

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

FETC BARGAINING UNIT



elrc

EDUCATION LABOUR
RELATIONS COUNCIL

FURTHER EDUCATION AND TRAINING COLLEGES BARGAINING UNIT

COLLECTIVE AGREEMENT NO 1 OF 2013

13 FEBRUARY 2013

**GENERIC CONTRACT OF EMPLOYMENT FOR POST LEVEL 1
LECTURERS APPOINTED IN THE PUBLIC FURTHER EDUCATION AND
TRAINING COLLEGES**

The GS hereby certifies that this
Collective Agreement was ratified
by Council on this date

2013 -03- 07

**GENERIC CONTRACT OF EMPLOYMENT FOR POST LEVEL 1 LECTURERS APPOINTED IN
THE PUBLIC FURTHER EDUCATION AND TRAINING COLLEGES**

1. PURPOSE OF THIS AGREEMENT

The purpose of this agreement is to provide for a generic contract of employment for post level 1 (one) lecturers that are appointed by public Further Education and Training Colleges.

2. SCOPE OF THIS AGREEMENT

This agreement applies to and binds:


- 2.1. The Public FET Colleges represented by the FETCEO as the employer.
- 2.2. All lecturers as defined in terms of Further Education and Training Colleges Act 16 of 2006, whether such employees are members of trade union parties to this agreement or not.
- 2.3. Management staff who are appointed in terms of the provisions as contained in the FETC Act 16 of 2006 are excluded from this agreement.

3. THE PARTIES TO COUNCIL NOTE AS FOLLOWS

- 3.1 FET colleges have developed their own contracts of employment resulting in differentiated conditions of employment and remuneration packages between colleges. This implies that country-wide lecturers who are doing the same work, are appointed in terms of different contracts of employment and different conditions of service.
- 3.2 Many FET Colleges have three categories of contracts of employment:
 - 3.2.1 a contract of employment for formerly state-employed lecturers who were transferred to the employ of colleges;
 - 3.2.2 a contract of employment (letter of employment) for lecturers appointed after 1 January 2008, but remunerated by Persal; and
 - 3.2.3 a contract for lecturers remunerated by the college Council.
- 3.3. There is a need to standardize the contracts of employment offered to post level 1 lecturers in the FET Colleges sector.

The GS hereby certifies that this
Collective Agreement was ratified
by Council on this date

2013 -03- 07



4. THE PARTIES TO COUNCIL THEREFORE AGREE AS FOLLOWS:

4.1 The generic contract of employment for lecturing staff in the public Further Education and Training Colleges, together with its annexure shall apply to all lecturers. A copy of the generic contract is attached to this agreement as **Annexure A.**

5. DATE OF IMPLEMENTATION

5.1 The provisions of this agreement shall take effect on the date it is ratified in the ELRC.

6. INTERPRETATION AND APPLICATION

6.1 In the event of any conflict between the provisions of this Agreement and any other Agreement of the Council, the provisions of the Agreement of Council shall take precedence.

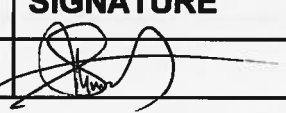
6.2 No amendments to this Agreement shall be of force or effect unless reduced to writing and agreed upon by the parties to the Council as a Resolution of Council.

7. DISPUTE RESOLUTION

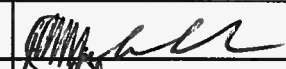
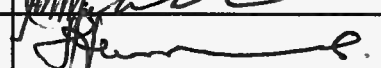
7.1 Any dispute about the interpretation or application of this agreement shall be resolved in terms of the dispute resolution procedure of the Council.

THUS DONE AND SIGNED AT CENTURION THIS THE 13TH DAY OF FEBRUARY 2013

ON BEHALF OF THE PUBLIC FET COLLEGES AS EMPLOYER

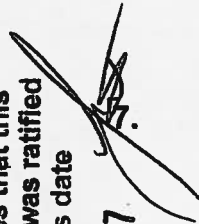
EMPLOYERS	NAME	SIGNATURE
FETCEO	MASUYE MIKE	

ON BEHALF OF EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
CTU-SADTU	Mugwena Malyeke	
CTU-ATU	HENRY HENDRICKS	

The GS hereby certifies that this Collective Agreement was ratified by Council on this date

2013 -03- 07



ANNEXURE A

GENERIC CONTRACT FOR POST LEVEL 1 LECTURERS APPOINTED IN TERMS OF THE FETC ACT 16 OF 2006 AND ALL OTHER APPLICABLE LEGISLATION

EMPLOYMENT CONTRACT

LECTURER

CONTRACT OF EMPLOYMENT ENTERED INTO BETWEEN:

FURTHER EDUCATION AND TRAINING COLLEGE
(HEREIN AFTER REFERRED TO AS "THE EMPLOYER")

AND

(HEREIN AFTER REFERRED TO AS "THE LECTURER")

IDENTITY NUMBER: _____

EMPLOYEE NUMBER: _____

THE FOLLOWING CONDITIONS ARE AGREED UPON:

1. DESCRIPTION OF POSITION

1.1 The Lecturer will be employed as (position) _____ teaching
(programme/subject) _____ (where applicable.)

1.2 The Lecturer will report to the:

Campus Manager	HOD	Senior Lecturer	
----------------	-----	-----------------	--

his or her immediate supervisor.

2. COMMENCEMENT DATE

- 2.1 This appointment will be official as from: DD ___ / MM ___ / YY _____
The Lecturer's employment is subject to a probation period of twelve months during which time his or her work will be monitored with the view of assessing the employee's confirmation for permanent employment.

OR

- 2.2 This appointment will be for a fixed term contract that will officially commence from _____ to _____. In instances where the fixed term contract is renewed; there will be no break in service.

3. DUTIES AND RESPONSIBILITIES (AS ALIGNED IN THE PAM DOCUMENT)

It will also be expected of the lecturer to mark test/exam papers. Invigilating is compulsory.

4. REMUNERATION

4.1 ANNUAL BASIC SALARY

The Lecturer's basic salary before deduction will be R_____ payable on the last day of each month. The Lecturer shall, as soon as possible after signing this contract, notify the employer of his/her banking details to which the salary payment shall be transferred.

4.2 OTHER BENEFITS

The lecturer will be entitled to the following benefits:

- Service Bonus which is 100% of the employees monthly salary
- Housing Allowance in line with Public Service Provisions
- Medical Aid Subsidy in line with Public Service Provisions
- Pension Fund and Provident Fund where applicable

OR

- 37% of the basic salary in lieu of benefits, where applicable.

4.3 STATUTORY DEDUCTIONS

The following will be deducted from the lecturers' monthly salary:

- Unemployment Insurance Fund (UIF)
- Income Tax
- SACE levy
- ELRC levy
- PSCBC levy

5. LEAVE IN LINE WITH PSCBC RESOLUTION 1 OF 2007 WHERE APPLICABLE (REFER TO ANNEXURE E)

6. CONFIDENTIAL COLLEGE INFORMATION

- 6.1 Confidential information concerning the college, lecturers or students should not be furnished without written permission from College Management.

7. RULES, REGULATIONS AND POLICIES (COLLEGES TO PROVIDE SUCH TO EMPLOYEES)

- 7.1 The Lecturer must adhere to all rules, regulations, policies and procedures drawn up by the Employer. These rules, regulations, policies and procedures will be made available to the Lecturer.

8. DISCIPLINARY CODES AND PROCEDURES (REFER TO ANNEXURES B-D)

- 8.1 Where a lecturer has contravened the rules and regulations governing the employment relationship, the prescripts of Annexure B to D will come into operation.

