

(7 August 1998 - to date)

EDUCATORS' EMPLOYMENT ACT 138 OF 1994

Proclamation No. 138 in Government Gazette 15961, dated 2 September 1994. Commencement date: 2 September 1994.

REGULATIONS TO PROVIDE FOR APPEAL PROCEDURES FOR EDUCATORS

General Notice 1569 in Government Gazette 19109, dated 7 August 1998. Commencement date: 7 August 1998.

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, after consultation with the organised teaching profession, hereby, in terms of section 28 of the Educator's Employment Act, 1994, make the regulations in the Schedule attached.

S. M. E. BENGU

Minister of Education

(7 August 1998)

SCHEDULE

A. APPEAL PROCEDURES

- (1) An educator, found guilty of misconduct has the right to appeal to the Member of the Executive Council, against the finding or decision referred to in section 18 of the Educators Employment Act, 1994 (Act 138 of 1994) within 21 days, after being informed of the finding and decision.
- (2) The educator concerned must within 21 days after being notified of his or her conviction obtain a copy of the record of the hearing from the office concerned, upon request.
- (3) A notice of appeal contemplated in sub regulation A(1) must be in writing and contain the following information:
 - (i) full name, post level, personnel number and work address;
 - (ii) full details of the reasons for appeal, including which aspects of the decision is being appealed against; and
 - (iii) statements by other persons or other evidence, if any, which are relevant to the appeal.

- (4) The Member of the Executive Council must upon receipt of a notice of appeal, as contemplated in sub regulation A(1), note the appeal in a register designed for that purpose and acknowledge receipt of such an appeal by informing the educator concerned in writing within 14 days.
- (5) The punishment contemplated in section 17 of the Educators Employment Act, 1994 is suspended pending the outcome of the appeal.

B POWERS OF THE BOARD OF APPEAL AND THE PROCEDURE OF THE HEARING

- (1) The board of appeal must be constituted as contemplated in section 18(4) of the Educators Employment Act 1994.
- (2) The Chairperson of the board of appeal must fix the date, time and venue of the hearing ensuring that at least 14 days written notice is served on the appellant and the employer.
- (3) The board may request further information which must be in writing and notice of at least 10 days must be given to parties to comply with this request.
- (4) The request referred to in sub regulation B(3) must contain the nature of the information required and also to whom such information shall be forwarded.
- (5) If any information is obtained as contemplated in sub regulation 13(3), the board shall provide a copy to the other party and request a response to the information within 10 days from them.
- (6) The board must consider all facts, evidence, documents and the record of proceedings and may obtain any new information or evidence relevant to the appeal within 30 days of being appointed.
- (7) The board shall consider all the information contemplated in sub regulation B(6) within 14 days and if further information is requested in terms of sub regulation 13(3) this time frame shall be extended by the periods referred to in sub regulations B(3) and 13(7).
- (8) The board must after consideration, as contemplated in sub regulation 13(6), by majority decision make a recommendation to the Member of the Executive Council, together with a full motivation.
- (9) The Member of the Executive Council must decide on the appeal within 5 days upon receiving the recommendation referred to in sub regulation B(8) and shall notify in writing, all parties of such decision within 5 days.
- (10) In the case where parties are unable to act within the periods mentioned above, the parties, may by agreement, or the Member of the Executive Council may extend the period in question.

C THE RECORD OF PROCEEDINGS

Prepared by:

- (1) The Chairperson of the board is responsible for the safekeeping of all records, documentation or information received during the appeal and shall submit the same to the Member of the Executive Council when submitting the recommendation contemplated in sub regulation B (8).

(7 August 1998)