IMPACT OF LABOUR RELATIONS ON EDUCATIONAL INSTITUTIONS WITH SPECIAL REFERENCE TO PRIMARY AND SECONDARY SCHOOLS

BY

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I declare that this dissertation

IMPACT OF LABOUR RELATIONS ON EDUCATIONAL INSTITUTIONS WITH SPECIAL REFERENCE TO PRIMARY AND SECONDARY SCHOOLS

is my own work, that all the sources used or quoted have been indicated and acknowledged by means of complete reference, and that I did not previously submit this dissertation for a degree at any University

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ABSTRACT

The main objective of this study is to bring about an awareness of the impact of Labour Relations in an educational institution, with special reference to primary and secondary schools. One of the major aspects of this work is to create a conducive environment towards teaching and learning through empowerment and amicably resolving disputes in various institutions.

The literature study exposed the roles and responsibilities of various stakeholders and developmental programmes in schools towards to ensuring effective teaching and learning. Emphasis also falls the operation If the Labour Relations Act and South African Council of Educators, the latter acting as a juristic person in education in terms of dealing with misconduct, and ensuring that a culture of learning and teaching is maintained.

Furthermore, development models and an approach to techniques and methods for a new holistic approach are described.

The Critical Event Model (CEM) and Commitment Approach (CA) are identified and regarded as the best possible instruments for schools in the Vaal Region.

The empirical study consists of structured questionnaire distributed to a sample population of 34 primary and secondary schools. The sample consisted of 34 principals, 51 deputy principals, 170 heads of department and 425 educators with the aim of identifying their needs in terms of empowerment with regard to Labour Relations.

Main findings revealed a lack of training in most aspects, limited knowledge in terms of their labour rights, duties and responsibilities of various stakeholders, as well as in developmental programmes.

The empirical study conducted, was a success, since the response rate exceeded 80 percent for all respondent categories.

This research is not completely definitive by any means; it merely shows that there are problems in terms of the provision of capacity building programmes within our schools.

OPSOMMING

Die hoofdoel van die studie is die bewusmaking van die impak van arbeidsverhoudinge in 'n opvoedkundige instansie met spesifieke verwysing na laer en hoërskole. Een van die hoof aspekte van die werk is om 'n bevorderlike omgewing vir onderrig deur bemagtiging en oplossing van geskille by verskeie instellings.

Die studie stel die rolle en verantwoordelikhede van die verskeie rolspelers en ontwikkellingsprogramme in skole bloot, om doeltreffende onderwys te verseker. Klem word ook gelê op die rol van die wet op arbeidsverhoudinge en die Suid-Afrikaanse Raad vir Onderwyser wat as regsgeleerdes moet optree in 'n geval van wanbeheer en sorg dat 'n leer – en onderrigkultuur behou word.

Verder word ontwikkelingspatrone asook tegnieke en metodes vir 'n nuwe holistiese benadering beskryf.

Die "Critical Event Model (CEM) en die "Commitment Approach (CA)" word geidentifiseer en beskou as die bes moontlike dokumente vir skole in die Vaal Streek.

Die proefstudie bestaan uit 'n samestelling vrae, versprei onder 'n bevolking wat toegang het tot 34 laer – en hoërskole. Die steekproef sluit 34 hoofde, 51 vise-hoofde, 170 departementshoofde en 425 onderwysers in. Die doelwit is om hulle spesifieke behoeftes betreffende bemagtiging binne die raamwerk van arbeidsverhoudinge te identifiseer.

Die bevindinge het 'n gebrek aan opleiding, beperkte kennis oor arbeidsregte, pligte en verantwoordelikhede en ook opleidingsprogramme weerspieël.

Die steekproef word as 'n sukses beskou omdat meer as 80 persent in alle kategorieë gereageer het.

Die navorsing is egter nie beslissend nie, alhoewel dit duidelik weerspieël dat daar 'n leemte in ontwikkelingsprogramme in skole is.

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INTRODUCTION AND SCOPE OF THE STUDY

1.1 BACKGROUND TO THE RESEARCH

'Labour Law might be regarded as one of the most important disciplines in law, control the central position of most citizen' lives ... activity in the work place which is their main source of income" (Jordan & Rycroft, 1994:1). Labour legislation is being developed rapidly, litigation to continuously performed in the labour court, industrial action and reading of collective agreement between trade unions and employees.

The research will cover particularly labour relations in education. The focus will be on educational institutions in the Vaal Region area.

The main aim of the research is to clarify the most important labour relations issues that influence the daily life of education managers, school governing bodies, Labour Unions as well as individual educators (Rossouw: 2004:1). The research will focus on the relationship between the educators as employees and the Department of Education as employer.

To determine the development of Labour Relations in education, the changes in legislation over the past years may serve as indicators. Prior to the introduction of the Public Service Labour Relations Act, (105 of 1994) and the Education Labour Relations Act, (146 of 1994) all persons employed by the state (including educators) did not have access to Labour Courts or statutory bargaining mechanisms (Grogan, 2000:9).

Being excluded from the 1956 Labour Relations Act, their conditions of service were determined by the Public Services Act, 103 of 1994. Since 1994, these acts have provided bargaining forums and conciliation boards for the resolution of grievances for the first time. Grogan (2000:9) states, that ... both acts extended the unfair labour practice jurisdiction to public service servants and education workers, giving them access to industrial and labour appeal courts, as well as the freedom to strike". The Education Labour Solutions Act 146 of 1994 was repealed soon after its promulgation by the Labour Relations Act, 66 of 1995 Van Kerken (in Oosthuizen, 2000:1115).