9. GRIEVANCE PROCEDURE (ATTACHED AS ANNEXURE G AND IN LINE WITH THE PAM)

10. WORKING HOURS (REFER TO ANNEXURE F)

- 10.1 A working week of 35 hours as prescribed in the PAM document is applicable.
- 10.2 Hours of work must be specific to the incumbent's work obligation i.e. full time (35hrs) or part-time.

11. MEALS INTERVALS

- 11.1 Lunch time will be taken according to operational arrangements of the employer in accordance with the prescripts of the PAM Document.

12. GENERAL

12.1 Any changes to this contract will only be valid if they are in writing and have been agreed to and signed by both parties.

THUS DONE AND SIGNED AT _____ ON THIS
_____ DAY OF _____ 20_____

Lecturer:

Witness:

.....
College Council Chairperson

ANNEXURE B

DISCIPLINARY CODE AND PROCEDURES FOR EMPLOYEES HEREAFTER REFERRED TO AS LECTURERS

1. Purpose and scope

The purpose and scope of this Code and Procedures is to –

- 1.1 support constructive labour relations;
- 1.2 promote mutual respect among employees and between employees and the employer;
- 1.3 ensure that employers and employees share a common understanding of misconduct and discipline;
- 1.4 promote acceptable conduct;
- 1.5 provide employees and the employer with a quick and easy reference for the application of disciplinary measures;
- 1.6 avert and correct unacceptable conduct and
- 1.7 prevent arbitrary or discriminatory actions by the employer towards employees.

2. Principles

The principles underlying the Code and Procedures and any decision to discipline an employee are that -

- 1.1 discipline is a corrective and not a punitive measure;
- 1.2 discipline must be applied in a prompt, fair, consistent and just manner;
- 1.3 discipline is the responsibility of an employer;
- 1.4 a disciplinary code is necessary for the efficient delivery of service and the fair treatment of employees, and ensures that employees:-
 - (a) have a fair hearing in a formal or informal setting;
 - (b) are timeously informed of allegations of misconduct made against them;
 - (c) receive written reasons for any decision taken; and
 - (d) have the right to appeal against any decision;
- 1.5 as far as possible, disciplinary proceedings are held at the place of work and are understandable to all employees.

- 1.6 If an employee commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different proceedings; and
- 1.7 Disciplinary proceedings must be concluded in the shortest possible time frame.

3. Code of Good Practice

- 3.1. The Code of Good Practice contained in schedule 8 of the Labour Relations Act, 1995 (Act 66 of 1995), insofar as it relates to discipline, constitutes part of this Code and Procedure.
- 3.2. The conduct of an employee that may warrant disciplinary action is listed in **Annexure C, Acts of Misconduct**.
- 3.3. In dealing with misconduct, the employer must assess the seriousness of the alleged misconduct by considering –
 - a. the extent to which the misconduct impacts on the work of the employer;
 - b. the nature of the employee's work and responsibilities; and
 - c. the circumstances in which the alleged misconduct took place.
- 3.4. The form of disciplinary procedure to be followed in any case must be determined by the employer.

4. Sanctions and disciplinary procedures pertaining to less serious misconduct cases

- 4.1 In cases where the seriousness of the misconduct warrants **counselling**, the employer must -
 - (a) bring the misconduct to the employee's attention;
 - (b) determine the nature of the misconduct and give the employee an opportunity to respond to the allegations;
 - (c) after consultation with the employee decide on a method to remedy the conduct; and
 - (d) take steps to implement the decision as contemplated in sub-items 4.2, 4.3 or 4.4

- 4.2 In cases where the seriousness of the misconduct warrants it, the employer may give the employee a **verbal warning**.
- (a) The employer must inform the employee that further misconduct may result in more serious disciplinary action.
 - (b) The employer must record the warning contemplated in paragraph (a)
- 4.3 In cases where the seriousness of the misconduct warrants it, the employer may give the employee a **written warning** (Refer to Annexure B1). The following provisions apply to written warnings:
- (a) The employer must give a copy of the written warning to the employee, who must acknowledge receipt on the copy.
 - (b) If the employee refuses to sign the copy for acknowledgement of receipt, the employer must hand the warning to the employee in the presence of another employee, who shall sign in confirmation that the written warning was conveyed to the employee.
 - (c) The written warning must be filed in the employee's personal file.
 - (d) A written warning remains valid for six months.
 - (e) If, during the six-month period, the employee is subject to disciplinary action, the written warning may be taken into account in deciding on an appropriate sanction.
 - (i) If the employee disagrees with the written warning or wishes to add any information, he or she may lodge such additional information or written objection against the sanction.
 - (ii) The additional information and the objection referred to in sub paragraph (i) must be filed with the written warning.
- 4.4 In cases where the seriousness or extent of the misconduct warrants it, the employer must give the employee a **final written warning** (Refer to Annexure B2). The following provisions apply to a final written warning:
- (a) The employer must give a copy of the final written warning to the employee who must sign a copy to acknowledge receipt.
 - (b) If the employee refuses to sign a copy to acknowledge the receipt of the final written warning, the employer must hand the warning to the employee in the presence of another employee who must sign in confirmation that the written warning was conveyed to the employee.
 - (c) The final written warning must be filed in the personal file.

- (d) A final written warning remains valid for six months.
- (e) If during the six-month period, the employee is subject to disciplinary action, the final written warning may be taken into account in deciding on an appropriate sanction.
- (f)
 - (i) If the employee disagrees with the final written warning or wishes to add any information, he or she may lodge such additional information or written objection against the sanction.
 - (ii) The additional information and the objection referred to in subparagraph (i) must be filed with the final written warning.

4.5 If the seriousness or extent of the misconduct does not warrant a formal enquiry the procedures in paragraphs (a), (b) and (c) must be followed.

- (a) The employer must convene a meeting where-
 - (i) The employee and, if he or she so chooses, the employee trade union representative or other employee who is based at the institution, are present;
 - (ii) Reasons are given to the employee as to why it is necessary to initiate this procedure; and
 - (iii) The employee or the employee's representative is heard on the misconduct and reasons thereof.
- (b) After hearing the employee or his or her representative, the employer must-
 - (i) Counsel the employee; or
 - (ii) Issue a verbal warning; or
 - (iii) Issue a written warning; or
 - (iv) Issue a final written warning;
- (c) An employee may not appeal against any of the above sanctions but may lodge an objection in writing, against the sanction imposed, or provide additional written information.
 - (i) The objection or additional, information must be filed together with a record of the sanction in the employee personal file.
 - (ii) For the purpose of determining appropriate disciplinary actions, valid warnings for similar offences by the employee must be taken into account.

5. Notice of enquiry for misconduct cases other than those contemplated in paragraph 4

- 5.1 The employee must be given written notice at least five working days before the date of the hearing.
- 5.2 The written notice of the disciplinary hearing (Refer to Annexure B3 – Notice of Disciplinary meeting) must contain-
- (a) a description of the allegations of misconduct and the main evidence on which the employer will rely;
 - (b) details of the time, place and venue of the hearing;
 - (c) when delivering by registered post, the date on which the letter was received by the employee as indicated by the post office;
 - (d) information on the rights of the employee to representation by a fellow employee or a trade union representative;
 - (e) information on the rights of the employee to representation by a legal representative, if the employer so directs; and
 - (f) Information on the rights of the employee to call witness's at the hearing.
 - (g) The employee must acknowledge receipt of the notice by signing a copy of the notice.
 - (h) If the employee refuses to sign for the receipt of the notice, it must be given to the employee in the presence of a fellow employee, who must sign in confirmation that the notice was conveyed to the employee.

