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3/3/4/3  
Navrae: S Faker

Omsendbrief: 0045/2017  
Vervaldatum: Geen

Aan: Adjunk-direkteurs-generaal, Hoofdirekteure, Direkteure, (Hoofkantoor en distrikskantore), Adjunkdirekteure, Kringbestuurders, Hoofde: GLOO-koördinerings- en -advies, Distriksamptenare, Prinsipale en Voorsitters van beheerliggame van gewone openbare skole

Kort opsomming: *Wysigings aan die griesprosedure vir opvoedkundiges soos in hooftrekke beskryf in Hoofstuk G van die Personeeladministrasiemaatreëls (PAM), gepubliseer op 12 Februarie 2016 in Staatskoerant 39684.*

## **ONDERWERP: WYSIGINGS AAN DIE GRIEFPROSEDURE VIR OPVOEDERS**

### **1. INLEIDING**

- 1.1 Die Minister van Basiese Onderwys, me AM Motshekga, het op 12 Februarie 2016 ingevolge artikel 4 van die Wet op die Indiensneming van Opvoeders, 1998 (Wet 76 van 1998), wysigings aan die PAM-dokument gepromulgeer wat die voorwaardes en bepalings vir die indiensneming van opvoeders bepaal en gekonsolideer het.
- 1.2 Die aandag word gevestig op paragraaf 4.1 en 4.2 van Omsendbrief 0037/2013, wat die prosedure uiteensit wat gevolg moet word wanneer 'n opvoeder in diens van die Wes-Kaap Onderwysdepartement (WKOD) 'n grief wil aanteken, soos in die PAM uiteengesit.
- 1.3 Hierdie omsendbrief sit die hersiene griesprosedure vir opvoeders in ooreenstemming met die wysigings aan die PAM uiteen.

## 2. DOEL

Die hoofdoel is om die griesprosedure in openbare onderwys te versterk deur die bevordering van:

- (a) die spoedige, onpartydige en regverdigte hantering van giewe;
- (b) sterk werknemersverhoudinge;
- (c) die oplos van individuele giewe op die laagste moontlike vlak in 'n departement; en
- (d) dispuutvoorkoming.

## 3. WYSIGINGS AAN DIE GRIEFPROSEDURE

- 3.1 Die eerste fundamentele wysiging is die verandering aan hoofstukke vanaf Hoofstuk H tot Hoofstuk G van die PAM-dokument.
- 3.2 Tweedens moet enige opvoeder wat verontreg is in die vervolg 'n informele roete volg (klagte lê) deur sy/haar direkte toesighouer en/of betrokke bestuurder oor die ontevredenheid te nader of die voorgeskrewe vorm te gebruik deur die gries op skrif stel. Die Griesvorm (**Bylae A**) is vir maklike verwysing hierby aangeheg.

## 4. HANTERING VAN GIEWE

### 4.1 Informele stadium (klagte)

- 4.1.1 Hierdie proses is informeel en sonder vooroordeel teenoor enige van die partye.
- 4.1.2 **Opvoeders word aangemoedig om die informele roete (klagte) te volg met hul hoof van die inrigting/betrokke bestuurder voordat 'n formele gries aangeteken word.**
- 4.1.3 'n Ernstige poging moet deur die hoof van die inrigting/betrokke bestuurder aangewend word om enige gries deur mondelinge onderhoud op te los. Gedurende die genoemde proses sal geen rekords van verrigtinge gehou word nie.
- 4.1.4 Verteenwoordiging word nie op hierdie stadium toegelaat nie, maar die opvoeder mag egter 'n waarnemer versoek.
- 4.1.5 Hoofde van inrigtings/betrokke bestuurders word aangemoedig om die proses binne 10 werksdae na ontvangs van die klagte af te handel.
- 4.1.6 **Die doel is om die klagteproses te versterk en dit doeltreffend te hanteer om 'n formele gries te vermy.**

