



Province of the
EASTERN CAPE
EDUCATION

LABOUR RELATIONS

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Standard Operating Procedures: Discipline

Business Process Name:

Stages and Processes in processing misconduct

Scope:

All employees of the Eastern Cape Department of Education

Legislative Framework:

- Constitution of RSA
- Labour Relations Act 66 of 1995
- Employment of Educators Act 76 of 1998
- Public Service Act 1994
- Public Service Regulations 2016
- The Promotion of Administrative Justice Act 3 of 2000
- PSCBC Resolution 1 of 2003
- Schedule 2 of the Employment of Educators Act
- LRA:- Schedule 8, Code of Good Practice (Dismissal)

Principles:

- mutual respect
- protection of employees from any arbitrary actions by the employer
- corrective
- prompt, consistent, fair and just
- responsibility of the employer

	Stages	Activity	Responsibility	Timeframe
1.	Incident	An employee commits misconduct and the misconduct is brought to the attention of the supervisor.	Employee	Same day
2.	Investigation	<p>The supervisor to apply his mind whether the individual warrants formal disciplinary action or a reprimand or any of the warnings provided by law.</p> <p>Preliminary investigation is conducted to establish whether the case warrants further investigations.</p> <p>Investigate the allegation and write a report with findings and recommendations for submission to Labour Relations. (District supervisors to submit through the office of the District Director to district Labour Relations and head office through the office of the responsible Chief Director to head office Labour Relations office with Chief Directors and above submitting directly to office of the Director Labour Relations).</p>	<p>Supervisor / Manager</p> <p>Supervisor / Manager</p> <p>Supervisors / Directors.</p>	<p>1 Day</p> <p>1 working day.</p> <p>10 working days.</p>

	Stages	Activity	Responsibility	Timeframe
		<p>District Directors, Head office Directors or officials above Directors informed by the complexity of the case may forward the case to head office labour relations for further investigations after the preliminary investigations</p> <p>Cases of financial misconduct must after preliminary investigation be forwarded to the Director: Risk Management for investigation.</p>	Director Risk Management	
3.	Charges	<p>Labour Relations to prepare charges with recommendation for the appointment of a chairperson and employer representative.</p> <p>Appointment of chairperson and employer representatives in writing.</p> <p>Case is recorded in the departmental data base with a case number that is issued back to the district with appointment letters and charges</p>	<p>CES: Labour Relations (Districts)</p> <p>Deputy Director Labour Relations (Head Office).</p> <p>Director: Labour Relations.</p> <p>Assitant Director LR or designated LRO.</p>	<p>3 working days.</p> <p>3 working Days</p>
4.	Preparing for hearing	Charges are served on the employee being charged.	LRO's Managers in Labour Relations	5 working days before hearing

	Stages	Activity	Responsibility	Timeframe
		Parties exchange documents	Employer and employee representatives	2 working days before the hearing
5	Disciplinary hearing	The disciplinary hearing must resume within 10 working days of the service of the notice	Presiding officer; employer and employee representatives.	
		Finding	Chairperson of disciplinary hearing.	5 working days after completion of evidence hearing.
		Submission of mitigation and aggravation in case of a guilty finding.	Employer and employee representatives.	3 working days after being aware of chairpersons finding.
		Sanction	Chairperson	10 Days after receipt of aggravating and mitigating submission

NB:- All misconduct cases should be finalized within 90 days. Appeals to be directed to the office of the MEC and in all possible terms the office of the Director Labour Relations should be copied.

NB:- All postponements must be directed to the chairperson in writing and in turn the chairperson's ruling in same must be in writing.

T. KOJANA
SUPERINTENDENT-GENERAL

14/01/2019
DATE