6. Suspension

- 6.1 In the case of serious misconduct, the employer may suspend the employee on full pay for a maximum period of three months.
- 6.2 In the case of less serious misconduct, the employer may suspend an employee in accordance with the procedure contemplated in sub-item 6.1 if the employer believes that the presence of the employee may jeopardise any investigation into the alleged misconduct, or endanger the well-being or safety of any person at the workplace.
- 6.3 If an employee is suspended or transferred, the employer must do everything possible to conclude a disciplinary hearing within one month of the suspension;

- 6.4 The presiding officer may decide on further postponement. Such a postponement must not exceed 90 days from the date of suspension.
- 6.5 If the proceedings are not concluded within 90 days, the employer must enquire from the presiding officer what the reasons for the delay are and give directions for the speedy conclusion of the proceedings.
- 6.6 At the time of the enquiry contemplated in paragraph 6.5 the employer may, after giving the employee an opportunity to make representations, direct that the further suspension will be without pay.

7. Conducting the disciplinary hearing

- 7.1 The disciplinary hearing must be held within ten working days after the notice referred to in item 5 is delivered to the employee.
- 7.2 The presiding officer must be appointed by the employer.
- 7.3 If the employee so chooses, he or she may be represented at the hearing by a fellow employee or a representative of a trade union.
- 7.4 If the presiding officer deems it necessary, an interpreter must assist at the hearing.
- 7.5 Subject to section 3(3) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), if the presiding officer so directs, the employer or employee may be represented by a legal representative.
- 7.6 If the employee fails to attend the hearing and the presiding officer concludes that the employee does not have a valid reason, the hearing may continue in the absence of the employee.
- 7.7 The presiding officer must keep a record of the notice of the disciplinary hearing and of the proceedings.
- 7.8 The presiding officer must read the notice for the record before the start of hearing.
- 7.9 The representative of the employer must lead evidence on the conduct giving rise to the hearing.
- 7.10 The employee the employee's representative may question any witness called by the representative of the employer.
- 7.11 For the purposes of the investigation and hearing, the representative of the employer may summon any person who –
 - (a) may be able to give information of material importance concerning the subject of the investigation or hearing; or

- (b) has in his or her possession, custody or control, any book, document or object which may have a bearing on the matter.
- 7.12 Here the employee has requested that a person be present at a hearing as his or her witness, the employer must provide the employee with the assistance to ensure that such witness attends.
- 7.13 The notice to appear at a disciplinary hearing (Annexure B4 - Summons to appear at Disciplinary Hearing) must be served on the employee by way of delivery by-
- (a) hand;
 - (b) telefax; or
 - (c) registered post
- 7.14 The date on which the notice is served will be when delivering by –
- (a) hand, the date of delivery
 - (b) telefax, the date reflected on the telefax; or
 - (c) registered post, the date on which the letter was received by the employee indicated by the post office.
- 7.15 The employee or his/ her representative must be given an opportunity to lead evidence.
- 7.16 The representative of the employer may question the witnesses of the employee
- 7.17 The presiding officer may ask any witness questions for clarification.
- 7.18 The presiding officer must give a finding whether or not the employee has committed the misconduct, and must inform the employee of the finding and the reasons thereof.
- 7.19 Before deciding on a sanction, the presiding officer must give the employee an opportunity to present evidence in mitigation.
- 7.20 The representative of the employer may present evidence regarding aggravating circumstances.
- 7.21 The presiding officer must communicate the final outcome of the hearing to the employer and the employee within five working days after the conclusion of the disciplinary enquiry, and the outcome must be recorded on the personal file of the employee.

8. Steps after disciplinary hearing

- 8.1 If the presiding officer finds that an employee has committed misconduct, the presiding officer must, on behalf of the employer, impose a sanction, taking into account –
- (a) the nature of the case;
 - (b) the seriousness of the matter;
 - (c) the employee's previous record; and
 - (d) any mitigating or aggravating circumstances
- 8.2 With the agreement of the employee, the presiding officer may impose the sanction of suspension without pay or demotion as an alternative to dismissal.
- 8.3 If an employee is demoted, he or she may apply for promotion after a year without prejudice.
- 8.4 The employer may not implement the sanction during an appeal by the employee.

9. Appeals

- 9.1 An employee may appeal against a finding or sanction by making an application.
- 9.2 The employee must, within five working days of receiving notice of the final outcome of a disciplinary hearing, submit the appeal form (Annexure B5 - Notice of Appeal) to the college council.
- 9.3 On receipt of the application referred to in subparagraph 9.1, the college council must request the principal to provide them with a copy of the record of the proceedings and any other relevant documentation.
- 9.4 If the college council chooses to allow further representations by the employee or his or her representative, he or she must notify the employee of the date, time and place where such representation must be made.
- 9.5 The college council must consider the appeal, and may:-
- (a) uphold the appeal
 - (b) in case of less serious misconduct, amend the sanction; or
 - (c) dismiss the appeal
- 9.6 The principal must immediately implement the decision of the college council.

ANNEXURE B1

[Form A substituted by s. 11(a) of Act No. 57 of 2001.]

WRITTEN WARNING

[DATE]

[NAME OF EMPLOYEE]

[PERSAL NO.]

[PERSONAL DETAILS OF THE EMPLOYEE]

This is a written warning in terms of the disciplinary procedure. Should you engage in further misconduct, this written warning may be taken into account in determining a more serious sanction.

The written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning.

If you object to the warning or wish to furnish additional information, you may lodge a written objection or additional information which will be filed together with this warning.

The nature of the misconduct is:

SIGNATURE OF REPRESENTATIVE OF EMPLOYER

DATE

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF WITNESS (if applicable)

DATE

ANNEXURE B2

[Form B substituted by s. 11(b) of Act No. 57 of 2001.]

FINAL WRITTEN WARNING

[DATE]

[NAME OF EMPLOYEE]

[PERSAL NO.]

[PERSONAL DETAILS OF THE EMPLOYEE]

This is a final written warning in terms of the disciplinary procedure. Should you engage in further misconduct it could lead to formal misconduct proceedings being instituted against you.

This final written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning.

Should you wish to do so, you may lodge a written objection to this final warning, or provide additional information which will be filed together with this final warning.

The nature of the misconduct is:

SIGNATURE OF REPRESENTATIVE OF EMPLOYER

DATE

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF WITNESS (if applicable)

DATE

ANNEXURE B3

[Form C substituted by s. 11(c) of Act No. 57 of 2001.]

NOTICE OF DISCIPLINARY MEETING

[DATE]

[NAME OF EMPLOYEE]

[PERSAL NO.]

[PERSONAL DETAILS OF THE EMPLOYEE]

You are hereby given notice to attend a disciplinary hearing in terms of item 6 of the Disciplinary Code.

The alleged misconduct is based on the following evidence:

[A DETAILED DESCRIPTION OF THE ALLEGED MISCONDUCT MAY BE ATTACHED.]

The hearing will held at [PLACE]
on [DATE] at..... [TIME].

If you do not attend and cannot provide reasonable grounds for failing to attend, the hearing will be held in your absence.

A fellow employee or a representative of a recognised union may represent you at the hearing. You may also be represented by a legal representative if the presiding officer so directs.

You may give evidence at the hearing and adduce evidence in the form of documents or through witnesses. You are entitled to question any witness called by the employer.

If the presiding officer finds that you are guilty of misconduct, you may present any relevant circumstances which you wish to be taken into account by the presiding officer in determining the sanction.

SIGNATURE OF REPRESENTATIVE OF EMPLOYER

DATE

ACKNOWLEDGMENT OF RECEIPT BY EMPLOYEE

DATE

SIGNATURE OF WITNESS (if applicable)

DATE

ANNEXURE B4

[Form D substituted by s. 11(d) of Act No. 57 of 2001.]