In a period marked by sustained attacks on the professional competence and ethical conduct of educators, the passing of the Employment of Educators Act, No. 76 of 1998 was very opportune, in particular, because it was developed and accepted by the trade unions. The Act seeks to give clarity on who the employer for each category of educator is. It also lays out the conditions of service for educators and provides regulations governing their appointment, promotion, transfer and termination of service. Furthermore, the Act addresses issues of teachers' incapacity and misconduct, and allows for the participation of school governing bodies in the employment of educators. The Act also protects the powers of governing bodies provided by the 1996 South African Schools Act, while retaining the right of government to redeploy teachers (Motale, 1995:517).

One of the most significant provisions relates to the recognition given to the South African Council of Educators, a new non-racial body with which all teachers will have to register. The SACE is established as "a juristic person" who provides a code of ethics for different parties. It aims to promote the professional development of educators, establishes a fair and equitable enquiry procedure to investigate any breach of ethics, outlines minimum criteria and procedures for registration, and provides for compulsory monthly fees collected by the Education Labour Relations Council. The composition, administration and functioning of the SACE is to be prescribed by the minister (Motale, 1995:518).

Unfair labour practice prevailed for the largest part of the 20th century, mainly as a result of deficiencies in the common law of employment contracts. Grogan (2000:4) states, that ... the common law lagged behind conditions in modern commerce and, more recently, the entrenchment of a range of new fundamental constitutional rights".

De Waal *et al.* (2001:390) mention, that … the drafters of the constitution, was determined to constitutionalise the gains made". This led to uniqueness in the South African Bill of Rights – the entrenchment of the right to fair Labour Practices by employers. Traditionally the Bill of Rights is intended to regulate legislation and government power, not the conduct of the employer. (De Waal *et al.*, 2001:390).

All educators should know their rights as employer, and the duties they have towards their employee. They (employees) become officials of the employer, and have to perform duties on behalf of the employer. It is also essential for both parties to know what obligations the employer has towards his or her employees. These rights and duties are determined by the employment contract.

Squelch (1999:14) explains the concepts of rights and duties in terms of relationships: A right is something you are entitled to. If you do a job for an agreed amount of money, you have the right to receive that amount once you have completed the job. A duty is something you are expected or required to do. So, if you receive an amount of money for doing any agreed job, it is your duty to carry out three tasks as agreed. The term 'rights' implies the ability to claim something and the term "duty" implies an obligation to perform. For example, an educator has a right to remuneration and the employer has an obligation to ensure that he or she receives that remuneration.

Educators in Management's positions will probably be confronted some time or other with problems of misconduct, poor work performance or incapacity. The possibility of retrenchment as a result of operational requirements is also a major concern. Dispute between employers and employees cannot always be prevented, and every educator needs to know the legal prescriptions in this regard, as well as different dispute resolution mechanisms that may be used to resolve disputes (Rossouw, 2004:29).

Finally, the South African Constitution grants employers and employees the right to freedom of association. An employer has the freedom to form and join employers' organisations and participate in their activities, while employees have the right to participate in forming a union, an existing union of their choice, and to participate in its activities. This includes participation in union federation activities (Rossouw, 2004:46).

1.2 PROBLEM STATEMENT

Both officials as employers and educators as employees need to clearly understand their roles and responsibilities in education.

To avoid unnecessary dismissals, most resulting from poor performance and misconduct.

To increase knowledge of Labour Relations in Education amongst various stakeholders in the education sector.

They have to create the best possible model to resolve disputes without affecting the culture of learning and teaching.

1.3 PRIMARY OBJECTIVE

The primary objective of this study, is to bring about an awareness of the impact of labour relations on educational institution's with special reference to primary and secondary schools.

1.4 SECONDARY OBJECTIVE

In order to address the above-mentioned primary objective, the following research aims were formulated.

- To conduct a literature study regarding the importance of labour relations in education.

- To highlight the rights of both employer and employees in terms of forming or, of joining employers' organisations and labour unions respectively, as well as the roles and responsibilities.

- To allow educators in managerial positions to effectively handle problems of misconduct, poor work performance or incapacity;

- Encourage educators to observe the establishment of SACE as a juristic person, which provides a code of conduct in terms of educators' behaviour in the workplace;
- Outline roles played by labour unions in education;
- Promote and encourage developmental programmes (IQMS; WSE) for improving teacher performance;
- Identify roles of school governing bodies in our institutions;
- Outline numerous pieces of legislation that governs the education sector; and
- Develop a model that will ensure a conducive and safe environment to teaching and learning.

1.5 DEMARCATION OF THE FIELD OF STUDY

For the purpose of this study, the research will be undertaken amongst a sample of schools in the Vaal Region (see map below).

Sampling will be carried out in every fifth school in the total list of primary and secondary schools in the Vaal Region (*Annexure A).*

1.6 RESEARCH METHODOLOGY

Two methods of research will be used a literature study and an empirical research.

1.6.1 Literature review

Phase one of the research entails a literature study. A literature review with regard to the impact of labour relations on educational institutions, with special reference to primary and secondary school in the Vaal Region Area. It revolves around ensuring that our schools provide the best possible education through empowerment of various stakeholders in terms of legislation that governs the education sector.

