

**COURT ONLINE COVER PAGE**

IN THE LABOUR COURT, SOUTH AFRICA  
**Labour Court, Cape Town, Labour Court, Cape Town**

CASE NO: **2024-133773**

In the matter between:

**SOLIDARITY OBO MEMBERS**

Appellant / Petitioner

and

**WESTERN CAPE EDUCATION DEPARTMENT & 4 OTHERS**

Respondent

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**Notice of Motion with Hearing Date**

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**NOTE:** This document was filed electronically by the Registrar on 19/11/2024 at 11:33:48 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY  
SIGNED BY:

**Registrar of Labour  
Court, Cape Town ,  
Labour Court, Cape  
Town,Labour Court,  
Cape Town**

IN THE LABOUR COURT, SOUTH AFRICA  
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CASE NO: 2024-133773

In the matter between:

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Respondent



**Notice of Motion (Long Form)**

**NOTE:** This document was filed electronically by the Registrar on 19/11/2024 at 11:04:19 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY  
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**Registrar of Labour  
Court, Cape Town ,  
Labour Court, Cape  
Town,Labour Court,  
Cape Town**

IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN

CASE NUMBER: 2024-133773

In the matter between:

**SOLIDARITY OBO MEMBERS**

**APPLICANT**

And

**WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

**HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

**PRINCIPAL OF HOËRSKOOL BELVILLE**

**THIRD RESPONDENT**

**THE SCHOOL GOVERNING BODY OF  
HOËRSKOOL BELVILLE**

**FOURTH RESPONDENT**

**EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**



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**NOTICE OF MOTION  
URGENT APPLICATION**

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**BE PLEASED TO TAKE NOTICE** that the applicant will apply on **Tuesday, 26 November 2024**, at 10h00 on for an order in the following terms:

1. That the matter be entertained on an urgent basis in terms of Rule 38 and that the applicant's non-compliance with the rules of this Court be condoned.
2. That it be declared that the process of declaring any employee of the first respondent in addition to the educator staff establishment for the 2025 academic year falls within the ambit, and is to be governed, by the process

as set out in section 189 as read with section 189A of the Labour Relations Act 66 of 1995, as amended.

3. That it be declared that the first to third respondents has acted in a procedurally unfair manner when it proceeded to declare the applicant's members' in addition to the educator staff establishment for the 2025 academic year.

4. That the first to third respondents be ordered to reinstate the applicant's members *alternatively* retract the notices declaring the applicant's members in addition to the staff establishment and directing the respondents to embark on a meaningful joint-consensus seeking process (including consultations) as envisaged by section 189 and 189A of the Labour Relations Act 66 of 1995.



5. That the respondent be interdicted and restrained from dismissing or transferring any of the applicant's members employed by the first respondent forthwith prior to complying with a fair operational requirements procedure.

*Alternatively*

6. That the first to third respondents be interdicted and restrained from taking any action, including transferring the applicant's members from their place of employment pending the outcome of the dispute referred by the applicant on behalf of its members in terms of Collective Agreement 4 of 2016.

7. That the respondents who opposes the relief sought be ordered to pay the costs of this application; and
8. Such further or alternative relief as the Honourable Court deems fit in the prevailing circumstances.

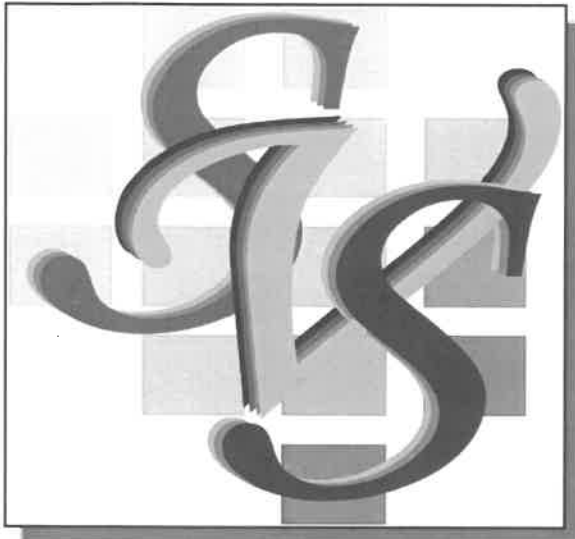
**BE PLEASED TO TAKE NOTICE FURTHER** that the founding affidavit deposed to by **ANLIA ARCHER** together with annexures thereto as well as the relevant confirmatory affidavits will be used in support of this application.



**AND BE PLEASED TAKE NOTICE FURTHER** that the applicant has appointed **SERFONTEIN VILJOEN & SWART ATTORNEYS** as its representative of record herein at which address (as set out hereunder) the applicant will receive notice of all process in this matter.

**BE PLEASED TO TAKE NOTICE FURTHER** that should the respondents wish to oppose the relief sought in this application, they should deliver a notice of opposition **no later than 16:00 on the 20<sup>TH</sup> of November 2024** and their answering affidavit to the allegations as set out herein no **later than 16h00 on the 22<sup>ND</sup> of November 2024** failing which the matter may be heard in the respondent's absence and a final order together with an order in respect of costs may be made against the respondent.

SIGNED AT PRETORIA ON THIS 19<sup>th</sup> DAY OF NOVEMBER 2024



**SERFONTEIN VILJOEN & SWART**

Attorneys for the **APPLICANT**

165 ALEXANDER STREET

**BROOKLYN**  
**PRETORIA**



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FAX: 086 687 2271 / 086 471 8090

**EMAIL:** [jd@svslaw.co.za](mailto:jd@svslaw.co.za) / [monique@svslaw.co.za](mailto:monique@svslaw.co.za)

**REF: MR SWART/CLAASSEN/VENTER/mj/CS0667**

**C/O MILTON DE LA HARPE ATTORNEYS**

SUITE 201, 2<sup>ND</sup> FLOOR

PIAZZA ON CHURCH SWAURE

39 ADDERLEY STREET

CAPE TOWN

TEL: (021) 469 9701

**EMAIL:** [milton@delaharpelaw.co.za](mailto:milton@delaharpelaw.co.za) /

[reception@delaharpelaw.co.za](mailto:reception@delaharpelaw.co.za)

**TO: THE REGISTRAR OF THE LABOUR COURT  
CAPE TOWN**

**AND TO: WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

1 NORTH WHARF SQUARE

2 LOWER LOOP STREET

FORESHORE

CAPE TOWN

TEL: 021 467 2536

EMAIL: [Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za) /

[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za) /

[Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)



**AND TO: HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

1 NORTH WHARF SQUARE

2 LOWER LOOP STREET

FORESHORE

CAPE TOWN

TEL: 021 467 9280

EMAIL: [Eduhead.eduhead@westerncape.gov.za](mailto:Eduhead.eduhead@westerncape.gov.za)

**AND TO: PRINCIPAL OF HOËRSKOOL BELVILLE**

**THIRD RESONDENT**

DE LA HAYELAAN,

BELLVILLE

7530

EMAIL: [gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za) / [maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za)

[michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)

**AND TO: THE SCHOOL GOVERNING BODY OF**

**HOËRSKOOL BELVILLE**

**FOURTH RESPONDENT**

DE LA HAYELAAN,

BELLVILLE

7530

EMAIL: [gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za) / [maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za)

[michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)



**AND TO: EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**

261 WEST AVENUE

CENTURION

GAUTENG

TEL: (012) 663 7446

EMAIL: [enquiries@elrc.org.za](mailto:enquiries@elrc.org.za) / [BerniceL@elrc.org.za](mailto:BerniceL@elrc.org.za)



**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN**

**CASE NUMBER:** \_\_\_\_\_

In the matter between:

**SOLIDARITY OBO MEMBERS**

**APPLICANT**

And

**WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

**HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

**PRINCIPAL OF HOëRSKOOL BELVILLE**

**THIRD RESPONDENT**

**THE SCHOOL GOVERNING BODY OF  
HOëRSKOOL BELVILLE**

**FOURTH RESPONDENT**

**EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**

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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**ANLIA ARCHER**

do hereby make oath and state as follows:

**[A] DEPONENT AND AUTHORITY**


1. I am an adult female with full legal capacity, employed by the applicant in the position of Industry Specialist & Network Organizer: Teacher Network.

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2. I am duly authorised in the afore-mentioned capacity to launch these proceedings and to depose to this affidavit on the applicant's behalf, in accordance with the resolution attached hereto as annexure "**LP1**".
3. Unless the context indicates otherwise, the facts contained herein are within my personal knowledge, or I have established them from documents in the position and/or under the control of the applicant.
4. Further, the contents herein contained are to the best of my knowledge, true and correct.
5. Submissions of a legal nature are made on the advice of the applicant's legal representatives, which advice I accept.

**[B] THE PARTIES**

6. The applicant is **SOLIDARITY** (herein referred to as "*Solidarity*"). Solidarity is a trade union duly registered in terms of s 96 of the LRA, having its head office situated at the corner of DF Malan and Eendracht Streets, Kloofsig, Centurion.
7. In launching this application, Solidarity acts in the interest of its members:
  - 7.1. Mr Werner Burger ("Burger") an adult male educator with persal no 55964079/PG09, employed by the first respondent since 1 January 2019;

G.H. 


- 7.2. Mrs Jeanne Biesenbach (“Biesenbach”) an adult female educator with persal no 51464403/PG09, employed by the first respondent since 1 October 2020;
- 7.3. Mrs Sophie Botha (“Botha”) and adult female educator with persal no 14482983/PG09, employed by the first respondent since 1 January 2006;
8. The applicant’s members are all employed at Hoërskool Bellville, as I will however indicate herein below other educators employed in the province are similarly affected. Attached hereto as annexure “LP2”, “LP3” and “LP4” respectively are the confirmatory affidavits of the aforementioned members.
9. The first respondent is the **WESTERN CAPE EDUCATION DEPARTMENT**, a provincial government body responsible for overseeing the public education system in the Western Cape. The first respondent’s main place of business is situated at 1 North Wharf Square, 2 Lower Loop Street, Foreshore, Cape Town, 8001.
10. The second respondent is the **HEAD OF EDUCATION** of the first respondent, Mr Brent Walters, with main place of business as stated above.
11. The third respondent is the **PRINCIPAL OF HOËRSKOOL BELLVILLE** Mr GJJ Du Plessis, cited herein in his capacity as representative of the first respondent with main place of business at De La Hayelaan, Bellville 7530.

C.H. 

12. The fourth respondent is the **SCHOOL GOVERNING BODY HOËRSKOOL BELLVILLE (“SGB”)** a statutory body established in terms of the South African Schools Act, 1996 (Act No. 84 of 1996) with main place of business at De La Hayelaan, Bellville 7530. The **SGB** is cited herein for the interest which they might hold in the outcome of these proceedings, seeing that no relief is sought against the fourth respondent.
13. The fifth respondent is the **EDUCATION LABOUR RELATIONS COUNCIL (“ELRC”)** a bargaining council duly established as such in terms of section 29 of the Labour Relations Act 66 of 1995, as amended, (“LRA”) the primary place of business of which is situated at 261 West Avenue, Centurion, Gauteng 0046. The **ELRC** is cited herein for the interest which they might hold in the outcome of these proceedings, seeing that no relief is sought against the fifth respondent.

### **[C] JURISDICTION**

14. To the extent that the applicant seeks declaratory relief it is submitted that the Court possess the jurisdictional power to grant such relief under the provisions of section 158(i)(a)(iv) of the LRA and to further order compliance with any provision of the Act as provided under section 158(1)(b) of the LRA.
15. To the extent that the Court is in agreement with the applicant that the process embarked upon by the respondents is governed by the provisions of section 189A of the LRA, it is submitted Solidarity is entitled to approach this

C. H. 

Court for an order directing an employer, in the position of the first respondent, to comply with a fair procedure, as provided in terms of section 189A(13) of the LRA and to seek an interdict directing the employer to retract any notice declaring the applicant's members in addition to the staff establishment, in terms of section 158(1)(a)(i) of the LRA, pursuant to a procedurally unfair section 189 and 189A process until such employer has complied with a fair procedure or the dispute in respect of such process has been finally dealt with.


16. Further, in accordance with s 189A (17) an application in terms of s 189A (13) must be brought within 30 days of an employee having received a notice of termination, or, when no notice was received, within 30 days of the actual termination.
17. At the time that this application is launched, the first respondent gave notice to the applicant's members that they have been declared in addition to the educator staff establishment for the 2025 academic year, pursuant to an procedurally unfair and unlawful process, and as I will indicate herein below requires from them to vacate their respective positions by 11 December 2024, however no notice of termination has been given.
18. It is respectfully submitted that the prescribed period within which an application in terms of s 189A (13) must be brought, has been complied with.

CcH 

**[D] OVERVIEW OF THE APPLICATION**

19. In the main Solidarity seeks an order compelling the respondents to comply with the provisions of the LRA, more specifically section 189 as read with section 189A of the LRA, in that the first respondent has embarked on a process of restructuring the educator's staff establishment for the 2025 academic year by reducing the number of positions, due to operational requirements, and in circumstances where the respondents have embarked on a procedurally unfair process in identifying individuals to be declared in addition to the staff establishment and now requires from the identified employees to vacate their respective positions by 11 December 2024 and further in circumstances where there has been no consultation on the reasonable alternatives to the dismissal of the applicant's members.
20. As I will indicate herein below instead of complying with the provisions of section 189 as read with section 189A of the LRA the respondents have circumvented the provisions of the Act by following a process as set out in the ELRC Collective Agreement 4 of 2016 as read with the Personnel Administrative Measures (PAM), respectively attached hereto as annexure "LP5" and "LP6", which is irreconcilable with, and in contravention, of the provisions of the LRA. It is submitted that in circumstances where an employer contemplates the retrenchment of any employee such employer is bound to follow the provisions of the LRA and cannot circumvent the aforementioned provisions by placing reliance on a Collective Agreement which merely seeks to regulate the "transfer" of employees. To the extent

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that it might be argued that the applicant's members are bound by the Collective Agreement it is submitted that no agreement can reduce or dilute the rights which the applicant's members enjoy in terms of the LRA.

21. In the alternative and in the event that the Court does not find that the provisions of section 189 as read with section 189A of the LRA finds application, which the applicant submits it does, the applicant seeks an order interdicting the respondents from transferring its members pending the resolution of the dispute referred on behalf of its members to the ELRC in which they seek to contest the fairness and correctness of their declaration of being in addition to the 2025 educators staff establishment.

22. This affidavit is structure as follows:

22.1. Firstly I set out the relevant facts;

22.2. Secondly I indicate why section 189 as read with section 189A of the LRA finds application in respect of the declaratory relief sought;


22.3. Thirdly, with reference to Collective Agreement 4 of 2016 as read with PAM I indicate how the applicant's members rights have been violated;

22.4. Fourthly I deal with the requirements for interdictory relief sought in the alternative;


### **[E] RELEVANT FACTS**

23. On 27 August 2024 the first respondent issued a circular to all Principals, Educators and school-based staff at public schools informing them of, amongst other, the following:

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- 23.1. That the Western Cape Education Department only received 64% of the cost of the wage agreement, with the remaining 36% to be funded by the province;
- 23.2. That despite a massive R2.5 billion worth of budget cuts, the Department still face a R3.8 billion budget shortfall over the next three years;
- 23.3. That the educator post allocation will be reduced by 2407 posts, effective 1 January 2025;
24. The aforementioned circular is attached hereto as annexure “LP7”.
25. On or about early September 2024, and during a staff meeting, did the third respondent inform the Educators of Hoërskool Bellville that the first respondent intends to reduce the number of educators post for the 2025 academic year. Educators were however informed by the third respondent that no one at the school will be affected.
26. On 6 September 2024, 5 educators over the age of 60 were called to a meeting with third respondent. During the meeting the educators were informed that they had the choice of going on early retirement, the normal retirement being 65 years of age. They were informed that in the event that they would elect to go on early retirement the SGB would contribute to the educators’ monthly pension for a period of two years, should they however decline the offer the School will consider alternative educators.

G.H. 



27. On 19 September 2024 the applicant's members were called to the third respondent's office. They were not informed of the reason for the meeting and were not represented by any Union official at the meeting. Present at the meeting was, amongst other, the third respondent, Mrs Michelle Louw as chair of the SGB and Mr Nico Grobbelaar from Human Resources.
28. The applicant's members were provided with undated and unsigned letters under the letter head of the School and attached to the aforementioned was a letter from Mr Andile Magadla, Circuit Manager: Circuit 5, dated 18 September 2024. The aforementioned letters are attached hereto respectively as annexures "**LP8**" and "**LP9**".
29. The undated and unsigned letter, under the letter head of the School, attached as annexure "**LP8**", amongst other, confirmed the following:
- 29.1. The purpose of the letter was to inform the educators of the "intended" restructuring, due to operational reasons, at Hoërskool Bellville;
- 29.2. That due to financial reasons the first respondent confirmed that Hoërskool Bellville's educators establishment will be reduced with four posts consisting of 1 Departmental Head and three Educator PL1 posts;
- 29.3. The proses of identifying educators to be declared in addition to the educators staff establishment;
- 29.4. The criteria applied by Hoërskool Bellville to identify educators in addition to the staff establishment, being the needs of the school, such as curriculum obligations, number of classes, timetable and

C. H.



allocation of learners per phase were taken into account, what the least disruptive impact on current staff will be in terms of the curriculum and the timetable as well as the possibility of staff who can teach subjects and fulfil other operational obligations;

29.5. The timetable for identifying educators who are to be declared in addition of the staff establishment as well as the transfer or placing of these educators were confirmed as follows:

29.5.1. 1 September to 30 September 2024 the Circuit Manager and Principal identifies all educators that could not be “absorbed” in the 2025 educators staff establishment;

29.5.2. 30 September 2024 profiles of identified educators must be submitted by the Principal and be presented to the Circuit Manager;

29.5.3. 29 November 2024 the Circuits identify appropriate vacant posts for educators and consult Principal on placements;

29.5.4. 29 November 2024 letters to be issued by Circuit Manager to identified educators regarding their placement;

29.6. Educators that have been declared in addition to the staff establishment retains this status;

29.7. Attempts will continue to be made during the 2025 academic year to place these educators in the event that other educators leave the permanent employment of the first respondent;

29.8. That in accordance with the requirements of the LRA the SGB of Hoërskool Bellville gives formal notice of its intention to restructure the post of the educator;


C. H. 

30. The letter from the Circuit Manager, dated 18 September 2024, attached hereto as annexure “LP9” so presented to the applicant’s members on the day of the meeting further confirmed, amongst other, the following:
- 30.1. That a “consultative” process pertaining to the identification of educators to be in addition to the establishment was followed as prescribed in terms of the ELRC Collective Agreement 4 of 2016;
  - 30.2. That emanating from the aforementioned process the applicant’s members were identified to be declared in addition to the school’s establishment for the 2025 academic year;
  - 30.3. That due to the fact that the educators have been declared in addition to the educator staff establishment for the 2025 academic year they will be subjected to a matching and placement process and that this process will be facilitated by the Circuit Manager and “may” result in the educator being placed in a post at another school where his or her profile meets the curriculum needs of the receiving school;
  - 30.4. That in terms of Circular 0025/2024 preference will be given to educators declared in addition to the school’s educator establishment to be matched and placed at schools where there are vacancies or where vacancies may become available due to natural attrition. The educators profile must however meet the vacant post profile requirements to be matched and placed;
  - 30.5. That the matching and placement process will continue in the 2025 academic year;

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31. I wish to point out that no template in respect of the profile which was required to be completed by the educators was attached to the letter of the Circuit Manager.
32. What ought to be apparent from the aforementioned is that no joint consensus seeking process was embarked upon and the applicant's members were simply informed of the fact that they have been identified as being in addition to the educators staff establishment.
33. On 1 October 2024 the applicant addressed a letter to Circuit Manager, the third respondent and Chairperson of the SGB, attached hereto as annexure "LP10". In the said correspondence the applicant indicated that the respondents failed to follow a fair process in identifying the applicant's members as being in addition to the staff establishment in that, amongst other:
- 33.1. A formal meeting, to discuss the matter, was not held with all staff and stakeholders. When asked about the minutes of the meetings the applicant's members were told that a meeting will be held with their union representatives to discuss the matter;
- 33.2. The applicant's members asked in what manner they had been identified and that they were told that it would be in the best interest of the school if they left;

C.H.



