



Province of the
EASTERN CAPE
EDUCATION

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Date: 07 February 2014

HRM INSTRUCTION NO 2 OF 2014

TO : DDGs
CHIEF DIRECTORS
DIRECTORS AND DISTRICT DIRECTORS
EDUCATION DEVELOPMENT OFFICERS (EDO's)
SCHOOL PRINCIPALS
TRADE UNIONS IN THE PELRC
SCHOOL GOVERNING BODIES

FROM : SUPERINTENDENT-GENERAL

DATE : 07 FEBRUARY 2014

SUBJECT : PROCEDURES FOR THE IMPLEMENTATION OF THE PROCESS OF IDENTIFICATION AND TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS

1. PURPOSE:

The purpose of this HRM Instruction is to provide managers in particular School Principals with the procedures that must be followed when implementing Collective Agreement no 1 of 2014, relating to the identification and transfer of serving educators in terms of operational requirements as provided for in Collective Agreement no 2 of 2003.

2. BACKGROUND:

- 2.1 The procedures set out in this HRM Instruction relate to the implementation of Collective Agreement no. 1 of 2014 and are the result of the extensive engagement among the Parties represented in the Provincial Education Labour Relations Council (PELRC).
- 2.2 The procedure refers to all serving educators including temporary educators who, and as a result of the 2014 Post Establishments, are in addition at their present institutions. Additional educators shall be identified and transferred in terms of the provisions of Collective Agreement no 2 of 2003.



3. PRINCIPLES UNDERPINNING THE TRANSFER OF SERVING EDUCATORS DUE TO OPERATIONAL REQUIREMENTS

- 3.1 The management of educators who are in addition and their transfer in terms of operational requirements must be done considering all relevant factors without compromising the thrust of Collective Agreement no 2 of 2003.
- 3.2 This process must not be used to settle scores against educators as this will constitute a serious case of misconduct. It is important to consider the personal circumstances of educators when dealing with identification of additional educators and the transfer processes.

4. LEGISLATIVE FRAMEWORK AND STEPS TO BE TAKEN IN THE IMPLEMENTATION OF COLLECTIVE AGREEMENT NO 2 OF 2003

4.1 The procedures set out herein relate to the implementation of approved post establishments, grading of institutions, filling of posts, transfer of additional educators on operational requirements as guided by the following legislative framework:

- Section 5(1)(2) of the Employment of Educators Act, 76 of 1998 as amended;
- National Education Policy Act 27 of 1996 as amended;
- South African Schools Act, 84 of 1996 as amended;
- Employment Equity Act 55 of 1998;
- Labour Relations Act, 66 of 1995 as amended;
- Public Service Act (Proclamation 103 of 1994);
- Personnel Administrative Measures (PAM);
- ELRC Collective Agreement no 2 of 2003; and
- ELRC Collective Agreement no 3 of 2006.

4.2 The Superintendent-General has finalized the process of the distribution of educator posts to all public schools for the 2014 academic year in terms of Section 5(2) of the Employment of Educators Act, 76 of 1998 as amended and subsequent that Collective Agreement 1 Of 2014 was signed wherein parties agreed to the identification and transfer of additional educators.

4.3 In terms of the 2014 post distribution some schools may have received more educator posts than the 2013 post distribution; whilst others may have received fewer posts; resulting in some serving educators being additional to the 2014 post establishments.

4.4 Schools are obliged to identify educators that will be additional to their school establishments as a result of receiving fewer number of educator posts.

4.5 Three important steps must be followed by all public Schools when identifying and placing additional educators and these steps are explained below:

4.5.1 STEP ONE (Informing the staff about the new post establishment of 2014 academic year)

- a. School Principals must inform their respective staff members of the educator post provisioning and its effects, as well as the procedure for identification of serving identification of serving permanent and

temporary educators affected by operational requirements as contained in Collective Agreement no 2 of 2003. School Principals are hereby directed to follow the Management Plan in Collective Agreement no 1 of 2014.

- b. School Principals must provide minutes and attendance registers of such meetings. The minutes of such staff meetings must be made available to the EDO's. Where a meeting can't be held for whatever reason, the School Principal is directed to submit reasons for such a meeting not taking place to the EDO.
- c. This HRM Instruction and related documents must be accessible to all staff members. Withholding of any such information will constitute a case of serious misconduct and firm action will be taken against any person who fails to comply herewith.
- d. The School Principal in consultation with all educators in a formal staff meeting may recommend to the EDO that educators who may be declared in addition may be absorbed in the vacancies that exist or will exist in the near future (not longer than six months) at that the school.
- e. Vacancies that will exist in the near future refer to vacancies that will be created as a result of educators leaving due to retirement, medical boarding, resignation, promotion and dismissal where the date of exit is known. These must be vacancies; which would arise within six months after consulting with the educator staff of the institution at a formal staff meeting.

4.5.2 STEP TWO (Identification of additional educators)

- a. After step one above, the EDO's together with the School Principals shall identify the educators in addition, taking into account the following:
 - The views of the educator/staff of the school as expressed at a formal meeting convened by the School Principal of the school.
 - The needs of the institution, and more particularly in relation to its specific curriculum obligations, the number of classes, the timetable and the allocation of learners to classes.
 - The EDO's shall take cognizance of the fact that there is not necessarily a direct relation between the posts identified as in addition and an educator who will be declared in addition, as there may be more than one post with substantially the same duties attached to it.
 - If a decision 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. An educator's service period for the application of LIFO shall include all continuous service rendered at any public education institution.

- One representative per Trade Union party to PELRC shall be invited by the EDO to observe the process.
- b. An educator who has been identified as being in addition shall be informed in writing by the relevant District Offices.

4.5.3 STEP THREE (Placement of additional educators)

- a. The Superintendent-General may in terms of section 6 or 8 of the Employment of Educators Act no 76 of 1998 as amended transfer an educator who is in addition to another post in the Department that matches his/her skills and expertise.
- b. The filling of vacancies in instances where there are additional educators will be dealt with in terms of the procedure as contained in Collective Agreement no 2 of 2003. See in this regard par. 2.4(e) of Annexure A to the said Collective Agreement.
- c. It is the responsibility of the District Directors to ensure additional educators are placed in substantive posts as provided for in Collective Agreement no 1 of 2014.

5. GENERAL COMMENTS:

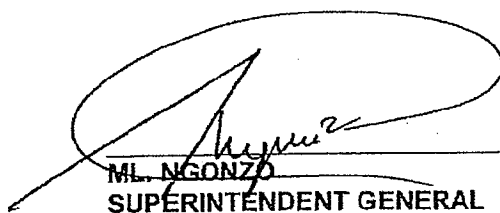
- 5.1 Any grievances that may arise out of the above processes must be dealt with in terms of the provisions as contained in Collective Agreement no 1 of 2014.

6. ANNEXURES

Please find attached herewith the following:

- Collective Agreement no 2 of 2003 (Annexure A)
- Collective Agreement no 1 of 2014 (Annexure B)

Your full cooperation in this regard will be fully appreciated



M.L. NGONZO
SUPERINTENDENT GENERAL