



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

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Ms SM Semaswe
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By e-mail: silekalakala@nwpg.gov.za

Dear Ms Semaswe

TEACHERS REFUSING TO REPORT FOR DUTY OR DISRUPTING SCHOOLS DURING COVID-19 AND DISCIPLINARY PROCESSES TO BE FOLLOWED

It has emerged that since the phasing in of Grades R, 6, and 11 there are teachers and principals who are refusing to report for duty instead, they choose to instigate learners, parents and some community members to disrupt schools despite the costly initiative taken by the Department of Basic Education (DBE) in ensuring that the school environment is clean and conducive for teaching, and that learning and the required Covid-19 essentials are provided to protect learners and teachers from contracting the virus.

The DBE is extremely concerned about some teachers, principals and non-teaching staff that are using different platforms to attack the Department for re-opening of schools. This could lead to a wrong impression that the Department is not prioritising teachers and learners.

In dealing with such challenges, the Council of Education Ministers (CEM) has resolved to take legal action against all individuals and groups that continue to disrupt schooling. The DBE is emphasising the fact that the re-opening and closure of schools is a legislative responsibility accorded to national and provincial authorities only. Groups and individuals who are not empowered by law do not have the authority to close schools.

I therefore urge you to implement the following disciplinary processes on each case:

If a teacher refuses to report for duty after a non-approval of Concession for employees with a comorbidity, (ELRC Collective Agreement 1 of 2020) the following disciplinary process must be followed:

- The educator should be given written instruction to report for duty;
- Leave without pay should be granted to the educator for his/her period at home;
- If the teacher still refuses to report for duty, he/she should be charged with misconduct in terms of section 18 of the Employment of Educators Act. This process could lead to his/her dismissal; and
- The formal instruction should be used as aggravation to request the Presiding Officer (PO) for a harsher sanction that includes dismissal.

In cases of serious misconduct, a Final Written Warning (FWW) in the progressive disciplinary process is FINAL. If any educator refuses to return to work after the serving thereof, the formal (serious transgression process) takes effect. The following process will then be followed:

- The educators should be charged in terms of section 18 of the Employment of Educators Act;
- The appointment of an external PO is required; and
- A sanction that includes dismissal can be requested from the PO.

In cases of protected or unprotected strikes, the following process should be followed by managers of schools and/or Circuit Manager:

- Each striking educator should immediately be instructed in writing to return to work with the proviso that they are subjecting themselves to be charged with misconduct. This process could either be done by the principal or Circuit Manager;
- Their names and period of the strike should be sent to People Management Practices for the implementation of No Work No Pay;
- There is no need to request reasons why they are on strike as it is unprotected;
- Any grievance related issues are separate and should be dealt with in terms of the Grievance Procedure of the Personnel Administrative Measures (PAM); and
- All such educators should be charged progressively in terms of schedule 2 of the Employment of Educators Act, 76 of 1998 and should be provided with a FWW.

Please note that this process can be finalised within 36 hours or less by either the manager of the school or whomever the function has been delegated to.

Your prompt implementation of these measures will assist in curbing the unlawful refusal by teachers to report for duty and the unnecessary disruption of schools.

Your assistance in this regard will be highly appreciated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'HM Mweli', written in a cursive style.

MR HM MWELI
DIRECTOR-GENERAL
DATE: 20 JULY 2020