34. The applicant further requested to be provided with the following information and documentation:
- 34.1. The minutes of the meeting in which the process was discussed with all staff members;
  - 34.2. The procedure that was utilized to determine which educators are declared to be in excess;
  - 34.3. The criteria that were utilized to determine which educators are declared to be in excess;
  - 34.4. The minutes of the meeting where educators staff had the opportunity to express their views and how it had been taken into consideration;
  - 34.5. The manner in which the needs of the school had been analysed in order to determine which educators are to be declared in excess;
  - 34.6. In which manner the LIFO principles, as stipulated in the collective agreement, had been applied;
  - 34.7. The minutes of the meeting in which the SGB had mandated the school principal to establish a sub-committee to make the decisions about the affected staff members;
  - 34.8. The template the applicant's members are required to utilize in order to complete their profile;
35. The applicant further informed the recipients that they are willing to meet with them.

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36. On 1 October 2024 the third respondent, responded to the correspondence and indicated that:

*"The extensive and unfortunate process of staff establishments which included several role players at the school is finalized. All relevant documents were sent to the WCED.*

*As by instruction of the WCED any further communication must be addressed to them."*

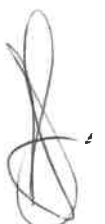
37. The aforementioned correspondence is attached hereto as annexure **"LP11"**.

38. On even date the Circuit Manager Mr Magadla responded and simply communicated the following:


*"The school is guided by circular 0025/25 and collective agreement 4 of 2016 in engaging the process of declaring educators in addition to the staff establishment (excess)*

*My duty is to implement what is on the circular to make sure the school follow the process and identify teachers in excess in a fair and transparent manner"*

39. The aforementioned correspondence is attached hereto as annexure **"LP12"**. No documentation or information as sought by the applicant were provided.

G. H. 

40. On 1 November 2024 the applicant again directed correspondence to the Western Cape Education Department and SGB in which the applicant, amongst other, communicated the following:
- 40.1. That it was not provided with any information as sought in its letter dated 1 October 2024;
  - 40.2. That the respondents did not follow the procedure as set out in paragraph B6 of Collective Agreement 4 of 2016 and PAM;
  - 40.3. That the selection of the applicant's members was not based on a fair and justifiable selection criterion and that it was capricious, arbitrary and irrational, especially since the SGB has already advertised positions for Afrikaans and Mathematics teacher for 2025;
  - 40.4. That in respect of Mrs Biesenbach, she has been relieved of her duties and responsibilities as Departmental Head for Afrikaans and that she was replaced by a junior employee with much less experience and years of service;
  - 40.5. That the applicant has referred a dispute to the ELRC on behalf of its members and that the applicant demands that pending the final adjudication by an arbitrator of the dispute referred, the transfer of the applicant's members be placed on hold until the arbitrator has rendered an outcome;
  - 40.6. That the applicant has reservations in respect of the process embarked upon by the Western Cape Department of Education in that it seems to have been in contravention of the provisions of section 189 of the LRA and that it is unclear why this process

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embarked upon has not been conducted under the provisions of section 189A of the LRA;

40.7. That the Western Cape Department of Education is required to clarify its stance in not complying with the provisions of section 189 of the LRA and why the Labour Court should not be approached for an order that the Department be directed to comply with its statutory obligations;

41. The aforementioned correspondence is attached as annexure “**LP13**”. The applicant received no response and instructed its attorneys to direct correspondence to the respondents with its final demands. On 11 November 2024 the applicant’s attorneys directed the said correspondence to the respondents, attached hereto as annexure “**LP14**” in which it amongst other indicated that:

41.1. Having considered the process embarked upon by the Department it is the applicant’s view that same has been conducted in contravention of the provisions of section 189 as read with section 189A of the LRA in that;


41.1.1. Contrary to what the LRA requires the applicant’s members have not been provided with the required notice of possible retrenchment as envisaged in section 189(3) of the Act;

41.1.2. The selection criteria applied to identify the applicant’s members as in addition to the staff establishment was not agreed upon nor objective and fair;

C. H. 



- 41.1.3. No alternatives have been considered prior to the applicant's members having been declared in addition to the establishment;
- 41.1.4. There has been no joint consensus seeking process and consultation as required by the LRA in declaring the applicant's members in addition to the educators staff establishment;
42. The applicant's attorney accordingly demanded that the respondents provide an undertaking that its members not be transferred or removed from their current place of employment until such time as their dispute has been resolved. Further to this the applicant demanded that the Department provides and undertaking that it shall withdraw and retract all notices issued to the respective employees who have been declared in addition to the staff establishment and that the Department shall commence with a process as required in terms of section 189, read with section 189A of the LRA. The respondents we provided until 13 November 2024 to respond to the demands made.
43. On 12 November 2024 Mr Magadla responded by simply stating that *'teachers must lodge a grievance through District office'*. The correspondence is attached as annexure "LP15".
44. On 14 November 2024 the chairperson of the SGB responded as follows:

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*"As previously communicated via email all required procedures and processes required/set by the WCED have been fully adhere to.*

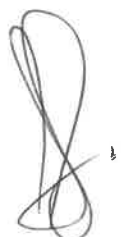
*All requested documentation is in the possession of is currently held by the WCED, which will be handling the process from this point forward. You are welcome to direct all inquiries directly to the WCED."*

45. The said correspondence is attached as annexure "LP16".
46. I wish to point out further that the SGB has advertised a number of positions which are to be filled by 1 January 2015 and for which the applicant's members are qualified without there being any consultation with the applicant's members on the aforementioned as an alternative to the declaration of being in addition to the staff establishment. Kindly see attached hereto as annexure "LP17" the said advertisements. I accept that SGB appointment are not governed by the first respondent and that they are considered separate and distinct contract of employments with different employers. The issue is however that an appointment by the SGB could, and still is, an alternative to the applicant's members being transferred or dismissed by the first respondent.
47. As already indicated above the applicant's members have been requested to vacate their class rooms by 11 December 2024.

**[F] SECTION 189 AS READ WITH SECTION 189A OF THE LRA APPLICABLE**

48. Section 189A(1) of the LRA states that:


*"This section applies to employers employing more than 50 employees if-..*

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- (a) *the employer contemplates dismissing by reason of the employer's operational requirements, at least-....*
- (v) *50 employees, if the employer employs more than 500 employees; or*
- (b) *the number of employees that the employer contemplates dismissing together with the number of employees that have been dismissed by reason of the employer's operational requirements in the 12 months prior to the employer issuing a notice in terms of section 189 (3), is equal to or exceeds the relevant number specified in paragraph (a)."*


49. It is submitted that it cannot be contested that the first respondent is required to reduce its educator staff establishment with at least 2400 educators. The contention that there will be no retrenchments is simply far-fetched and untenable. Even if the first respondent is correct that *'around 2100 educators leave our system each year, for reasons such as relocation or resignation'* it ought to be evident that at least 50 educators will not be placed and will ultimately be dismissed.

50. To the extent that educators who have been declared in addition to the staff establishment are offered an alternative position and required to relocate the aforementioned is not always a reasonable alternative due to, amongst other, family responsibilities. To be added to the aforementioned is the fact that any alternative placement will be subject to the approval of that schools SGB and even if the educator possess the required skills and qualification the SGB can decline to appoint based on other consideration such as the

C. H. 

best interest of the school. In these circumstances the educators will be dismissed due to operational requirements without the employer having followed a fair process as required in terms of the provisions of section 189 as read with section 189A of the LRA.

51. In addition to the aforementioned it is evident that the reason for embarking on the restructuring process is due to finances and the reduction of the first respondent's budget. It is therefore only logic that the first respondent cannot retain the applicant's members or other educators who have also been declared in addition to the staff establishment for an indefinite period, especially in circumstances where they will not be adding any value to the first respondent.
52. In this respect I further wish to point out that the applicant has received confirmation from the following schools that there will similarly be a reduction in their staff establishment:
- 52.1. Hoërskool DF Malan, two educators posts to be abolished. See annexure "**LP18**";
- 52.2. High School Outeniqua, one post to be abolished. See annexure "**LP19**";
- 52.3. High School Swellendam, two post to be abolished. See annexure "**LP20**";
- 52.4. Laerskool W.A Joubert, one post to be abolished. See annexure "**LP21**";

C. H. 

53. To add to this the respondents have acknowledge, in the notices indicating the intention to restructure due to operational requirements, that the LRA finds application yet fails to follow the process as required by the law.
54. Having regard to the facts to the matter it is submitted that the balance of probabilities dictate that the first respondent must contemplate that at least 50 educators will not be placed and faces dismissal.
55. As such the applicant contents that the first respondent was, and is, bound by the provisions of section 189 as read with section 189A to follow the processes as required in terms of the aforementioned sections and based further on the legal argument which is to be presented at the hearing of this matter the applicant submits that declaratory relief stands to be granted.

**[G] CONSEQUENCES OF THE APPLICATION OF COLLECTIVE AGREEMENT 4 OF 2016**

56. It is submitted that the first issue to be acknowledge is the fact that the present scenario is not one which Collective Agreement 4 of 2016 was meant to address. The situation at present is unprecedented and is simply incapable of governing the process to the followed.
57. From a perusal of the Collective Agreement 4 of 2016, which has been incorporated into PAM, the following "procedural" requirements are stated:  
*"B.6.3 Each principal must inform his/her staff of the institution's new educator post establishment and of the procedure, as set out in the next paragraph, that will be followed in identifying educators who cannot be*

C. H. A.

*accommodated on the new establishment. This information must be accessible to all member of staff.*

*B.6.4 The procedure for the identification of serving educators in addition to the establishment as a result of operational requirements need not be performed on an annual basis, but must be performed at least once every 36 months, and shall be:*


*B.6.4.1 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 addition, be absorbed in vacancies that exist or will exist in the near future (no longer than six months) at that education institution.*

*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.*

*B.6.4.2 After considering B.6.4.1 above, the Circuit/District Manager together with the Principal shall identify the educators in addition, taking into account the following:*

*B.6.4.2.1 The views of the educator staff of the institution as expressed a formal meeting convened by the principal;*

*B.6.4.2.2 The needs of the institution, more particularly in relation to its specific curriculum obligations, the*

*A. H* 

*number of classes, the timetable and the allocation of learners to classes;*

*B. 6.4.2.3 The Circuit/District Manager 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;*

*B.6.4.2.4 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.*

*B.6.4.2.5 One representative per trade union party to the ELRC shall be invited by the District/Circuit Manager to observe the process.*

*B.6.4.3 An educator who has been identified as in additional shall be so informed, in writing, by the Provincial Education Department concerned."*

58. The aforementioned process is simply not suitable to the situation at hand and is in contravention of the provisions of section 189 as read with section 189A of the LRA for amongst other the following reasons;

*C.H.* 

- 58.1. Evidently no joint consensus seeking process is envisaged in terms of the Collective Agreement as required by the LRA, which has been non-existent in the present case;
- 58.2. No notice is required to be given in terms of section 189(3) of the LRA, containing the information necessary to enable the educators to consult meaningfully, nor are any of the factors as set on the section subject to any consultation process;
- 58.3. The selection criteria in terms of the Collective Agreement are subjective and includes the "views" of the staff and furthermore enables the Principal, and possibly the Circuit Manager, to elect educators simply due to personal preference;
59. The fact that the Collective Agreement 4 of 2016 can find no application to the current scenario is perhaps be illustrated with reference to the powers of the arbitrator as set out in the agreement, being the following:
- "B.6.9.1 During any ELRC arbitration proceedings about the enforcement, interpretation or application of the measures outlined above, an arbitrator appointed by the ELRC shall have jurisdiction to set aside the decision of the employer to transfer an educator to a specific school and refer the decision back to the employer for a fresh decision if:*
- B.6.9.1.1 The educator has not been given an opportunity to make representation about the specific school to which the employer intends to transfer the educator; or*

G.H.





*B.6.9.1.2 The educator has not been given reasonable notice of the date on which he/she must report for duty at a school to which he/she has been referred; or*

*B.6.9.1.3 The employer has failed to apply his/her mind to the representation e.g personal circumstances that the educator has brought to the attention of the employer, or has otherwise acted irrationally in this regard. In determining whether the employer has acted irrationally in this regard the arbitrator shall amongst others consider the following:*

*B.6.9.1.3.1 the fact that the operational requirements of the employer remain the ultimate and overriding factor to be considered when deciding on a transfer;*

*B.6.9.1.3.2 the best interest of learners in the province;*

*B.6.9.1.3.3 the extent of the remoteness of the school to which the educator has been transferred;*

*B.6.9.1.3.4 the educator's situation of childcare or care for family members;*

*B.6.9.1.3.5 the availability of any alternative means to care for a child or a family member left behind as a result of the transfer;*

*B.6.9.1.3.6 the fact that an educator who has been declared in addition must be transferred to another place of work;*

60. If regard is had to the jurisdictional power of the arbitrator same is limited to set aside the decision of the employer to transfer an educator to a specific school. At present no decision has been taken to transfer the applicant's

G.H



members nor to any specific school, yet the applicant's members' have been instructed to vacate their posts.

61. Besides the Collective Agreement not being aligned to the provisions of the LRA, even its application has not been complied with by the respondents for the following reasons;

61.1. There was no indebt consultation and discussion with the applicant's members. As indicated above they were simply informed of their fate;


61.2. All three members of the applicant are senior educators who teaches grade 10 to 12 pupils with more years of service than their colleagues. In light of the aforementioned LIFO was clearly not applied;

61.3. The decision was taken by the respondents to retain post level 1 educators who teaches elective subjects whilst Mr Burger teaches Maths and Mrs Biesenbach and Botha teaches Afrikaans. The two subjects are the largest compulsory subjects and evidently a priority for the school curriculum;


61.4. Both Mr Burger as well as Mrs Biesenbach have been appointed Department Heads in their respect subjects, with Burger also being Deputy Head for academics, one of the most important portfolios in the school;

61.5. There are at least one educator of the school who retires mid 2025 which will enable the respondents to retain one of the applicant's members, yet this was not even considered;

G.H



- 61.6. As already indicated above the third respondent appointed one Mrs Celia McDonald as Department Head for Afrikaans in place of Mrs Biesenbach in circumstances where Mrs McDonald was only appointed by the first respondent four months prior to the decision being taken to declare Mrs Biesendach in addition to the establishment;
- 61.7. Previously educators who have been declare in addition to the staff establishment were retained at the school until such time as when a vacancy becomes available. As indicated above the applicant's members have been given an ultimatum to vacate their class rooms;
62. As indicated above the criteria, ostensibly used by the school in identifying the applicant's members as being in addition to the educator staff establishing were;
- 62.1. The needs of the school, such as curriculum obligations, number of classes, timetable and allocation of learners per phase;
- 62.2. What the least disruptive impact on current staff will be in terms of the curriculum and the timetable;
- 62.3. The possibility of staff who can teach subjects and fulfil other operational obligations;
63. I submit that the aforementioned criteria will not pass muster under the LRA due to the fact that it is not objective and fair.

C. H. 

64. In short had the respondent's complied with a fair procedure it is submitted that the applicant's members would not have been identified as additional to the educator staff establishment based on the fact that:
- 64.1. They teach a compulsory subject which are essential to the curriculum of the school;
  - 64.2. They had more years of service than a number of other educators who have not been identified as being additional to the staff establishment;
  - 64.3. There are a number of much junior educators who teach elective subjects such as Civil Technology, Visual Art and Drama for only a few pupils and it ought to have been evident to the respondents that the election of either of these individuals would have the least impact on the current staff, curriculum and the pupils;
65. It is submitted that the aforementioned clearly illustrates the procedural irregularities in the process adopted by the respondents and why an order of this court is required to compel the respondents to comply with the provisions of the LRA.

#### **[H] REQUIREMENTS FOR INTERDICTIONARY RELIEF SOUGHT**

66. To the extent that the Court should differ from the applicant's and find that the provisions of section 189 as read with section 189A do not find application, which the applicant strongly contends it does, this section seeks to deal with the alternative relief sought.

C.H. 

67. The interdict sought is of an interim nature, pending the outcome of the dispute so referred by the applicant on behalf of its members to the ELRC, attached hereto as annexure "LP22".
68. Before I deal with the requirements for interim relief I firstly deal with the issue or urgency.

### ***Urgency***

69. I am advised that an applicant that approaches the court on an urgent basis essentially seeks and indulgence and to be afforded preference in order to prevent the prejudice and harm that may materialise or persist if the conduct complained of continues.
70. I am further advised that central to a determination of whether a matter is urgent is whether the applicant has, in the founding affidavit, set forth explicitly, the circumstances which render the matter urgent, and the reason why substantial relief cannot be attained at a hearing in due course.
71. I have already indicated herein above that the applicant and its attorneys have sought undertakings from the respondents on multiple occasion which has come to naught. Further to this it was only on the 12<sup>th</sup> of November 2024 that the Department simply indicated that the applicant's members must lodge a grievance. Evidently a grievance will not suffice in the present circumstances in that the applicant's members are required to vacate their class rooms which for all intends and purposes make their declaration of being in addition to the educator staff establishment final in effect.

a.H 

72. To add to this the applicant's members have already been replaced by the respondents, as indicate above, and any process of unscrambling the proverbial scrambled egg is not in the best interest of the learners nor the individuals which the respondents intend to appoint.
73. With reference to the above facts presented it is submitted that the applicant's members have more than reasonable prospects of success in challenging their declaration of being in addition to the educators' staff establishment. It is however unclear when the arbitration is to be scheduled and the ELRC has not yet confirmed when the matter is to be heard and it is possible that same can only be enrolled after a few months and even be subjected to review. In these circumstances the applicant's members will be required to vacate their class rooms, not be able to work, be required to participate in the placement process and if not successful with same even be dismissed.
74. As such it cannot be said that the applicant's members are able to obtain substantial redress in due course.
75. Being required to vacate you place of employment at the end of the year, especially in circumstances where you are replaced by another employee is in itself traumatic.
76. For the above reasons it is submitted that the application is indeed urgent and it is prayed that the Court exercise its discretion in favour of the applicant.

***Interim relief***

a. H. 

77. I am advised that the requirements for obtaining interim relief in application proceedings are generally as follows:
- 77.1. a prima facie right;
  - 77.2. a well-grounded apprehension of irreparable harm if interim relief is not granted and the ultimate relief is eventually granted;
  - 77.3. the balance of convenience in favour of the granting of the interim relief; and
  - 77.4. the absence of any other adequate ordinary remedy;
78. The applicant's members' prima facie right is set out in the Constitution and amplified by the provisions of the LRA, the right not to be subjected to unfair labour practice. The nature of the right at present is the fact that the respondents have subjected the applicant's members to a procedurally unfair process in electing them for possible transfer or even dismissal.
79. I have already herein above indicated the procedural requirements as set out in Collective Agreement 4 of 2016 and the extent of the respondents failure to comply therewith and it is submitted that the applicant has establish a prima facie right.
80. The well-grounded apprehension of irreparable harm has been addressed under the subject of urgency and can only be amplified with reference to the fact that if the respondents are not interdicted the applicant's members can possibly face dismissal due to the respondents operational requirement.

C. H.



81. It is submitted that the balance of convenience clearly favours the applicant's members. It is unclear why, pending the determination of the dispute the applicant's members cannot be retained in their respective posts. In this respect I need to make reference to paragraph B.6.6 of the Collective Agreement which states that:

*"Notwithstanding the provisions contained above in sub-sections B.6.1 to B.6.4 and subject to the post provisioning model, educators declared additional to the staff establishment may be retained in their original schools."*

82. Why the respondents cannot retain the applicant's members at the school has not been communicated notwithstanding multiple requests to do so.

83. The absence of any other adequate ordinary remedy has also been dealt with above. In amplification of the aforementioned it ought to be evident that notwithstanding the applicant's members entitlement to lodge a dispute the remedy is not adequate for the simple reason that it is unclear when the matter is to be heard in circumstances where the applicant's member are required to vacate their posts and await a determination on whether there exists a suitable alternative posts to which they can be transferred.

84. In the circumstances it is submitted that the applicant has made out a case for the alternative relief sought.

C.H





**[I] CONCLUDING REMARKS**

85. It is submitted that one of the fundamental purposes of the LRA is to ensure a fair process both in respect of procedure and substances. The respondents have implemented a clear stratagem to circumvent the provisions of the LRA in an attempt to evade their obligations in terms of the Act.
86. In light of the above it is submitted that the respondents ought to be compelled to comply with the provisions of the LRA and to embark on a process which shall see justice not only to the applicant's members but also the other educators who have been declared to be in addition of the educators post establishment.

**WHEREFORE** the Applicant prays for an order in the terms set out in the notice of motion to which this affidavit is attached.