The literature review will make use of relevant books, journals, newspaper articles and Government Gazettes.

An extensive search of applicable website on the internet will be done to gather additional information.

The Harvard method of source referencing and acknowledgement will be used.

Footnotes will not appear at the bottom of each page; instead quotations and references are specified directly after the particular quotation.

1.6.2 Empirical study

The second phase of the research will be an empirical study. An empirical investigation will be undertaken, which will provide the practical basis to ensure that a reasonably accurate version is given, which measures up to the purpose of study.

The target population is the total group of people from whom we need to obtain information, and whose opinions are needed to fulfil objectives of the research. Often the definition of the population is based on the characteristics of current, and target samples (Mc Daniel & Gates, 1998 : 301).

Considering the above-mentioned, the target population will consist of the educators, and school management teams of primary and secondary schools in the Vaal Region. Questionnaires will be compiled in order to allow the research to achieve the aims of the study.

In the Vaal Region 172 primary and secondary schools have been registered. (Annexure A). For this study, we use the random sampling method, where we targeted every fifth school for participation. Six hundred and eighty (680) questionnaires will be distributed personally to schools highlighted in Annexure A.

A pilot study will be done to test the validity of the questionnaire. Five independent respondents will complete the questionnaire. Feedback will be incorporated into the final questionnaire.

1.6.3 Statistical analysis

Data collection, processing and analysis will follow the survey research. A statistically valid instrument with the applicable STATISCA software package, will be used to obtain best results.

1.7 EXPECTED OUTPUTS AND BENEFITS OF THE STUDY

The following goals should be considered:

- Awareness of the impact of labour relations in education with special reference to primary and secondary schools in the Vaal Region.
- The Rights and Responsibilities of both employer and employees in terms of the Education Labour Relations Council.
- Effective ways of handling disputes by managers and educators, as well as gleaning representative material from respective labour unions.
- The importance of SACE as a Juristic person in terms of conduct of educators.
- Ensuring that various stakeholders in education clearly know and undertake their respective roles.
- Reducing the number of misconduct and dismissal cases which are unnecessary, and most definitely, affect the Culture of Learning and Teaching Services (COLTS).
- Creating a very conducive and safe environment for learning and teaching in our institutions.

1.8 HYPOTHESIS IN RESPECT OF RESEARCH ISSUES

In the light of the nature of the study, a case study analysis, no hypothesis will be formulated.

The emphasis on this study is on exploring trends in the case analysed.

1.9 PROVISIONAL CHAPTER DIVISION

The research study consists of seven Chapters, while the content of the chapters could be summarised as follows.

CHAPTER 1: INTRODUCTION AND SCOPE OF THE STUDY

The first chapter will deal with the background and scope of the study. It will highlight the problem statement, research objectives and demarcation of the field of study; also the research methodology and content of study. The research methodology and content of the study will be spelt out in this chapter.

CHAPTER 2: ROLES AND RESPONSIBILITIES OF STAKEHOLDERS AND EVELOPMENTAL PROGRAMMES

Chapter 2 will focus on the roles and responsibilities of different stakeholders in education as per various legislations that govern the education sector. Areas of concern will be highlighted and dealt with.

CHAPTER 3: LABOUR RELATIONS IN EDUCATION

Chapter 3 will deal with the operation of the Labour Relations Act and SACE as juristic persons in education in terms of dealing with misconduct, and ensuring that the culture of learning and teaching services is maintained.

CHAPTER 4: EMPIRICAL STUDY

This chapter will focus on the empirical part of the study. Various statistical methods and techniques used and applied during the scope of the study, will be identified and discussed in detail. The focus will primarily be on the above-mentioned secondary objectives, as outlined in 1.4 above.

The chapter will also aim at proving the reliability and validity of the study in question and the importance thereof.

CHAPTER 5: DATA ANALYSIS AND INTERPRETATION

An analysis, interpretations and evaluation of the research findings, will be undertaken. The results of the dimensionality, reliability and validity of the instrument used, will be reported and the statistical test used to analyse the data, will be presented.

CHAPTER 6: PROPOSED MODEL

The purpose of this chapter will be to develop a model that will ensure a conducive environment to teaching and learning, as well as a basis for empowerment of relevant stakeholders in terms of Labour Relations in Education.

CHAPTER 7: SUMMARY, FINDINGS AND RECOMMENDATIONS

The final chapter will review the entire study and make recommendations. The study focuses on impact of Labour Relations in Education, and therefore, a development programme for educators, management, Labour Unions and SGB will be suggested (on empowerment) this regard.

