

# DISCIPLINE – EDUCATORS

## Introduction

1. The Employment of Educators Act, 1998, as amended, prescribes the disciplinary code and procedure for Educators. The transgressions are categorised as –
  - Serious Misconduct (sections 17); and
  - (Other) Misconduct (section 18)
2. The Act compels the employer to institute disciplinary proceedings when an allegation of misconduct is made, irrespective of the category in which the transgression is classified.
3. The Act provides for a right to appeal against a finding of guilty in a disciplinary hearing, as well as the sanction imposed.

## Serious Misconduct (s. 17)

### 1. Transgressions

The following transgressions are regarded to constitute acts of serious misconduct -

- theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports;
- committing an act of sexual assault on a learner, student or other employee;
- having a sexual relationship with a learner of the school where he or she is employed;
- seriously assaulting, with the intention to cause grievous bodily harm to, a learner, student or other employee;
- illegal possession of an intoxicating, illegal or stupefying substance; or
- causing a learner or a student to perform any of the above-mentioned acts

### 2. Sanction

If an educator is found guilty of serious misconduct, following a disciplinary hearing, he /she **must be dismissed**.

## Misconduct (s. 18)

### 1. Transgressions

The following transgressions constitute the so-called s. 18 misconduct:

- Fails to comply with or contravenes the Act or any other statute, regulation or legal obligation relating to education and the employment relationship;
- Wilfully or negligently mismanages the finances of the State, a school or an adult learning centre;
- without permission possesses or wrongfully uses the property of the State, a school, an adult learning centre, another employee or a visitor;
- wilfully, intentionally or negligently damages or causes loss to the property of the State, a school or an adult learning centre;
- in the course of duty endangers the lives of himself or herself or others by disregarding set safety rules or regulations;
- unjustifiably prejudices the administration, discipline or efficiency of the Department of Basic Education, an office of the State or a school or adult learning centre;
- misuses his or her position in the Department of Basic Education or a school or adult learning centre to promote or to prejudice the interests of any person;
- accepts any compensation in cash or otherwise from a member of the public or another employee for performing his or her duties without written approval from the employer;
- fails to carry out a lawful order or routine instruction without just or reasonable cause;
- absents himself or herself from work without a valid reason or permission;
- unfairly discriminates against other persons on the basis of race, gender, disability, sex, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth, family responsibility, HIV status, political opinion or other grounds prohibited by the Constitution;

- performs poorly or inadequately for reasons other than incapacity;
- without the written approval of the employer, performs work for compensation for another person or organisation either during or outside working hours;
- without prior permission of the employer accepts or demands in respect of the carrying out of or the failure to carry out the educator's duties, any commission, fee, pecuniary or other reward to which the educator is not entitled by virtue of the educator's office, or fails to report to the employer the offer of any such commission, fee or reward;
- without authorisation, sleeps on duty;
- while on duty, is under the influence of an intoxicating, illegal, unauthorised or stupefying substance, including alcohol;
- while on duty, conducts himself or herself in an improper, disgraceful or unacceptable manner;
- assaults, or attempts to or threatens to assault, another employee or another person;
- assaults, or attempts to or threatens to assault, another employee or another person;
- displays disrespect towards others in the work-place or demonstrates abusive or insolent behaviour;
- intimidates or victimises fellow employees, learners or students;
- prevents other employees from exercising their rights to freely associate with trade unions in terms of any labour legislation;
- operates any money-lending scheme for employees for his or her own benefit during working hours or from the premises of the educational institution or office where he or she is employed;
- carries or keeps firearms or other dangerous weapons on State premises, without the written authorisation of the employer;
- refuses to obey security regulations;

- gives false statements or evidence in the execution of his or her duties;
- falsifies records or any other documentation;
- participates in unprocedural, unprotected or unlawful industrial action;
- fails or refuses to follow a formal programme of counselling or subject himself or herself to a medical examination as required in terms of incapacity proceedings
- commits a common law or statutory offence;
- commits an act of dishonesty; or
- victimises an employee for, amongst others, his or her association with a trade union.

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