SUMMONS TO APPEAR AT DISCIPLINARY HEARING

DATE:

TO:
(Name and residential address of person summoned)

You are hereby summoned to appear personally on the day
of 20.....
at (time) at (place)
before the presiding officer of a disciplinary hearing in terms of Schedule 2 to the
Employment of Educators Act, 1998 (Act No. 76 of 1998), for the purpose of giving
evidence regarding the following misconduct:

and to submit the following book, document or object in your possession, custody or
control, which may have a bearing on the matter;
(specify the book, document or object)

.....
SIGNATURE OF REPRESENTATIVE OF EMPLOYER

ANNEXURE B5

NOTICE OF APPEAL

[DATE]

[NAME OF APPEAL AUTHORITY]

I,, [NAME OF EMPLOYEE] hereby appeal against the FINDINGS and/or SANCTION that have been imposed in terms of the Disciplinary Code and Procedure on..... [DATE] at [PLACE].

I attach a copy of the final outcome of the disciplinary enquiry. [THE APPEAL REQUEST IS NOT VALID UNLESS THIS DOCUMENT IS ATTACHED]

My reasons for appeal are:

The desired outcome of the appeal is:

I wish/do not wish [CHOOSE ONE] to provide additional evidence not available at the time of the disciplinary proceedings.

SIGNATURE OF EMPLOYEE

DATE

[PERSAL NO.]

PERSONAL DETAILS OF THE EMPLOYEE]

NB: Lecturers may only appeal against the finding and resultant sanction of –

1. suspension without pay for a period not exceeding three months;
2. demotion;
3. a fine;
4. a combination of the above sanctions together with warnings; or
5. dismissal.

ANNEXURE C

Acts of Misconduct

An employee will be guilty of misconduct if she or he, among other things: (this list is not exhaustive or in any particular order):

- 1) Fails to comply with, or contravenes an Act, regulation or legal obligation.
- 2) Wilfully or negligently mismanages the finances of the College
- 3) Without permission possesses or wrongfully uses the property of the College another employee and/or a visitor.
- 4) Wilfully, intentionally or negligently damages and or causes loss of College property.
- 5) Endangers the lives of himself/herself self or others by disregarding safety rules or regulations.
- 6) Prejudices the administration, discipline or efficiency of a department, office or the College.
- 7) Misuses his or her position in the College to promote or to prejudice the interest of any political party.
- 8) Steals, bribes or commits fraud.
- 9) Accepts any compensation in cash or otherwise from a member of the public or another employee for performing her or his duties without written approval from the College.
- 10) Fails to carry out a lawful order or routine instruction without just or reasonable cause.
- 11) Absents or repeatedly absents him/herself from work without a valid reason or permission.
- 12) Commits an act of sexual harassment.
- 13) Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution.
- 14) Performs poorly or inadequately for reasons other than incapacity.

- 15) Without written approval from the Principal/College performs work for compensation in a private capacity for another person or organisation either during or outside working hours.
- 16) Without authorisation, sleeps on duty.
- 17) While on duty, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol.
- 18) While on duty, conducts herself or himself in an improper, disgraceful and unacceptable manner.
- 19) Contravenes any prescribed Code of Conduct of the College.
- 20) Assaults, or attempts or threatens to assault, another employee or person while on duty.
- 21) Incites other personnel to unprocedural and unlawful conduct.
- 22) Displays disrespect towards others in the workplace or demonstrates abusive or insolent behaviour.
- 23) Intimidates or victimises fellow employees or clients or students.
- 24) Prevents other employees from exercising their rights to freely associate with trade unions in terms of any labour legislation.
- 25) Operates any money lending scheme for employees for own benefit during working hours or from the premises of the College.
- 26) Carries or keeps firearms or other dangerous weapons on state premises, without the written authorisation of the employer.
- 27) Refuses to obey security regulations.
- 28) Gives false statements or evidence in the execution of his or her duties.
- 29) Falsifies records or any other documentation.
- 30) Participates in unprocedural, unprotected and/or unlawful industrial action.
- 31) Commits a common law or statutory offence whilst on College premises.

ANNEXURE D

Schedule Eight: (Labour Relations Act) Code of Good Practice – Dismissals

[Schedule 8 amended by s. 57 of Act No. 42 of 1996 and by s. 56 of Act No 12 of 2002]

1. Introduction

- 1.1 This code of good practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.
- 1.2 This Act emphasises the primacy of collective agreements. This Code is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum.
- 1.3 The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

2. Fair reasons for dismissal

- 2.1 A dismissal is unfair if it is not effected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.
- 2.2 This Act recognises three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.

2.3 This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187. The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.

2.4 In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

3. Misconduct

Disciplinary procedures prior to dismissal

3.1 All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business. In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.

3.2 The courts have endorsed the concept of corrective or progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employees' behaviour through a system of graduated disciplinary measures such as counselling and warnings.

3.3 Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call for a final warning, or other action short of

dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

Dismissals for misconduct

3.4 Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or wilful damage to the property of the employer, wilful endangering of the safety of others, physical assault on the employer, a fellow employee, client or customer and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.

3.5 When deciding whether or not to impose the penalty of dismissal, the employer should in addition to the gravity of the misconduct consider factors such as the employee's circumstances (including length of service, previous disciplinary record and personal circumstances), the nature of the job and the circumstances of the infringement itself.

3.6 The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under consideration.

4. Fair procedure

4.1 Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal enquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the enquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of that decision.

- 4.2 Discipline against a trade union representative or an employee who is an office-bearer or official of a trade union should not be instituted without first informing and consulting the trade union.
- 4.3 If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.
- 4.4 In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with pre-dismissal procedures.

5. Disciplinary records

Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions.

6. Dismissals and industrial action

- 6.1 Participation in a strike that does not comply with the provisions of Chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be determined in the light of the facts of the case, including-
- (a) the seriousness of the contravention of this Act;
 - (b) attempts made to comply with this Act; and
 - (c) whether or not the strike was in response to unjustified conduct by the employer.
- 6.2 Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by

complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

7. Guidelines in cases of dismissal for misconduct

Any person who is determining whether a dismissal for misconduct is unfair should consider-

- 7.1 whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace; and
- 7.2 if a rule or standard was contravened, whether or not-
 - (a) the rule was a valid or reasonable rule or standard;
 - (b) the employee was aware, or could reasonably be expected to have been aware, of the rule or standard;
 - (c) the rule or standard has been consistently applied by the employer; and
 - (d) dismissal was an appropriate sanction for the contravention of the rule or standard.

8. Incapacity: Poor work performance

- 8.1 A newly hired employee may be placed on probation for a period that is reasonable given the circumstances of the job. The period should be determined by the nature of the job, and the time it takes to determine the employee's suitability for continued employment. When appropriate, an employer should give an employee whatever evaluation, instruction, training, guidance or counselling the employee requires to render satisfactory service. Dismissal during the probationary period should be preceded by an opportunity for the employee to state a case in response and to be assisted by a trade union representative or fellow employee.
- 8.2 After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has-

- (a) given the employee appropriate evaluation, instruction, training, guidance or counselling; and
- (b) after a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.

8.3 The procedure leading to dismissal should include an investigation to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.

8.4 In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

9. Guidelines in cases of dismissal for poor work performance

Any person determining whether a dismissal for poor work performance is unfair should consider-

9.1 whether or not the employee failed to meet a performance standard; and

9.2 if the employee did not meet a required performance standard whether or not-

- (a) the employee was aware, or could reasonably be expected to have been aware, of the required performance standard;
- (b) the employee was given a fair opportunity to meet the required performance standard; and
- (c) dismissal was an appropriate sanction for not meeting the required performance standard

10. Incapacity: Ill health or injury

10.1 Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the possible alternatives short of dismissal. When alternatives are

considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

- 10.2 In the process of the investigation referred to in subsection (1) the employee should be allowed the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.
- 10.3 The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.
- 10.4 Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

11. Guidelines in cases of dismissal arising from ill health or injury

Any person determining whether a dismissal arising from ill health or injury is unfair should consider-

- 11.1 whether or not the employee is capable of performing the work; and
- 11.2 if the employee is not capable-
- (a) the extent to which the employee is able to perform the work;
 - (b) the extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted; and
 - (c) the availability of any suitable alternative work.

