EDUCATION LABOUR RELATIONS COUNCIL

*Established in terms of the LRA of 1995 as amended*

# COLLECTIVE AGREEMENT NUMBER 4 OF 2006

## *16 MARCH 2006*

## FULL-TIME SHOP STEWARDS IN EDUCATION

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## 1. PURPOSE OF THIS AGREEMENT

1.1 The purpose of this agreement is to provide for the appointment of full-time shop stewards in education.

1.2 The parties acknowledge that

1.2.1 Trade unions that are able to effectively represent their members in accordance with the applicable procedures will greatly enhance labour relations in the public education sector. This will be to the benefit of all concerned: the employer, educators and learners;

1.2.2 There is a need to develop capacity among trade union officials in order to engage effectively in the applicable labour relations structures, procedures and processes; and

1.2.3 The effective utilisation of full-time shop stewards will lead to non disruption of the teaching/learning environment.

## 2. SCOPE OF THIS AGREEMENT

This agreement applies to and binds:

2.1 The employer, and

2.2 The trade union parties to this agreement.

## 3. THE PARTIES TO COUNCIL AGREES AS FOLOWS:

3.1 Election, nomination and appointment of full-time shop stewards (FTSS)

3.1.1 Eligibility for appointment as a FTSS

3.1.2 In order to be appointed as a FTSS a person must:

(i) be a post level one, permanent educator at a school-based institution,

(ii) been elected or nominated by the trade union of which that person is a member.



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***(NOTE: Deputy Principals and Heads of Departments, who were FTSSs in 2005 and nominated in January 2006, may continue as FTSSs for the period 1 April 2006 to 31 December 2006.)***

3.1.3 The maximum number of FTSS

The maximum number of FTSS that may be appointed in terms of this agreement is as per Annexure A.

3.1.4 Distribution of FTSS

(i) The number of FTSS that each trade union may put forward for appointment in each province is as per Annexure A.

(ii) In submitting appointees as proposed FTSS, the trade union parties to the Council must ensure that FTSS nominated or elected by them are allocated to deal with the trade union's functions and interaction with the employer at national, provincial and or regional/district level.

3.1.5 Notification of the elected FTSS

(i) Once the trade unions have nominated or elected their FTSS, the trade unions must notify the national Department of Education and the respective provincial education departments in writing of these names of the educators.

(ii) In its notification the trade union must specify the contact details of each of its FTSS, including the FTSS's telephone, cell phone and fax numbers.

3.1.6 Appointment of the FTSS

(i) Once the national Department of Education and the provincial departments of education have received the notifications referred to in paragraph 3.1.5, the persons nominated or elected to the position of FTSS will be duly appointed. Their appointment will be by way of a secondment.

(ii) The provincial education departments undertake to inform all educators by means of a circular distributed to all the education institutions of the contact details of the appointed FTSS's for that province.

(iii) The trade unions undertake to inform all their members of the contact details of their appointed full-time shop stewards for the province concerned.



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3.1.7 Period of appointment

(i) The FTSS must be appointed (by way of a secondment)

(ii) The FTSS will be seconded from 1 April 2006 to 31 December 2006.

## 4. BENEFITS

4.1 The employer must pay the appointed FTSS his or her full remuneration package.

4.2 A FTSS who returns to his or her educator duties must be assigned the post he or she left prior to his appointment. If this is impossible/impractical or not in the best interest of education, then the employer must offer the FTSS a suitable alternative, commensurate with the post from which the FTSS came prior to his or her appointment as a FTSS.

4.3 During the period of appointment as an FTSS, the educator concerned retains all the rights and benefits attached to his or her educator post, including salary increases, promotion opportunities and benefits associated with his or her seniority as if he or she had not been seconded.

## 5. THE RIGHTS, DUTIES AND OBLIGATIONS OF A FTSS

5.1 The role and functions of a FTSS include, but are not limited to the following:

5.1.1 to assist and communicate with educators about employment and trade union related matters.

5.1.2 to assist and represent his or her trade union's members in disciplinary hearings, in processing grievances and in appeal procedures in terms of the Employment of Educators' Act, 1998;

5.1.3 to assist and represent his or her trade union's members in dispute resolution procedures declared in terms of the Council's dispute resolution procedures;

5.1.4 to represent his or her trade union and participate in collective bargaining processes, including consultations and negotiations with the employer and its representatives;

5.1.5 to monitor the employer's compliance with the provisions of any workplace-related laws and any collective agreement binding on the employer; and

5.1.6 to report any alleged contravention of a workplace-related provision of any law and any collective agreement binding on the employer to

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the employer, his or her trade union or any responsible authority or agency.

5.2 In performing his or her functions, the FTSS must endeavour:

5.2.1 to establish and maintain good relations between his or her trade union and its members and the employer; and

5.2.2 to follow all applicable procedures regulating the employer-employee relationship and advise his or her trade union's members to follow these procedures.

