



Province of the
EASTERN CAPE
EDUCATION

OFFICE OF THE HEAD: EDUCATION

Steve Vukile Tshwete Complex, Zone 6 Zwelitsha, 5608, Private Bag X0032, Bisho, 5605

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Ref. No. 16/1

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INTERNAL MEMORANDUM

**TO: DDG'S
CFO
ALL CHIEF DIRECTORS
ALL HEAD OFFICE DIRECTORS & DISTRICT DIRECTORS**

FROM: SUPERINTENDENT-GENERAL: EDUCATION

DATE: 17 APRIL 2013

RE: MANAGEMENT OF INTENDED INDUSTRIAL ACTION BY SADTU

Please find attached correspondence from the Department of Basic Education regarding the above.

You are hereby instructed to ensure that there is strict compliance to the Departments strike management plan, i.e. Circular 23 of 2010 as well as the correspondence "Administrative Strike Management Procedures" dated 6 August 2010 and ensure that reports are submitted in accordance.



ML NGONZO
SUPERINTENDENT GENERAL: EDUCATION

DATE: 2013/04/23





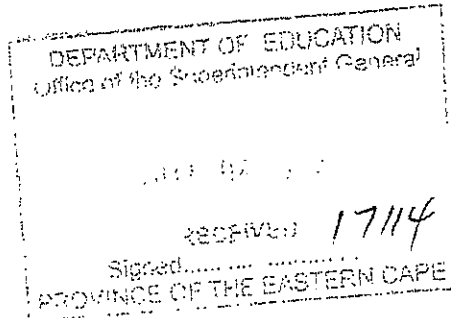
basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

Private Bag X895, Pretoria, 0001, Sol Plaatje House, 222 Struben Street, Pretoria, 0002, South Africa
Tel.: (012) 357 3000, Fax: (012) 323 0601, www.education.gov.za

Ref no: T-3419-18/04/2013
Enquiries: Ms P Masekela
Tel: 012 357 3742
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Mr ML Ngonzo
Superintendent-General: Education
Eastern Cape
Private Bag X0032
BISHO
5605



By fax: (040) 608 4249

Dear Mr Ngonzo

SADTU'S DISPUTE AND ITS INTENDED INDUSTRIAL ACTION

As indicated in the previous letter that the Department was in dispute with trade unions on the issue of the exam tariffs contained in Collective Agreement 1 of 2011, SADTU has notified the Presidency of its intention to embark on an industrial action in the form of a march to Parliament and the Union Buildings on 24 April 2013.

The Department was not served with a notice to embark on an industrial action, but the Presidency has received a notice from SADTU that it will be marching to the Union Buildings on 24 April 2013, as well as to Parliament on the same day.

It should be noted that the Department has not received any formal demands or disputes in writing from SADTU. Since the Department has not received any formal demands or disputes from SADTU, its action would be regarded unlawful.

For a strike to comply with the provisions of section 64 of the Labour Relations Act (LRA), a seven days notice should have been issued to the Employer. SADTU has not done so, but has referred the matter to the Labour Court for resolution therefore, no person is allowed to strike on a matter that is pending in the Labour Court.

You are therefore requested to activate the Strike Management Plan (SMP) and ensure that all the necessary processes and procedures are put in place towards managing the strike effectively and generating the required data as stipulated in paragraph 5.2 of the Strike Management Plan.

The principle of "no work no pay" must be strictly applied. The principle should apply for absence of a full day as well as part of a working day. Please ensure that no leave of absence should be granted on the day of the industrial action. Furthermore, all school principals, circuit managers and district offices should be informed of the status of SADTU's actions as outlined above and be instructed to monitor and provide accurate figures of any educator who is absent on 24 April 2013 or part thereof. All principals need to be informed of their obligation in respect of providing accurate data on teacher attendance.

Yours sincerely


MR PB SOBRAYAN
DIRECTOR-GENERAL

DATE: 19/04/2013



CIRCULAR NO 23 OF 2010

| Compiler | Date | Tel no | File number |
|----------------|---|---------------|-------------|
| R. Pretorius | 28 July 2010 | 040 – 6084210 | |
| | | Fax no | |
| | | 040 – 6084313 | |
| TO | DEPUTY DIRECTORS GENERAL CHIEF FINANCIAL OFFICER CHIEF DIRECTORS DIRECTORS AND DISTRICT DIRECTORS SCHOOL PRINCIPALS | | |
| FROM | ACTING SUPERINTENDENT-GENERAL | | |
| SUBJECT | PROCEDURES RELATING TO THE MANAGEMENT OF INDUSTRIAL ACTION AND TO PROVIDE PRACTICAL GUIDELINES IN ADMINISTERING THE RELEVANT PROCESSES FOR BOTH EDUCATORS AND PUBLIC SERVICE EMPLOYEES | | |

Note: This Circular is replacing Circular no 29 of 2004.