ANNEXURE E

LEAVE MEASURES FOR COLLEGE LECTURERS APPOINTED IN TERMS OF THE FURTHER EDUCATION AND TRAINING ACT NO 16 of 2006

INTRODUCTION

The rationale behind the development of the leave measures is to ensure that all the leave measures are not less favourable than those provided for in the Basic Conditions of Employment Act and/or the PAM and for leave to be managed more effectively.

DEFINITIONS

“college” means a public college as defined in terms of the Further Education and Training Colleges Act, No 16 of 2006

“college closure period” is the scheduled period that the college closes at the end of each term/trimester and during which period lecturing and learning activities are discontinued.

“lecturer” means any person who teaches, educates or trains other persons or who provides professional educational services at any college, and who is appointed in a post on any lecturer establishment determined in terms of the Further Education and Training Colleges Act, No 16 of 2006

“scheduled working time” means all the time during a college term, both during and outside the formal college day, that the lecturer must perform duties and days during college closure period that have been scheduled for these lecturers to report for administrative duties or to report for in-service training

1. General Measures of annual leave

- 1.1. Lecturers are entitled to annual leave with full pay during each leave cycle of 12 months, commencing on 1 January of each year.

1.2. Unless indicated otherwise in these measures, days of leave granted in respect of any category of leave, other than annual leave, shall not be deducted from a lecturer's leave provision in respect of annual leave.

1.3. A lecturer shall not be considered to be on leave if she or he:

(a) must appear as a witness-

i) in any court;

ii) in misconduct proceedings or in a misconduct investigation in terms of any law;

iii) at inquest proceedings; or

iv) before a commission or committee appointed by the State or before any committee or institution instituted by or in terms of any Act;

(b) appears as defendant or co-defendant in civil proceedings arising from his or her official duties and in which the State or any statutory body or institution has a direct interest;

(c) is taken into custody or must appear in any court on a criminal charge and the offence he or she is charged with is withdrawn or if he or she is acquitted of such offence; or

(d) Attends or participates in a training programme required by the employer or the professional body with whom s/he is required to register in order to remain registered or with the approval of the employer attends or participates in a training programme or other activity that is in the employer's interest.

2. Annual leave entitlement for lecturers

2.1 A lecturer will be regarded as being on annual leave during college closure periods that are outside of scheduled working time, provided that the measures regarding the workload, duties and responsibilities of lecturers

may require such lecturer to perform some of his or her normal duties, such as preparation for the new College term or the marking of internal examination scripts, during such periods. However, such a lecturer will not be required to report at any work place to perform any of these duties.

- 2.2 If, after sufficient notice, a lecturer is required by the employer to report for official duty during a college closure period outside the scheduled working time, s/he will be remunerated additionally for the performance of such duties in terms of the applicable measures. Such remuneration will not apply in respect of the voluntary performance of duties by a lecturer during an institution closure period.
- 2.3 A lecturer does not accrue any leave credit for purposes of payments, for carry over to a next leave cycle, or for extending other forms of leave.

3. PAYMENT OF ACCRUED ANNUAL LEAVE

- 3.1 Payment of outstanding capped leave referred to in paragraph 3.7 of the Collective Agreement No 5 of 2007 shall be paid out in terms of the provisions of that Collective Agreement.

4. LEAVE WITH FULL PAY GRANTED IN EXCESS

- 4.1 A lecturer may not be granted leave with full pay in excess of that which she or he has to his or her credit.
- 4.2 If due to a *bona fide* error, a lecturer has been granted leave with full pay in excess of that which stood to her or his credit at that time; such excess grant must be deducted from the subsequent leave cycle.
- 4.3 If a lecturer who has been granted excess leave with full pay exits the service of the college, such leave granted in excess of what stood to the lecturer's credit on such last day of duty must be regarded as an overpayment that must be recovered from her or him.

5 NORMAL SICK LEAVE

- 5.1 Lecturers are entitled to 36 working days sick leave with full pay over a three-year cycle. Unused sick leave shall lapse at the expiry of the three-year cycle.
- 5.2 If a lecturer is unable to report for duty due to sudden illness, she or he must immediately notify his/her immediate supervisor of her or his inability to report for duty.
- 5.3 Lecturers who apply for three or more sick leave days must submit a certificate from a registered and recognised medical practitioner as defined by the Health Professionals' Council of South Africa, citing the reason for and duration of absence.
- 5.4 In instances where a pattern in the utilisation of sick leave has been established, a certificate may be required for absences of less than three working days. Notwithstanding the submission of a certificate, the employer may, on the grounds of further medical advice, refuse to grant sick leave for any absence from duty to which the certificate relates, and the absence shall be considered as leave without pay.
- 5.5 For every 15 consecutive days' leave taken without pay, the lecturer's sick leave entitlement shall be reduced by 1/36th per sick leave cycle.
- 5.6 The following must also be recorded as sick leave:
- (a) When a lecturer has to consult a doctor, therapist, etc. for reasons related to the educator's health;
 - (b) When a lecturer has to go for training related to a disability, or
 - (c) When a lecturer goes for maintenance work for equipment used as a result of a disability (e.g. wheelchair).

6 TEMPORARY INCAPACITY LEAVE

- 6.1 A lecturer who has exhausted her or his sick leave credit in a three-year cycle and who, according to the relevant medical practitioner, requires to be absent due to incapacity that is not permanent may be granted additional

sick leave with full pay. This means that an absence of a single day must be considered as temporary incapacity leave and a medical certificate is required.

- 6.2 Such a condition must have been certified in advance by the attending medical practitioner as a temporary incapacity except where conditions do not permit.
- 6.3 The employer may require the lecturer to obtain a second opinion before granting approval for additional sick leave. Expenditure in this regard will be met from the employer's budget.
- 6.4 The employer may grant a maximum of 30 working days leave with full pay during which period an investigation must be conducted into the nature and extent of the incapacity. The investigation shall be conducted in accordance with item 10(1) of Schedule 8 of the Labour Relations Act, 1995.
- 6.5 On the basis of medical evidence, the employer may approve the granting of additional sick leave days on conditions that she or he shall determine.
- 6.6 The employer should be guided by the Human Resources Manager's advice in the instance mentioned in 6.5 above.
- 6.7 If the lecturer is of the view that she or he has been unfairly treated as regards the granting of additional sick leave, she/he has the right to follow the grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

7 PERMANENT INCAPACITY LEAVE

- 7.1 A lecturer whose degree of incapacity has been certified by a competent medical practitioner as permanent shall be granted a maximum of 30 working days paid sick leave, or such additional number of days required by the employer to finalise processes mentioned below.
- 7.2 The employer shall, within 30 working days, ascertain the feasibility of:
 - (a) Alternative employment; or

(b) Adapting duties or work circumstances to accommodate the lecturer.

7.3 A lecturer, whose degree of incapacity has been certified as permanent but who can still render a service, may, in terms of the applicable measures, be redeployed horizontally with retention of her or his benefits.

7.4 If the redeployment necessitates reallocation to a job of a lower grading, such action should be explained well in advance and the continued utilisation of such a lecturer should, in this regard, be with her or his consent.

7.5 In instances where the lecturer's redeployment entails retraining, the employer shall take requisite resources (time and financial) and potential returns into consideration before approving redeployment.

7.6 The redeployment of a lecturer's services should ensure the optimal utilisation of her or his competencies and should not compromise service delivery.

