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To: Deputy Directors-General, Chief Directors, Directors (Head Office and district offices), Deputy Directors, Circuit Managers, Heads: SLES Coordination and Advice, District Officials, Principals and Chairpersons of governing bodies at ordinary public schools

Short summary: *This circular outlines the right of trade unions to access educational institutions of the Western Cape Education Department.*

Subject: Union access to educational institutions

1. **Purpose**

The purpose of this circular is for the Western Cape Education Department (WCED) to revisit its awareness about trade union access to the workplace and to formalise the procedures as outlined in the legislative framework.

2. **Legislative framework**

- 2.1 Section 12 of the Labour Relations Act, 1995 (Act 66 of 1995) (to be read with **Chapter F of the Personnel Administrative Measures (PAM), published in Government Gazette No. 39684 of 12 February 2016**), refers to trade union access to the workplace.
- 2.2 In terms of section 12 of the Labour Relations Act, 1995 (Act 66 of 1995), any office-bearer or official of a representative trade union, that is a party to the Education Labour Relations Council only, is entitled to enter the employer's premises in order to recruit members, communicate with members or otherwise serve members' interests. However, the rights conferred by this section are subject to conditions as to time and place that are reasonable and necessary to safeguard life or property or to prevent the undue disruption of work.

3. **Right of access in relation to public servant unions**

- 3.1 Relevant legislation states that parties acknowledge the need for full-time shop stewards (FTSSs)/union officials/office bearers to enter the premises of institutions of the Western Cape Government (which include educational institutions) from time to time in order to perform lawful union activities.
- 3.2 In terms of the said agreement, union access to the workplace/schools would include the following:
- a) Recruitment of members
 - b) Communication with members
 - c) Serving the interests of members
 - d) Assisting members
 - e) Meetings
 - f) Emergency meetings.
- 3.3 Such access shall always be subject to the following conditions:
- a) Proper and timeous (at least 48 hours in advance) request to management for the envisaged access with details of the purpose, anticipated duration and persons to be visited (if the number of employees exceeds two).
 - b) Details of the visiting union officials/office bearers shall be supplied.
 - c) Not more than four FTSSs/union officials/office bearers shall visit an institution at a given time, on condition that institutional management has given the necessary permission.
 - d) In exceptional cases, where deemed necessary and outside of contact time, the number of officials may be increased upon approval by the Directorate: Employee Relations.
 - e) Access to institutions and/or members shall not be unreasonably withheld.

4. **Access limitations at educational institutions**

- 4.1 Paragraph F.5.3.8 of the PAM refers to the right of union shop stewards to access educational institutions and the limitations.
- 4.2 Unions may meet with educators on the premises of the educational institution or departmental office of the employer, provided that prior permission has been obtained from the head of the relevant educational institution or, in the case of a departmental office, the appropriate representative of the employer.
- 4.3 Unions may hold meetings with educators provided that:
- a) in the case of educational institutions, the meeting takes place outside the formal teaching or learning day and does not interfere with the functioning of the educational institution; and
 - b) in the case of an office of the employer, the meeting takes place outside office hours and does not interfere with the functioning of the respective office.

- 4.4 Unions may only hold meetings with individual educators during office hours or teaching time under the conditions stipulated and provided that the prior approval of the relevant heads of the educational institutions or, in the case of departmental offices, the appropriate representatives of the employer was obtained.
- 4.5 A union must, as far as possible, try to meet with an educator *outside of actual teaching and/or learning time*.
- 4.6 It is important that all parties have a mutual understanding of their rights and obligations in the workplace. Unions exercising their right to access educational institutions **should not hinder and/or obstruct quality teaching and learning** at WCED institutions.
5. Heads of institutions and/or relevant managers are requested to exercise their discretion and to not unreasonably refuse unions the right to access, as outlined in section 12 of the Labour Relations Act, 1995 (Act 66 of 1995).
6. Unions have the right to lodge a formal complaint to the Director: Employee Relations, if their right to access in the workplace is unreasonably denied.
7. Heads of institutions and/or relevant managers are required to inform all staff of the contents of this circular.

SIGNED: BK SCHREUDER

HEAD: EDUCATION

DATE: 2021-02-06