1. RELEVANT PRINCIPLES

- 1.1 The employer recognizes the right of employees to fair labour practices as provided for in the Constitution of the Republic and other relevant legislation.
- 1.2. It is the responsibility of both the employer and employee to ensure the culture of effective teaching and learning.
- 1.3. The above can only be realized in an atmosphere pervaded by labour peace and compliance with the law.
- 1.4. Although various forms of industrial action may be regarded as protected in terms of the Labour Relations Act (Act No. 66 of 1995), the principle of “no work, no pay”, in accordance with Section 67(3) of the Labour Relations Act, will always be applicable and enforced by the Department. Deductions will equal an amount equal to the number of days/hours of

service not rendered by an employee during the period of the industrial action.

1.5 **No leave (annual, vacation or special leave, including "time-off for union activities")** may be granted to any individual for the purpose of participating in any form of industrial action. Only authorised leave granted prior to the notice of intention to strike may be utilised to justify absences on those days when industrial action is taking place.

1.6 Managers and employees are advised to direct any enquiry related to the industrial action to the relevant District Director, the Section: Labour Relations at the district office or the Directorate: Labour Relations.

2. PURPOSE

The purpose of this Circular is to:

2.1 Provide the necessary plan related to industrial action in Basic Education to managers and Heads of institutions.

2.2 Indicate the specific responsibilities and authority of managers and Heads of institutions.

2.3 Clarify the procedures relating to the management of industrial action and to provide practical guidelines in administering the relevant processes.

3. LEGAL FRAMEWORK

3.1 Public Service Act (Act No.103 of 1994).

3.2 Public Service Regulations.

3.3 Employment of Educators Act (Act No. 76 of 1998).

3.4 Labour Relations Act (Act No. 66 of 1995).

3.5 The Constitution of the Republic of South Africa (Act 108 of 1996)

4. DEFINITIONS

4.1 **Manager (Supervisor)** Any person whose function and responsibility it is to monitor performance or discipline within a defined workplace, unit or section.

4.2 Industrial action

A strike is defined as concerted withdrawal of labour (partial or wholly) by employees in order to compel the employer to succumb to their demand on a matter of mutual interest.

This includes action by unions, employees acting in concert to pressurise the employer in the furtherance of an industrial dispute/ dispute on a matter of mutual interest. It also includes picketing, protest action, sit-ins and go-slows.

5. DUTIES TO BE PERFORMED DURING INDUSTRIAL ACTION

5.1 Strike Management Team

The main objectives of the Strike Management Team are to coordinate all activities related to industrial actions and to ensure that proper lines of communication and information are maintained at all times.

The Department of Basic Education will establish its own Strike Management Team that will receive consolidated information from the Provincial Strike Management Team and will feed the information on a daily basis to DPSA and the MPSA.

The Strike Management Team of the ECDoE consists of the following officials:

Head Office level:

- i. Head of Department or his/her delegate
- ii. Director: Labour Relations
- iii. Cluster Chief Directors
- iv. Director: Communications

District level:

- i. District Director
- ii. CES: HRD/LR
- iii. CES: MANGO
- iv. Deputy Directors HRA & P

5.2 Data Collection

- 5.2.1 District Directors are required to inform the Directorate: Labour Relations (Head Office) of the following information by 10:00 and also by 14:00 on the first and every subsequent day of the industrial action (even in cases of a nil return):
- i. The sub-directorates/areas within a district affected;
 - ii. The number of schools/sub-directorates affected;
 - iii. The number of educators/public servants absent;
 - iv. Details of any disruptions of work or effective teaching and learning at institutions.
- 5.2.2 A follow up report will be required to reach the Department of Basic Education by 14h30 every day of the strike.
- 5.2.3 The above requirements are also applicable, with the necessary changes, to managers in all the other offices and institutions, other than those within districts, not referred to above.
- 5.2.4 The relevant attached annexures must be completed by every directorate/institution with specific reference to dates, times and names of individuals who participated in the action, or who withdrew their labour for that day, or part thereof:
- i. **Form LR/1:** Record of attendance during industrial action (offices & institutions)
 - ii. **Form LR/2:** Record of participation in industrial action, authorised and unauthorised absences during industrial action (offices & institutions)
 - iii. **Form LR/3:** Record of employees on approved leave
 - iv. **Form LR/4:** Incident report related to industrial action (institutions & offices)
 - v. **Form LR/5:** Declaration by managers regarding the areas considered to be volatile
- 5.2.5 Information forwarded to the Directorate: Labour Relations from institutions within the different districts must be certified by the District Director as correct. Information from offices must be