7.7 If the employer or the lecturer is convinced that the lecturer will never be able to render an effective service at her or his level or rank, the lecturer may proceed with an application for termination of service due to ill health.

8 LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES

8.1 Lecturers who, as a result of their work, suffer occupational injuries or contract occupational diseases, shall be granted occupational and disease leave for the duration of the period they cannot work.

8.2 If a lecturer suffers a work-related injury as a result of an accident involving a third party, the employer shall grant her or him occupational injury leave provided that the lecturer:

(a) Brings a claim for compensation against the third party.

(b) Undertakes to use compensation (in terms of the Compensation for Occupational Injuries and Diseases Act of 1993) received to r

recompense as far as possible for the employer's contribution to the cost arising from the accident.

- 8.3 The employer shall take reasonable steps to assist a lecturer to claim compensation according to sub-paragraph 11.2 above.

9 SPECIAL LEAVE FOR QUARANTINE PURPOSES

- 9.1 Special leave with full pay may be granted to a lecturer who has been exposed to a medical condition that requires such person to be placed under quarantine.
- 9.2 Application for such leave must be accompanied by a certificate from a medical practitioner stating the period of quarantine as well as the reasons necessitating such leave.

10 MATERNITY LEAVE

- 10.1 A lecturer is entitled to 4 consecutive months' maternity leave on full pay to commence at least 14 days prior to the expected date of birth but not later than the actual date of birth in a case of a premature confinement.
- 10.2 An application for maternity leave must be at least 3 months prior to the expected date of birth as stated by the medical practitioner in order to enable the arrangement of a substitute.
- 10.3 Maternity leave may be extended upon application by one or more of the following:
- (a) the granting of sick leave as a result of a medical complication;
 - (b) the granting of up to 184 consecutive days unpaid leave; and
- 10.4 A lecturer who experiences a miscarriage, still birth or termination of the pregnancy after starting paid maternity leave, shall be eligible for six consecutive weeks paid maternity leave, where-after sub-paragraph 12.2.1 shall apply in the event of a medical complication.

- 10.5 The period prior to the miscarriage, stillbirth or termination of pregnancy shall be regarded as special leave with full pay, and will not form part of the six weeks maternity leave.
- 10.6 For at least six weeks after the birth, no lecturer may commence with normal official duty unless the attending practitioner certifies that the lecturer is fit to do so.
- 10.7 Where it is practically feasible and subject to paragraph 12.4, the employer may allow a lecturer to interrupt her maternity leave by letting her return to work temporarily if the baby is hospitalised for a period longer than a month during the maternity leave due to premature birth or illness.

11 ADOPTION LEAVE

- 11.1 A lecturer, who adopts a child that is younger than two years, qualifies for adoption leave to a maximum of 45 working days where-after subparagraphs 12.2.2 and 12.3 shall apply.
- 11.2 If both spouses or life partners are employed by the same employer, both partners qualify for adoption leave provided that the combined leave taken does not exceed 45 working days.

12 FAMILY RESPONSIBILITY LEAVE AND SPECIAL LEAVE FOR URGENT PRIVATE AFFAIRS

- 12.1 A lecturer shall be granted **3 working days** leave per annual leave cycle if:
- (a) the lecturer's spouse or life partner gives birth; or
 - (b) the lecturer's child, spouse or life partner is sick.
- 12.2 A lecturer shall be granted **5 working days** leave per annual leave cycle if:
- (a) the lecturer's child, spouse or life partner dies; or
 - (b) the lecturer's immediate family member dies.

12.3 A lecturer may, during a scheduled working period, be granted special leave to attend to an urgent private matter, the nature of which is such that it warrants the lecturer to absence from work.

12.4 The number of leave days taken in terms of sub-paragraphs 12.1 and 12.2 shall not exceed five working days in an annual leave cycle.

12.5 The number of leave days taken in terms of sub-paragraphs 12.1 to 12.3 shall not exceed 12 working days in an annual leave cycle.

12.6 A lecturer who has used all his or her leave in respect of sub-paragraphs 12.1 to 12.3 may apply to use up to 184 calendar days of unpaid leave.

13 SPECIAL LEAVE FOR PROFESSIONAL AND PERSONAL DEVELOPMENT AND FOR RELIGIOUS OBSERVANCES

13.1 Special leave with full pay may be granted to a lecturer:

- (a) to engage in activities aimed at his or her professional development;
- (b) to engage in activities aimed at his or her personal development where such personal development is also in the interest of the employer; or
- (c) for a religious observance.

13.2 The total number of leave days granted to a lecturer in terms of paragraph 14.1 may not exceed 3 working days per annual leave cycle.

14 SPECIAL LEAVE FOR STUDY PURPOSES

14.1 Special leave may be granted to a lecturer for an approved course of study and for a period approved by the employer, on conditions as approved by the employer, including leave with full or partial pay or without pay.

14.2 If special leave with full or partial pay for study purposes is granted to an educator in terms of sub-paragraph 14.1 the employer may call for periodic progress reports in respect of the lecturer's studies and such lecturer shall enter into an agreement with the employer in a form approved by the employer in terms of which he or she undertakes to serve the employer immediately

after completion of the period of special leave for study purposes for a period (hereinafter referred to as the service period) equal to at least the period for which special leave for study purposes on full pay has been granted to him or her, or for a service period proportional to the person's pay during the period of special leave for study purposes, as the case may be.

15 SPECIAL LEAVE FOR EXAMINATION PURPOSES:

15.1 A lecturer may be granted special leave for examination purposes with full pay for each day on which such lecturer sits as a candidate for an examination approved for this purpose by the employer plus one additional day of special leave for study purposes for each such day of examination which may be taken on the working days immediately prior to the days of examination.

16 SPECIAL LEAVE FOR PARTICIPATING IN SPORTING, CULTURAL AND OTHER EVENTS

16.1 Special leave for a period and on conditions approved by the employer, in terms of policy of the employer, may be granted to an lecturer for participating in sports, cultural, local council and other relevant activities.

16.2 Participation for which leave may be granted may include representation of the country, province or other comparable level as an actual participant, referee, adjudicator, course or group leader, or for participating in or attending a relevant conference, meeting or other event approved for this purpose by the employer.

17 SPECIAL LEAVE IN EXTRAORDINARY CIRCUMSTANCES

17.1 Notwithstanding any disciplinary measures that may apply, unauthorised absence by an lecturer shall be regarded as special leave in extraordinary circumstances and shall be without pay unless the employer in a specific case determines otherwise.

17.2 If, in the opinion of the employer, circumstances justify it, the employer may grant or place a lecturer on special leave in extraordinary circumstances for any reasonable purpose and for any reasonable period, and such leave shall be without pay unless the employer determines otherwise.

18 UNPAID LEAVE

- 18.1** The employer may grant a lecturer unpaid leave up to a maximum of 184 consecutive days.
- 18.2** Absences from work due to arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction must be recorded as unpaid leave.

19 UNPAID LEAVE FOR CONTINUITY OF SERVICE

- 19.1** Unpaid leave for a maximum of 120 consecutive days may be granted to a lecturer who was previously employed as an institution-based educator by an education department for the purpose of retaining the continuity of the lecturer's service.
- 19.2** The unpaid leave shall commence on the day immediately following the date on which the lecturer last received salary from his or her previous employer and shall expire on the day preceding the date of assumption of duty with the present employer.
- 19.3** The limitation of 120 days referred to in sub-paragraph 19.1 shall not apply to an lecturer in cases where the period concerned extends from the day immediately following the last day of a term to the day immediately preceding the first day of the term after a full term has elapsed.
- 19.4** Where unpaid leave for continuity of service has been granted to a lecturer, the service of the lecturer is regarded as continuous for all purposes of determining his or her period of service.