  
\_\_\_\_\_ **DEPONENT**

I hereby certify that the deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn before me at Pretoria on this the 19<sup>th</sup> day of November 2024, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

**GVAZA NYAKANE**  
COMMISSIONER OF OATHS  
155 ANDERSON STREET  
BROOKLYN  
PRETORIA  
PRACTISING ATTORNEY, R.S.A.

  
\_\_\_\_\_ **COMMISSIONER OF OATHS**

**IT IS HEREBY RESOLVED AND/OR RATIFIED THAT:**

In my capacity as Head of the Labour Court Litigation Department of Solidarity Legal Services, I hereby authorise that:

1. Solidarity will launch an urgent application in the Labour Court of South Africa, Cape Town against the Western Cape Education Department at **10h00** on **THURSDAY, 28 NOVEMBER 2024** for an order in the following terms:
  - 1.1 That it be declared that the process of declaring any employee of the first respondent in addition to the educator staff establishment for the 2025 academic year falls within the ambit, and is to be governed, by the process as set out in section 189 as read with section 189A of the Labour Relations Act 66 of 1995, as amended.
  - 1.2 That it be declared that the first to third respondents has acted in a procedurally unfair manner when it proceeded to declare the applicant's members' in addition to the educator staff establishment for the 2025 academic year.
  - 1.3 That the first to third respondents be ordered to reinstate the applicant's members alternatively retract the notices declaring the applicant's members in addition to the staff establishment and directing the respondents to embark on

**CERTIFIED A TRUE COPY**



---

**HENDRIK VAN DER HOVEN**

**HEAD OF THE LABOUR COURT LITIGATION DEPARTMENT**

SIGNED ON THIS THE 17<sup>th</sup> DAY OF SEPTEMBER 2024

a meaningful joint-consensus seeking process (including consultations) as envisaged by section 189 and 189A of the Labour Relations Act 66 of 1995.

- 1.4 That the respondent be interdicted and restrained from dismissing or transferring any of the applicant's members employed by the first respondent forthwith prior to complying with a fair operational requirements procedure.

Alternatively

- 1.5 That the first to third respondents be interdicted and restrained from taking any action, including transferring the applicant's members from their place of employment pending the outcome of the dispute referred by the applicant on behalf of its members in terms of Collective Agreement 4 of 2016.

- 1.6 That the respondents who opposes the relief sought be ordered to pay the costs of this application; and

2. That **ANLIA ARCHER** who is employed by Solidarity in the position of an Industry Specialist & Network Organizer of the Teacher network, is authorised to take all

**CERTIFIED A TRUE COPY**



---

**HENDRIK VAN DER HOVEN**

**HEAD OF THE LABOUR COURT LITIGATION DEPARTMENT**

SIGNED ON THIS THE 19<sup>th</sup> DAY OF November 2024

steps necessary, including deposing to any affidavits or signing any documents on behalf of Solidarity and/or any further action required to give effect to paragraph 1 above, and to proceed with same until finalisation of all such disputes.

3. **SERFONTEIN VILJOEN & SWART ATTORNEYS** is authorised to act on Solidarity's behalf in the matter and to take all other action required in this regard and to proceed with same until the finalisation thereof.

**CERTIFIED A TRUE COPY**



---

**HENDRIK VAN DER HOVEN**

**HEAD OF THE LABOUR COURT LITIGATION DEPARTMENT**

SIGNED ON THIS THE 19<sup>th</sup> DAY OF November 2024

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN**

**CASE NUMBER: \_\_\_\_\_**

In the matter between:

**SOLIDARITY OBO MEMBERS**

**APPLICANT**

And

**WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

**HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

**PRINCIPAL OF HOËRSKOOL BELVILLE**

**THIRD RESPONDENT**

**THE SCHOOL GOVERNING BODY OF  
HOËRSKOOL BELVILLE**

**FOURTH RESPONDENT**

**EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**WERNER BURGER**

do hereby make an oath and swear as follows:

1. I am an adult male educator with persal no 55964079/PG09 and employed by the first respondent;
2. I am, therefore, duly authorized to depose to this affidavit in such capacity.
3. The facts herein contained are within my personal knowledge both true and correct, save where the context indicates otherwise.
4. I confirm that I have read the founding affidavit deposed to by ANLIA ARCHER, dated 19 November 2024 and confirm the contents thereof insofar as it relates to me.

---

**WERNER BURGER**

I CERTIFY the Deponent has acknowledged that he knows and understands the contents of the foregoing Affidavit and that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience, and that accordingly the requirements have been complied with as set out in Reg. No. 1258 of Government Gazette No. 3619, 21 July 1972, as amended, which affidavit was signed and sworn to before me at PRETORIA on this the 19<sup>TH</sup> day of November 2024.

BEFORE ME:

---

**COMMISSIONER OF OATHS**

**CAPACITY:**

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN**

**CASE NUMBER: \_\_\_\_\_**

In the matter between:

**SOLIDARITY OBO MEMBERS**

**APPLICANT**

And

**WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

**HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

**PRINCIPAL OF HOËRSKOOL BELVILLE**

**THIRD RESPONDENT**

**THE SCHOOL GOVERNING BODY OF  
HOËRSKOOL BELVILLE**

**FOURTH RESPONDENT**

**EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**JEANNE BIESENBACH**

do hereby make an oath and swear as follows:

1. I am an adult female educator with persal no 51464403/PG09 and employed by the first respondent;
2. I am, therefore, duly authorized to depose to this affidavit in such capacity.
3. The facts herein contained are within my personal knowledge both true and correct, save where the context indicates otherwise.
4. I confirm that I have read the founding affidavit deposed to by ANLIA ARCHER, dated 19 November 2024 and confirm the contents thereof insofar as it relates to me.

---

**JEANNE BIESENBACH**

I CERTIFY the Deponent has acknowledged that she knows and understands the contents of the foregoing Affidavit and that she has no objection to taking the prescribed oath and that she considers the oath to be binding on her conscience, and that accordingly the requirements have been complied with as set out in Reg. No. 1258 of Government Gazette No. 3619, 21 July 1972, as amended, which affidavit was signed and sworn to before me at PRETORIA on this the 19<sup>TH</sup> day of November 2024.

BEFORE ME:

---

**COMMISSIONER OF OATHS**



**CAPACITY:**

**ADDRESS:**

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT CAPE TOWN**

**CASE NUMBER: \_\_\_\_\_**

In the matter between:

**SOLIDARITY OBO MEMBERS**

**APPLICANT**

And

**WESTERN CAPE EDUCATION DEPARTMENT**

**FIRST RESPONDENT**

**HEAD OF EDUCATION WESTERN CAPE**

**SECOND RESPONDENT**

**PRINCIPAL OF HOËRSKOOL BELVILLE**

**THIRD RESPONDENT**

**THE SCHOOL GOVERNING BODY OF  
HOËRSKOOL BELVILLE**

**FOURTH RESPONDENT**

**EDUCATION LABOUR RELATIONS COUNCIL**

**FIFTH RESPONDENT**

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**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**SOPHIE BOTHA**

do hereby make an oath and swear as follows:

1. I am an adult female educator with persal no 14482983/PG09 and employed by the first respondent;
2. I am, therefore, duly authorized to depose to this affidavit in such capacity.
3. The facts herein contained are within my personal knowledge both true and correct, save where the context indicates otherwise.
4. I confirm that I have read the founding affidavit deposed to by ANLIA ARCHER, dated 19 November 2024 and confirm the contents thereof insofar as it relates to me.

---

**SOPHIE BOTHA**

I CERTIFY the Deponent has acknowledged that she knows and understands the contents of the foregoing Affidavit and that she has no objection to taking the prescribed oath and that she considers the oath to be binding on her conscience, and that accordingly the requirements have been complied with as set out in Reg. No. 1258 of Government Gazette No. 3619, 21 July 1972, as amended, which affidavit was signed and sworn to before me at PRETORIA on this the 19<sup>TH</sup> day of November 2024.

BEFORE ME:

---

**COMMISSIONER OF OATHS**

**CAPACITY:**

**ADDRESS:**

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



# **COLLECTIVE AGREEMENT NO. 4 OF 2016**

***23 August 2016***

## **TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS**

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Education Labour Relations Council  
261 West Avenue  
CENTURION  
0046

*[Handwritten signature]*

**EDUCATION LABOUR RELATIONS COUNCIL**

**COLLECTIVE AGREEMENT NO 4 OF 2016**

**TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS**

**1. PURPOSE OF THIS AGREEMENT**

The purpose of this agreement is to replace the provisions of Collective Agreement 2 of 2003 regarding the transfer of serving educators in terms of operational requirements.

**2. SCOPE OF THIS AGREEMENT**

This agreement applies to and binds:

2.1 The employer, and

2.2 All the educators of the employer as defined in the Employment of Educators Act, 1998 (as amended) whether such educators 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. 2 of 2003.

3.2 Regulations regarding the creation of educator posts in a provincial department of education and the distribution of such posts to the educational institutions of such a department (government notice No 1676 published in government gazette No 19627 dated 18 December 1998 as amended).

**4. THE PARTIES TO COUNCIL THEREFORE AGREE AS FOLLOWS:**

4.1 To request the Minister of Education to amend paragraph B.6 of Chapter B of the Personnel Administrative Measures by including the attached document (Annexure A).

**5. DATE OF IMPLEMENTATION**

This agreement shall, in respect of parties, come into effect on the date it is signed in Council.

## 6. DISPUTE RESOLUTION


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

## 7. DEFINITIONS


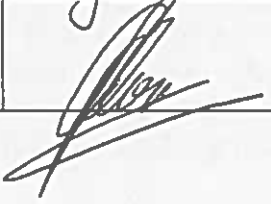
- 7.1 "**constitution**" means the constitution of the Education Labour Relations Council.
- 7.2 "**Council**" means the Education Labour Relations Council.
- 7.3 "**educator**" means an educator as defined in the Employment of Educators Act, 1998, as amended.
- 7.4 "**employer**" means the employer as defined in the Employment of Educators Act, 1998, as amended.
- 7.5 "**Labour Relations Act**" means the Labour Relations Act No. 66 of 1995, as amended.

THUS DONE AND SIGNED AT CENTURION THIS THE 23<sup>rd</sup> DAY  
OF August 2016

### ON BEHALF OF THE STATE AS THE EMPLOYER

DEPARTMENT	NAME	SIGNATURE
BASIC EDUCATION	H.M. MUSEU	

### ON BEHALF OF THE EDUCATOR PARTIES

TRADE UNION	NAME	SIGNATURE
"SADTU"	Mugweya Maluleke	
CTU "ATU"		JC KROPPER

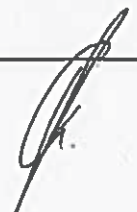
**ANNEXURE A****B.6 TRANSFER OF SERVING EDUCATORS IN TERMS OF OPERATIONAL REQUIREMENTS**

- B.6.1 Operational requirements for education institutions are based on, but not limited to the following:
- B.6.1.1 Change in learner enrolment.
  - B.6.1.2 Curriculum changes or a change in learners' involvement in the curriculum.
  - B.6.1.3 Change to the grading or classification of an institution.
  - B.6.1.4 Merging or closing of institutions.
  - B.6.1.5 Financial constraints.
- B.6.2 Subject to regulations on post provisioning, a Head of a Provincial Department of Education must, from time to time, inform each institution of its new educator post establishment. As a result of operational requirements the new staff establishment may provide for fewer posts than the existing staff establishment or the skills requirements of the new establishment may not match the skills profile of the incumbent educators. As a result, some serving educators may be in addition to the new establishment.
- B.6.3 Each principal must inform his/her staff of the institution's new educator post establishment and of the procedure, as set out in the next paragraph, that will be followed in identifying educators who cannot be accommodated on the new establishment. This information must be accessible to all members of staff.
- B.6.4 The procedure for the identification of serving educators in addition to the establishment as a result of operational requirements need not be performed on an annual basis, but must be performed at least once every 36 months, and shall be:
- B.6.4.1 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 addition, be absorbed in vacancies that exist or will exist in the near future (not longer than six months) at that education institution.



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.

- B.6.4.2** After considering B.6.4.1 above, the Circuit/District Manager together with the Principal shall identify the educators in addition, taking into account the following:
- B.6.4.2.1** The views of the educator staff of the institution as expressed at a formal meeting convened by the principal;
- B.6.4.2.2** The needs of the institution, more particularly in relation to its specific curriculum obligations, the number of classes, the timetable and the allocation of learners to classes;
- B.6.4.2.3** The Circuit/District Manager 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;
- B.6.4.2.4** 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.
- B.6.4.2.5** One representative per trade union party to the ELRC shall be invited by the District/Circuit Manager to observe the process.
- B.6.4.3** An educator who has been identified as in additional shall be so informed, in writing, by the Provincial Education Department concerned.
- B.6.5** The following procedure shall be followed in filling vacancies in cases where a department has educators in addition of a staff establishment:
- B.6.5.1** In terms of section 6 and/or section 8 of the Employment of Educators Act, (1998) the employer may transfer an educator who is in addition to another post in the department that matches his/her skills and experience.
- B.6.5.2** In terms of section 6(3) and/or section 8(2) of the Employment of Educators Act, the employer may only transfer an educator permanently to a school on the recommendation of the governing body of such school.



- B.6.5.3 The employer shall provide a list of vacancies and their profiles from which the educator additional to the post establishment would, as per the agreed management plan of the respective provincial department, make a choice relevant to his/her profile for transfer.
- B.6.5.4 In the event the educator fails to make a choice, the employer reserves the right to make a choice on behalf of such educator.
- B.6.5.5 The employer shall, after receiving the choices of the educators, submit such to the relevant school governing body for consideration and recommendation within 2 months of the request.
- B.6.5.6 The HoD may, in terms of section 8(5) of the Act, temporarily transfer an educator declared additional to the staff establishment without a recommendation of the school governing body for a stated period.
- B.6.5.7 In the event none of the educator's choices in terms of paragraph B.6.5.3 can be realised, the employer must first give the educator an opportunity to make written representations e.g. personal circumstances about the intended transfer to that specific school within 5 working days before a final decision is made.
- B.6.5.8 The opportunity to make representations must be given to the educator before a school governing body recommends the transfer of such educator to their school.
- B.6.5.9 Having made the final decision to transfer an educator to a specific school, the employer must give the educator reasonable notice of the date on which he or she must report for duty at the new place of work. Thirty school days will be considered reasonable notice for purposes of this clause.
- B.6.6 Notwithstanding the provisions contained above in sub-sections B.6.1 to B.6.4 and subject to the post provisioning model, educators declared additional to the staff establishment may be retained in their original schools.
- B.6.7 Notwithstanding paragraph B.6.4, staff establishments for schools, in line with the post provisioning model, will be issued annually by the Head of a Provincial Education Department.
- B.6.8 The time period of 36 months referred to in paragraph B.6.4, will not negatively affect the creation and/or filling of posts, the

grading of schools or any other personnel related matter, in terms of relevant and applicable provisions, during that period.

**B.6.9 The Role of the Arbitrator in Respect to the Process Above:**

**B.6.9.1** During any ELRC arbitration proceedings about the enforcement, interpretation or application of the measures outlined above, an arbitrator appointed by the ELRC shall have jurisdiction to set aside the decision of the employer to transfer an educator to a specific school and refer the decision back to the employer for a fresh decision if:

**B.6.9.1.1** The educator has not been given an opportunity to make representations about the specific school to which the employer intends to transfer the educator; or

**B.6.9.1.2** The educator has not been given reasonable notice of the date on which he/she must report for duty at a school to which he/she has been transferred; or

**B.6.9.1.3** The employer has failed to apply his/her mind to the representation e.g. personal circumstances that the educator has brought to the attention of the employer, or has otherwise acted irrationally in this regard. In determining whether the employer has acted irrationally in this regard the arbitrator shall amongst others consider the following:

**B.6.9.1.3.1** the fact that the operational requirements of the employer remain the ultimate and overriding factor to be considered when deciding on a transfer;

**B.6.9.1.3.2** the best interests of learners in the province;

**B.6.9.1.3.3** the extent of the remoteness of the school to which the educator has been transferred;

**B.6.9.1.3.4** the educator's situation of childcare or care for family members;

**B.6.9.1.3.5** the availability of any alternative means to care for a child or a family member left behind as a result of the transfer;

**B.6.9.1.3.6** the fact that an educator who has been declared in addition must be transferred to another place of work;

- B.6.9.2 An ELRC arbitrator who arbitrates a dispute about the interpretation, application or enforcement of the measures outlined above shall:
- B.6.9.2.1 not have any jurisdiction to determine where an educator shall be transferred to as this falls within the prerogative of the employer; and
  - B.6.9.2.2 not have jurisdiction to award compensation



*M. H. M.*

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF BASIC EDUCATION

NO. 2468

9 September 2022

**PERSONNEL ADMINISTRATIVE MEASURES (PAM)**

G.N. 222 of 1999 published in *Government Gazette* No. 19767 dated 18 February 1999

As amended by

- G.N. 247 of 2000 published in *Government Gazette* No. 20986 dated 17 March 2000
- G.N. 1430 of 2000 published in *Government Gazette* No. 21950 dated 29 December 2000
- G.N. 155 of 2001 published in *Government Gazette* No. 22066 dated 17 February 2001
- G.N. 774 of 2001 published in *Government Gazette* No. 22594 dated 24 August 2001
- G.N. 1254 of 2001 published in *Government Gazette* No. 22878 dated 7 December 2001
- G.N. 1400 of 2001 published in *Government Gazette* No. 22961 dated 19 December 2001
- G.N. 78 of 2002 published in *Government Gazette* No. 23052 dated 25 January 2002
- G.N. 244 of 2002 published in *Government Gazette* No. 23187 dated 1 March 2002
- G.N. 1287 of 2002 published in *Government Gazette* No. 23934 dated 11 October 2002
- G.N. 3417 of 2002 published in *Government Gazette* No. 24140 dated 12 November 2002
- G.N. 267 of 2003 published in *Government Gazette* No. 24948 dated 21 February 2003
- G.N. 1140 of 2005 published in *Government Gazette* No. 28264 dated 25 November 2005
- G.N. 714 of 2006 published in *Government Gazette* No. 29056 dated 21 July 2006
- G.N. 692 of 2007 published in *Government Gazette* No. 30134 dated 30 July 2007
- G.N. 781 of 2000 published in *Government Gazette* No. 30232 dated 29 August 2007
- G.N. 25 of 2008 published in *Government Gazette* No. 30678 dated 18 January 2008
- G.N. 948 of 2014 published in *Government Gazette* No. 38249 dated 27 November 2014
- G.N. 170 of 2016 published in *Government Gazette* No. 39684 dated 12 February 2016

**CONSOLIDATION OF THE TERMS AND CONDITIONS OF EMPLOYMENT OF  
EDUCATORS DETERMINED IN TERMS OF SECTION 4 OF THE EMPLOYMENT OF  
EDUCATORS ACT, 1998**

I, Angelina Matsie Motshekga, Minister of Basic Education, have in terms of section 4 of the Employment of Educators Act, 1998 determined and consolidated the terms and conditions of employment of educators as set out in the schedule below.



**MRS AM MOTSHEKGA, MP  
MINISTER OF BASIC EDUCATION**

**DATE: 13/07/2022**

**PERSONNEL ADMINISTRATIVE MEASURES (PAM)**

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## ACRONYMS

ABC	Activity-based costing
COLTS	Culture of learning, teaching and services
DBE	Department of Basic Education
DG	Director-General
EEA	Employment of Educators Act, 1998
EISP	Employee initiated severance package
ELRC	Education Labour Relations Council
EMD	Education management development
GPS	Global positioning system
GS	General Secretary of the ELRC
HoD	Head of Department
HPCSA	Health Professions Council of South Africa
ICT	Information and communication technology
INSET	In-service education for teachers
LIFO	Last in, first out
LRA	Labour Relations Act, 1995
LSEN	Learners with special education needs
MASP	Mutually agreed to severance package
MEC	Member of the Executive Council
MTEF	Medium term expenditure framework
NEPA	National Education Policy Act, 1996
NQF	National Qualifications Framework
OSD	Occupation Specific Dispensation
PAIA	Promotion of Access to Information Act, 2000
PAM	Personnel Administrative Measures
REQV	Relative education qualification value
RSA	Republic of South Africa
SACE	South African Council for Educators
SASA	South African Schools Act, 1996
SGB	School governing body
SMT	School management team
SRC	Student Representative Council
SS	Shop steward

*PERSONNEL ADMINISTRATIVE MEASURES (PAM)***CHAPTER A: POST PROVISIONING AND GRADING NORMS, WORKLOAD AND JOB DESCRIPTIONS**

- A.1 SCOPE OF APPLICABILITY**
- A.2 NORMS/GUIDELINES FOR THE PURPOSES OF ESTABLISHMENT DETERMINATION**
- A.3 GRADING OF INSTITUTIONS**
- A.4 WORKLOAD OF SCHOOL-BASED EDUCATORS**
- A.5 DUTIES AND RESPONSIBILITIES OF EDUCATORS**

**ANNEXURE**

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Annexure A.7	Core duties and responsibilities: Principal
Annexure A.8	Job descriptions for office based educators

**A.1 SCOPE OF APPLICABILITY**

- A.1.1 This PAM is applicable to all educators as defined in the EEA.
- A.1.2 There may, in respect of the matters regulated in this PAM, be no deviation from the prescribed measures: Provided that should there be cases not covered in the measures contained herein or should there be any doubt as to the application of the provisions in individual cases, or should there be cases that could justify a deviation from a measure, particulars thereof shall be submitted to the DBE, with a view to a decision regarding such application or possible deviation by the Minister of Basic Education with the concurrence of the Minister of Finance in the event of an amendment or supplementation having a financial implication, after negotiation and agreement in terms of the LRA.

