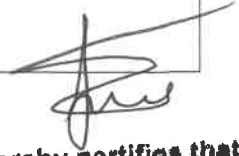


EDUCATION LABOUR RELATIONS COUNCIL
Established in terms of the LRA of 1995 as amended



The GS hereby certifies that this
Collective Agreement was ratified
by Council on this date
06/03/2024



**EDUCATION LABOUR RELATIONS COUNCIL
WESTERN CAPE CHAMBER**

COLLECTIVE AGREEMENT 1 OF 2023

21 NOVEMBER 2023

***Collective Agreement 1 of 2023 on the recruitment and appointment
procedures for Educators at Education Institutions***



**EDUCATION LABOUR RELATIONS COUNCIL
WESTERN CAPE CHAMBER**

COLLECTIVE AGREEMENT 1 OF 2023

**COLLECTIVE AGREEMENT 1 OF 2023 ON THE RECRUITMENT AND APPOINTMENT
PROCEDURES FOR EDUCATORS AT EDUCATION INSTITUTIONS**

1. PURPOSE OF THIS AGREEMENT

The purpose of this agreement is to amend and repeal PELRC Resolution 1 of 2002.

2. SCOPE OF THIS AGREEMENT

This agreement applies to and binds:

- 2.1 The Employer, as defined in the Employment of Educators Act 76 of 1998 as amended.
- 2.2 The Trade Unions in the Education Sector; and
- 2.2 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 NOTE AS FOLLOWS:

- 3.1 Education Labour Relations Council Resolution No.5 of 1998: Residual Issues Emanating from Resolution No. 5 of 1998.
- 3.2 Education Labour Relations Council Western Cape Chamber Resolution No. 1 of 2002.
- 3.3 Lack of understanding and misinterpretation of the role of observer and resource person gave rise to many grievances and disputes due to inconsistencies in the application of Resolution No. 5 of 1998.

4. THE PARTIES TO COUNCIL THEREFORE AGREE AS FOLLOWS:

- 4.1 To request the General Secretary to approve the amendments the amendments of PELRC Resolution No. 1 of 2002 in accordance with the attached documents (Annexure A and B).

5. DATE OF IMPLEMENTATION

This common understanding shall, in respect of parties and non-parties, come into effect on the date it is signed by Council.


 

6. DISPUTE RESOLUTION



Any dispute arising from the application or interpretation of this collective agreement shall be referred to the *Council* for resolution in terms of its dispute resolution procedures.

THUS, DONE AND SIGNED AT Capetown (place) THIS THE DAY OF 21 November 2023

ON BEHALF OF THE STATE AS THE EMPLOYER

DEPARTMENT	NAME	SIGNATURE
WESTERN CAPE EDUCATION DEPARTMENT	MR. BRENT WALTERS	

ON BEHALF OF THE EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
SADTU	MS. SIBONGILE KWAZI	
CTU-ATU	MR. RIEDWAAN AHMED	

ANNEXURE A

OPERATIONAL RULES FOR THE RECRUITMENT AND SELECTION OF EDUCATORS

1 In respect of clauses in the text of the Resolution, the following is amplified:

1.1 Clause 1.3.1

The WCED (as employer) is obligated by law (e.g., the Labour Relations Act of 1995) to give effect to this clause. The department shall first attempt to place educators "carried additional to the establishment" - in excess - in substantive vacant posts before such vacancies are to be advertised in a vacancy bulletin.

1.2 Clause 1.3.4.

The emphasis here is placed on the *suitability* of the candidate in relation to the needs (e. g., curriculum etc.) of the institution/school.

1.3 Clause 1.3.5.

Educators who meet the minimum requirements and acted for longer than 12 continuous months in the post, at the institution, must automatically be shortlisted and included in the interviews for the post, provided that:

- a) the educator is currently in the post.
- b) the post is part of the staff establishment of that institution.
- c) the relevant provincial education department has approved the appointment; and
- d) the educator must have applied for the post.

2. In respect of Schedule I of the Resolution, the following is amplified:

2.1. Clause 1.1. (d)

2.1.2. That the "State is an affirmative action employer" shall appear in the preface of the vacancy list.

2.2. Clause 2.1

2.2.1 The employer would send 'letters of acknowledgement' to all applicants before the application forms are sent to the School Governing Bodies (SGBs)

2.3. Clause 2.2

2.3.1 The emphasis here is on *initial sifting* and such shall be in terms of the minimum requirements for the post(s) as stated in the Personnel Administration Measures (PAM).

2.4. Clause 3.1.

2.4.1 The SGB is advised to take a *formal decision /adopt a resolution* in this regard and such must be clearly recorded as part of the minutes.