## 4.2 Formele stadium

- 4.2.1 Dit is 'n formele proses en die klagte word binne 90 dae vanaf die datum waarop die opvoeder van die daad of pligsversuiming wat hom/haar benadeel het, bewus geword het op skrif by die hoof van die inrigting/betrokke bestuurder gestel deur van die Griefvorm (Bylae A) gebruik te maak.
- 4.2.2 Tydsraamwerke moet bereken word deur die eerste dag uit te sluit en die laaste dag in te sluit.
- 4.2.3 Indien die opvoeder nie met die uitslag, waarna in paragraaf G.4.2 van die PAM verwys word, tevrede is nie, kan die gegriefde die saak binne vyf werksdae nadat die partye nagelaat het om die grief op te los skriftelik, per hand of geregistreerde pos, saam met die besluit van die hoof van die inrigting/betrokke bestuurder, na gelang van die geval, verwys na die Streek-/Distrikshoof van Onderwys in die geval van 'n opvoeder by 'n skool, of na die kantoor, waarna in paragraaf G.4.2.4 van die PAM verwys word, in die geval van 'n opvoeder buite die skool.
- 4.2.4 **Die doel is om die formele griefproses te versterk en doeltreffend te hanteer om 'n formele dispuut te vermy.**

## 5. **RIGLYNE OOR HOE GRIEFVORM (BYLAE A) TE VOLTOOI**

- 5.1 Hierdie vorm moet gebruik word om 'n formele grief ('n beweerde onbillike ontslag uitgesluit) aan te teken wanneer 'n opvoeder met 'n daad of pligsversuiming ontevrede is en nie die probleem gedurende die klagtestadium kon oplos nie.
- 5.2 Die opvoeder moet 'n grief binne 90 dae aanteken vanaf die datum waarop hy/sy bewus geword het van die daad of pligsversuiming, wat hom/haar benadeel het.
- 5.3 Die opvoeder mag deur 'n mede-opvoeder en/of 'n verteenwoordiger en/of 'n amptenaar van 'n erkende vakunie bygestaan of verteenwoordig word.
- 5.4 Dit is belangrik om seker te maak dat alle inligting akkuraat ingevul is. Sodra die vorm voltooi is, moet dit gegee word aan die hoof van die inrigting/betrokke bestuurder wat aangewys is om die griewe by die opvoeder se inrigting te fasiliteer. Die WKOD sal hierdie vorm aan die griefdokumentasie heg en dit sal regdeur al die stadiums van die griefprosedure gebruik word.
- 5.5 Soos die hoof van die inrigting/betrokke bestuurder probeer om die grief op elke stadium op te los, sal elke party die toepaslike deel van die vorm voltooi. Die opvoeder sal 'n geleentheid kry om op elke kommentaar te reageer.

- 5.6 Na afhandeling van elke stadium van die griefprosedure sal die hoof van die inrigting/betrokke bestuurder die opvoeder van 'n afskrif van die voltooide vorm voorsien.
- 5.7 Sodra die grief opgelos is, hoef die opvoeder nie die res van die vorm te voltooi nie.
- 5.8 Daar word van opvoeders verlang om Deel A en Deel B van hierdie vorm te voltooi en dit vir die hoof van die inrigting/betrokke bestuurder, na gelang van die geval, by hul inrigting/kantoor te gee. Die hoof van die inrigting/bestuurder, na gelang van die geval, sal sy/haar handtekening in die blokkie onderaan Deel B van die vorm maak om aan te dui dat die grief ontvang is. Die opvoeder moet seker maak dat hy/sy 'n afskrif van die vorm, waar ontvangs van sy/haar grief erken is, ontvang.
- 5.9 Deel C van die Griefvorm sal deur die hoof van die inrigting/betrokke bestuurder, na gelang van die geval, voltooi word en die gegriefde sal van 'n afskrif voorsien word op die verskillende stadiums wanneer pogings aangewend sal word om die grief om te los.
6. Let asseblief daarop dat onvoltooide Griefvorms **nie** vasgelê of geregistreer sal word nie en die grief sal ook nie ondersoek word **nie**.
7. Ten einde voldoening aan wetgewing te verseker, word hoofde van inrigtings/betrokke bestuurders sterk aangemoedig om by die tydsraamwerke soos uiteengesit in die PAM te hou en moet die riglyne soos uiteengesit in Bylae B en C gebruik word om die griefproses te fasiliteer en op te los.
8. Die Direkoraat: Werknemerverhoudinge moet binne vyf dae na die afhandeling van die grief op distriksvlak, oor die uitslag van die grief, met al die nodige aanhangsels, verwittig word.
9. Waar 'n opvoeder verontreg voel ten opsigte van sy/haar aansoek om tydelike onbevoegdheidsverlof (ooreenkomstig die *Policy on Incapacity Leave and Ill Health Retirement (PILIR)* en/of diensvoordele wat salarisse, bonusse en toelaes insluit, maar nie daartoe beperk is nie, **moet** sodanige besorgdhede aan die betrokke bestuurder by Hoofkantoor gerig word.
10. Daar word van hoofde van inrigtings/betrokke bestuurders verlang om alle personeel oor die inhoud van hierdie omsendbrief ten opsigte van wysigings aan die griefprosedure vir opvoeders in te lig.
11. Sodra opvoeders by enige WKOD opvoedkundige inrigting aangestel word, moet hulle van hierdie omsendbrief bewus gemaak te word .