ANNEXURE E1

Leave of Absence Form

Part A: Employee Information

To be completed by employee:

Initials and Surname:			
Designation			
Employee No:		Date of Application	dd/mm/yy
Contact details whilst on leave			
	Tel:		Mobile: <input type="text"/>

I the undersigned, understand and accept the conditions as stipulated in my employment contract and Human Resource Policy.

Signed: _____

Employee

_____ Date

Part B: Leave Details

Type of leave (please tick the appropriate box)

Study	<input type="checkbox"/>	Paid Sick	<input type="checkbox"/>	Unpaid Sick	<input type="checkbox"/>
Paid Annual	<input type="checkbox"/>	Unpaid Annual	<input type="checkbox"/>	Overtime Remittance	<input type="checkbox"/>
Special	<input type="checkbox"/>	Other (specify)			

Leave Period

From (including):	dd/mm/yy	First day back at work will be:	dd/mm/yy
To (including):	dd/mm/yy		
Total working days:			

Leave of Absence Form₂

Part C: Verification			
Leave entitlement as at:	dd/mm/yy	No. of days	
Overtime Days accumulated	dd/mm/yy	No. of days	
Control Officer	Signature	Date	dd/mm/yy

Part D: Recommendation HR			
Recommended		Reason	
Not recommended			

Note: only when annual leave applied for

Signed: _____
 HR Date

Part E: Approval/Rejection			
Approved		Reason	
Rejected			

Signed: _____
 Principal Date

Part F: Office Use							
Employee notified:	Yes		No		Date	dd/mm/yy	Signature
System updated	Yes		No		Date	dd/mm/yy	Signature

ANNEXURE F

WORKLOAD OF COLLEGE BASED EDUCATORS (FURTHER EDUCATION AND TRAINING)

Introduction

(a) The work done by lecturers includes the following core duties covered during a formal college day (with or without contact with the learners) and outside the formal college day.

- i. Scheduled contact hours
- ii. Relief teaching
- iii. Extra and co-curricular duties
- iv. Pastoral duties
- v. Administration
- vi. Supervisory and management functions
- vii. Professional duties (meetings, workshops, official college functions, seminars, conferences, etc.)
- viii. Planning, preparation and evaluation
- ix. Professional development

Each post level within a college has different duties and responsibilities, encompassing the core duties outlined from (i) to (ix) above, but to a varying degree.

There should be an equitable distribution of workload between the various post levels and within a post level, to ensure that either one or two of the levels or an educator is overburdened.

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WORKLOAD OF COLLEGE LECTURERS

1. Introduction

(a) The work done by lecturers includes the following core duties covered during a formal college day (with or without contact with the students) and outside the formal college day.

- (i) Scheduled contact hours
- (ii) Relief teaching
- (iii) Extra and co-curricular duties
- (iv) Pastoral duties
- (v) Administration
- (vi) Supervisory and management functions
- (vii) Professional duties (meetings, workshops, official college functions, seminars, conferences, etc.)
- (viii) Planning, preparation and evaluation
- (ix) Professional development

Each post level within a college has different duties and responsibilities, encompassing the core duties outlined from (i) to (ix) above, but to a varying degree.

There should be an equitable distribution of workload between the various post levels and within a post level, to ensure that neither one or two of the levels or and lecturer is over burdened.

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

2. WORKLOAD PER LECTURER

2.1 All lecturers should be at their college during a formal college day. A formal college day should comprise not fewer than 7 hours, but the Head of an institution:

- a) based on provincial and
- b) provided the 35 hours workweek is adhered to,

may make exceptions.

The 7 hours per day includes the breaks and a lecturer who, as part of his job, has to visit companies to recruit students.

2.2 Scheduled contact hours during the formal college day will be specified with time allocation per post level. The allocation of subjects, timetable and resultant scheduled contact hours to be determined by the Head of the institution after consultations with the lecturer staff (refer paragraph 3.)

2.3 All other duties are specified and allocated by the Head of the institution after consultations with the lecturer staff. Lecturers will be expected to perform the core duties, as outlined above, both within and outside of the formal college day, and with the understanding that none of these may diminish the overall number of scheduled contact hours or negatively impact upon the curriculum.

2.4 All lecturers may be required by the employer to attend programs for ongoing professional development, up to a maximum of 80 hours per annum. These programmes to be conducted outside the formal college day or during vacations.

The employer shall give at least one term's notice of programmes to be conducted during the college vacations.

3. SCHEDULED CONTACT HOURS

3.1 The time allocated for teaching in respect of different post levels will differ.

3.2 The allocation of scheduled contact hours should be done in such a manner that it:

- a) maximizes the individual abilities of all lecturers and
- b) optimizes teaching/training and learning at the institutional level.

3.3 Where classes are so arranged that a member of the lecturing staff does not meet the required hours per week of actual contact time, determined in terms of paragraph 4, he/she may, in respect of the shortfall, be required to lecture to any class for part-time students attached to such college without receiving

additional remuneration therefore. This must be done through consultation and a fair, transparent and equitable manner.

3.4 In general terms, the following serves as guidelines in determining the scheduled contact hours:-

(a) Heads of colleges

The task of the Head of the institution is first and foremost that of manager and leader of an institution for post-school education. His/her aims should be the advancement and development of the total spectrum of interests of the College, as well as active support of the policy prescribed from time to time by the provincial education department.

(b) Management Staff (Post Level 3 and higher)

Management staff is expected to give instructions as part of their normal duties.

Apart from the actual contact hours, management and administrative duties, they are mainly responsible for tasks delegated to them by the Head of the institution, as well as for the continued growth of the college.

(c) Lecturers and Senior Lecturers (PL 1 and 2)

Their primary task as lecturers is effective teaching and not mere training. This included being well-informed about their field of study by reading professional, scientific and technical journals and by paying visits to commercial, industrial or other relevant bodies.

NOTE 1: Actual contact hours on post level 3 and higher should be between 5 hours and 15 hours per week; except for heads of institutions at post level 3. Subject to efficient curriculum delivery and an equitable workload,

Actual contact hours on post-level 2 should be between 18 hours and 22.5 hours per week.

Actual contact hours for post level 1 lecturers should be between 22.5 hours and 25 hours per week.

NOTE 2 Lecturers not lecturing (no actual contact hours) shall observe a work week of 40 hours.

NOTE 3 The above actual contact hours excludes contact hours in terms of a part-time appointment of full-time lecturers.

4. MINIMUM NUMBER OF TEACHING HOURS PER WEEK AND THE APPOINTMENT OF FULL-TIME TEACHING STAFF, IN A PART-TIME CAPACITY, AT COLLEGES OFFERING APPROVED PART -TIME CLASSES.

4.1 The minimum number of teaching hours per week before staff of a college may be appointed part-time, and the maximum number of additional hours per week for which part time appointments can be made are as follows:

Level of post	Post Designation	Minimum Number of Teaching hours Per week	Maximum number of additional hours Per week for which part-time appointment can be made
1	Lecturer	22.5 hours	12 hours
2	Senior Lecturer	22.5 hours	12 hours
3	Head of Division/ Deputy Heads of institutions	15 hours	6 hours
4	Deputy Heads of institutions	***	5 hours (only if no full-time staff are available)
3/4/5/6	Head of Institutions		6 hours (only in very exceptional cases and if no full-time staff are available).

Equal ranks as well

*** Minimum number of hours is not laid down with the proviso that the staff members involved do not qualify for part-time appointment if formal day classes are not offered.

4.2 Staff in teaching posts must comply with the above minimum number of teaching hours in order to qualify for appointment for bona fide part-time teaching. Heads of institutions , with delegated authority can, for the purposes of the appointment of full-time staff in part-time teaching posts, increase the minimum number of hours required before staff may be appointed to part-time teaching posts, within the prescribed hours as mentioned in note (1) of this resolution to suit local requirements.