1.10 ABBREVIATIONS

COLTS - CULTURE OF LEARNING AND TEACHING SERVICES

IQMS - INTEGRATED QUALITY MANAGEMENT SYSTEM

SACE - SOUTH AFRICAN COUNCIL FOR EDUCATORS

SASA - SOUTH AFRICAN SCHOOLS ACT

SGB - SCHOOL GOVERNING BODIES

MGSLG - MATTHEW GONIWE SCHOOL OF LEADERSHIP AND GOVERNANCE

DAS - DEVELOPMENTAL APPRAISAL SYSTEMS

WSE - WHOLE SCHOOL EVALUATION

CEM - CRITICAL EVENT MODEL

NGO - NON GOVERNMENTAL ORGANISATIONS

C.A - COMMITMENT APPROACH

Q.A - QUALITY ASSURANCE

P.M - PERFORMANCE MANAGEMENT

ELRC - EDUCATION LABOUR RELATIONS COUNCIL

EEA - EMPLOYMENT OF EDUCATOR ACT

NEPA - NATIONAL EDUCATION POLICY ACT

GDE - GAUTENG DEPARTMENT OF EDUCATION

FET - FURTHER EDUCATION AND TRAINING

GET - GENERAL EDUCATION AND TRAINING

SAQA - SOUTH AFRICAN QUALIFICATIONS AUTHORITY

LRC - LEARNER REPRESENTATIVE COUNCIL

REQV - RELATIVE EDUCATION QUALIFICATION VALUE

PMDS - PERFORMANCE MANAGEMENT DEVELOPMENT SYSTEM

ETQA - EDUCATION TRAINING QUALITY ASSURANCE

1.11 GENERAL

Annexures are appended to the back of this dissertation.

The Harvard Method for source reference is used.

Where no sources are mentioned, the specific instance relates to own research.

1.12 CHAPTER SUMMARY

This chapter has provided an orientation to the research, defining the problem, determining the objectives and demarcating the research method to reach these objectives. The chapter division has also been identified.

The next chapter will provide roles and responsibilities of various stakeholders in education.

CHAPTER TWO

ROLES AND RESPONSIBLITIES OF VARIOUS STAKEHOLDERS AND DEVELOPMENTAL PROGRAMMES

2.1 INTRODUCTION

The Public School System in South Africa was one of the main arenas in the struggle for political freedom, although it may be said that the development of Labour Relations in the Education Sector was less controversial than that of the other spheres. In spite of the struggle, educators did not go on strike on a large scale or for long period, and the reason for strike action were not so much linked to labour matters as to political issues. In the 1980's and early 1990's, some of the teacher unions were very active in their numerous campaigns to bring about the abolishment of "apartheid". The struggle slogan "Liberation before Education" had a severe negative impact upon the education process in many schools. (Rossouw, 2004:9).

To determine the scope of the Development of Labour Relations in Education, the changes in legislation over the years may serve as an indication. Prior to the introduction of the Public Service Labour Relations Act, 105 of 1994, all persons employed by the state (including teachers) did not have access to the Labour (on Industrial) Court of statutory bargaining mechanisms (Grogan, 2000:9). Being excluded from the 1956 Labour Relations Act, their conditions of service were determined by the Public Service Act, 103 of 1994, these acts have provided bargaining forums and conciliation boards for the resolution of grievances for the first time.

Grogan (2000:9) states, that ...both extended the use of fair labour practices jurisdiction to public service servants and education workers and gave them access to the industrial and labour courts appeal, a well as the freedom to strike." The Education Labour Relations Act, 146 of 1994 was repealed soon after its promulgation by the Labour Relations Act, 66 of 1995 Van Kerken (in Oosthuizen, 2000:115).

The year 1994 also marked the implementation of the Educations Employment Act, 138 of 1994. In 1998 the Employment of Educators' Act, 76 of 1998 was repealed the 1994 Act, with a slight change to the time. Section 37 of the new Act states: "The Employment of Educators' Act, of 76 of 1998 has been amended on a regular basis, marking the dynamic development of the general Labour Legislation, as well as changes in Education Labour Relations. The Amendments Acts are as follows:

- Education Laws Amendment Act, 48 of 1999.
- Education Laws Amendment Act, 53 of 2000.
- Education Laws Amendment Act, 57 of 2001.

Until 2000, Chapter 3 of the Employment of Educators Act, 76 of 1998 consisted of the provisions regulating the South African Council for Educators.

This was taken out of the Act when the following act was promulgated.

- South African Council for Educators' Act, 31 of 2000.

To specify the conditions of service of educations, the Personnel Administrative Measure (PAM) was published in the Government Gazette, 1976 (Notice no. 222) on 18 February 1999.

The constitution of the Education Labour Relations Council (ELRC), formed a bargaining council for all employees to whom the employment of Educators Act, 76 of 1998 applies, with the purpose of promoting peaceful labour conditions.

2.2 RESPONSIBILITY OF VARIOUS STAKEHOLDERS IN EDUCATION

2.2.1 Employees in education sector

The statutory definition of an educator as an employee is equally important, because many individuals, other than educators, have an educational institute like a school as their workplace. The definition of an educator set by the Employment of Educators Act, 76 of 1998, is as follows."

"Educator means any person who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and educations psychological service at any public school, further education and training institutions, departmental office or adult basic education centre and who is appointed in a post on any education establishment under this Act."

2.2.1.1 Employment rights of employees

All educators should know their rights and duties (as employees) they have to their employer. They become officials of the employer, and have to perform duties on behalf of the employer. It is also essential for both parties to know what obligations the employer has towards his or her employer.

2.2.1.2 Labour rights of educators

The International Labour Organisation has defined a certain number of 'Workers Rights', some of which ...have been granted to South African Workers in certain sectors through amendments to the Labour Relations Act in 1981, and subsequently in 1991 (Pons & Deale, 2001:1/12).

Pons and Deale (2001:1/12) also mention that the current Labour Relations Act, 66 of 1995, was amended in 1996, not only to broaden workers' rights even further, but also to increase the level of accountability by Law.