**GETEKEN:** BK SCHREUDER  
**HOOF:** ONDERWYS  
**DATUM:** 2017-11-18

**GRIEVANCE FORM****G.1****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 educator 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 department 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, the head or supervisor will provide you 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 head or the supervisor, as the case may be, at your institution/office. The head or the supervisor, 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 head or the supervisor, as the case may be, and the grievant will be provided with copy during the various stages where attempts will be made to resolve the grievance.

**PART A: PERSONAL PARTICULARS**

*To be completed by the aggrieved educator*

INITIALS AND SURNAME		
PERSAL NUMBER		
REGION/DISTRICT		
SCHOOL/OFFICE		
RANK/POST LEVEL		
DATE ON WHICH YOU BECAME AWARE OF THE ACT OR OMISSION		
PERSONAL CONTACT DETAILS	TEL:	CELL:
	FAX:	
CONTACT DETAILS OF REPRESENTATIVE	TEL:	CELL:
NAME OF TRADE UNION		
CONTACT DETAILS OF TRADE UNION	TEL:	CELL:

**PART B: DETAILS OF THE GRIEVANCE**

*To be completed by the aggrieved educator*

**What are you aggrieved about?**

*(If space below is not enough, please attach additional page(s))*

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**What solutions do you propose?**

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**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

Receipt of grievance form acknowledged and a copy given to aggrieved educator

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**RANK:** \_\_\_\_\_

**PART C: GRIEVANCE RESOLUTION: LEVELS**

**NOTES:**

*This part of the form makes provision for levels of authority to attempt to resolve the grievance. Depending on the circumstances, one or more pages below need to be completed.*

*The grievance must be dealt with by the applicable levels within the periods referred to in the procedure, unless extended by agreement with the aggrieved educator.*

*Should the grievance not be attended to within the periods referred to in the procedure or extended period agreed to with the aggrieved educator, in the case of an alleged unfair labour practice, the aggrieved educator has the right to refer a dispute to the Education Labour Relations Council to be dealt with in terms of the dispute resolution procedures.*

*To be completed on behalf of the Head of Department*

<b>NAME OF OFFICIAL</b>			
<b>DESIGNATION</b>			
<b>RELATIONSHIP WITH AGGRIEVED EDUCATOR</b>	<b>SUPERVISOR/ HEAD</b>	<b>COMPONENT HEAD</b>	<b>DISTRICT HEAD/DIRECTOR</b>
<b>TEL:</b>	<b>CELL:</b>		<b>FAX:</b>
<b>WAS THE GRIEVANCE RESOLVED?</b>	<b>YES</b>		<b>NO</b>