**A.2 NORMS/GUIDELINES FOR THE PURPOSES OF ESTABLISHMENT DETERMINATION****A.2.1 Educator Personnel**

- A.2.1.1 The educator post establishment of the DBE consists of the posts created by the Minister.
- A.2.1.2 The educator post establishment of a provincial department of education consists of the posts created by the MEC responsible for education in terms of the measures set out in paragraph A.2.2.
- A.2.1.3 The educator post establishment of an education institution or office consists of the posts allocated to such an institution or office from the educator establishment of the provincial department of education by the head of such a department. The allocation of educator posts to schools by a HoD of a provincial department of education must be done in terms of the measures set out in paragraph A.2.3.

*PERSONNEL ADMINISTRATIVE MEASURES (PAM)*

**A.2.2 Creation of Educator posts by a MEC Responsible for Education in a Province**  
*(Government Gazette No 19627, dated 18 December 1998, as amended by Government Gazette No 24077, dated 15 November 2002) (Regulations regarding the terms and conditions of employment of educators (Schedule))*

A.2.2.1 The MEC responsible for education in a province must determine the educator post establishment of the provincial department of education in terms of section 5(1)(b) of the EEA, in accordance with any applicable policy made in terms of NEPA.

A.2.2.2 In determining the post establishment of a provincial department of education, the MEC must –

A.2.2.2.1 Consult with the trade unions in that province which are members of the ELRC and governing body organisations which are active in that province.

A.2.2.2.2 Take into account –

- (a) The budget of the provincial department of education.
- (b) The effect that the post establishment will have on the employment security of educators.
- (c) The need for redress in the implementation and promotion of curriculum policy in keeping with the basic values and principles set out in section 195 of the Constitution of the Republic of South Africa.
- (d) The fact that the division between expenditure on personnel and non-personnel costs in the budget should be educationally and financially justifiable and in accordance with national policy that may exist in this regard.
- (e) The fact that the division between expenditure on educator and non-educator personnel costs in the budget should be educationally, administratively and financially justifiable and in accordance with national policy that may exist in this regard.

A.2.2.3 In determining the educator post establishment of the provincial department of education, the MEC must take into account the terms and conditions of employment of educators that may be affected by the post establishment, including provisions for leave, substitution and remuneration-related issues and may not vary any of these terms and conditions of employment.

**A.2.3 Distribution of Educator Posts to Schools by a Head of Department**  
*(Regulations regarding the terms and conditions of employment of educators (Schedule))*

A.2.3.1 The HoD of a provincial department of education must, in terms of section 5(2) of the EEA, determine the educator post establishment of each public school in the province in question –

A.2.3.1.1 By applying the post distribution model set out in Annexure A.1.

A.2.3.1.2 By taking into account:



*PERSONNEL ADMINISTRATIVE MEASURES (PAM)*

- (a) The post establishment of the provincial department of education as contemplated in paragraph A.2.2.
- (b) The need for redress in the implementation and promotion of curriculum policy. The HoD of a provincial department of education must determine an annual programme in this regard after consultation with trade union parties to the ELRC and the governing body organisations that are active in that province.

**A.2.4 Post Level Ratio Norms**

- A.2.4.1 The distribution of personnel, that is, the provision of "posts" on the fixed establishment over the various post levels according to the post level ratio norm, must be based on full-time incumbents.
- A.2.4.2 Educators employed on a proportional basis, as well as part-time units who are paid on a per hour basis must be converted to full-time incumbent units. (This does not include full-time units remunerated for additional work.)
- A.2.4.3 For the purposes of the determining of the number of "posts" on the fixed establishment, substitutes on post level 1 must not be taken into account.
- A.2.4.4 The distribution of educators over post levels, including proportional appointments, must be monitored by the relevant provincial department of education every term.
- A.2.4.5 The distribution of educators over the various post levels in a particular reporting year, (excluding substitutes on post level 1), must conform to the prescribed post level ratio norms.
- A.2.4.6 Educators who hold lower post level gradings, but who are utilised on higher post levels and are remunerated on the higher post level must, for the purposes of the application of the formula be deemed to occupy posts on a higher level.
- A.2.4.7 The post level ratio norm shown in paragraph A.2.4.8 below is the most favourable distribution of educators (incumbents/full-time equivalent units) over post levels that can be applied. This means that the provision (number of incumbents) applicable to higher post levels that are not utilised, may be used as incumbent numbers on lower post levels.

## A.2.4.8

<i>Post level</i>	<i>Ratio per 1 000 educators</i>
1	697,20
2	182,20
3	84,50
4	34,20
5	,95
6	,95

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Note: In the calculation of the number of educators at every post level, fractions must be omitted, e.g. 91.7 = 91. The fractions that are omitted must be added to the calculated provision of educators at post level 1.

### A.2.5 Provision of Posts of Education Therapist (ELRC Resolution No. 5 of 1997)

A.2.5.1 Post provisioning norms for special schools in respect of education therapists are additional to post provisioning in respect of other categories of educators, namely those with teaching or psychological responsibilities.

A.2.5.2 The following post provisioning norms apply in respect of education therapists:

Disability of learners	Number of posts per learner
Cerebral palsied	0,050
Physically disabled	0,040
Specifically learning disabled	0,033
Visually impaired	0,010
Hearing impaired	0,010
Epileptic	0,020
Autistic	0,033
Severely intellectually impaired	0,010

A.2.5.3 In order to determine the number of therapist posts to be provided to a school, the number of learners in each disability category is multiplied by the applicable norm in paragraph A.2.5.2. Fractions of posts, which may occur after the calculated values in respect of all the categories of disability have been added together, are ignored. However, with regard to the provision of the first and only post to a school, a fraction of 0,5 or more will be rounded to a full post, unless the department concerned is able to render the required service by means of centrally based therapists.

A.2.5.4 Each learner may only be counted once even though they may be multiple disabled. Learners who are multiple disabled are counted under the category of disability that is, for purposes of post provisioning, more favourable.

A.2.5.5 For every multiple of 5 therapist posts, one post will be a supervisory post provided that at least 3 posts should be allocated in respect of a specific discipline of therapy (speech, physio- or occupational) for the allocation of a Chief Education Therapist post in respect of such discipline. Allocation of disciplines of therapy should be done in accordance with the specific needs of the school.

### A.3 GRADING OF INSTITUTIONS (ELRC Collective Agreements No. 3 of 2006 and No. 1 of 2008)

A.3.1 The salary level of a principal of a school is determined by the grading of the school, which is done in accordance with the number of educator posts allocated to a school in terms of national norms. In respect of special schools (LSEN schools) the number of educator posts allocated to a school for this purpose, includes all educator posts allocated in terms of national norms (educators and therapists).

A.3.2 The grading of a school determines the salary range of the principal as indicated in the second column of the table below, and applies to a fully qualified principal.

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Educator posts on the departmental establishment of the school	Applicable salary range	Grading	Minimum posts required for up-grading	Number of posts to which the establishment must drop before the institution will be down-graded
1	Minimum notch code: 56 Maximum notch code: 138	One person school	2	-
2 – 3	Minimum notch code: 108 Maximum notch code: 186	P1	4	1
4 – 12	Minimum notch code: 126 Maximum notch code: 201	P2	13	2
13 – 24	Minimum notch code: 144 Maximum notch code: 215	P3	26	10
25 – 45	Minimum notch code: 159 Maximum notch code: 218	P4	47	22
46 +	Minimum notch code: 180 Maximum notch code: 221	P5	-	43

- A.3.3 A school is up-graded to a higher grading level if, for two consecutive years, the educator post allocation to the school reaches or exceeds the number of posts required for the up-grading of the school as indicated in the table above.
- A.3.4 A school is down-graded to a lower grading level if, for two consecutive years, the educator post allocation to the school drops to or below the number of posts that will effect such down-grading as indicated in the table.
- A.3.5 Re-grading of schools should be done on an annual basis and should be effective from 1 January, based on the school's post establishments of the previous year and of the current year. The higher salary notch will apply from date of up-grading of the school.
- A.3.6 Where the enrolment of a school increases or decreases substantially, affecting the post allocation to the school substantially, and sufficient evidence exists that the new enrolment and accompanying post allocation will be maintained for a reasonable period, the HoD may immediately re-grade the school in accordance with the relevant post allocation.

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A.3.7 The HoD may grade a new school in accordance with the enrolment and accompanying post allocation that the school is expected to maintain for a reasonable period.

**A.3.8 Measures Applicable at Implementation on 1 July 2005**

A.3.8.1 These grading norms came into effect on 1 July 2005. All existing schools should have been graded with effect from 1 July 2005 in terms of these norms, based on the 2005 or 2006 post allocation to a school, whichever was more favourable.

A.3.8.2 Where the principal's salary was to be increased as a result of the implementation of the norms, it became effective on 1 July 2005 after implementation of the general salary adjustment and salary progression that might have taken place on the same date. An increase in a principal's salary as a result of the implementation of the new norms is not regarded as an upgrading of the post and would, therefore, not require any procedure that applies to filling of a new post or a waiting period, as is the case with the upgrading of schools.

A.3.9 Where the new norms had the effect that the salary applicable to the post was lower than the salary of the incumbent principal as on the day the agreement became effective, such a principal will retain his/her salary range for as long as the school maintains the 1 July 2005 grading. Such a principal will still be eligible for salary progression up to the maximum of his/her salary range. A subsequent grading of the school to below the level on which it was graded on 1 July 2005, will affect the principal's position in terms of the measures applicable to the re-grading of schools.

**A.4 WORKLOAD OF SCHOOL-BASED EDUCATORS (ELRC Resolution No. 7 of 1998)**

**A.4.1 Introduction**

A.4.1.1 These measures cover all full-time educators (including psychologists, therapists and counsellors) that are school based.

A.4.1.2 The work done by educators includes the following core duties covered during a *formal school day* (with or without contact with the learners) and outside the *formal school day*.

**A.4.1.2.1 During the formal school day**

- (a) Scheduled teaching time.
- (b) Relief teaching.
- (c) Extra and co-curricular duties.
- (d) Pastoral duties (ground, detention, scholar patrol, etc.).
- (e) Administration.
- (f) Supervisory and management functions.

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(g) Professional duties (meetings, workshops, seminars, conferences) etc.).

(h) Planning, preparation and evaluation.

**A.4.1.2.2 Outside the formal school day**

(a) Planning, preparation and evaluation.

(b) Extra and co-curricular duties.

(c) Professional duties (meetings, workshops, seminars, conferences).

(d) Professional development.

A.4.1.3 Each post level within a school has different duties and responsibilities, encompassing the core duties outlined in paragraph A.4.1.2 above, but to a varying degree.

A.4.1.4 There should be an equitable distribution of workload between the various post levels and within a post level to ensure that educators on a particular level or an individual educator is not overburdened.

A.4.1.5 The expectation is that every educator must be able to account for 1800 actual working hours per annum.

**A.4.2. Workload Per Educator**

A.4.2.1 All educators should be at school during the *formal school day*, which should not be less than 7 hours per day, except for special reasons and with the prior permission of the principal. The principal will exercise his/her discretion in this regard based on provincial policy.

A.4.2.2 The 7 hours per day includes the breaks and the period/s in which the learners are not at school.

A.4.2.3 *Scheduled teaching time* during the *formal school day* will be specified with time allocation per post level. The principal must determine the allocation of subjects, timetable and resultant scheduled teaching time after consultation with the educator staff.

A.4.2.4 All other duties are specified and allocated by the principal after consultation with the educator staff. Educators will be expected to perform the core duties, as outlined in paragraph A.5.2, both within and outside of the *formal school day*, and with the understanding that none of these may diminish the overall amount of *scheduled teaching time* or negatively impact upon the curriculum.

A.4.2.5 An educator shall, during his/her official duty, give his/her full attention to the duties entrusted to him/her and shall not without the consent of the head of the relevant institution or office be absent from his/her school or institution during his/her hours of official duty. (*Regulation 23, Regulations regarding the terms and conditions of employment in education*)

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A.4.2.6 All educators may be required by the employer to attend programmes for ongoing professional development, up to a maximum of 80 hours per annum. These programmes must be conducted outside the *formal school day* or during the vacations. The employer shall give at least one term notice of programmes to be conducted during the school vacations.

#### A.4.3 Scheduled Teaching Time per Post Level

A.4.3.1 The time allocated for teaching in respect of different post levels will differ according to the size of the school. In smaller schools, principals and their deputy principals are required to do more teaching than in large schools with bigger staff establishments. The actual hours must therefore be established in relation to the curriculum needs of the school, the timetable and staff establishment of the school. Scheduled teaching time is expressed as a percentage of the total time that learners in the particular grades are required to be taught.

A.4.3.2 The allocation of *scheduled teaching time* should be done in such a manner that it:

A.4.3.2.1 Maximises the individual abilities of all educators.

A.4.3.2.2 Optimises teaching and learning at the institutional level.

A.4.3.3 In general terms, the following may be considered as guidelines in determining the *scheduled teaching time*: -

Primary School	Ratio per 1 000 educators
Post level 1	Between 85% and 92%
Post level 2	Between 85% and 90%
Deputy Principal	60%
Principal	Between 10% and 92%, depending on his/her post level
	NB. Principals of one-person schools are expected to teach 100% of the scheduled teaching time.

Secondary School	Ratio per 1 000 educators
Post level 1	Between 85% and 90%
Post level 2	85%
Deputy Principal	60%
Principal	Between 5% and 60% depending on his/her post level

#### A.5 DUTIES AND RESPONSIBILITIES OF EDUCATORS (ELRC Resolution No. 8 of 1998)

##### A.5.1 Introduction

*PERSONNEL ADMINISTRATIVE MEASURES (PAM)*

- A.5.1.1 The ability of our education system to compete in an increasingly global economy depends on our ability to prepare both learners and educators for new or changing environments. This is in line with the mission in the corporate plan of the DBE to ensure that all South Africans receive flexible life-long learning and education and training of high quality.
- A.5.1.2 Management in education should be able to draw on the professional competencies of educators, build a sense of unity of purpose and reinforce their belief that they can make a difference. When and where appropriate, authorities need to allocate authority and responsibility that will ensure the building of human resource capacity.
- A.5.1.3 In addition to the core duties and responsibilities specified in this section, certain specialised duties and responsibilities may be allocated to staff in an equitable manner by the appropriate representative of the employer.

**A.5.2 Core Duties and Job Descriptions**

Refer to the following annexure:

Annexure A.2:	Core duties and responsibilities: Teacher
Annexure A.3:	Core duties and responsibilities: Senior Teacher
Annexure A.4:	Core duties and responsibilities: Master Teacher
Annexure A.5:	Core duties and responsibilities: Departmental Head
Annexure A.6:	Core duties and responsibilities: Deputy Principal
Annexure A.7:	Core duties and responsibilities: Principal
Annexure A.8:	Job descriptions for office based educators

**Annexure A.1**

**POST DISTRIBUTION MODEL FOR THE ALLOCATION OF EDUCATOR POSTS TO SCHOOLS** (*Government Gazette No 19627, dated 18 December 1998, as amended by Government Gazette No 24077, dated 15 November 2002, as amended in 2008 per CEM decision (inclusion of new subjects)*)

**PRINCIPLES ON WHICH THE MODEL IS BASED**

The model is based on the principle that available posts are distributed among schools, proportionally to their number of weighted learners.

The concept of “weighted learner”, instead of actual learner, is used to enable schools to compete on an equal footing for posts. As some learners and some learning areas require more favourable post allocations than others, each learner is given a certain weighting that reflects its relative need in respect of post provisioning. Other factors like the size of the school, the need to redistribute resources and the need to ensure equal access to the curriculum may require that additional weighted learners be allocated to some schools. A weighted learner enrolment for each school is determined, which, in relation to the total learner enrolment of the province, reflects its relative claim to the total pool of available posts in the province.

**FACTORS THAT ARE BEING TAKEN INTO ACCOUNT IN DETERMINING THE POST PROVISIONING NEEDS OF SCHOOLS AND LEARNERS**

Educational and administrative factors that impact differently on the post provisioning needs of learners and of schools for which specific provision is made in the model are the following:

- The maximum ideal class size applicable to a specific learning area or phase. This ideal maximum value also takes into account complicating factors that may apply, such as additional contact time required between educator and learner and the requirement to attend to learners in more than one place at the same time. Although the situation in South Africa is such that ideal maximum class sizes cannot be complied with, these ideal values form a basis of comparison between the requirements of all the learning areas and grades.
- Period load of educators. It is common practice that educators in the secondary school phases have a lower period load than educators in the primary school phases. This is mainly as a result of more complex time tables and subject combinations. A lower period load implies a more favourable overall learner-educator ratio. The norms used in this regard are based on average prevailing practices and do not represent workload policy.
- Need to promote a learning area. By providing a more favourable learner-educator ratio in respect of a learning area in grades 10 to 12, schools can be motivated to promote such a learning area. This may only be done in terms of national or provincial policy in this regard.
- The size of the school. The smaller a school, the more difficult it is to manage with a certain learner-educator ratio and the more favourable it should be. This matter is addressed by adding a certain constant number of weighted learners to each school. The constant additional number of weighted learners could be seen as providing for a school’s principal post, or for part of it, independently from the number of learners. It could also be seen as providing for posts to deal with certain basic responsibilities that each school has, irrespective of its size.



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- The number of grades. Especially in respect of smaller schools, it is more complex to manage a school with a relatively large number of grades than a similar sized school with only a few grades. This matter is addressed by linking the additional number of weighted learners, referred to under the previous point, to the number of grades. A further increase in the number of weighted learners of a combined school is required to compensate for the management complexity of such a school.
- More than one language medium of instruction. In order to deal with this complicating factor, the number of weighted learners that is granted per grade in terms of the previous point, is increased if more than one language medium of instruction is used in the particular grade. A HoD may set a certain minimum number or percentage of the learners in a grade that must receive tuition in a second language before recognition is given in this way.
- Disabilities of learners. These learners require additional support from various categories of personnel. Norms with regard to the provisioning of educator posts, including teaching staff, therapists and psychologists still need to be determined. Until new norms have been determined, the norms for the allocation of educator (teaching staff) posts that applied in terms of the 1998 Post Provisioning Model, as published in Government Gazette No. 119627 on 18 December 1998, as well as the norms that applied in respect of therapist and psychologist posts, will continue to apply except in schools where the allocation is done in terms of a field testing of norms that are in the process of being developed. The weightings that apply to learners for purposes of allocating educator posts in terms of the Post Distribution Model are as follows:

Specifically Learning Disabled	3.0
Severely Intellectually Impaired	3.0
Epileptic	3.5
Cerebral Palsied	3.5
Physically Disabled	4.0
Severe Behaviour Problems	5.0
Hard of Hearing	5.0
Partially sighted	5.0
Blind	5.0
Deaf	5.0
Autistic	6.0

In accordance with specific circumstances in a department, each of the above weightings may be increased, after consultation with trade unions who are members of the ELRC, by between 0% and 20%. It is important to note that the weightings that apply to learners based on their curriculum, school phase, instruction media or the fact that both primary and senior secondary phases are provided for, do not apply to these learners.

Learners who are mildly to moderately learning disabled are weighted in terms of the curriculum they follow and not in terms of their disability. If they are accommodated in so-called special schools where they receive vocational training, they are counted as 2.5 weighted learners each.

