event of no suitable candidate being found, all such posts are published in an open vacancy list and will be filled in terms of the resolution dealing with the advertising and filling of educator posts.
- 8.8 An educator is redeployed by means of a transfer as contemplated at section 8 of the Act.
- 8.9 Post level 2 and higher post level vacancies shall be advertised in an open vacancy list and any serving educator may apply for these posts. These posts will be filled in terms of the resolution dealing with the advertising and filling of educator posts: Provided the employer, at a provincial level, may determine that such vacancies be advertised in a closed vacancy list after consultations in the PTT and the IPTT and in such an event the procedure as contained in this resolution shall be followed.

TECHNICAL COLLEGES

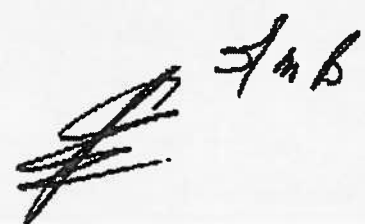
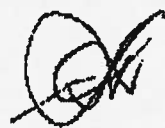
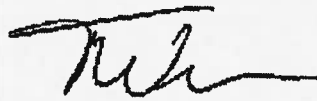
- 9.1 Once the technical colleges within a province have completed the identification of excesses and vacancies in these institutions, the province may immediately publish these vacancies in a closed vacancy list. All educators declared in excess may apply for these posts, including educators in excess at public schools and other colleges.
- 9.2 In the event of no suitable candidates being found in terms of 9.1 above, all such posts may be immediately published in an open vacancy list and shall be filled in terms of the resolution dealing with the advertising and filling of educator posts.

TEMPORARY EDUCATORS OCCUPYING POSTS TO BE FILLED BY REDEPLOYMENT

- 10.1 A temporary educator who is successful in his/her application/s will be permanently appointed to the post, provided the educator meets the requirements for appointment.
- 10.2 If the temporary educator is unsuccessful in his/her application/s, the normal terms of the contract shall be upheld or a months notice shall be given to the educator concerned upon appointment of a redeployee.

EDUCATORS DECLARED IN EXCESS WHO FAIL OR REFUSE TO APPLY FOR POSTS

- 11.1 Redeployment of educators in excess is compulsory.



11.2 Educators who fail to apply for posts or apply for posts where redeployment is not possible in terms of the closed vacancy list shall have their names included on the list by the relevant education department and processed in terms of paragraph 8.

11.3 Educators who unreasonably refuse to be redeployed are not entitled to severance pay and are deemed to have resigned with effect from a date to be determined by the Head of the provincial education department.

EDUCATORS DECLARED IN EXCESS WHO CANNOT BE REDEPLOYED

12.1 An educator, declared in excess in terms of this procedure, who cannot be redeployed due to no fault of the educator, shall be held in excess of his/her present staff establishment until s/he can be suitably redeployed.

12.2 During the period of being held in excess:-

- a) all avenues should be explored by the employer and the educator concerned to find suitable placement; and
- b) the educator shall be optimally employed at the educational institution.

SUBSTITUTE EDUCATORS

13.1 In respect of an educator who is in excess and who is absent from duty with prior approval, a substitute educator may have been appointed to perform his or her duties while he or she is absent. The appointment of the substitute educator shall terminate on the date of the redeployment of the educator actually occupying the post or the date that the educator actually occupying the post and identified as in excess terminates his/her services, provided that one month's notice of the termination of services is given.

13.2 Where the services of a substitute educator, referred to in paragraph 13.1 above, have in the past been utilised in such a manner that s/he has been denied the opportunity of being appointed to a substantive post in a temporary or permanent capacity, such educator's position will be considered individually on its merits and the head of a provincial education department may approve that such an educator be treated as a temporary educator and for the purposes of redeployment treated as per paragraph 8.3.2.

TRANSFER COSTS

14. The costs relating to the transfer of educators within a province shall be borne by that provincial education department and those relating to transfers from one provincial education department to another shall be borne by the receiving department in terms of the existing measures with regard to transfer costs, including transfers where an educator has indicated his or her preference.

DISPUTE RESOLUTION

- 15.1 Any dispute concerning the general interpretation or application of this procedure shall:-
- 15.1.1 be discussed in the relevant PTT, if it concerns only a province;
or
 - 15.1.2 in the IPTT if it concerns more than one province.
- 15.2 If the parties are unable to resolve the dispute at the PTT, within 14 days of tabling, the matter must be referred to the IPTT.
- 15.3 If the matter is not resolved at the IPTT, within 14 days of tabling, any party to the dispute may refer the dispute to Council for resolution in terms of the dispute resolution procedures of Council.

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