**Comments by the aggrieved educator if necessary**

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**SIGNATURE:** \_\_\_\_\_  
*On behalf of Employer*

**DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**RANK:** \_\_\_\_\_

<b>Was the grievance resolved?</b>	<b>YES</b>		<b>NO</b>	
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Comments by the aggrieved educator if necessary

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EDUCATOR SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**PART D: REGION/DISTRICT OR DEPARTMENTAL LEVEL**

<i>To be completed on behalf of the Head of Department</i>			
<b>NAME OF OFFICIAL</b>			
<b>DESIGNATION</b>			
<b>RELATIONSHIP WITH AGGRIEVED EDUCATOR</b>	<b>DISTRICT/REGIONAL HEAD</b>	<b>COMPONENT HEAD</b>	<b>DIRECTORATE</b>
<b>TEL:</b>	<b>CELL:</b>	<b>FAX:</b>	

**Decision in respect of the grievance and reasons for the decision:**  
(If space below is not enough, please attach additional page(s))

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**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
*On behalf of Employer*

**NAME:** \_\_\_\_\_ **RANK:** \_\_\_\_\_

<b>Was the grievance resolved?</b>	<b>YES</b>		<b>NO</b>	
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**If no, the aggrieved educator must explain why he/she is still dissatisfied:**

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**EDUCATOR SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



**GENERAL GRIEVANCES REPORT FORM**

**GRIEVANCE PROCESS AT SCHOOL LEVEL**

NO.	QUESTIONS	YES	NO
1	Is the educator aware of the grievance procedure?		
2	Is the educator aware of the informal and formal stages of the grievance procedure?		
3	Is the educator aware of the applicable time frames?		
4	Is the educator aware of his/her rights in following the grievance procedure?		
5	Was the Grievance Form (G.1) used and was the time frame of 90 days adhered to?		
6	Was it explained to the grievant that he/she has the right to representation from a fellow employee or union representative?		
7	Was the <i>audi alteram partem</i> principle applied?		
8	Is the decision-making/outcome of the grievance defensible?		
9	If the grievance remains unresolved, is the grievant aware that the matter can be escalated to district level?		
10	Did you convene a meeting with the grievant within three days in an attempt to resolve the matter?		
11	Did you reduce the outcome of the grievance to writing and communicate the outcome to the grievant within five days after the meeting?		

Date grievance was lodged	Date meeting was facilitated	Date that report was communicated

<b>Reasons for not complying with time frames</b>

<b>Outcome of the grievance meeting: Grievance was:    resolved / not resolved</b>

<b>Supervisor/principal signature</b>	<b>Grievant signature</b>	<b>Representative signature</b>



**GRIEVANCE PROCESS AT DISTRICT LEVEL**

What is the nature of the grievance?

What is the desired outcome that the grievant is seeking?

**GRIEVANCE CHECKLIST: LINE MANAGER/LABOUR RELATIONS OFFICER/SUPERVISOR**

NO.	QUESTIONS	YES	NO
1	Did you act impartially/experience no conflict of interest in handling the matter?		
2	Were you a party involved in the matter?		
3	Are you familiar with the procedure and time frames?		
4	Are you in possession of all relevant and/or supporting documentation to handle the grievance?		
5	If documentary evidence is needed in order for the grievant to apply the <i>audi alteram partem</i> principle, did you assist?		
<b>IDENTIFYING ISSUES — CONDUCTING A PROPER ASSESSMENT</b>			
6	Were the identified issues properly assessed and dealt with adequately?		
7	Was the grievance issue clarified with the person that feels aggrieved and are the parties clear on the issue that needs to be addressed?		
8	Did you distinguish between issues in dispute and issues that are common cause?		

PROCESSES, ACTIONS, DECISIONS — IMPARTIAL AND TRANSPARENT			
9	Did you apply principles such as reasonableness, fairness, lawfulness in handling the grievance?		
10	Did you convene a meeting within five days with the grievant in an attempt to resolve the matter?		
11	Did you reduce the outcome of the grievance to writing and communicate the outcome to the grievant within five days after the meeting?		
12	Would the grievant and/or any other party be in a position to understand how you arrived at a particular decision?		
ADDITIONAL CONSIDERATIONS			
13	Was confidentiality maintained during the process?		
14	Can you concur that the <i>audi alteram partem</i> principle was applied?		