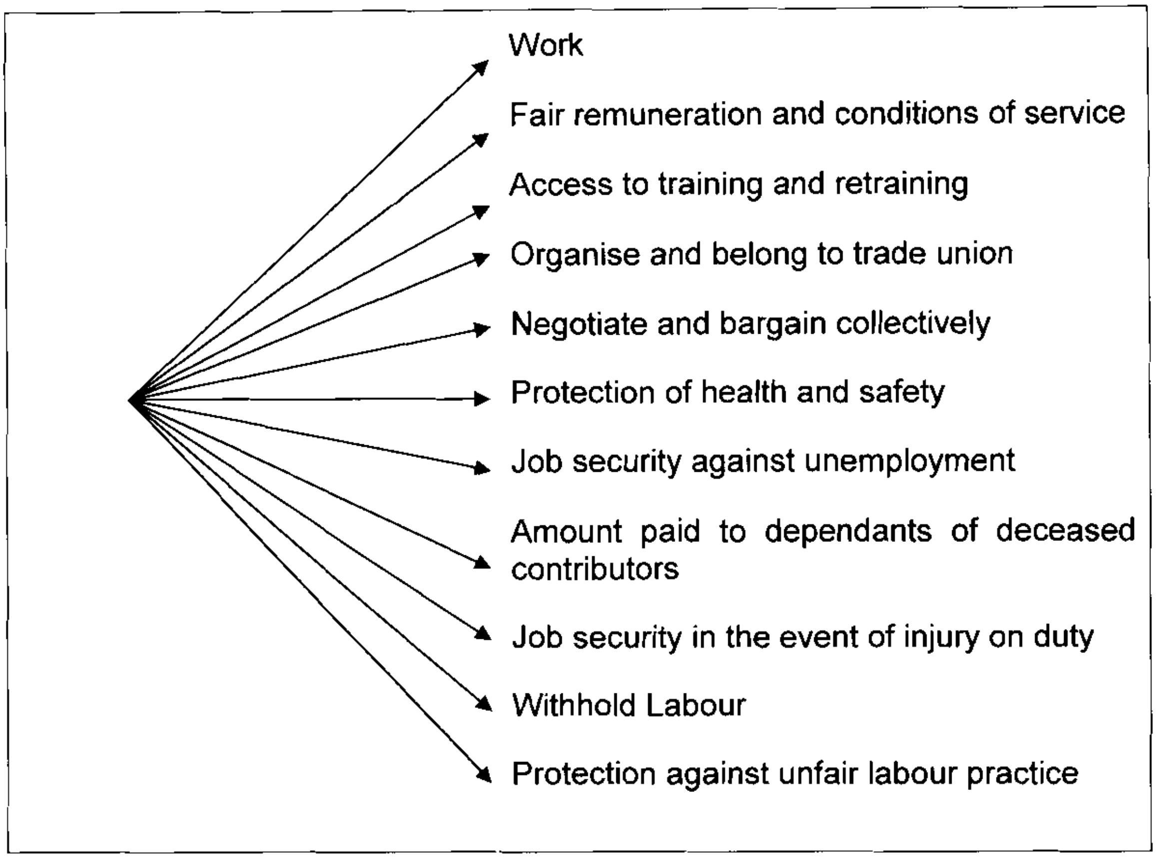


Figure 2.1: Labour rights of employees

Source: Pons and Deale (2001:1/22)

It should be noted, that the right to work does not imply an obligation on the part of the state or any employer to make any occupation available. It just means, that all people in the country may make themselves available for work, offering their skills and time.

2.2.1.3 Duties of educators as employees

In any employment contract, there usually are references to the rights and duties of both employees and employers. The duties of educators can also be found in codes of conduct that exist; for instance, codes of professional ethics developed by the South African Council for Educators (SACE). At the beginning of 2003, the management of SACE adopted the name, Code of Professional Ethics, in the places of the Code of Conduct (Kikine, 2003:1) and by so doing, they stressed the element of professional, as well as ethical conduct expected from all educators (Annexure A). The promulgation of the South African Council for Educators' Act, 33 of 2000 ensured the continued existence of SACE.

It is a professional body of educators that regulates the teaching profession regarding professional ethics" (Shaba *et al*, 2003:123.) Public Schools are also bound by this act, but also educators in independent schools (unlike the Employment of Educators' Act).

Sheba also mentions that the SACE is completely independent of the Department of Education, but that it has links with the department as well as with trade unions in professional matters. Kikine (2003:1) also mentions, that the SACE obtained legal jurisdiction in April 1998.

The common law is another important source for determining the duties of employees in this regard. Squelch (1999:15) gives the duties of employees, as indicated by common law

(Figure 2.2)

In a negative way, the information on misconduct, as outlined in detail in the Employment of Educators' Act, 76 of 1998 and comprehensively amended in 2000, may give an educator a clear picture of how not to act. This is a reliable source for any educator who wants to know what his or her duties are, and what may be regarded as proper, professional conduct.