- Access to the Curriculum. In order to ensure affordable and fair access of learners to the curriculum, the numbers of learners that are fully funded in respect of subjects that are more expensive to offer need to be regulated. (Certain subjects are more expensive than others because they require smaller classes and/or special equipment and facilities.) A HoD, therefore, may identify specific schools at which the offering of such subjects should take

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place as well as the maximum number of learners at such schools that should take the subjects concerned. This means that a maximum number (or percentage) of learners may be set in respect of a particular subject at a particular school. Should a school exceed such a limit, the excess learners will be funded in terms of the norms applicable to the least expensive subject. It is possible that the maximum number of learners that will be counted as taking a particular subject at a particular school may be specified as zero even though such a subject was considered for post provisioning purposes in the past. This would mean that all such learners taking such a subject would be counted as if they are taking the least expensive subject for purposes of post provisioning.

In order to assist a school to introduce such a subject, a certain minimum number of learners may be counted for post provisioning purposes during a phasing in period, even though the actual number of learners taking the subject is lower than this number. The implementation of these measures must be in accordance with a department's policy on redress in the implementation and promotion of the curriculum.

- Poverty. In order to compensate for the negative impact that poverty has on learning, the poverty grading of a school is also taken into account.
- Level of funding. Policy may require that different phases be funded at different levels. Currently, all grades are set at a 100% funding level while Grade R is set at a funding level of 0%. This is merely a tool that could be used if and when required.
- Ad Hoc factors. Certain factors that are not considered above, such as an unexpected growth in learner numbers, may exist at a particular school and may justify the allocation of additional posts to such a school. These posts must be allocated from an additional pool of posts that need to be created for this purpose.

**WEIGHTING NORMS**

The following norms and principles will apply in respect of all learners:

- (a) Grades 1 to 9:

Based on the principle that uniform curricula apply to learners in schools in all phases up to grade 9, the following formula is used to determine the weighting of a learner:

$c$  divided by the ideal maximum class size, divided by the average prevailing period load, multiplied by the funding level.

$$(w = c/m/l \times f)$$

The value of  $c$  is set at 40 and refers to the highest ideal maximum class size in relation to which others are expressed.

Grade	Max Class size	Period load (%)	Funding level	Weight
	(m)	(l)	(f)	(w)
R	35	96	0	0
1 to 4	35	96	100	1,190
5 to 6	40	96	100	1,042
7	37	96	100	1,126

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Grade	Max Class size	Period load (%)	Funding level	Weight
8 to 9	37	87	100	1,2426

(b) Grades 10 to 12:

- In view of the variety of learning areas, each learner is weighted separately in terms of his or her curriculum.
- A total number of weighted learners (subject-learner weight or slw) is determined for the learners in a particular grade (10, 11 or 12) taking a particular subject by means of the following formula:

The number of learners taking the subject ( $l_s$ ), multiplied by 40, divided by the ideal maximum class size, multiplied by the promotion factor ( $p$ ), divided by the average period load ( $l$ ), multiplied by the funding level ( $f$ ), multiplied by the relevant weekly time allocation ( $t$ ), divided by 27,5.

$$(slw = l_s \times 40/m \times p/l \times f \times t / 27,5)$$

In view of the fact that some subjects are compulsory for all learners and others may be limited in respect of the number of learners that will be recognized for post provisioning purposes, the following procedure needs to be followed:

- All learners are required to take 4 subjects from Group A as follows: 2 official languages, Mathematics or Mathematical Literacy and Life orientation. Therefore, the total weighting of all learners in a particular grade ( $l_g$ ) in respect of the subjects in Group A is:

$$wl(A) = (2 \times (40/37 \times 1/0.84 \times 4.5/27.5) + (40/35 \times 1/0.84 \times 4.5/27.5) + (40/37 \times 1/0.84 \times 2/27.5)) \times l_g$$

$$= 0,7374 \times l_g$$

- In respect of Group B subjects, each learner may take any 3 subjects. Therefore, the maximum number of learner-subject combinations in respect of the various subjects in Group B ( $n_m$ ), in respect of a particular grade in a school is 3 times the actual number of learners in that grade ( $3 \times l_g$ ). The calculation of the total weighting of learners in a particular grade in respect of Group B subjects is done as follows:

In respect of each subject listed under Group B (excluding "all other Group B subjects"), calculate the weighted learners by means of the formula  $slw = 40/m \times p/l \times f \times t/27,5 \times$  number of learners taking the subject. By adding the values of swl for all these subjects a value for swl (1) is obtained.

If the total number of subject-learner combinations ( $n_l$ ) used for the calculation in (a) is less than the maximum number of subject-learner combinations ( $n_m$ ) that can apply, determine the value of  $n_d = n_m - n_l$ .

$$\text{Calculate } slw(2) = n_d \times 40/37 \times 1/0,84 \times 4/27,5 = n_d \times 0.1872.$$

The total number of weighted learners for the grade in respect of Group B subjects is  $slw(B) = slw (1) + slw (2)$ .

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If the total number of learner-subject combinations ( $n_i$ ) used for the calculation in (a) is higher than the maximum number of learners ( $n_m$ ) that can apply, adjust the value  $swl$  (l) calculated in (a) above by multiplying it with  $n_d/n_m$  to obtain a value for  $wl(B)$ .

A total number of weighted learners for the particular grade is then determined as  $wl(A) + wl(B)$ .

The following norms apply:

Subject	Ideal (m)	Promot (p)	Period (l)	Time (t)	Funding (f)
<b>Group A</b>					
Official languages	37	1	84	4,5	100
Mathematics or Mathematical Literacy	35	1	84	4,5	100
Life Orientation	37	1	84	2,0	100
<b>Group B</b>					
Agricultural Management Practices	15	1	84	4	100
Agricultural Technology	15	1	84	4	100
Agricultural Science	37	1	84	4	100
Dance Studies	15	1	84	4	100
Design	12	1	84	4	100
Dramatic Arts	12	1	84	4	100
Music	6	1	84	4	100
Visual Arts	12	1	84	4	100
Civil Technology	15	1	84	4	100
Electrical Technology	20	1	84	4	100
Mechanical Technology	15	1	84	4	100
Engineering Graphics and Design	15	1	84	4	100
Computer Applications Technology	25	1	84	4	100
Information Technology	25	1	84	4	100
Life Sciences	32	1	84	4	100
Physical Sciences	30	1	84	4	100
Consumer Studies	25	1	84	4	100
Hospitality Studies	20	1	84	4	100
All other Group B subjects	37	1	84	4	100

Note: The values that appear in the table as promotion factors are all set as 1. This means that no provision is made in the table for the promotion of any of these subjects. Should provision be made in policy that a certain subject should be promoted by, say 7%, the value of "1" would become "1,07". The promotion factor per subject should be included in the provincial curriculum policy and would apply equally to all learners counted in the subject.

- (c) A further distinction between schools is made based on the size of the school, the number of grades and whether or not more than one language medium of instruction is used. Provision for this is made by adding a certain number of weighted learners to a school's weighted

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enrolment linked to each recognized language group (maximum of 2 language groups) and each grade provided for at the school. The following values apply:

A base number of weighted learners must be added to each school. Any value from 10 to 20, in accordance with a department's needs in this regard, will apply. A head of a provincial department must select a value that will ensure a proper balance in the allocation of posts to institutions of different sizes.

Additional weighted learners must be added in respect of each grade in which learners are enrolled. If learners in a particular grade are taught in more than one language medium, a further additional weighting will apply in respect of that grade. (A minimum number (or percentage) of learners in a particular grade receiving tuition in a second language may be specified before the additional provision applies. This additional weighting only applies once, irrespective of the number of additional languages that may apply):

Grades	1	2	3	4	5	6	7	8	9	10	11	12
Primary language group	2	2	2	2	2	2	2	3	3	3	3	3
Second language group	4	4	4	4	4	4	4	6	6	6	6	6

Any of the values in the table may be increased by a maximum of 2, provided that the head of a provincial department is satisfied that such an increase would lead to a more equitable allocation of posts.

In respect of a combined school, the base number of 10 to 20 weighted learners that is granted to a school in terms of paragraph (c), is granted in respect of both the primary school phase and the secondary school phase that the school has. For this purpose, the secondary school phase must include learners in any of grades 10 to 12.

(a) The total number of weighted learners in each school is then adjusted in terms of its poverty ranking.

The head of a provincial department must set aside a certain percentage of its available posts for poverty redress based on the department's relative level of internal inequality. The Minister may from time to time set the maximum percentage that provincial departments may use for this purpose. Until this limit is revised, it is set at 5%.

The redress posts are to be distributed to schools based on the relative poverty of the learners of a school, using an appropriate index within the framework of the indices utilized by the province in the National Norms and Standards for School Funding. The basis on which the redress posts are to be distributed among schools is as follows:

School quintiles	Allocation from redress pool or posts
Poorest 20%	30% of posts
Next 20%	27.5% of posts
Next 20%	22.5% of posts
Next 20%	15% of posts
Least poor 20%	5% of posts

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After the total number of weighted learners for each school has been determined, the number of posts to be allocated to a school is determined by means of the following formula:

Posts = Total number of posts available, multiplied by weighted learners of school, divided by total weighted learners of all schools.

**COMMUNICATION OF NEW POST ESTABLISHMENTS WITH SCHOOLS**

Where a school's establishment is likely to change in any school year, the adjusted post establishment should, as far as possible, be communicated to the school on or before 30 September preceding the school year.

**ROLE OF THE DBE**

Provincial departments are required to adhere to the intent and spirit of these norms. Where a province deviates from any of these norms it needs to justify such deviation to the DBE. The DBE may require information from time to time from provinces in order to ensure that these norms are being implemented. Provinces are thus required to comply with these requests.

File no.: 14/3/1/3  
Reference: 20240816-6034

To: Principals, Educators and school-based staff at public schools

(For information: Governing bodies)

Dear Colleagues

### **BASKET OF POSTS PROCESS**

The Western Cape Education Department has concluded the 2025 basket of posts consultation process with the relevant educator unions.

We were well aware that this process would be challenging given the current fiscal environment we are in. In addition to the mid-term budget cuts experienced last year, we were never fully funded to meet the costs of the 2023 nationally negotiated wage agreement, leaving us with a wage bill that we cannot afford.

We received only 64% of the cost of the wage agreement, with the remaining 36% to be funded by our province. The cumulative impact of the national fiscal emergency and under-funded cost of living adjustments are seriously impacting our continued operations and fiscal sustainability.

We have done everything we can to weather this storm for the past year and to protect our educators. We have frozen the recruitment of non-educator staff at Head Office and in our districts, with a current vacancy rate of 21%, and have cut down on spending across various directorates. Circular 0034/2023, dated 21 November 2023, was another measure implemented to try and deal with the financial realities we now face.

Despite a massive R2.5 billion worth of budget cuts, we still face a R3.8 billion budget shortfall over the next three years.

Considering the growing budget shortfall and fiscal uncertainty, we have no alternative but to announce the reduction of the educator post allocation by 2 407 posts, effective 01 January 2025 – the start of the 2025 school year.

It is certainly not the position we would like to find ourselves in, but the reality is that the costs related to the employment of educators outweighs what we currently have within our budget. We can now either run into the red financially or we can reluctantly reduce the number of educators in our system in order to afford our current wage bill.

On 30 August 2024, schools will receive their 2025 basket of post allocations. The allocation to your school may affect your educator establishment. We are currently determining how this will be allocated, taking the needs of each school into account.

This process is still underway and we will communicate with schools later this week before they receive their staff allocations for 2025.

We should never have been placed in this position and it is a fight we share with other sectors such as health. The Western Cape Government (WCG) has already taken steps to address the impact of the decision not to fully fund educator salaries, as well as raised the matter at the Council of Education Ministers' meeting for urgent action.

We understand the pressures you are already facing at school level and will work closely with you to guide you through this challenging process. We are all in this together.

We have made some positive gains over the last two years in this sector and we cannot let this current challenge deter our continued commitment to achieving quality education for all. There are tough times ahead, but I know from experience that we are extremely resilient and passionate about what we are all here to achieve.

Thank you for your continued service to education and our learners.

Kind regards



**BRENT WALTERS**  
**HEAD: EDUCATION**  
**DATE: 2024-08-27**





## **IN SAKE: VOORGESTELDE HERSTRUKTURERING WEENS OPERASIONELE REDES**

Geagte Me S Botha

Hierdie skrywe is om u formeel in kennis te stel van die voorgestelde herstrukturering wat weens operasionele redes in Hoërskool Bellville oorweeg word (onder die instruksie van die WKOD). In aansluiting by die vereistes van die Wet op Arbeidsverhoudinge (Wet 66 van 1995) en die prosedures wat deur die Wes-Kaapse Onderwysdepartement en die ELRC (Education Labour Relations Council) gestel is, is dit noodsaaklik om u bewus te maak van die rede en die proses agter hierdie herstrukturering.

### **VOORGESTELDE HERSTRUKTURERING WEENS OPERASIONELE REDES**

#### **1. WKOD-WETGEWING**

Ingevolge die regulasies van die Wes-Kaapse Onderwysdepartement, soos uiteengesit in Artikel 1 van die Regulasies wat ingevolge Artikel 5(1) van die Wet op Indiensneming van Opvoeders (Wet 76 van 1998) uitgevaardig is, is die LUR van Onderwys in 'n provinsie verantwoordelik om die opvoederposstruktuur van die provinsiale onderwysdepartement te bepaal. Die Hoof van Departement is verantwoordelik vir die toewysing van opvoederposte aan alle openbare gewone skole, spesiale openbare skole en kantoor-gebaseerde komponente in die provinsie. Volgens ELRC CA4 van 2016 is die oorplasing van bestaande opvoeders weens Operasionele Vereistes vir Onderwysinstellings gebaseer op, maar nie beperk tot, die volgende punte:

- Verandering in leerderinskrywings
- Kurrikulumveranderinge en/of veranderinge in leerders se betrokkenheid by die kurrikulum
- Verandering in die gradering of klassifikasie van 'n instelling
- Samevoeging of sluiting van skole
- **Finansiële beperking.**


Die Hoof van Departement moet van tyd tot tyd elke instelling inlig oor sy nuwe personeelstruktuur. As gevolg van operasionele vereistes mag die nuwe struktuur voorsiening maak vir minder poste as die bestaande personeelstruktuur. Dit kan beteken dat sommige dienende opvoeders in oortolig mag wees ten opsigte van die nuwe struktuur.

## 2. KOSTE-BESPARINGSMAATREËLS

As gevolg van kostebekampingsmaatreëls en finansiële druk op die begroting vir die vergoeding van werknemers (Compensation of Employees), is die bepalings van RAVO se Kollektiewe Ooreenkoms No. 4 van 2016, gedateer 23 Augustus 2016, van toepassing. Hierdie ooreenkoms verskaf riglyne vir die proses om permanent aangestelde opvoeders as oortollig tot 'n skool se opvoederdiensstaat te verklaar.

Die WKOD voer aan dat B 6.1.5 van ELRC CA4 van 2016 die rede is vir die 2025-Herstrukturering van WKOD-poste. Hierdie Sirkulêre 024 van 2024 is op 30 Augustus 2024 aan Hoërskool Bellville gestuur.

## 3. DIENSSTAAT VAN HS BELLVILLE (2025)

 <b>Western Cape Government</b>		Chief Directorate: People Management Practices																													
<b>The Principal</b> <b>BELLVILLE HOËRSKOOL</b> <b>DE LA HAYELAAN</b> <b>BELLVILLE</b> <b>7530</b>		<b>EMIS Number:</b> 0101310200 <b>Education District:</b> METRO EAST <b>Circuit:</b> 05 <b>E-File:</b> E86 <b>Component:</b> 005429																													
<b>STAFF ESTABLISHMENT 2025: EDUCATORS</b>																															
Your school's staff establishment for the period 1 January 2025 to 31 December 2025 is provided below. It is based on the information obtained from the <i>Preliminary Annual Survey 2024</i>																															
<b>LEARNER ENROLMENT</b>																															
<b>2023</b>		<b>2024</b>																													
1266		1278																													
<b>SCHOOL GRADING</b>																															
<b>2024</b>		<b>2025</b>																													
P4		P4																													
Schools are graded in accordance with the Personnel Administration Measures (PAM) as promulgated by the Minister of Basic Education in Government Gazette No. 39684 dated 12 February 2016.																															
<table border="1"> <thead> <tr> <th>POSTS</th> <th>ESTABLISHMENT 2024</th> <th>ESTABLISHMENT 2025</th> <th>LOSS / GAIN</th> </tr> </thead> <tbody> <tr> <td colspan="4"><b>Posts determining school grading and number of promotion posts</b></td> </tr> <tr> <td>Principal</td> <td style="text-align: center;">1</td> <td style="text-align: center;">1</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Deputy Principal</td> <td style="text-align: center;">2</td> <td style="text-align: center;">2</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Departmental Head</td> <td style="text-align: center;">5</td> <td style="text-align: center;">4</td> <td style="text-align: center;">-1</td> </tr> <tr> <td>Educator PL1 RPDM</td> <td style="text-align: center;">25</td> <td style="text-align: center;">22</td> <td style="text-align: center;">-3</td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: center;"><b>33</b></td> <td style="text-align: center;"><b>29</b></td> <td style="text-align: center;"><b>-4</b></td> </tr> </tbody> </table>				POSTS	ESTABLISHMENT 2024	ESTABLISHMENT 2025	LOSS / GAIN	<b>Posts determining school grading and number of promotion posts</b>				Principal	1	1	0	Deputy Principal	2	2	0	Departmental Head	5	4	-1	Educator PL1 RPDM	25	22	-3	<b>Total</b>	<b>33</b>	<b>29</b>	<b>-4</b>
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#### 4. WKOD PROSESSE

Die proses vir die identifisering van opvoeders wat weens operasionele vereistes oortollig verklaar word, sien soos volg daaruit:

- Hoofde moet personeel inlig oor hulle nuwe opvoederdiensstaat en die prosedures rakende die verklaring van oortollige opvoeders (die inligting moet beskikbaar bly).
- Die Hoof, na raadpleging met opvoeder personeel gedurende 'n formele vergadering, mag aanbeveel dat opvoeders as oortollig verklaar word en in vakante poste wat bestaan en/of toekomstige poste [nie langer as ses maande nie, d.w.s. natuurlike arbeidsomset] by daardie instelling geplaas word. Aanbevelings en besluite moet dienooreenkomstig gedokumenteer word.

Die Kring-/Distriksbestuurder sal saam met die Hoof, die oortollige opvoeder(s) identifiseer deur die volgende in ag te neem:

- Menings van opvoeders na formele vergadering met die Hoof.
- Behoeftes van die skool, d.w.s. kurrikulumverpligtinge, aantal klasse en fases, die tydskema, en toewysing van leerders per fase en medium van onderrig.
- Die kringbestuurder/distriksbestuurder sal in ag neem dat daar nie noodwendig 'n direkte verband tussen die geïdentifiseerde poste en die opvoeders wat oortollig verklaar word nie - daar mag meer as een pos wees met substansieel dieselfde pligte.
- In die geval dat twee of meer opvoeders vir dieselfde poste meeding – sal die "Laaste in, Eerste uit" (LIFO) beginsel toegepas word, maar LIFO sal alle aaneenlopende diens in 'n openbare onderwysinstelling insluit.
- Een verteenwoordiger per vakbond van die ELRC sal uitgenooi word om die proses van die Distriks-/Kringbestuurder te observeer.

#### 5. KRITERIA TOEGEPAS DEUR HOËRSKOOL BELLVILLE TEN EINDE OORTOLLIGE PERSONEEL TE IDENTIFISEER

Behoeftes van die skool, soos kurrikulumverpligtinge, aantal klasse, rooster en toewysing van leerders per fase, is in ag geneem:

- Die minste ontwrigtende impak op huidige personeel sal hê ten opsigte van die kurrikulum en die rooster.
- Moontlikheid van personeel wat vakke kan aanbied en ander operasionele verpligtinge kan nakom.