<b>Outcome of the grievance meeting:</b>	
<b>Grievance was:      resolved / not resolved</b>	

District official signature	Grievant signature	Representative signature

**PLEASE NOTE: THIS CHECKLIST MUST BE SENT WITH THE DISPUTE TO THE DIRECTORATE :  
EMPLOYEE RELATIONS – HEAD OFFICE**



**FILLING OF ADVERTISED VACANCY GRIEVANCE REPORT FORM**

NO.		YES	NO
<b>ADVERTISEMENT</b>			
1	Was it discriminatory in nature?		
2	Did it cover key performance areas of the post as per job specifications?		
3	Was it beneficial only in respect of a particular individual with the aim to exclude others?		
4	Were the criteria fair and reasonable?		
<b>SHORTLISTING PROCESS</b>			
5	Was the grievance referred within the relevant time frame (30 days)?		
6	Was the grievant shortlisted for the purpose of an interview?		
7	Was the grievant given ample time to prepare for the interview?		
8	Was the process conducted by an interview committee as required by law?		
9	Was the interview committee elected by a fully constituted governing body?		
10	Were criteria applied in line with the advertisement?		
11	If members were co-opted to the interview committee, was the process followed correctly?		
12	Did the governing body/interview committee use a scoring grid during the shortlisting process? If not, which method was used?		
13	Was consideration given to Employment Equity processes?		
14	Does the grievant meet the minimum requirements for the advertised vacancy?		
15	Were there any deviations from the agreed upon process as determined by the governing body/interview committee?		
16	Were there any other procedural irregularities as required by law		

<b>INTERVIEW PROCESS</b>			
17	Was the grievant interviewed for the post?		
18	Was the grievant one of the nominated candidates for the advertised vacancy?		
19	Can you confirm that the criteria used by the interview committee whether using scoring/consensus or voting during the interview process was fairly applied.		
20	If scoring was used, was a benchmark applied?		
21	If scoring was used, are scoresheets available?		
22	Were questions related to the set criteria for the advertised vacancy?		
23	Did the governing body/interview committee compile a preference list?		
24	Did a motivation accompany each nominated candidate's ranking?		
25	Were there any deviations from the agreed upon process as determined by the governing body/interview committee?		
26	Were there any other procedural irregularities in the process		
<b>GENERAL</b>			
27	Does the grievant claim he/she is the best candidate for the post?		
28	Does the grievant contend that had it not been for the irregularities/procedural deviations that he/she would have been appointed?		
29	In your view, does the grievant possess a similar or higher skill set, qualifications and experience than the nominated candidate(s)?		
30	Were subjective considerations by the governing body/interview committee taken into account in arriving at their nomination? If so, what were these considerations?		
31	Was the process used to identify suitable candidates for nomination fair?		
32	Was there a WCED representative/resource person as required by law (for principal posts) present during all the processes for the filling of the vacancy?		
33	Is the basis that the grievant claim unfair conduct in relation to the advertised post justifiable if no, provide reasons?		
34	Is there any procedural irregularities that could amount to prejudice the grievant or WCED?		
35	Can the grievant demonstrate the existence of any conduct which resulted in him/her being denied a fair opportunity to compete for		

	the advertised post?		
36	If an interview committee conducted the process, were the recommendations ratified by a full governing body?		
37	Were educator unions invited to attend all the processes for the filling of the advertised vacancy?		
38	Was a competency-based assessment done through the WCED?		
39	Were fair criteria set for the competency-based assessment?		
40	Does the grievant seek any relief if yes, please elaborate?		

**Findings and recommendation(s):**

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**Investigating Officer/WCED representative signature**

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**Date**

**Findings and recommendation(s):**      **supported**      **not supported**      **amended**

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**District Director signature**

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**Date**