submitted via the Head of the office, Director and/or Chief Director to the Directorate: Labour Relations. All forms and statistics must be forwarded to the relevant Human Resource Manager for capturing both at Head Office and at District Offices.

- 5.2.6 The Directorate Labour Relations will use the information to monitor the impact of the industrial action and to advise the Minister of Basic Education, the MEC, Head of Department and other relevant parties on the action.

5.3 Strike Management

- 5.3.1 It is the duty of every manager and Head of institution to keep an accurate record of the situation at the office or institution during industrial action. Employees and learners should be organised and controlled in such a manner as not to prejudice the administration, discipline or efficiency of the Department, office or institution.

- 5.3.2 The plan on industrial action must be strictly adhered to.

- 5.3.3 Managers and Heads of institutions will be held responsible for completing the forms. In cases where the principal/manager is also involved in the industrial action, the deputy principal/other supervisor will be responsible for the completion of the relevant forms. If the principal/manager or next person in line is also involved in the industrial action, it will be the responsibility of the District Director, Director or Chief Director (Head Office). Directors are ultimately responsible for ensuring that the information is correct and complete before sending it through to the Directorate: Labour Relations.

- 5.3.4 District Directors will be responsible for the overall facilitation of the process in their respective sub-directorates and areas in the district. The same applies to Directors in offices.

- 5.3.5 The Directorate: Labour Relations will be responsible for the consolidation of all information to be submitted to the Office of the Premier and the Department of Public Service and Administration.

5.4 Incident Reporting

- 5.4.1 In cases where confrontations or events take place during industrial action that may be construed as misconduct, an incident report must be completed by the relevant managers and forwarded to the Directorate: Labour Relations.

- 5.4.2 The attached **Form LR/4** – Incident report related to industrial action (institutions & offices) must be completed for this purpose. The District Director must declare the area to be considered volatile by completing **Form LR/5**
- 5.4.3 Areas considered being volatile, the police need to be requested to secure the affected premises and the non-striking employees. Police intervention should be seen as the last resort, and only when the situation has deteriorated to such an extent that injury to persons or damage to property becomes imminent.
- 5.4.4 If there is a threat of violence or intimidation from strikers on non-strikers, non-strikers must go to the nearest police station on the same day or latest the following day to complete affidavits. The register must be accompanied by the declaration signed by the District Director declaring the area to be volatile.
- 5.4.5 Every school must set up a Parental Strike Committee that will deal with the safety of learners and make recommendations in relation to the safety of learners to the district office. This must be a voluntary participation.
- 5.4.6 The Committee will have continuous interaction with parents during strikes, in the absence of the principal and/or educators.
- 5.4.7 The Committee must consist of at least five members (depending on the number of learners in the school) and its responsibilities will be to take care of learners at the school and to communicate with parents during the strike.

5.5 Leave

- 5.5.1 If an employee was absent, other than being on approved leave, (e.g. sick leave, maternity leave, attending workshops and training courses) such an employee shall be regarded as being on strike, until such time s/he can prove otherwise. All allegations of intimidation will be dealt with in terms of paragraph 5.4 above. The onus is on employees to report such incidents to the police and ensure that an affidavit is obtained as proof within the prescribed time frames as stated in par. 5.4.4.

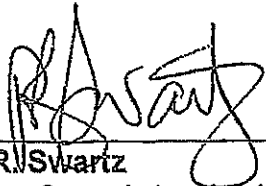
Medical certificates submitted during the strike action should be accepted as a general rule, unless a manager suspects that a medical certificate may not be genuine in which case such certificate must be queried with the doctor concerned. The

emphasis remains that no leave is granted for the purposes of going on strike.

Employees must refer any dispute regarding the above or any other related matter to the relevant Bargaining Council for dispute resolution.