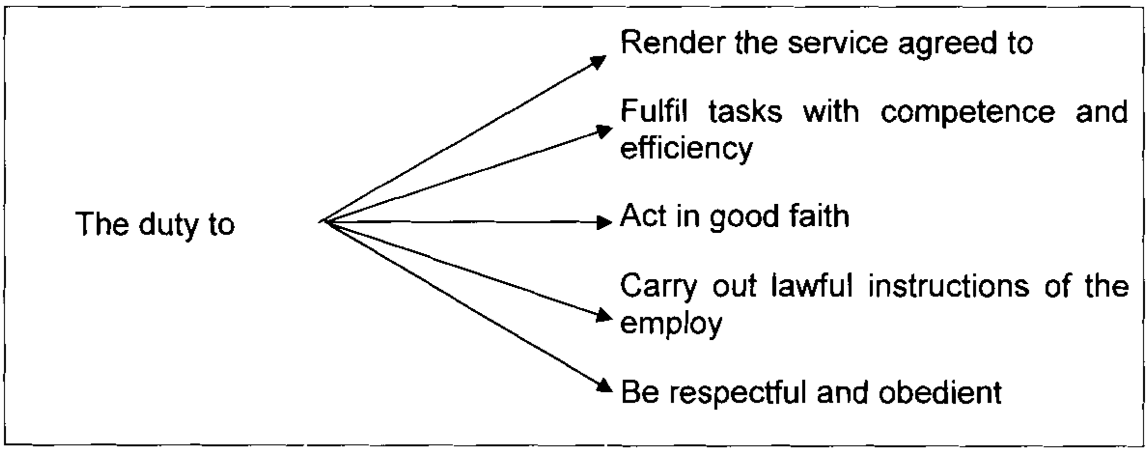


Figure 2.2: Common law duties of employees

Source: Squelch (1999:15)

The immature learner is placed under the authority of the educator as an adult to ensure the creation and maintenance of security and a secure environment that forms the basis of the subject Education Law. Oosthuzen (2000: 65) explains the characteristics of discipline. The most important element of discipline, is creating order, fairness, protection, spiritual development, prospectiveness and correction.

Liability for learner safety is another important duty of an educator. The in loco parents function of every educator as determined by common law, leads to the concept of "duty of care".

The professional conduct of educators is also very important. In compliance with Section 29 of the Constitution, one of the primary duties of all educators, is to protect learners' right to education. In the previous paragraph, discipline and authority were discussed. Educators' professional conduct, however, involves a number of other duties as well.

Joubert and Prinsloo (2001:4) refer to the following duties.

- Formulating learning outcomes
- Planning and preparing lessons properly
- Continuous assessment of learners to ensure proper standard, as outlined in the G.D.E Circular 22 of 2002.
- Regularly consulting and involving parents
- Performing certain administrative duties, as outlined in G.D.E Circular 129 of 1998.

Many more may be added. To summarise, educators should assist the principal in facilitating a visible, positive culture of learning and teaching at their schools. This culture should be created, reinstated where necessary and maintained.

2.2.2 Employer in the education sector

Ownership and control are regarded as synonymous in many traditional definitions of the term 'employer'. The term is more complicated than this, however, for the contemporary business is seldom owned and managed by the same people.

The concepts of ownership and control have become separated, however. Since the shareholders have very little to do with the daily running of the organisation, this function has shifted onto their appointed agents, the management of the organisation. In terms of labour relations and the regulation of the employment relationship, it is the manager who has come to be regarded as the employer (Grossett & Venter, 1998). This results in an anomalous situation, since the manager is in fact an employee, appointed by the owner of the organisation; it is to the manager that all questions and actions will be addressed by the employees of the organisation. The role of manager as employer will now be discussed.

The term 'management' refers to that group of individuals, arranged hierarchically from supervisor to managing director, who are charged with the daily control and functioning of the organisation (Grossett & Venter, 1998). Although each manager is specific in his or her function (for example, the human resource manager will concentrate on the human element of the organisation), management as a group must realize and share the common goals and intentions of the owners of the organisation, and must, therefore, act as a cohesive and concerted force. Thus, while individual departmental managers are seen to be satisfying the needs of customers (marketing), reaping the benefits of sound investments (finance), or realizing the potential of people (human resources), all these individual objectives are geared towards the common goal of profit maximization, or of creating wealth for the shareholder. The attainment of this common goal is the responsibility of management as agents of the shareholders, and the divergence between ownership and control is thus reduced.

It should be noted that, in the public school as an educational institution, the principal acts as the representative of the employer, who may either be the Head of Department (HOD) or the M.E.C on a specific provincial department of education, depending on the aspect of employment. The principal may, therefore, be regarded as the "quasi-employer" of the staff members, especially in disciplinary matters; it is his or her duty to handle the informal phase of the investigation (Rossouw, 2004: 29).

2.2.2.1 Employment rights of the employer

Management as employer has the fundamental rights like any other person and also has the following rights granted by labour legislation that was developed from common law.