5.2.3 to put all his/her time at the disposal of employer/employee interactions.

5.3 The FTSS must represent the interests of the union and its members in accordance with the instructions and mandate of the trade union that elected or nominated him or her.

5.4 The FTSS must report to his or her trade union regarding his or her work, any matter associated with the carrying out of his or her duties and the FTSS is accountable to his or her trade union with respect to his or her performance as a FTSS. The trade union shall provide the employing department of the FTSS with a report of the performance of the FTSS by 1 November of each year.

5.5 An FTSS may not interfere with any lawful and legitimate instruction given by the employer or his or her representative to an employee. An FTSS may not unlawfully interfere with the performance of any employee's duties, failing which, the employer will deal with the FTSS according to the Labour Relations Act, 1996(as amended).

5.6 The FTSS may provide advice to his or her trade union's members. The FTSS may encourage or direct any of the FTSS's trade union's members to comply with any lawful decision of his or her trade union.

5.7 The FTSS may exercise all the trade unions' organisational rights and obligations as set out in various statutes of parliament and collective agreements of the Council.

5.8 Right of access

5.8.1 The FTSS may meet with educators on the premises of the educational institution or departmental office of the employer provided that the FTSS has obtained prior permission from the head of the relevant educational institution or, in the case of a departmental office, the appropriate representative of the employer.

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Office hours and teaching time does not include tea and lunch breaks.

5.8.2 The FTSS may hold meetings with educators provided that:

(i) in the case of educational institutions, the meeting takes place outside the formal teaching or learning day and does not interfere with the functioning of the educational institution; and

(ii) in the case of an office of the employer, the meeting takes place outside office hours and does not interfere with the functioning of the respective office.

5.8.3 The FTSS may only hold meetings with individual educators during office hours or teaching time under the conditions stipulated in the PAM and provided that the FTSS has the prior approval of the relevant heads of the educational institutions or, in the case of departmental offices, the appropriate representatives of the employer. An FTSS must, as far as possible, try to meet with an educator outside of actual teaching or learning time.

5.9 Disclosure of information

An FTSS is entitled to full disclosure of all relevant information in accordance with and subject to the qualifications provided in section 16 of the LRA and the Promotion of Access to Information Act, 2001.

5.10 Victimisation and Prejudice

The employer undertakes not to victimise or prejudice an educator by virtue of:

5.10.1 his or her election, nomination or appointment as a FTSS;

5.10.2 his or her possible or prior election, nomination or appointment as a FTSS; and

5.10.3 the performance by the FTSS of his or her duties.

## 6. WITHDRAWAL OR TERMINATION OF THE APPOINTMENT OF A FTSS

6.1 A FTSS's appointment terminates at the end of his or her period of appointment (i.e. on 31 December).

6.2 A FTSS may be withdrawn if:



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6.2.1 the FTSS accepts a promotion to post level two (2) or higher at an institution or into a departmental office based post;

6.2.2 the FTSS is transferred to another provincial education department;

6.2.3 the FTSS ceases to be a member of the trade union that nominated and elected him or her;

6.2.4 the FTSS ceases to be an educator;

6.2.5 the FTSS resigns in writing as an FTSS;

6.2.6 the FTSS is withdrawn by the trade union who appointed him or her; and

6.2.7 the FTSS's appointment is terminated in terms of paragraph 6(3) of this agreement.

6.3 Withdrawal of a FTSS for misconduct

6.3.1 Should the employer not be satisfied with the manner in which a FTSS is conducting him or herself, the employer may refer the matter in writing to the FTSS's trade union. In the referral the employer must specify the conduct complained of. A copy of the referral must be sent to the FTSS.

6.3.2 Should the matter not be settled within 14 days from the date on which the referral referred to in paragraph 6.3.1 reaches the trade union, the employer may refer the matter to the Council for conciliation and arbitration in terms of the Council's dispute resolution procedures.

6.3.3 If the dispute is not settled at conciliation the employer may refer the matter to arbitration. At arbitration the employer may seek an order withdrawing the FTSS.

6.3.4 In deciding whether to grant an order withdrawing the FTSS the arbitrator must consider, amongst others, the following:

(i) the seriousness of the misconduct complained of;

(ii) the steps taken to correct the conduct complained of;

(iii) the inherent nature of the conflict between a trade union and the employer;

(iv) the FTSS's and the trade union's freedom of association rights as set out in Chapter 2 of the LRA; and



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(v) the impact that any order terminating the appointment of the FTSS will have upon the employer, the trade union, the FTSS and labour relations generally.

6.3.5 Where necessary and applicable, the employer may follow the disciplinary procedure outlined in the EEA, 1998.

6.4 In the event of a vacancy arising from the withdrawal of a FTSS, the trade union concerned may put forward an appointee as a replacement for the duration of the outstanding period. In the event that the employing Department has to appoint another substitute in the new FTSS's place and pay the salary for two substitutes, the relevant trade union shall pay the cost of the additional substitute to the employing department.