## 6. TYDLYN

Die volgende tydraamwerke sal geld ten opsigte van die identifisering van opvoeders wat as oortollig tot die opvoederdiensstaat verklaar is, sowel as vir plasing vir die 2025 akademiese jaar:

INTERVENSIE-AKTIWITEITE	TYDRAAMWERK
Kringbestuurders, in samewerking met Hoof, identifiseer alle opvoeders wat nie in die opvoederdiensstate vir 2025 geabsorbeer kan word nie.	01 September 2024 tot 30 September 2024
Profiel van geïdentifiseerde opvoeders moet deur hulle by Hoof ingedien word en dan aan die kringbestuurders voorgelê word.	30 September 2024
Distrikte identifiseer geskikte vakante/befondsde poste vir opvoeders en raadpleeg prinsipale oor die plasing.	29 November 2024
Formele plasingbriewe word deur kringbestuurders uitgereik aan opvoeders.	29 November 2024

- Opvoeders wat reeds as oortollig tot 'n skool se opvoederdiensstaat verklaar is, behou hierdie status. Hierdie opvoeders sal volgens die bepalings van RAVO se Kollektiewe Ooreenkoms No. 4 van 2016, hanteer word.
- Pogings sal voortgaan om opvoeders wat as oortollig verklaar is, gedurende die 2025-akademiese jaar te plaas, indien permanente opvoeders die diens van die WKOD verlaat. Die profiele moet aan die kurrikulumvereistes van die vakante poste voldoen.
- Die hervestigingskoste van opvoeders wat na 'n ander skool oorgeplaas word, sal oorweeg word volgens die bepalings soos vervat in WKOD Omsendbrief 0023/2017, gedateer 14 Julie 2017.

## 7. KENNISNAME

Ingevolge die vereistes van die Wet op Arbeidsverhoudinge, Wet 66 van 1995, gee die Beheerliggaam van Hoërskool Bellville hiermee formeel kennis van sy voorneme om u pos, wat 'n Posvlak 1 pos by die skool is, te herstruktureer.

Alhoewel die Skoolbestuur besef dat die voorgestelde implementering van hierdie herstrukturering traumaties sal wees in die onthulling en implementering daarvan, is die noodsaaklikheid van hierdie inisiatief deur die WKOD as werkgewer beklemtoon.

Ten slotte, wil ek u bedank vir u begrip en samewerking gedurende hierdie proses. Dit is ons doel om te verseker dat die beste uitkomst vir alle betrokke persone bereik word.



Mrs S Botha  
Bellville High School  
Circuit: 5

Dear Mrs S Botha

**Subject: DECLARATION IN ADDITION TO THE EDUCATOR STAFF ESTABLISHMENT FOR THE 2025 ACADEMIC YEAR**

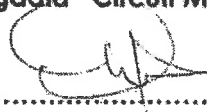
1. The educator establishments for the 2025 academic year, issued in terms of Chapter 2 of the Employment of Educators Act, 1998 (Act 76 of 1998), and Chapter A and Annexure A.1 of the *Personnel Administrative Measures (PAM)*, published in *Government Gazette* No. 46879 of 09 September 2022 published on 30 August 2024 resulted in the reduction of the school educator establishment.
2. A consultative process pertaining to the identification of educators to be in addition to the establishment was followed as prescribed in terms of Education Labour Relations Council (ELRC) Collective Agreement No. 4 of 2016, dated 23 August 2016.
3. Emanating from the aforementioned process, you Mrs S Botha Persal number 14482983 have been identified to be declared in addition to the school's establishment for the 2025 academic year. Should you not be satisfied with the outcome of the process of declaring you addition to the establishment of the school, you have the right to declare a formal dispute in this regard.
4. As you have been declared in addition to the educator staff establishment for the 2025 academic year, you will be subjected to a matching a placement process. This process will be facilitated by the Circuit Manager and may result in you being placed in a post at another school where your profile meets the curriculum needs of the receiving school.
5. In terms of Circular 0025/2024, preference will be given to educators declared in addition to the school's educator establishment to be matched and placed at schools where there are vacancies or where vacancies may become available due to natural attrition. Your curriculum profile must meet the vacant post profile requirements to be matched and placed. The matching and placement process will continue in the 2025 academic year.

- 6. In order to ensure that the matching and placement process can be finalised before commencement of the 2025 academic year, a detailed profile must be provided to your principal. The template attached to this letter must be completed and submitted to the Principal by 30 September 2024.

**CIRCUIT MANAGER: CIRCUIT 5**

**DATE: 18 September 2024**

**Andile Magadla - Circuit Manager**



**CONFIRMATION OF RECEIPT**

**Principal**

**Educator**

GJJ du Plessis

S Botha

**Signature**

**Signature**

**Date: 19 September 2024**

**Date: 9 September 2024**



Solidarity  
c/o D.F. Malan & Eendracht Streets  
Kloofsig  
1 October 2024  
Our reference: HSBV//1//2024

Circuit Manager, School Governing Body (SGB) & Principal  
Sent electronically: Circuit Manager – [andile.magadla2@westerncape.gov.za](mailto:andile.magadla2@westerncape.gov.za)  
School principal – [adupllessis@hsbellville.co.za](mailto:adupllessis@hsbellville.co.za)  
SGB Chairperson – [michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)  
Vice Chairperson – [melanier38@gmail.com](mailto:melanier38@gmail.com)

Dear All,

**RE: NOTICE OF DECLARATION IN ADDITION TO THE EDUCATION STAFF ESTABLISHMENT FOR THE 2025 ACADEMIC YEAR**

1. We confirm that we act on behalf of our members, Mr. W. Burger, Ms. J. Biesenbach & Ms. S. Botha, hereinafter referred to as our members, in terms of Section 200 of the Labour Relations Act (LRA). We further confirm that it is upon the aforesaid authority that we address this letter to you.
2. We wish to make it clear from the outset that this letter is not intended to be exhaustive of all matters, issues or rights of our members, and we reserve the right to address same at an appropriate time and in an appropriate forum, should it become necessary to do so.
3. We are writing this letter to you with regards to the recent notice that our members had received from both the school management and the Western Cape Education Department (WCED) that is signed by the circuit manager Mr. Magadla. It is evident that the process and procedures as outlined in both the LRA, under which the WCED and Management of Hoërskool Belville is still subject to, as well as the processes outlined in your own directive was not followed correctly. This leads to serious questions about the procedural fairness and transparency of the process that was utilized.
4. It is our understanding that the following was not adhered to:



- a. A formal meeting, to discuss the matter, was not held with all staff and stakeholders. When asked about the minutes of the meetings our members were told that a meeting will be held with their union representatives to discuss the matter. These minutes of the meeting should be made readily available to any party of interest for perusal.
  - b. Further to this, when our members had asked in what manner they had been identified they were told that it would be in the best interest of the school if they left. This is an alarming statement for anyone in a position of power to make and can only lead one to deduce that the current reduction in education post by the WCED is being utilized as a vessel to victimize educators that had asked questions about discrepancies at the school in the past.
  - c. We are of the opinion that the chaotic manner in which our members had been dealt with, the subtle threats that had been made by the circuit manager and school principal combined with the fact that no discussion on the matter was held with any of the educators involved to consider alternatives, or their personal circumstances, is testimony to the unfair victimization that is currently taking place at the school.
5. We therefore request the following from the SGB, Circuit Manager and School Principal:
- a. Minutes of the meeting in which the process was discussed with all staff members.
  - b. The procedure that was utilized to determine which educators are declared to be in excess.
  - c. The criteria that were utilized to determine which educators are declared to be in excess.
  - d. The minutes of the meeting where educator staff had the opportunity to express their views and how it had been taken into consideration.
  - e. The manner in which the needs of the school had been analysed in order to determine which educators are to be declared in excess.
  - f. In which manner the LIFO principle, as stipulated in the collective agreement, had been applied.
  - g. The minutes of the meeting in which the SGB had mandated the school principal to establish a sub-committee to make the decisions about the affected staff members.
  - h. The template our members are required to utilize in order to complete their profile.



6. We urge you to reconsider the approach taken in this process and that you ensure that all steps are conducted fairly, transparently and in accordance with legal requirements as people's careers and livelihood could detrimentally be affected. It is essential that the rights of all educators are respected and upheld throughout this process. Failure to adhere to these steps and continued victimization of our members will result in Solidarity utilizing the resources in our arsenal to ensure that transparency and thorough investigations are being conducted at the school.

We are open to meet with you in this regard and to have an open and honest discussion on the matter albeit via a Teams or online meeting platform in the interim.

We kindly request your feedback, in writing, by close of business on Friday, 04 October 2024.

Regards  
Vriendelike groete

*Anlia Archer*

**Anlia Archer**  
**Industry Specialist – Education Sector**  
Tel: 012 644 4353/3926



diens@solidariteit.co.za | 0861 25 24 23  
H.v. DF Malan- en Eendrachtstraat, Kloofsig  
Posbus 11760, Centurion, 0046

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[www.solidariteit.co.za](http://www.solidariteit.co.za)

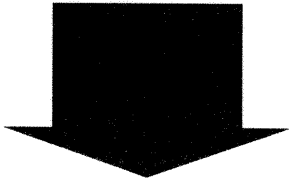
**REFERRING A DISPUTE TO THE ELRC FOR (please tick one box below:**



<b>CONCILIATION</b>	
<b>CON-ARB</b>	<b>X</b>

READ THIS FIRST

**PART A**



**WHAT IS THE PURPOSE OF THIS FORM?**

This form enables an employee, trade union or an employer, covered by the scope of the ELRC constitution, to refer a dispute to the ELRC for resolution.

This form must be completed whenever a dispute is referred to the ELRC.

**WHO FILLS IN THIS FORM?**

Employer, Employee, Trade Union or Representative.

**WHERE DOES THIS FORM GO? ELRC OFFICES**

*All correspondence should be addressed as follows:*

**ATTENTION:** Dispute Resolution Services

**POSTAL ADDRESS:**

General Secretary  
ELRC  
Private Bag X 126  
CENTURION  
0046

**ENQUIRIES:**

**TEL: (012) 663 7446**

**E-mail: [leratok@elrc.org.za](mailto:leratok@elrc.org.za)**

**PHYSICAL ADDRESS:**

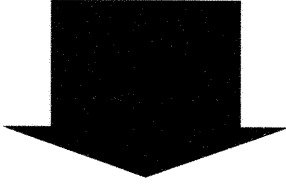
General Secretary  
ELRC Building  
261 West Avenue  
CENTURION  
0046

**FAX: (012) 643 1601**

**Website: <http://www.elrc.org.za>**



**READ THIS FIRST**



Tick the correct box

**If you are an employee fill in part (a).**

**If you are an employer, union official or representative, fill parts (a) and (b).**

**If more than one party is referring the dispute, write their details on a separate page and staple it to this form.**

**1. DETAILS OF PARTY REFERRING THE DISPUTE**

As the referring party, are you?

- An employee
- A union official or representative
- An employer

**(a) Details of grievant employee/s: Applicant**

Surname: ..... First Names: .....

Identity number: .....

Persal number: .....

Pay Point Number: .....

Postal Address: .....

.....

Postal Code: .....

Tel: ..... Cell: .....

Fax: ..... Email: .....

**Alternate contact details of employee: (Neighbour/Friend/Colleague)**

Surname: ..... First Names: .....

Identity number: .....

Postal Address: .....

.....

Postal Code: .....

Tel: ..... Cell: .....

Fax: ..... Email: .....

If you belong to a trade union, indicate which one? .....

**(b) Details of applicant's trade union or legal representative or if the referring party is an employer or trade union.**

Name: **Solidarity obo Werner Burger & 2 Others** .....

Postal Address: **P.O. Box 11760, Centurion** .....

Postal Code: **0046** .....

Tel: **012 644 4300** ..... Cell: **082 3369 204** .....

Fax: ..... Email: **lelanie@solidarity.co.za** .....



Provide the details of the other party.

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE): RESPONDENT

Name: **Western Cape Education Department** .....

Provincial Department of Education: **Western Cape** .....

Region: .....

District: **Metro East**.....

Circuit: **05** .....

Postal Address: **Private Bag X 23, Kuils River** .....

.....Postal Code: **7579**.....

Tel: **021 900 7000 / 7028** Cell: **083 298 4376**.....

Email: **Landeka.Diamond@westerncape.gov.za** & **Andile.Magadla2@westerncape.gov.za**

Contact Person: **Landeka Diamond & Andile Magadla**.....

Tick one relevant box

3. NATURE OF THE DISPUTE

(a) What is the dispute about? (tick the appropriate box)

If the dispute concerns dismissals then complete Part B, of this FORM E1.

- |   |   |   |
|---|---|---|
| <input type="radio"/> Misconduct  | <input type="radio"/> Alleged Unfair Dismissal  | <input type="radio"/> Refusal to Bargain                                      |
| <input type="radio"/> Unfair Labour Practice in terms of Section 186 (2) of the LRA | <input checked="" type="radio"/> Interpretation and Application of Collective Agreement | <input type="radio"/> Unilateral change to terms and conditions of employment |
| <input type="radio"/> Other (please describe):                                      | <input type="radio"/> Severance pay   | <input type="radio"/> Promotion/Appointment                                   |
| <input type="radio"/> Probation   |   |   |

(b) If the dispute concerns appointments, promotions and transfers the following information must be provided:

(i) The applicable circular, bulletin or gazette

.....

(ii) The post description.

.....

(iii) The post numbers.

.....

(iv) Is there any appointment/promotion that is made in the post. If so, indicate the name and personal details (phone, fax numbers and e-mail) of that person/s.

.....



Provide the details  
of the other party.

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE): RESPONDENT

Name: **School Governing Body of Bellville High** .....  
Provincial Department of Education: **Western Cape** .....  
Region: .....  
District: **Metro East**.....  
Circuit: **05** .....  
Postal Address: **De La Haye Avenue, Bellville** .....  
Postal Code: **7530**.....  
Tel: **021 948 1801** Cell: .....  
Email: **gduplessis@hsbellville.co.za & michellelouw@mweb.co.za** .....  
Contact Person: **Deon du Plessis & Michelle Louw** .....

Tick one relevant box

If the dispute  
concerns  
dismissals then  
complete  
Part B, of this  
FORM E1.

3. NATURE OF THE DISPUTE

(a) What is the dispute about? (tick the appropriate box)

- Misconduct
- Alleged Unfair Dismissal
- Refusal to Bargain
- Unfair Labour Practice in terms of Section 186 (2) of the LRA
- Interpretation and Application of Collective Agreement
- Unilateral change to terms and conditions of employment
- Other (please describe):
- Severance pay
- Promotion/Appointment
- Probation

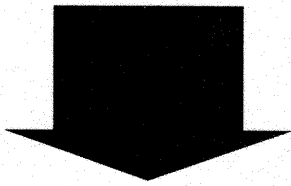
(b) If the dispute concerns appointments, promotions and transfers the following information must be provided:

(i) The applicable circular, bulletin or gazette

(ii) The post description.

(iii) The post numbers.

(iv) Is there any appointment/promotion that is made in the post. If so, indicate the name and personal details (phone, fax numbers and e-mail) of that person/s.



**This section must be completed!**

**You will be given an opportunity to expand on your case at the conciliation and or arbitration. not rererred within the specified timeframes, you are required to apply for Condonation on ELRC FORM E2.**

**The ELRC provides interpretation services for only the official South African languages.**

(c) Summarise the facts of the dispute you are referring and attach supporting documents / letters.

**Whether the Respondents complied with the necessary prescripts of ELRC Collective Agreement 4 of 2016 and Paragraph B 6 of PAM when transferring the serving Educators.**

(d) The dispute arose on: **19 September 2024**.....  
(give the date, month and year)

(e) Where did the dispute arise? **Bellville, Metro East**.....  
(give the district office in which the dispute arose)

**4. TIME FRAMES**

Time Frames have been complied with

**NB:** If the "No" box was ticked, please complete and attach condonation application Form E2

<b>YES</b> <b>x</b>	<b>NO</b>
------------------------	-----------

**6. RELIEF SOUGHT**

(a) What relief do you seek?

**The Transfer of the Educators be suspended and the Respondents to restart the Redeployment process in accordance with the prescripts of CA 04 of 2016 and PAM.**

**7. SPECIAL FEATURES / ADDITIONAL INFORMATION**

(a) Interpretation Services

**Please be advised that ENGLISH is the standard language employed. You may therefore require interpretation services for another language.**

Do you require an interpreter at the conciliation?

<b>YES</b> <b>x</b>	<b>NO</b>
------------------------	-----------

If yes, please indicate for what language:

- siSwati       Tshivenda       isiZulu       isiXhosa
- Sepedi       Sesotho       Setswana       isiNdebele
- Xitsonga       Afrikaans



(b) Special Features

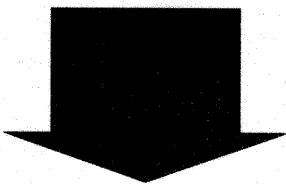
Briefly outline any special features that the ELRC needs to note:

The documents are in Afrikaans and the Commissioner needs to be able to read and understand the language.

.....  
.....  
.....

Special features might be the urgency of the matter, the large number of people involved, important legal or labour issues etc.

Attach any additional documentation if necessary.



Fill this part only if this is a dispute about unilateral change to terms and conditions of employment.

Proof that a copy of this form has been sent could be:

- A fax slip / a registered slip from the Post Office; or
- A signed receipt if hand delivered; or
- A signed statement by the person delivering the form confirming service.

8. DISPUTE IN TERMS OF SECTION 64 (4) OF THE LRA

DISPUTE ABOUT UNILATERAL CHANGE TO TERMS AND CONDITIONS OF EMPLOYMENT, IN TERMS OF SECTION 64(4)

I/We require the employer party not to implement unilaterally the proposed changes that led to this dispute for 30 days, or that it restore the terms and conditions of employment that applied before the change.

Signed: .....  
(employee party referring the dispute)

9. INFORMING THE OTHER PARTY

I confirm that a copy of this form has been sent to the other party/parties to the dispute and proof of this is attached to this form.

Name (in full): **Lelanie C. du Plessis**.....

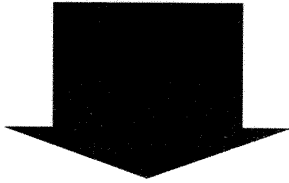
Position/Rank: **Solidarity Official**.....

Signature of party referring the dispute:

Signed at ..... **Centurion** .....  
(place)

on this the **01<sup>st</sup>** day of **November 2024** .....  
(month and year)





**Dismissal disputes must be referred (i.e. received by the ELRC) within 30 days of dismissal. If the dismissal was more than 30 days ago, you are required to apply for condonation ELRC Form E2**

**PART B**

**ADDITIONAL FORM FOR DISMISSAL DISPUTES ONLY**

**1. COMMENCEMENT OF EMPLOYMENT**

Date of appointment: .....  
(give the date, month and year)

**2. NOTICE OF DISMISSAL**

Please give the date of your dismissal: .....  
(give the date, month and year)

How were you informed of your dismissal?

- By letter
- At/After a disciplinary hearing
- Other (please describe):  
.....  
.....  
.....
- Verbally

Was it constructive dismissal?

YES	NO
-----	----

**3. DISCIPLINARY HEARING**

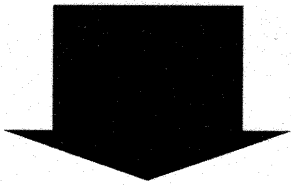
Was there a disciplinary hearing before the dismissal?

YES	NO
-----	----

**4. REASON FOR DISMISSAL**

Why were you dismissed?

- Automatically unfair dismissal
- Misconduct
- Operational Requirements (Retrenchment)
- Other (please describe):  
.....
- Incapacity
- Unknown



**Indicate the  
Procedural and  
Substantive  
Fairness of the  
Dismissal**

**5. FAIRNESS/UNFAIRNESS OF DISMISSAL**

**(a) Procedural Issues**

Do you think that the dismissal was procedurally unfair?  
(Were internal procedures followed?)

YES	NO
-----	----

If yes, why?

.....

.....

.....

.....

**(b) Substantive Issues**

Do you feel the reason for the dismissal was substantively unfair?

YES	NO
-----	----

If yes, why?

.....

.....

.....

.....

.....

.....

.....

.....

.....

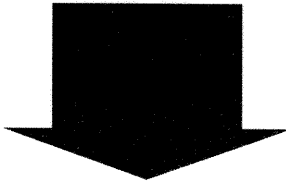


**PART C**

**YOUR CHECKLIST**

Please Tick:

TASK	YES	NO
I have completed this form fully and correctly	X	
I have attached ELRC Form E2 (Application for Condonation) (if applicable)		
I have attached proof that this form has been served on the other party	X	



**PART D**

**CONFIRMATION OF THE ABOVE DETAILS**

**Make certain that all the required information has been provided and the necessary**

In the event where it has come to the attention of the Education Labour Relations Council (ELRC) that the information provided in the referral is both materially and substantively incorrect, the applicant shall bear the cost of conciliation and arbitration proceedings. This shall include any related cost.