2.5. Sub-clause 3.2.1. (a) and (b)

2.5.1 The SGB must send an invitation for a representative/observer to the unions who are parties of the Education Labour Relations Council (ELRC) and the relevant Education District Office (EDO).

2.5.2 The employer shall fulfil its obligation and ensure that a trained representative, who is one level higher than the post being filled, is present at all processes.

2.5.3 Thus, the principal (and SGB) would not be put in a position to decide if she/he should be the departmental-representative-or-not,

2.5.4 In the event of a departmental representative not being present at the start of proceedings due to unforeseen circumstances, the SGB must adjourn the meeting to allow for a departmental representative to be present.

Please Note:

- The principal of the school may not assume the role of departmental official if the SGB decides to continue with the process as per 2.5.4.
- The appointment of resource persons must be managed and approved by the District Office.

2.5.5 Sub-clause 3.2.1 (c)

2.5.5.1 The members referred to here are those members duly elected to serve on the SGB (including a parent co-opted to replace another parent member who is no longer serving due to absence etc.).

2.5.5.2 Members may be co-opted to the Interview Committee for expertise, these members do not have voting rights and may not preside recruitment processes.

2.5.5.3 SGBs are also advised that a minimum of two (2) Parent Members should be part of the interview committee.

2.6 Clause 3.4.

2.6.1 All instructions and relevant information appear in the vacancy list (on the on-line system). SGB's shall not access the on-line applications prior to the shortlisting criteria being finalised.

2.7 Clause 3.5.

2.7.1 It is further amplified that such invitation must be sent to both the unions and the relevant EDO.

2.8 Clause 3.6

2.8.1 The short-listing criteria may be drawn up prior to the short-listing meeting, but such must be tabled for adoption at the short-listing meeting and comply with the set guidelines:

2.8.2 Consultation with the departmental representative and union observers is strongly encouraged where additional criteria are concerned.

2.8.3 Sub-clauses 3.6.3 and 3.6.4

2.8.3.1 The interview committee must shortlist those educators who are carried additional to the establishment and suitable in terms of the curricula needs of the school (clause 1.3.4. in the text of the resolution).

2.8.3.2 The number of five (5) candidates is a guideline and the total number of candidates to be shortlisted is at the discretion of the SGB or Interview Committee within reason.

2.8.3.3 The SGB must submit:

2.8.3.4.1 at least 3 names of recommended candidate in order of preference.

2.8.3.4.2 If fewer than 3 in consultation with the HOD (B.5.4.13 of PAM).

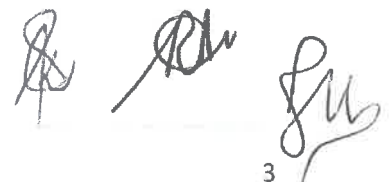
2.8.3.4 The SGB may inform the nominated candidates of their nomination for appointment on condition that the preference order is not disclosed.

2.9 Clause 3.7

2.9.1 Interview committees are advised to comply with the guidelines adopted by the ELRC Provincial Chamber (PELRC).

2.10 Clause 3.9

2.10.1 The interview committee must avail a preference list of candidates with a brief motivation to the SGB for a final decision.



ANNEXURE B

GUIDELINES OF INTERVIEWS

(IN TERMS OF CLAUSE 3.7. IN SCHEDULE 1 OF RESOLUTION 5 OF 1998)

These guidelines serve to assist the interview committee (and the Governing Body) to perform its functions in accordance with the spirit of the resolution and to ensure that all applicants/candidates/interviewees are treated fairly.

A. PROCEDURE BEFORE INTERVIEWS

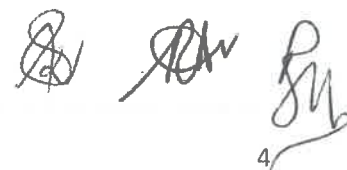
- a) Set and adopt the short-listing criteria.
- b) Short-list candidates as guided by the provincial Policy/Resource Document on Resolution 5 of 1998.
- c) Activate a process, of question setting / drafting questions for interviews.
- d) Comply with all the Employer's guidelines in relation to reference checking.