4.3 Full-time staff qualifies for appointment for part-time teaching for approved part-time classes. Heads of institutions must ensure that part-time classes are not created to provide an opportunity for additional income for full-time staff.

ANNEXURE G

GRIEVANCE PROCEDURE

1. OBJECTIVE

1.1 The objective of this grievance procedure is to seek to resolve a complaint at the personal level as quickly and as close to the source of the complaint as possible. It is aimed at avoiding a grievance becoming a dispute. In the case where a grievance cannot be resolved through this process and is consequently registered as a dispute in terms of the provisions of the constitution of the Education Labour Relations Council, such registered dispute shall be dealt with in terms of the dispute resolution procedure as set out in the said constitution.

2. DEFINITION

2.1 A grievance is a complaint by an employee or employees affecting the employment relationship of the person or persons concerned, or where there is an alleged misinterpretation, or violation of his or her, or their rights.

3. DEALING WITH GRIEVANCES

3.1 Grievances shall be dealt with in the following manner.

(a) Oral interview

- (i) A sincere attempt should be made to resolve any grievance by oral interview between a grievant or grievants and the college before differences become formalised grievances.
- (ii) During this process no records will be kept of proceedings which will be without prejudice to either of the parties.

(b) Formal written grievance: college

- (i) A grievant or grievants may lodge a grievance or grievances (refer to Annexure G1 for the grievance Form that must be used) with the Campus Manager or the HR manager in writing within a reasonable period of time, but in any event not later than 90 calendar days following on the time and date on which the alleged grievance or grievances occurred. Full details of the nature of the grievance or grievances must be relayed the Campus Manager or the HR manager as the case may be. The grievance or grievances must bear the signature or signatures of the grievant or the grievants and a copy thereof shall be filed.
- (ii) The Campus Manager or the HR manager, as the case may be, shall confer with the grievant or grievants, and others involved, within 3 working days of receipt of the formal written grievance in order to resolve the grievance. At this meeting the facts shall be presented and considered and

an effort shall be made to resolve the matter to the satisfaction of all parties.

(iii) The Campus Manager or the HR manager, as the case may be, shall communicate the outcome to the Principal within 5 working days of the resolution or non resolution of a grievance.

(iv) If an action or lack of an action, or a decision or lack of a decision, concerns the Campus Manager or the HR manager, the grievant or grievants may refer the matter directly to the Principal provided that a sincere attempt has been made to resolve the grievance or grievances in terms of the provisions of paragraph 3 (a) above.

(c) The College Council in respect of the college

(i) If the grievant or grievants is/are not satisfied with the outcome referred to in sub-clause (b) above, the grievant or grievants may refer the matter in writing, by hand or registered mail, together with the decision of the Campus Manager or the HR manager, as the case may be, in the case of a lecturer at the college and in the case of a lecturer outside the college to the office referred to in sub-clause (b)(i), within 5 working days of the parties failing to resolve the grievance or grievances. A copy of the referral must be presented to the Campus Manager or the HR manager, as the case may be, and where applicable, to the grievant or grievants' trade union.

(ii) The Campus Manager or the HR manager shall forward his or her comments together with all relevant information on the grievance or grievances to the College Council referred to in sub-clause (b)(i), as the case may be, within 5 working days after receiving the referral mentioned in sub-clause (c)(i) above.

(iii) The Chairperson of the College Council or his/her delegate in respect of a lecturer outside a college, shall within 5 working days from the date of receipt of all the parties' referrals, attempt to resolve the grievance or grievances and communicate his or her decision in writing to all parties.

(v) Should the grievant or grievants not be satisfied with the outcome, he or she may register a formal dispute with the Executive Officer of the Education Labour Relations Council (hereinafter referred to as the "Council") in terms of the provisions of the Council's constitution.

3.2 A trade union registered with the Council may register a grievance with the Campus Manager or the HR manager or Principal of a College on behalf of its members individually or collectively and represent such member or members during any stage of this grievance procedure. A non-member or non members may be represented by another employee.

3.3 The parties to a grievance or grievances may by agreement extend the periods referred to in sub-clauses (b)(i) and (c)(ii) and (iii) above.

ANNEXURE G.1

GRIEVANCE FORM A: PUBLIC FETC LECTURERS

PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING THE FORM

1. This form must be used to lodge a formal grievance (excluding an alleged unfair dismissal) when you are dissatisfied with an act or omission and you have been unable to resolve the problem by using informal discussion.
2. You have to lodge your grievance within 90 days from the date on which you became aware of the act or omission which adversely affects you.
3. You may be assisted or represented by a fellow lecturer or a representative or official from a recognised trade union.
4. It is important to complete all information accurately. When the form is completed, it must be given to the person designated to facilitate grievances at your institution. The employer will attach this form to the grievance documentation and it will be used through all stages of the grievance procedures.
5. At each stage where a person within the relevant structure of authority attempts to resolve the grievance, each party will complete the appropriate part of the form. You will be given an opportunity to respond to each and every comment.
6. At the conclusion of each stage of the grievance procedure, you will be provided with a copy of the completed form.
7. Once the grievance has been resolved, you do not need to complete the rest of the form.
8. You are required to complete Parts A and B of this form and to then hand it to the campus manager or HR official, as the case may be at your college. The campus manager or HR official, as the case may be will affix his/her signature in the block below part B of the form to indicate that the grievance has been received. Ensure that you receive a copy of the form where receipt of your grievance has been acknowledged.
9. Part C of the grievance form will be completed by the campus manager or HR official, as the case may be and grievant(s) will be provided with copy during the various stages where attempts will be made to resolve the grievance.

PART A: PERSONAL INFORMATION *(To be completed by an aggrieved lecturer:)*

Initials and Surname: _____

PERSAL Number: _____

Employing College: _____

Campus: _____

Section: _____

Rank/Designation: _____

Date on which you became aware of the official act or omission: _____

Contact numbers: Tel No: _____ Fax No: _____

Name of representative (where applicable): _____

Contact numbers of representative : Tel No: _____ Fax No: _____

Name of trade union (where applicable): _____

Contact numbers of trade union: Tel No: _____ Fax No: _____

PART B: DETAILS OF GRIEVANCE *(To be completed by aggrieved lecturer)*

What are you aggrieved about (If space below is not enough, please attached additional page(s)):

What solution do you propose:

SIGNED: _____
LECTURER DATE

Receipt of grievance form acknowledged and copy given to aggrieved lecturer.

SUPERVISOR/HR MANAGER/CAMPUS MANAGER/PRINCIPAL DATE

Name:

Rank:

GRIEVANCE FORM B: PUBLIC FETC LECTURERS

Part C To be completed on behalf of employer *(Indicate official relationship to aggrieved lecturer - e.g. supervisor, campus manager/HR Manage/Principal.)*

Name : _____

Designation : _____

Telephone No : _____

Fax No : _____

Was grievance resolved? Yes No

If yes, give details of agreement (if the space below is not enough please attach additional page(s))

SIGNED: _____
ON BEHALF OF EMPLOYER

DATE

To be completed by lecturer

Was grievance resolved? Yes No

Do you have any comments?

SIGNED: _____
LECTURER

DATE

Part D To be completed by the College Council Chairperson or delegate

Decision in respect of grievance and reasons for decision (please attach additional

page(s) if necessary)

SIGNED: _____
COLLEGE COUNCIL CHAIRPERSON

DATE _____

To be completed by aggrieved employee

Was grievance resolved? Yes No

If no, please explain why you are still dissatisfied:

SIGNED: _____
LECTURER

DATE _____

Do you want the grievance to be referred to the Education Labour Relations Council (ELRC)? Yes
No