## 7. THE TRADE UNION'S OBLIGATIONS

7.1 The trade unions undertake not to use trade union representatives who are not FTSS in activities that take place during the periods when these trade union representatives are supposed to be attending to their teaching duties; except in circumstances prescribed in the PAM.

7.2 The undertaking in paragraph 7.1 does not:

7.2.1 prevent full-time office-bearers and officials of trade unions from attending to these activities; and

7.2.2 affect the right of other union officials/representatives to perform their trade union functions and duties.

7.3 In particular the trade union must try to ensure that a FTSS is available to attend to the functions set out in paragraph 5.1.

7.4 The FTSS's trade union must pay for all expenses and meet all the other needs associated with the performance of the FTSS's activities, excluding the FTSS's remuneration.

7.5 FTSS must be based at the offices of their trade union in the province to which they are allocated.

## 8. PROVISIONS OF THE PERSONNEL ADMINISTRATION MEASURES (PAM)

8.1 The provisions of sub-clause 3.1(a)-(c) of chapter G of PAM are further clarified:-

8.1.1 These functions will be performed primarily by FTSS appointed in terms of this agreement; and



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8.1.2 Subject to this provision, unions may utilise other identified union representative/s for agreed upon interaction with the employer at the level of the circuit/district, regional or provincial after negotiating with the identified employer representative/s designated by the Head of Department.

## 9. FUNDING

The Education Labour Relations Council shall fund the full cost of the substitute educator or educators appointed as a result of the FTSS agreement.

## 10. REPORTING

10.1 Each provincial chamber of the ELRC shall constitute a committee of equal number of employee and employer representatives to assess and report on the effective utilisation and contribution of full time shop stewards in that province. The Provincial Secretary shall submit a monthly report to the ELRC.

10.2 The ELRC shall constitute a committee of equal number of employee and employer representatives to assess and report on the effective utilisation and contribution of full time shop stewards in all provinces. The General Secretary shall submit a quarterly report to the Council.

## 11. DATE OF IMPLEMENTATION

This agreement shall, in respect of parties and non-parties, come into effect on the date it is signed in Council and will lapse on 31 December 2006.

## 12. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement the Council's dispute resolution procedures will apply.

## 13. DEFINITIONS

13.1 ***"Council"*** means the Education Labour Relations Council;

13.2 ***"educator"*** has the same meaning as in the Employment of Educators Act, 1998;

13.3 ***"employer"*** has the same meaning as in the Employment of Educators Act, 1998;

13.4 ***"FTSS"*** means a full-time shop steward appointed in terms of this agreement;

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13.5 *"**institutions**"* means all educational institutions including public schools, further education and training institutions, departmental offices and adult basic education centres that are under the control of the provincial departments of education or the Department of education, as defined in the Employment of Educators Act, 1998;

13.6 *"**LRA**"* means the Labour Relations Act No 66 of 1995, as amended;

13.7 *"**PAM**"* means the Personal Administration Measures;

13.8 ***"union representative"*** means a member of a union either elected or nominated by the union concerned, excluding employees of the union.

Thus done and signed at ***Centurion*** on the ***16th*** day of ***March 2006***

**ON BEHALF OF THE STATE AS EMPLOYER**

| DEPARTMENT | NAME | SIGNATURE |
|---|---|---|
| EDUCATION | D Hindlbe | |

**ON BEHALF OF THE EMPLOYEE PARTIES**

| TRADE UNION | NAME | SIGNATURE |
|---|---|---|
| NAPTOSA | H. HENDRICKS | |
| NATU | BP MPUNGOSE | |
| SADTU | I-W-NXESI | |
| SAOU | J.R PIETERSE | |

**ANNEXURE A**

# FTSS DISTRIBUTION FOR 2006

| | KZN | EC | LIM | GAUT | NW | MPL | WC | FS | NC | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|
| Tot. No. of educators | 73979 | 69455 | 51152 | 40144 | 30503 | 25524 | 24768 | 24083 | 6317 | 346061 |
| Percentage | 15.83 | 14.16 | 12.5 | 11.6 | 10.8 | 10 | 9.16 | 8.3 | 7.5 | |
| No. of FTSS | 18 | 17 | 15 | 14 | 13 | 12 | 12 | 10 | 9 | 120 |
| | | | | | | | | | | |
| SADTU | 8 | 12 | 10 | 7 | 9 | 9 | 8 | 7 | 7 | 77 |
| **NAPTOSA** | 2 | 3 | 4 | 5 | 3 | 2 | 3 | 2 | 1 | 25 |
| **SAOU** | 1 | 2 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 11 |
| **NATU** | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |

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