Suggestions:

- *Do not discuss the applicants with anyone outside of the Governing Body meetings or Interview Committee meetings.*
- *Do not pre-judge - keep an open mind.*
- *Do not talk to one applicant about another.*
- *Do not break confidentiality.*

B. PROCEDURE DURING INTERVIEWS

- (i) Finalise and adopt the questions to be asked. (Please note that the questions should be in accordance with the criterial requirements for the post).
- (ii) Give interview committee members specific tasks (i.e., introducing the panel, asking questions, supplying information about the school, should the applicant have any questions, explaining the procedure and what the candidate can expect).
Allow enough time for each interview. (Please note the same amount of time per candidate).
- (iii) Have someone on duty to receive the candidates as they arrive and to see them off the premises afterwards.
- (iv) Committee members must have their annotated copies / summaries of candidates' documents on front of them (originals and copies must be treated with the strictest confidence and be accounted for and put in safe keeping).
- (v) Put the candidate at ease.
- (vi) The chairperson (who is a member of the governing body) should allow members of the committee to put questions according to a pre-arranged plan. Interviewees should be treated in a similar manner, both in terms of questions asked and way interviews are conducted.



- (vii) Before conclusion of the interview ascertain whether the candidates have any questions. Indicate when and how the candidate will be informed of the final decision.

Suggestions:

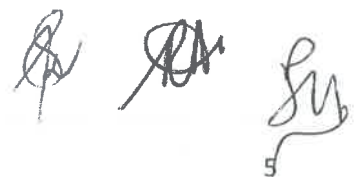
- *Do not keep the candidates waiting.*
- *Do not let the candidates meet each other or cross paths.*
- *Do not allow any person who is an applicant, to be part of any of the processes.*
- *Do not contravene the Bill of Rights by asking questions about sexual orientation, religion or by asking embarrassing or personal questions.*
- *Do not cross-examine a candidate.*
- *Do not interrupt answers.*
- *You may ask a candidate to clarify something.*
- *Do not give hints or half-promises about the success of the candidate.*
- *Do not refer to another candidate in any way.*

C PROCEDURE AFTER INTERVIEWS

- a) Reach a decision as soon as possible.
- b) The Interview Committee must rank the candidates in order of preference and motivate their nomination to the Governing Body for ratification. The Governing Body must hold a ratification meeting to finalise its nomination to be sent to the WCED.
- c) The Governing Body, not the Interview Committee, must submit its recommendation in order of preference to the WCED. (Please note the prescriptions in the vacancy list.) The SGB must notify the nominated candidates of their nomination (without stating their preference) for appointment.
- d) The SGB must inform the other candidates who are not nominated for appointment. Return all applications and forward copies of minutes to the WCED.
- e) A candidate has the right to request and obtain information about his/her unsuccessful interview.
- f) Ensure that the nomination form and support documentation are correctly and fully completed and submitted to the department as soon as possible.
- g) The Governing Body must retain accurate records of proceedings relating to both short-listing and interviewing.

D PROCEDURE DURING RATIFICATION

- a) Reach a decision as soon as possible.
- b) All information, as per Resolution 5 of 1998, applied in the recruitment and selection process, must be considered when a final decision is taken.
- c) All role players must be invited to be part of the ratification meeting.



Clause 3.2.1 (d)

1. Union representatives (who are party to the provincial chamber of the ELRC) shall be an observer to the process of shortlisting, interviews and the drawing up of a preference list.
2. The allocated union observer must present a letter from the Employee Party to confirm that he/she represents said union.
3. To ensure confidentiality, the union observer must sign the non-disclosure agreement and declare any conflict of interest.
4. The union observer must recuse him/herself from the process if there is conflict of interest.
5. The union observer may object to any procedural and/or substantive irregularities detected in the process but may not stop the process. Said objection must be raised via the chairperson of the process.
6. The union observer must report any irregularities to his/her Union.
7. During the shortlisting process relevant info must be shared with the union observer.
8. Any other relevant information may be shared with observers on request during the process.
9. During the interviewing process the union observer must not participate, however, at the end of the process the union observer may raise any objections observed where necessary.

E ROLE OF THE RESOURCE PERSON

Clause 3.2.1(a)

The resource person must be on a post level higher than the post advertised:

Advertised Post	Resource Person
Principals	Circuit Manager
<i>Deputy Principal</i>	<i>A Principal from a different school</i>
<i>Departmental Head</i>	<i>A Deputy Principal/Principal from a different school</i>

1. The Resource person must provide training to the SGB before the process starts to ensure procedural and substantive fairness.
2. Ensure compliance and monitor procedural and substantive fairness during the recruitment and selection processes.

3. Be available during the process when required by the SGB for advice.
4. Report any irregularities and comments on the processes followed to the relevant District Director /Circuit Manager and the Director: Recruitment and Selection. This should be included in the minutes, documenting the nature of the irregularity and process followed.
5. Ensure that the motivation for the selected candidate(s) justifies the nomination.
6. Ensure that the reasons for the exclusion/inclusion of each candidate are consistent with the set criteria.
7. Sign the checklist if satisfied with the validity of the process.
8. Complete the Departmental Representative Report for sign off and inclusion with the nomination documents.