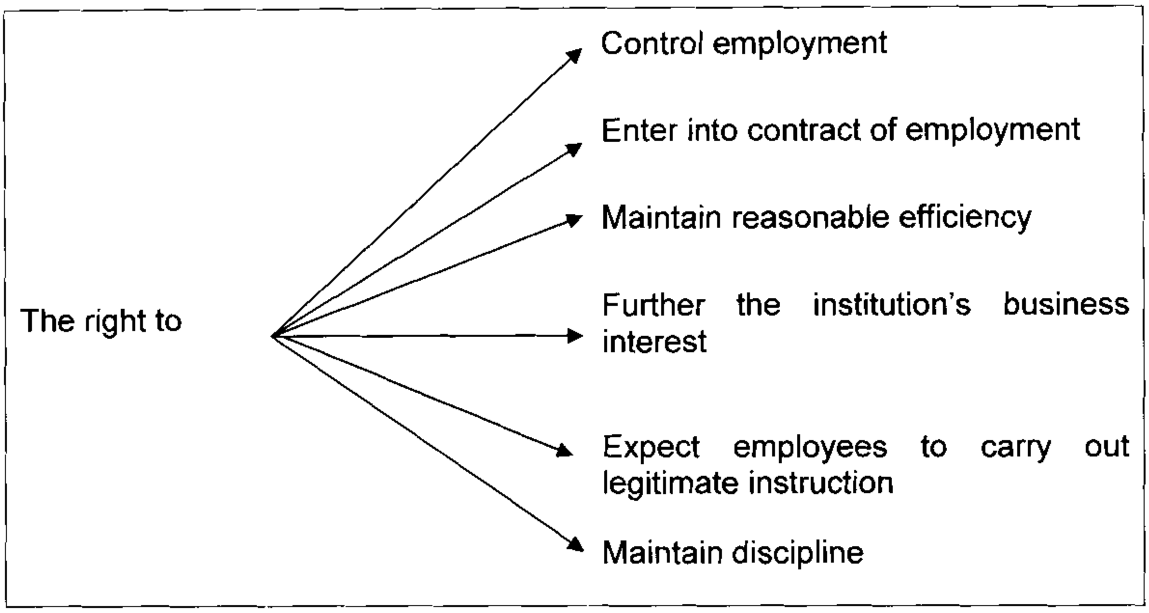


Figure 2.3: Labour Rights of Employers

Source : Pons and Deale (2001:1/22)

It has already been mentioned that most rights lead to certain duties and obligations. Duties of employees are, therefore, explained in the following paragraph.

2.2.2.2 Duties of managers as employers

Employers can find their duties with regard to their proper conduct towards employees in the code of good practice: dismissal, contained in schedule 8 of the LRA, insofar as it relates to discipline. In a modified version, this code was included in Schedule 2 of the Educational Laws Amendment Act, 53 of 2000, and thus became part of the amended Employment of Educators' Act, 76 of 1998. In common law, certain duties of employees were developed as set out below by Squelch (1999:15).

The duty to

- Receive employees into employment
- Remunerate the employee
- Provide necessary facilities
- Provide safe and healthy working conditions; leave
- Observe statutory duties, for example to grant reasonable leave and observe working conditions

Figure 2.4: Common law duties of employers

Source: Squelch (1999:15)

2.2.2.3 Role of principals as leaders of institutions

Instructional leadership as a model for educational leadership, rose to prominence in America and the Western World in the 1980's. Bush and Glover (1995) define instructional leadership as it focusing on -

"...teaching and learning and on the behaviour of teachers working with students. Leaders' influence is targeted at student learning via teachers. The emphasis is on the direction and impact of influence rather than the influence itself."

Within South Africa, instructional leadership has taken a centre stage position and school principals are urged to concentrate on producing better exam results and better-educated children through becoming more involved in the roll-out of the curriculum.

Within Gauteng, training programmes for principals and others have focused on instructional leadership, but not without problems. Often this approach has been to the detriment of creating a better-organised school structure and system – ignoring the macro-picture to concentrate on the micro-picture, *important though both may be. It has in some cases unwittingly focused* attention away from issues such as school welfare, school life and the creation of learner self-esteem – often forgotten because they are labelled psychological skills, deemed not to be so essential in a system that favours managerialism and the measurement of outcomes above all others.

South African practitioners have identified two major weaknesses of Instructional Leadership. The work of the National College of School Leadership in the UK, concurs and records these as follows

- It underestimates (and often negates) the other important purposes of education, including learner welfare, socialization and the process of developing young people into responsible adults. It also de-emphasises the less academic aspects of education, including sport, drama and music.
- It says little about the process by which instructional leadership is to be developed. It focuses on the 'what', rather than the 'how' of educational leadership. In this respect, it is a limited and partial model. (Bush, 2003:186)

Sweeney (1982:143) attempted a deeper analysis of the notion that effective Instructional Leadership leads to positive learner outcomes. He focused on the processes within the school as opposed to alluding to a casual relationship between effective leadership and positive learner outcomes. Using a case study methodology, Sweeney identified six characteristics common in all effective schools, namely:-

- Direct, decisive and consistent support for teachers.
- An orderly atmosphere conducive to learning, but not rigid.
- A principal who takes decisions and communicates these to teachers, and students.
- Principals who set the tone for the school (Weber, 1971) and assumes responsibility for availing resources to teachers.
- Ongoing and structured assessment of students.
- High emphasis on achievement.

Studies since the early 80's confirm Sweeney's findings and refer particularly to the work of Prof. Pam Sammons at the Institute of Education in London, throughout the early 90's an analysis of his six propositions highlights, that school leaders need not just to be involved with the curriculum, by supporting and availing resources to teachers, but they need to create the atmosphere in which effective teaching can take place.

What is interesting from this early work of (Weber, 1971), is his findings around the decisive role that reading ability plays in learner achievement. Contrary to the findings of the Coleman Report, Weber proves that schools with different socio-economic status performed in the same way, where reading abilities were similar. This could offer an interesting pointer for South Africa and for the way schools construct their reality and teaching experiences. It raises the question as to whether Gauteng and other provinces should be offering Instructional Leadership training through an initial framework that considers reading objectives and reading activities.