6. Picketing line in education institution and office

- 6.1 The picketing line in education institutions and or offices of the department of education shall be the perimeter of the yard of the education institution or the office.
- 6.2 The employer shall ensure that employees that are on strike do not enter the education institution or offices of the department. This will be achieved by the employer locking out striking employees.
- 6.3 Managers have the responsibility to ensure that the picketing line is observed during the strike. Where security is compromised or property of the employer is threatened, the manager or any person responsible for the premises shall involve the South African Police force to protect the employees and the property.



Mr. R. Swartz
Acting Superintendent-General

30/07/2010



**RECORD OF ATTENDANCE DURING THE STRIKE ACTION
(TO BE COMPLETED BY ALL EDUCATORS / OFFICIALS AT WORK)**

| NAME | PERSAL NO | LEVEL/RANK | TIME IN | TIME OUT | SIGNATURE |
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Signed: _____
HEAD OF INSTITUTION / HEAD OF UNIT

Verified: _____
HEAD OF SECTION



Form LR/2

**RECORD OF EMPLOYEES PARTICIPATION IN INDUSTRIAL ACTION
(UNAUTHORISED ABSENCES DURING INDUSTRIAL ACTION)**

(TO BE COMPLETED BY ALL MANAGERS OF OFFICES & INSTITUTIONS)

INSTITUTION: _____

DATE: _____

| NAME | PERSAL NO | LEVEL / RANK |
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Signed: _____
HEAD OF INSTITUTION / HEAD OF UNIT

Verified: _____
HEAD OF SECTION



Form LR/3

**RECORD OF EMPLOYEES ON APPROVED LEAVE
(SICK LEAVE, WORKSHOPS, MEETINGS, MATERNITY LEAVE etc)
(TO BE COMPLETED BY ALL MANAGERS OF OFFICES & INSTITUTIONS)**

INSTITUTION: _____

DATE: _____

| NAME | PERSAL NO | LEVEL / RANK | TYPE OF LEAVE |
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Signed: _____
HEAD OF INSTITUTION / HEAD OF UNIT

Verified: _____
HEAD OF SECTION



**INCIDENT REPORT RELATED TO INDUSTRIAL ACTION
(INSTITUTIONS & OFFICES)**

INSTITUTION: _____

DATE: _____

| DESCRIPTION OF INCIDENT | |
|--------------------------------------|--|
| DAMAGE TO PROPERTY | |
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| ASSAULTS OF VIOLENCE & INTIMIDATIONS | |
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| ANY OTHER (please describe) | |
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(if the space provided is not sufficient, please use another page)

Manager: _____

Signature: _____



**DECLARATION BY MANAGERS REGARDING THE AREAS CONSIDERED TO BE
VOLATILE**

I, _____ in my official capacity as _____ hereby
declare that _____ school, situated at _____ is not
safe (the details of which are attached in Form LR/4) for educators and/ or learners due
to the actions / behavior of the striking employees.

Signed: _____

Date: _____



ANNEXURE A

INFORMATION ON STRIKE ACTION

NB: PLEASE COMPLETE THIS FORM FOR EACH DAY OF THE STRIKE ACTION

- (a) School/Section/Office: _____
- (b) Date of strike action: _____
- (c) Number of employees involved in strike action (those with regard to whom "no work, no pay" is being applied)

- (d) Total number of person days lost on day of strike action (every eight hours to count as full day): _____ (e.g. 300 person x 1 day = 300 days)
- (e) Amount to be deducted in terms of the "no work, no pay" principle for day of the strike action (i.e. in respect of all employees involved in the strike action collectively):
(Daily Rate: Annual basic salary of employee divided by 365 and rounded off to nearest cent; Hourly Rate: Daily rate divided by 8 and rounded off the nearest cent.)
R _____

I hereby certify that to my knowledge the information provided above is accurate.

HEAD OF INSTITUTION / UNIT

DATE



EASTERN CAPE
DEPARTMENT OF EDUCATION

ANNEXURE B

INFORMATION ON THE APPLICATION OF LEAVE PROVISION IN THE BASIC EDUCATION DURING THE STRIKE ACTION

Department: _____

Date: _____

EMPLOYEES ON LEAVE ON DAYS OF STRIKE ACTION

| Date of strike action | Number of employees on leave |
|-----------------------|------------------------------|
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If you are unable to furnish the above information, please provide a written explanation:

I certify that the above information supplied, is to the best of my knowledge, correct.

HEAD OF INSTITUTION / UNIT

DATE