Name (in full): Kelanie C. du Plessis

Position/Rank: Solidarity Official

Signature of party referring the dispute: [Signature]

Signed at: Centurion (place)

on this the 01<sup>st</sup> day of November 2024 (month and year)



**PART E**

How did you hear about us? Please tick relevant box.

Medium	Tick
ELRC website	X
Google search	
Facebook	
Twitter	
Newspaper (Community)	
Newspaper (National)	
Billboard	
Radio	
TV	
Teacher union newsletter	
Exhibition	
Conference	

Other (please specify)

.....

.....

.....

.....

.....

.....

.....

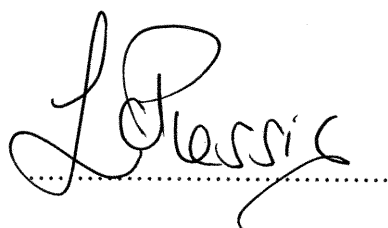
.....

.....

**Employees forming part of the Dispute**

- |                                |                      |
|--------------------------------|----------------------|
| 1. Werner Burger               | Persal no: 55964079. |
| 2. Anna Sophia Botha           | Persal no: 14482983. |
| 3. Johanna Hendrika Biesenbach | Persal no: 51464403. |

**Signed by Lelanie C. du Plessis in my capacity as Solidarity Official on 01 November 2024 at Centurion.**

A handwritten signature in black ink, reading "L. Plessis", written over a horizontal dotted line.

**Anlia Archer**

**From:** Deon Du Plessis <gduplessis@hsbellville.co.za>  
**Sent:** Tuesday, October 1, 2024 4:39 PM  
**To:** Anlia Archer  
**Cc:** Magadla Andile; michellelouw@mweb.co.za  
**Subject:** RE: Solidarity obo various staff members of H/S Bellville

Dear Me Archer

Thank you for the email.

The extensive and unfortunate process of staff establishments which included several role players at the school is finalized. All relevant documents were sent to the WCED.

As by instruction of the WCED any further communication must be addressed to them.

Kind regards

Deon du Plessis  
Skoolhoof



**From:** Anlia Archer <anlia@solidariteit.co.za>  
**Sent:** Tuesday, October 1, 2024 3:16 PM  
**To:** Deon Du Plessis <gduplessis@hsbellville.co.za>; andile.magadla2@westerncape.gov.za; michellelouw@mweb.co.za; melanier38@gmail.com  
**Cc:** riaansconradie@gmail.com; Anique Lubbe <anique@solidariteit.co.za>  
**Subject:** Solidarity obo various staff members of H/S Bellville

Good day

I trust this e-mail finds you well. Kindly find attached hereto an urgent letter for your attention. I am sure that you will understand the gravity of the matter and furnish us with an urgent response in this regard.

Regards

**Anlia Archer**  
**Industry Specialist & Network Organizer:**  
**Education Sector**  
 Tel: 012 644 4353/3926

**SOLIDARITEIT**

diens@solidariteit.co.za | 0861 25 24 23  
H.v. DF Malan- en Eendrachtstraat, Kloofsig  
Posbus 11760, Centurion, 0046

Deel van die Solidariteit Beweging

ONTDEK DIE WÊRELD  
VAN WERK.

Skep jou profiel hier:



[www.solidariteit.co.za](http://www.solidariteit.co.za)

**Anlia Archer**

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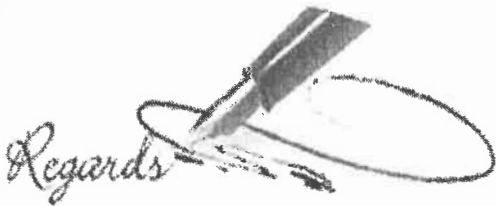
**From:** Magadla Andile <Andile.Magadla2@westerncape.gov.za>  
**Sent:** Tuesday, October 1, 2024 6:18 PM  
**To:** Anlia Archer  
**Subject:** RE: Solidarity obo various staff members of H/S Bellville

You don't often get email from andile.magadla2@westerncape.gov.za. [Learn why this is important](#)

Dear Arlia

The school is guided by circular 0025/2025 and collective agreement 4 of 2016 in engaging the process of declaring educators in addition to the staff establishment (excess).

My duty is to implement what is on the circular to make sure the school follow the process and identify teachers in excess in a fair and transparent manner.



Mr. A Magadla  
Circuit 5 Manager (CES)  
Metro East Education District  
Tel: 021 900 7028  
Cell: 083 298 4376  
Email: Andile.Magadla2@westerncape.gov.za



**Western Cape  
Government**

**QUALITY EDUCATION**

for every child | in every classroom | in every school in the province.

---

**From:** Anlia Archer <anlia@solidariteit.co.za>  
**Sent:** Tuesday, October 1, 2024 3:16 PM  
**To:** Deon Du Plessis <gduplessis@hsbellville.co.za>; Magadla Andile <Andile.Magadla2@westerncape.gov.za>; michellelouw@mweb.co.za; melanier38@gmail.com  
**Cc:** riaansconradie@gmail.com; Anique Lubbe <anique@solidariteit.co.za>  
**Subject:** Solidarity obo various staff members of H/S Bellville

You don't often get email from [anlia@solidariteit.co.za](mailto:anlia@solidariteit.co.za). [Learn why this is important](#)

Good day



I trust this e-mail finds you well. Kindly find attached hereto an urgent letter for your attention. I am sure that you will understand the gravity of the matter and furnish us with an urgent response in this regard.

Regards

**Anlia Archer**  
**Industry Specialist & Network Organizer:**  
**Education Sector**  
Tel: 012 644 4353/3926



diens@solidariteit.co.za | 0861 25 24 23  
H.v. DF Malan- en Eendrachtstraat, Kloofsig  
Posbus 11760, Centurion, 0046

Deel van die Solidariteit Beweging

ONTDEK DIE WÊRELD  
VAN WERK.

Skep jou profiel hier:



[www.solidariteit.co.za](http://www.solidariteit.co.za)

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TO: The Director: Metro East Education District  
**WESTERN CAPE EDUCATION DEPARTMENT**  
Belhar Main Rd & New Nooiensfontein Drive  
KUILS RIVER

[Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za)

[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)

[Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)

*"Service by email"*

AND TO: The Chairperson  
**SCHOOL GOVERNING BODY OF BELLVILLE HIGH (SGB)**  
De La Haye Avenue  
BELLVILLE  
7530

[gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za)

[maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za)

[michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)

*"Service by email"*

01 November 2024

Dear Sirs,

**NOTICE OF DECLARATION IN ADDITION TO EDUCATION STAFF ESTABLISHMENT  
FOR THE 2025 ACADEMIC YEAR & DISCHARGE OF ADDITIONAL RESPONSIBILITIES**

1. We refer to the above and our previous correspondence dated 01 October 2024 attached hereto for ease of reference marked as annexure "A" ("the October-letter").
2. We were not provided with the documents as set out in paragraph 5 of our October letter. Nor have you agreed to meet Solidarity in an open and transparent manner to discuss our members intended transfers.
3. Solidarity is of the view you didn't follow the procedure as set out in paragraph B6 of Collective Agreement 4 of 2016 and ("CA 4 of 2016") and the Personnel Administrative Measures, dated 13 July 2022 ("PAM").
4. It is also apparent the selection of our members was not based on a fair and justifiable selection criterion but on capricious, arbitrary and irrational grounds. Especially as the SGB has already advertised positions for Afrikaans and Mathematics teachers for 2025.
5. In addition, Mrs Biesenbach informed us that she has been relieved of her duties and responsibilities as Departmental Head for Afrikaans and replaced by a junior employee, with much less experience and years of service.
6. As such, Solidarity is referring a dispute to the ELRC on behalf of our members. Find attached hereto ELRC Form E1 for your attention marked as annexure "B".
7. In the interim, and while the matter still needs to be adjudicated by an arbitrator to be appointed by the ELRC, we demand that the transfer of our members be placed on hold (suspended) until the arbitrator so seized with the matter has rendered an outcome; and especially having regard to the powers of arbitrator as set out in the Collective Agreement referenced above.

8. Failing to confirm the suspension of our members transfer by 14 November 2024, will leave us with no other alternative than to approach the Labour Court on an urgent basis.
9. Further to the above, we wish to indicate our reservations in respect of the process embarked upon by the Western Cape Department of Education which seems to have been in contravention of the provisions of section 189 of the Labour Relations Act 66 of 1995 ("the LRA"). Evidently the Department is in a process of contemplating the retrenchment of several employees who have been found to be in addition to the staff establishment. In the event that no, reasonable, alternative posts are found for the employees they will ultimately be retrenched.
10. It is unclear the number of employees who stands to be affected but it can only be presumed that it is more than 10. It is unclear why this process embarked upon by the Department has not been conducted under the provisions of section 189A of the LRA. Clearly it would be in the best interest of the Department and the employees who stands to be affected that the process be facilitated by a competent and experienced Commissioner who can assist the parties.
11. In light of the above, we therefore further demand that the Department clarify its stance in not complying with the provisions of section 189 of the LRA and why the Labour Court should not be approached for an order that the Department be directed to comply with its statutory obligations.
12. We reserve our members rights *in toto*.

Yours faithfully



.....

**LELANIE C. DU PLESSIS**

**SPECIALIST: NETWORK OF WORK**

**SOLIDARITY**



[www.solidariteit.co.za](http://www.solidariteit.co.za)

---

Solidariteit Hoofkantoor | Solidarity Head Office

T: 012 644 4300

H.v. DF Malanrylaan en Eendrachtstaat, Kloofsig | Cnr DF Malan and Eendracht Streets, Kloofsig



# Serfontein Viljoen & Swart

## Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria  
P.O. Box 35015, Menlo Park, 0102 • Docex 9 Brooklyn

E-mail: [jd@svslaw.co.za](mailto:jd@svslaw.co.za)

Tel: (012) 362 2556 • Fax: (086) 687 2271

GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also, at: Bronkhorstspruit (013) 932 3034

Website: [www.serfonteinviljoenandswart.co.za](http://www.serfonteinviljoenandswart.co.za)

Date : 11 November 2024  
Our Ref : Mr. Swart / Claassen / Venter / mj / CS0667

### SERVICE BY EMAIL

**TO: THE DIRECTOR: METRO EAST EDUCATION DISTRICT**

WESTERN CAPE EDUCATION DEPARTMENT

Belhar Main Rd & New Nooiensfontein Drive

KUILS RIVER

Email: [Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za) /

[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)

/ [Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)

**AND TO: THE CHAIRPERSON**

SCHOOL GOVERNING BODY OF BELLVILLE HIGH (SGB) De La Haye Avenue  
BELLVILLE

7530

Email: [gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za) / [maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za)

[michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)

Dear Sirs / Mesdames,

### **IN RE: NOTICE OF DECLARATION IN ADDITION TO EDUCATION STAFF STABLISHMENT FOR THE 2025 ACADEMIC YEAR**

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus  
Petrus Swart Biur LLB • Jan Lodewyk Serfontein BProc  
Professional Assistant: Annette Johanna Louw LLB  
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency) • Carel Nicolaas Venter (LLB) UP

1. We refer to the above matter and confirm that we act on behalf of Solidarity Trade Union, our client, in directing this correspondence to yourself.
2. We wish to make it clear from the outset that this letter is not intended to be exhaustive of all matters, issues or rights, and we reserve the right to address same at the appropriate time and in the appropriate forum, should it become necessary to do so. Our clients' rights are reserved.
3. It is our instruction that the Western Cape Education Department has failed to respond to our client's correspondence dated 1 November 2024, attached hereto for your ease of reference as annexure "A".
4. In light of the aforementioned it is our instruction to seek your urgent intervention failure of which we hold instruction to approach the Labour Court on an urgent basis to seek appropriate relief.
5. It is has been widely publicised that the Western Cape Education Department has reduced the number of post in the province's school educator establishment and that the respective schools have embarked on a process to identify employees to be declared in addition to the educator staff establishment. The process embarked upon has, ostensibly, been guided by the Education Labour Relations Council (ELRC) Collective Agreement No. 4 of 2016 dated 23 August 2016 as well as the Personnel Administrative Measures (PAM).

---

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Jan Lodewyk Serfontein BProc  
Professional Assistant: Annette Johanna Louw LLB  
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency) • Carel Nicolaas Venter (LLB) UP



6. It is our instruction that three of our client's members, employed at the High School Bellville, have been identified as being in addition to the staff establishment being:
- 6.1 Mr Werner Burger: Persal no 55964079/PG09
  - 6.2 Mrs Jeanne Biesenbach: Persal no 51464403/PG09
  - 6.3 Mrs Sophie Botha: Persal no 51464403/PG09
7. Having considered the process embarked upon by the Department it is our client's view that same has been conducted in contravention of the provisions of section 189 as read with section 189A of the Labour Relations Act 66 of 1995 (LRA) for the following reasons;
8. Contrary to what the LRA requires our client, and their members, have not been provided with the required notice in respect of possible retrenchment as envisaged in section 189(3) of the Act;
9. The selection criteria have not been agreed upon nor is it objective and fair and to the extent that it might be alleged that Collective Agreement No 4 of 2016 sets out the agreed criteria it is submitted that the aforementioned is subjective and unfair and stands to be set aside if so required;
10. No alternatives have been considered prior to our client's members having been declared in addition to the establishment;





11. There has been no joint consensus seeking process and consultation as required by the LRA in declaring our client's members in addition to the establishment;
12. Further to the aforementioned it is our instruction that our client's members have been informed that they are to vacate their class rooms by 24 November 2024 or face "eviction" notwithstanding the fact that our client has referred a dispute to the ELRC regarding its members "declaration" or identification of being in addition to the establishment.
13. In light of the above we hereby demand as follows:
- 13.1 Firstly, we seek an undertaking that our client's member will not be transferred or removed from their current place of employment until such time as their dispute has been resolved;
- 13.2 Secondly, we seek an undertaking that the Department shall withdraw and retract all notice issued to the respective employees who have been declared in addition to the staff establishment and that the Department shall commence with a process as required in terms of section 189 as read with section 189A of the LRA;
14. Should you fail to provide us with the required undertakings by close of business Wednesday 13 November 2024 our client reserves the right to launch an urgent application to compel compliance.

---

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Jan Lodewyk Serfontein BProc  
Professional Assistant: Annette Johanna Louw LLB  
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency) • Carel Nicolaas Venter (LLB) UP



Sincerely,

**SERFONTEIN, VILJOEN & SWART**

Per JD Claassen  
[jd@svslaw.co.za](mailto:jd@svslaw.co.za)



---

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Jan Lodewyk Serfontein BProc  
Professional Assistant: Annette Johanna Louw LLB  
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency) • Carel Nicolaas Venter (LLB) UP

**From:** [Magadla Andile](#)  
**To:** [Jan-Daniel Claassen](#)  
**Subject:** FW: Solidarity obo Werner Burger & 2 Others // Western Cape Education Department (WCED) & School Governing Body of Bellville High  
**Date:** Tuesday, 12 November 2024 14:51:30  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[Letter dated 11 November 2024.pdf](#)  
[Letter to WKOD and School Governing Body Bellville High 01 November 2024.pdf](#)  
**Importance:** High

---

Dear Sir/Madam

Teachers must lodge a grievance through District office.



*Mr. A Magadla*  
*Circuit 5 Manager (CES)*  
*Metro East Education District*  
*Tel: 021 900 7028*  
*Cell: 083 298 4376*  
*Email: [Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)*



---

**From:** Diamond Landeka <[Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za)>  
**Sent:** Tuesday, 12 November 2024 12:00  
**To:** Magadla Andile <[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)>  
**Cc:** Julio R Voges <[Julio.Voges@westerncape.gov.za](mailto:Julio.Voges@westerncape.gov.za)>; Craig Paulsen <[Craig.Paulsen@westerncape.gov.za](mailto:Craig.Paulsen@westerncape.gov.za)>; Carolissen Hurshel <[Hurshel.Carolissen@westerncape.gov.za](mailto:Hurshel.Carolissen@westerncape.gov.za)>; Zainunissa Meyer <[Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)>  
**Subject:** FW: Solidarity obo Werner Burger & 2 Others // Western Cape Education Department (WCED) & School Governing Body of Bellville High  
**Importance:** High

Dear Colleagues

The email attached is referenced, is this matter being addressed? What is the status?

Please let me know

Regards

Ms Landeka Diamond  
Director  
Metro East Education District  
Western Cape Government

Cnr Belhar & Nooiensfontein Rd/ Private Bag X23 / Kuils River, 7580

Tel : (021) 900 7006  
Fax : (021) 903 9484  
Email: [Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za)  
Website: [www.westerncape.gov.za](http://www.westerncape.gov.za)



---

**From:** Jan-Daniel Claassen <[jd@svslaw.co.za](mailto:jd@svslaw.co.za)>  
**Sent:** Monday, November 11, 2024 4:07 PM  
**To:** Diamond Landeka <[Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za)>; Magadla Andile <[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)>; Zainunissa Meyer <[Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)>  
**Cc:** [michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za); [maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za); Deon Du Plessis <[gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za)>; Monique Joubert <[Monique@svslaw.co.za](mailto:Monique@svslaw.co.za)>  
**Subject:** RE: Solidarity obo Werner Burger & 2 Others // Western Cape Education Department (WCED) & School Governing Body of Bellville High  
**Importance:** High

Some people who received this message don't often get email from [jd@svslaw.co.za](mailto:jd@svslaw.co.za). [Learn why this is important](#)

Dear all,

We refer to the above matter and attach hereto a letter for your urgent attention and response.

Kindly confirm receipt.

Kind regards / Vriendelike groete

**JD Claassen**  
**Serfontein, Viljoen & Swart**  
165 Alexander Street, Brooklyn  
Docex 9, Brooklyn  
Tel: (012) 362 2556  
Fax: 086 687 2271 / 086 471 8090  
Mobile: 082 334 5255  
E-mail: [jd@svslaw.co.za](mailto:jd@svslaw.co.za)

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**From:** [michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)  
**To:** [Jan-Daniel Claassen](#); [Magadla Andile](#)  
**Cc:** [Landeka Diamond](#); [Zainunissa Meyer](#); [maucamp](#); [gduplessis](#); [Monique Joubert](#)  
**Subject:** Re: Solidarity obo Werner Burger & 2 Others // Western Cape Education Department (WCED) & School Governing Body of Bellville High  
**Date:** Thursday, 14 November 2024 14:43:17

---

Good day,

As previously communicated via email all required procedures and processes required/set by the WCED have been fully adhered to .

All requested documentation is in the possession of is currently held by the WCED, which will be handling the process from this point forward. You are welcome to direct all inquiries directly to the WCED.

Kind regards,  
Michelle Louw  
Chairperson, Governing Body  
Hoërskool Bellville

---

**From:** "Jan-Daniel Claassen" <[jd@svslaw.co.za](mailto:jd@svslaw.co.za)>  
**To:** "Landeka Diamond" <[Landeka.Diamond@westerncape.gov.za](mailto:Landeka.Diamond@westerncape.gov.za)>, "Magadla Andile" <[Andile.Magadla2@westerncape.gov.za](mailto:Andile.Magadla2@westerncape.gov.za)>, "Zainunissa Meyer" <[Zainunissa.Meyer@westerncape.gov.za](mailto:Zainunissa.Meyer@westerncape.gov.za)>  
**Cc:** "michellelouw" <[michellelouw@mweb.co.za](mailto:michellelouw@mweb.co.za)>, "maucamp" <[maucamp@hsbellville.co.za](mailto:maucamp@hsbellville.co.za)>, "gduplessis" <[gduplessis@hsbellville.co.za](mailto:gduplessis@hsbellville.co.za)>, "Monique Joubert" <[Monique@svslaw.co.za](mailto:Monique@svslaw.co.za)>  
**Sent:** Monday, November 11, 2024 4:07:27 PM  
**Subject:** RE: Solidarity obo Werner Burger & 2 Others // Western Cape Education Department (WCED) & School Governing Body of Bellville High

Dear all,

We refer to the above matter and attach hereto a letter for your urgent attention and response.

Kindly confirm receipt.

Kind regards / Vriendelike groete

**JD Claassen**  
**Serfontein, Viljoen & Swart**  
165 Alexander Street, Brooklyn  
Docex 9, Brooklyn  
Tel: (012) 362 2556  
Fax: 086 687 2271 / 086 471 8090  
Mobile: 082 334 5255  
E-mail: [jd@svslaw.co.za](mailto:jd@svslaw.co.za)

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Die Hoërskool Bellville benodig dinamiese persone wat by ons hoë akademiese standaarde en ondersteunende personeel kan inskakel.

