

**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION 3953.**

**DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 28/10/2022**

**INTERNAL QUESTION PAPER: 42/2022**

**3953. Ms A M van Zyl (DA) to ask the Minister of Basic Education: to ask the Minister of Basic Education:**

- (1) Whether, with reference to her reply to question 2968 on 26 September 2022, she was guided by a legal opinion; if not, what is the position in this regard; if so, (a) what statutory provisions lead to her department's position that is developing legislation and/or policy dealing with this phenomenon that will be institutionalising unfair labour practice;
- (2) whether she will furnish Ms A M van Zyl with details of (a) the specified statutory provision and (b) who and/or what informed her department to take the stance?

## NATIONAL ASSEMBLY

### WRITTEN REPLY

#### QUESTION 3953.

#### Response

1. No, The Minister of Basic Education did not require legal opinion on whether the Department has any policy or legislation in place to deal with the displaced educators. The Department cannot make legislation or policy in this regard. A legal opinion cannot be sought based on the phenomenon that is fundamentally flawed. Educators who are forced out of the workplaces by communities on allegations that are not proven are treated unfairly because their labour rights are infringed.

**Suggested** (1) No. The Department has not identified any need to develop a specific policy or legislation on the matter. Displaced educators remain the employees of a Provincial Education Department that employed them and this follows an assessment and confirmation that the allegations against them are unproven and that they cannot be charged for misconduct of any kind.

2. (a) There is no statutory provision with which the Minister could furnish the honourable Ms AM van Zyl as we have status that there is no policy or legislation in place that **specifically** deal with displaced educators.

(b) As indicated above, the phenomenon of pushing educators out of schools infringes on the teachers' rights and thus perpetuates unfair labour practice. Departments must find a way of investigating issues raised by the complainant in a fair and legal manner.

**Suggested.** (b) The Department is satisfied that the existing processes, practices and procedures are adequate to deal with instances of displacement that occur from time to time.