# Afrikaans

## GRAAD 8 - 12

- BA-graad en nagraadse onderwyskwalifikasies.
- SARO- (SACE) sertifikaat of aansoek.
- Bewese administratiewe en rekenaarvaardighede.
- Moet leerders kan onderrig om hulle volle potensiaal te bereik.
- Effektiewe hantering van dissipline.
- Buitemuurse betrokkenheid sal 'n sterk aanbeveling wees.

Begindatum: 1 Januarie 2025

Stuur volledige CV aan:  
Die Hoof, Hoërskool Bellville  
E-pos: [algemeen@hsbellville.co.za](mailto:algemeen@hsbellville.co.za)  
Navrae: 021 948 1801

**Sluitingsdatum: 28 Oktober 2024**

Indien u nie teen 15 November 2024 gekontak is nie, beskou die aansoek as onsuksesvol.





Die Hoërskool Bellville benodig dinamiese persone wat by ons hoë akademiese standaarde en ondersteunende personeel kan inskakel.

# Wiskunde

## GRAAD 8 - 12

- BSc-graad en nagraadse onderwyskwalifikasies.
- SARO- (SACE) sertifikaat of aansoek.
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 Die Hoof, Hoërskool Bellville  
 E-pos: [algemeen@hsbellville.co.za](mailto:algemeen@hsbellville.co.za)  
 Navrae: 021 948 1801

**Sluitingsdatum: 28 Oktober 2024**

Indien u nie teen 15 November 2024 gekontak is nie, beskou die aansoek as onsuksesvol.

6 November 2024

Wie dit mag aangaan

Ek, **Josias Hendrik Conradie** in my kapasiteit as **Skoolhoof** van **Hoërskool DF Malan**, bevestig hiermee die volgende:

Ek het instruksie vanaf die Wes-Kaap Onderwys Departement (WKOD) ontvang dat 2 (twee) onderwysposte by my skool oortollig verklaar word. Een Posvlak 1 en een Posvlak 2 pos.



Vriendelike groete

JH Conradie



100  
1923 - 2023

"LP19" 129

# HOËRSKOOI • OUTENIQUA • HIGH SCHOOL

SKOOLHOOF: CP VORSTER • POSBUS / PO BOX 181 • GEORGE • 6530  
TEL: 044 874 4156 • FAKS / FAX: 044 874 4188 OR / OF: 086 635 7336 • E-POS / E-MAIL: info@outeniqua.co.za WEB: www.outeniqua.co.za

7 November 2024

Wie dit mag aangaan

Ek, C. P. Vorster in my kapasiteit as skoolhoof van Hoërskool Outeniqua bevestig hiermee die volgende:

Ek het instruksie vanaf die Wes-Kaap Onderwys Departement (WKOD) ontvang dat een onderwyspos by ons skool oortollig verklaar word. Hoërskool Outeniqua se huidige gr. 12's is 292 leerders. Die gr. 8's wat vir 2025 aanvaar is, is 343. Dus sal daar 'n groei van meer as 50 leerders wees.

Die SG het in sy aankondiging oor die vermindering van poste gesê dat daar by hoërskole op 'n ratio van 1:36 werk. Met die getalle soos dit vandag is, is die ratio by Hoërskool Outeniqua 1:37 en sal dit in 2025 1:38,1 wees.

Sien aangehegte diensstaat vir 2025.

Vriendelike groete

C. P. Vorster

Skoolhoof

Hoërskool Outeniqua hoef niemand oortollig te verklaar nie. Een van die senior onderwysers moes as gevolg van gesondheid aftree.

Hiermee die lys van personeellede wat oortollig verklaar word by ons skool:

<b>Nr.</b>	<b>NAAM</b>	<b>VAN</b>	<b>PERSAL NOMMER</b>

Handtekening van Skoolhoof: \_\_\_\_\_



The Principal  
OUTENIQUA HOËRSKOOL  
POSBUS 181  
6530

EMIS Number: 0118110257  
Education District: EDEN AND CENTRAL KAROO  
Circuit: 08  
E-File: E1042  
Component: 005501

### STAFF ESTABLISHMENT 2025: EDUCATORS

Your school's staff establishment for the period 1 January 2025 to 31 December 2025 is provided below. It is based on the information obtained from the *Preliminary Annual Survey 2024*.

LEARNER ENROLMENT	
2023	2024
1722	1725

SCHOOL GRADING	
2024	2025
P5	P5

Schools are graded in accordance with the Personnel Administration Measures (PAM) as promulgated by the Minister of Basic Education in Government Gazette No. 39684 dated 12 February 2016.

POSTS	ESTABLISHMENT 2024	ESTABLISHMENT 2025	LOSS / GAIN
<b>Posts determining school grading and number of promotion posts</b>			
Principal	1	1	0
Deputy Principal	2	2	0
Departmental Head	8	8	0
Educator PL1: RPDM	35	34	-1
<b>Total</b>	<b>46</b>	<b>45</b>	<b>-1</b>
<b>Additional posts not influencing school grading and number of promotion posts</b>			
Educator PL1: Computer	1	1	0
<b>Total</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Grand Total</b>	<b>47</b>	<b>46</b>	<b>-1</b>

2.

NB: Focus posts allocated for the 2024 academic year will be retained for the 2025 academic year, but the Focus post allocation will be reconsidered for possible re-allocation for the 2026 academic year.

Please refer to the circular pertaining to the 2025 educator staff establishment for information regarding the measures, principles and departmental policies applicable to the establishments/posts and the filling of the posts.

Please note that you may not have more than 46 Western Cape Education Department-paid educator staff at your school for the period 1 January 2025 to 31 December 2025.

B WALTERS  
HEAD: EDUCATION  
Date: 30 August / Augustus 2024

0118110257  
OUTENIQUA HOËRSKOOL



# HOËRSKOOI SWELLENDAM HIGH SCHOOL

Posbus 141, Swellendam, 6740

Tel: 028 – 050 2763

E-pos: [ontvangs@swellendamhs.com](mailto:ontvangs@swellendamhs.com)

P.O. Box 141, Swellendam, 6740

Tel: 028 – 050 2763

E-mail: [ontvangs@swellendamhs.com](mailto:ontvangs@swellendamhs.com)

---

Wie dit mag aangaan

Ek, **Nicholas Pelsler** in my kapasiteit as **Skoolhoof** van **Hoërskool Swellendam**, bevestig hiermee die volgende:

Ek het instruksie vanaf die Wes-Kaap Onderwys Departement (WKOD) ontvang dat 2 onderwysposte by my skool oortollig verklaar word.

Vriendelike groete.

---

Nicholas Pelsler  
Skoolhoof

Datum: 06 November 2024



# "LP21" 134

## Laerskool W.A. Joubert

(Gestig 1919)

ONS KERNWAARDES: Respek • Dissipline • Integriteit • Liefde

7 November 2024

Wie dit mag aangaan

Ek, **Annamarie du Toit** in my kapasiteit as **Skoolhoof** van **Laerskool WA Joubert (Paarl)**, bevestig hiermee die volgende:

Ek het instruksie vanaf die Wes-Kaap Onderwys Departement (WKOD) ontvang dat een onderwyspos by my skool oortollig verklaar word.

Vriendelike groete

Annamarie du Toit



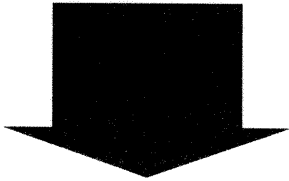
**REFERRING A DISPUTE TO THE ELRC FOR (please tick one box below:**



<b>CONCILIATION</b>	
<b>CON-ARB</b>	<b>x</b>

READ THIS FIRST

**PART A**



**WHAT IS THE PURPOSE OF THIS FORM?**

This form enables an employee, trade union or an employer, covered by the scope of the ELRC constitution, to refer a dispute to the ELRC for resolution.

This form must be completed whenever a dispute is referred to the ELRC.

**WHO FILLS IN THIS FORM?**

Employer, Employee, Trade Union or Representative.

**WHERE DOES THIS FORM GO? ELRC OFFICES**

*All correspondence should be addressed as follows:*

**ATTENTION:** Dispute Resolution Services

**POSTAL ADDRESS:**

General Secretary  
ELRC  
Private Bag X 126  
CENTURION  
0046

**ENQUIRIES:**

**TEL: (012) 663 7446**

**E-mail: [leratok@elrc.org.za](mailto:leratok@elrc.org.za)**

**PHYSICAL ADDRESS:**

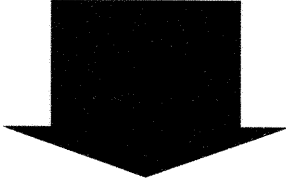
General Secretary  
ELRC Building  
261 West Avenue  
CENTURION  
0046

**FAX: (012) 643 1601**

**Website: <http://www.elrc.org.za>**



**READ THIS FIRST**



Tick the correct box

**If you are an employee fill in part (a).**

**If you are an employer, union official or representative, fill parts (a) and (b).**

**If more than one party is referring the dispute, write their details on a separate page and staple it to this form.**

**1. DETAILS OF PARTY REFERRING THE DISPUTE**

As the referring party, are you?

- An employee
- A union official or representative
- An employer

**(a) Details of grievant employee/s: Applicant**

Surname: ..... First Names: .....

Identity number: .....

Persal number: .....

Pay Point Number: .....

Postal Address: .....

.....

Postal Code: .....

Tel: ..... Cell: .....

Fax: ..... Email: .....

**Alternate contact details of employee: (Neighbour/Friend/Colleague)**

Surname: ..... First Names: .....

Identity number: .....

Postal Address: .....

.....

Postal Code: .....

Tel: ..... Cell: .....

Fax: ..... Email: .....

If you belong to a trade union, indicate which one? .....

**(b) Details of applicant's trade union or legal representative or if the referring party is an employer or trade union.**

Name: **Solidarity obo Werner Burger & 2 Others** .....

Postal Address: **P.O. Box 11760, Centurion** .....

Postal Code: **0046** .....

Tel: **012 644 4300** ..... Cell: **082 3369 204** .....

Fax: ..... Email: **lelanie@solidarity.co.za** .....



Provide the details of the other party.

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE): RESPONDENT

Name: **Western Cape Education Department** .....

Provincial Department of Education: **Western Cape** .....

Region: .....

District: **Metro East** .....

Circuit: **05** .....

Postal Address: **Private Bag X 23, Kuils River** .....

Postal Code: **7579** .....

Tel: **021 900 7000 / 7028** Cell: **083 298 4376** .....

Email: **Landeka.Diamond@westerncape.gov.za** & **Andile.Magadla2@westerncape.gov.za**

Contact Person: **Landeka Diamond & Andile Magadla** .....

Tick one relevant box

3. NATURE OF THE DISPUTE

(a) What is the dispute about? (tick the appropriate box)

If the dispute concerns dismissals then complete Part B, of this FORM E1.

- |   |   |   |
|---|---|---|
| <input type="radio"/> Misconduct  | <input type="radio"/> Alleged Unfair Dismissal  | <input type="radio"/> Refusal to Bargain                                      |
| <input type="radio"/> Unfair Labour Practice in terms of Section 186 (2) of the LRA | <input checked="" type="radio"/> Interpretation and Application of Collective Agreement | <input type="radio"/> Unilateral change to terms and conditions of employment |
| <input type="radio"/> Other (please describe):                                      | <input type="radio"/> Severance pay   | <input type="radio"/> Promotion/Appointment                                   |
| <input type="radio"/> Probation   |   |   |

(b) If the dispute concerns appointments, promotions and transfers the following information must be provided:

(i) The applicable circular, bulletin or gazette

.....

(ii) The post description.

.....

(iii) The post numbers.

.....

(iv) Is there any appointment/promotion that is made in the post. If so, indicate the name and personal details (phone, fax numbers and e-mail) of that person/s.

.....



Provide the details of the other party.

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE): RESPONDENT

Name: **School Governing Body of Bellville High** .....  
Provincial Department of Education: **Western Cape** .....  
Region: .....  
District: **Metro East**.....  
Circuit: **05** .....  
Postal Address: **De La Haye Avenue, Bellville** .....  
Postal Code: **7530**.....  
Tel: **021 948 1801** Cell: .....  
Email: **gduplessis@hsbellville.co.za & michellelouw@mweb.co.za** .....  
Contact Person: **Deon du Plessis & Michelle Louw** .....

Tick one relevant box

If the dispute concerns dismissals then complete Part B, of this FORM E1.

3. NATURE OF THE DISPUTE

(a) What is the dispute about? (tick the appropriate box)

- Misconduct
- Alleged Unfair Dismissal
- Refusal to Bargain
- Unfair Labour Practice in terms of Section 186 (2) of the LRA
- Interpretation and Application of Collective Agreement
- Unilateral change to terms and conditions of employment
- Other (please describe):
- Severance pay
- Promotion/Appointment
- Probation

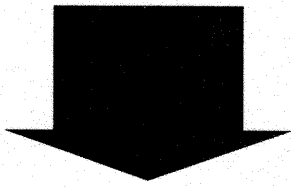
(b) If the dispute concerns appointments, promotions and transfers the following information must be provided:

(i) The applicable circular, bulletin or gazette

(ii) The post description.

(iii) The post numbers.

(iv) Is there any appointment/promotion that is made in the post. If so, indicate the name and personal details (phone, fax numbers and e-mail) of that person/s.



**This section must be completed!**

**You will be given an opportunity to expand on your case at the conciliation and or arbitration. not rererred within the specified timeframes, you are required to apply for Condonation on ELRC FORM E2.**

**The ELRC provides interpretation services for only the official South African languages.**

(c) Summarise the facts of the dispute you are referring and attach supporting documents / letters.

**Whether the Respondents complied with the necessary prescripts of ELRC Collective Agreement 4 of 2016 and Paragraph B 6 of PAM when transferring the serving Educators.**

(d) The dispute arose on: **19 September 2024**.....  
(give the date, month and year)

(e) Where did the dispute arise? **Bellville, Metro East**.....  
(give the district office in which the dispute arose)

**4. TIME FRAMES**

Time Frames have been complied with

**NB:** If the "No" box was ticked, please complete and attach condonation application Form E2

<b>YES</b> <b>x</b>	<b>NO</b>
------------------------	-----------

**6. RELIEF SOUGHT**

(a) What relief do you seek?

**The Transfer of the Educators be suspended and the Respondents to restart the Redeployment process in accordance with the prescripts of CA 04 of 2016 and PAM.**

**7. SPECIAL FEATURES / ADDITIONAL INFORMATION**

(a) Interpretation Services

**Please be advised that ENGLISH is the standard language employed. You may therefore require interpretation services for another language.**

Do you require an interpreter at the conciliation?

<b>YES</b> <b>x</b>	<b>NO</b>
------------------------	-----------

If yes, please indicate for what language:

- siSwati       Tshivenda       isiZulu       isiXhosa
- Sepedi       Sesotho       Setswana       isiNdebele
- Xitsonga       Afrikaans



**(b) Special Features**

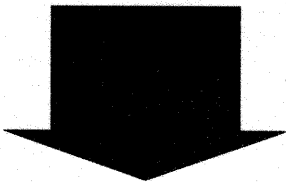
Briefly outline any special features that the ELRC needs to note:

**The documents are in Afrikaans and the Commissioner needs to be able to read and understand the language.**

.....  
.....  
.....

Special features might be the urgency of the matter, the large number of people involved, important legal or labour issues etc.

Attach any additional documentation if necessary.



Fill this part only if this is a dispute about unilateral change to terms and conditions of employment.

Proof that a copy of this form has been sent could be:

- A fax slip / a registered slip from the Post Office; or
- A signed receipt if hand delivered; or
- A signed statement by the person delivering the form confirming service.

**8. DISPUTE IN TERMS OF SECTION 64 (4) OF THE LRA**

**DISPUTE ABOUT UNILATERAL CHANGE TO TERMS AND CONDITIONS OF EMPLOYMENT, IN TERMS OF SECTION 64(4)**

**I/We require the employer party not to implement unilaterally the proposed changes that led to this dispute for 30 days, or that it restore the terms and conditions of employment that applied before the change.**

Signed: .....  
(employee party referring the dispute)

**9. INFORMING THE OTHER PARTY**

I confirm that a copy of this form has been sent to the other party/parties to the dispute and proof of this is attached to this form.

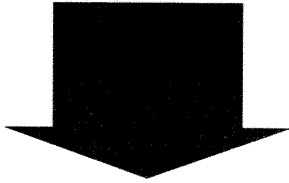
Name (in full): **Lelanie C. du Plessis**.....

Position/Rank: **Solidarity Official**.....

Signature of party referring the dispute:

Signed at ..... **Centurion** .....  
(place)

on this the **01<sup>st</sup>** day of **November 2024** .....  
(month and year)



**Dismissal disputes must be referred (i.e. received by the ELRC) within 30 days of dismissal. If the dismissal was more than 30 days ago, you are required to apply for condonation ELRC Form E2**

**PART B**

**ADDITIONAL FORM FOR DISMISSAL DISPUTES ONLY**

**1. COMMENCEMENT OF EMPLOYMENT**

Date of appointment: .....  
(give the date, month and year)

**2. NOTICE OF DISMISSAL**

Please give the date of your dismissal: .....  
(give the date, month and year)

How were you informed of your dismissal?

By letter  Verbally

At/After a disciplinary hearing

Other (please describe):

.....  
.....  
.....

Was it constructive dismissal?

YES	NO
-----	----

**3. DISCIPLINARY HEARING**

Was there a disciplinary hearing before the dismissal?

YES	NO
-----	----

**4. REASON FOR DISMISSAL**

Why were you dismissed?

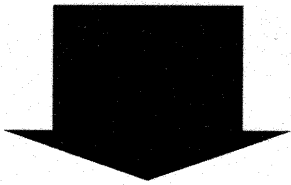
Automatically unfair dismissal  Incapacity

Misconduct  Unknown

Operational Requirements (Retrenchment)

Other (please describe):

.....



**Indicate the  
Procedural and  
Substantive  
Fairness of the  
Dismissal**

**5. FAIRNESS/UNFAIRNESS OF DISMISSAL**

**(a) Procedural Issues**

Do you think that the dismissal was procedurally unfair?  
(Were internal procedures followed?)

YES	NO
-----	----

If yes, why?

.....

.....

.....

.....

**(b) Substantive Issues**

Do you feel the reason for the dismissal was substantively unfair?

YES	NO
-----	----

If yes, why?

.....

.....

.....

.....

.....

.....

.....

.....

.....



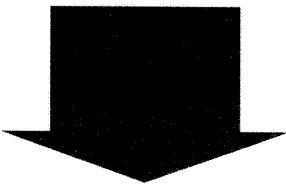


**PART C**

**YOUR CHECKLIST**

Please Tick:

TASK	YES	NO
I have completed this form fully and correctly	X	
I have attached ELRC Form E2 (Application for Condonation) (if applicable)		
I have attached proof that this form has been served on the other party	X	



**PART D**

**CONFIRMATION OF THE ABOVE DETAILS**

**Make certain that all the required information has been provided and the necessary**

In the event where it has come to the attention of the Education Labour Relations Council (ELRC) that the information provided in the referral is both materially and substantively incorrect, the applicant shall bear the cost of conciliation and arbitration proceedings. This shall include any related cost.

Name (in full): Kelanie C. du Plessis

Position/Rank: Solidarity Official

Signature of party referring the dispute: [Signature]

Signed at: Centurion  
(place)

on this the 01<sup>st</sup> day of November 2024  
(month and year)



**PART E**

How did you hear about us? Please tick relevant box.

Medium	Tick
ELRC website	X
Google search	
Facebook	
Twitter	
Newspaper (Community)	
Newspaper (National)	
Billboard	
Radio	
TV	
Teacher union newsletter	
Exhibition	
Conference	

Other (please specify)

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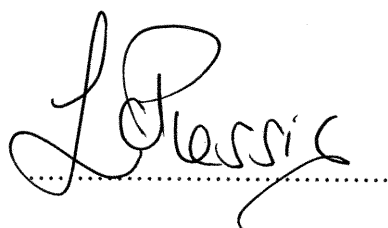
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**Employees forming part of the Dispute**

- |                                |                      |
|--------------------------------|----------------------|
| 1. Werner Burger               | Persal no: 55964079. |
| 2. Anna Sophia Botha           | Persal no: 14482983. |
| 3. Johanna Hendrika Biesenbach | Persal no: 51464403. |

**Signed by Lelanie C. du Plessis in my capacity as Solidarity Official on 01 November 2024 at Centurion.**

A handwritten signature in black ink, appearing to read 'L. Plessis', written over a horizontal dotted line.