However, Sweeney in 1982 concluded, that there is a danger in generalizing about the findings of these studies, which focused mainly on urban schools inhabited by children from the lower socio-economic strata. He also acknowledges that there are other in-school factors beyond the role of the principal, which are equally important, for example the role of teachers and learners. Gauteng is primarily an urban province and maybe a closer look at the importance of successful reading skills as an integrating factor in a school improvement model, should be looked at. Gauteng could develop a research process that looks at the role of reading and the principal in more advantaged schools, which would offer further insights into the whole debate.

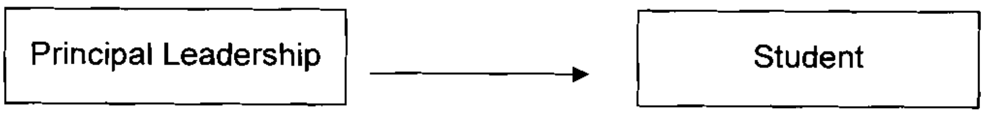
Hallinger (1993:104), using fairly unsophisticated research tools, reviewed 40 journal articles published in the period 1980 – 1995 and analysed the relationship between principal leadership and learner achievement. The authors acknowledge the widely accepted notion that good schools with good results are led by able principals. These principals were identified as not only able leaders within a system but also instructional leaders who take a keen interest in curriculum matters. A causal relationship between this style of principal leadership and learner-improved performance was identified.

Research in the 1990,s began to move away from a direct-effects conceptualization to exploring mediated-effects of the principal's role. The research studies also used far more sophisticated research tools, for example structured equation modelling (Hallinger & Heck, 1996), and were able to begin to see different interrelationships between the principal's role and the school as a whole.

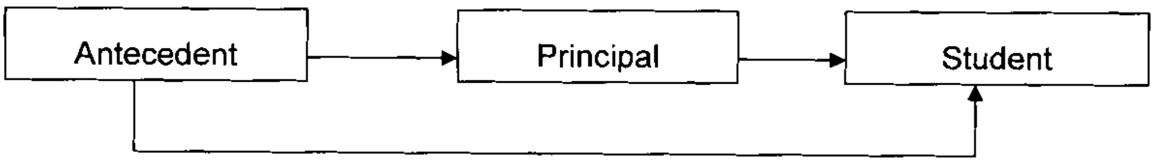
It is to be noted, that even in the earlier research studies, the crucial relationship between school leadership and learner achievement varied in different contexts, as illustrated in the work of Van de Grift (1989, 1990) in the Netherlands.

Hallinger and Heck (1996) categorized their 40 earlier studies into the following five models.

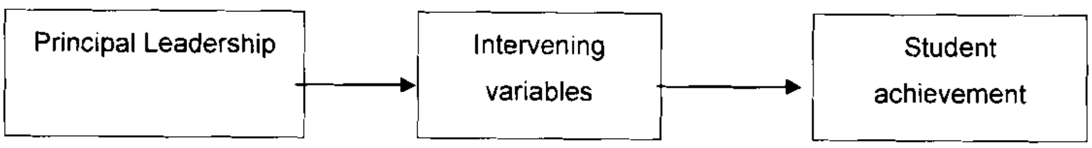
Model A: Direct-effects Model



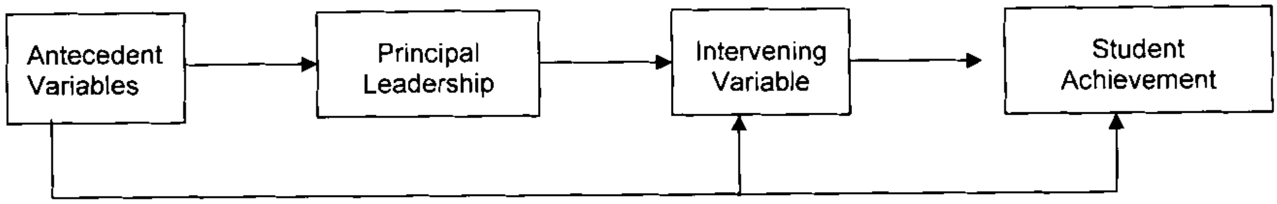
Model A1: Direct effects with antecedent effects



Model B Mediated effects



Model B1 Mediated effects with antecedent effects



Model C Reciprocal effects

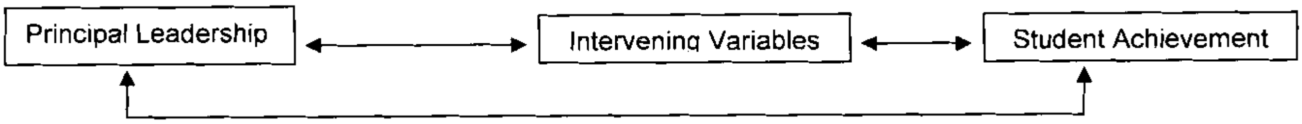


Figure 2.5: Modelling principal effects on school effectiveness

Source: Hallinger and Heck (1996)

A - Direct-effects Model

A1- Direct-effects with antecedent effects

B - Mediated effects

B1- Mediated effects with antecedent effects

C - Reciprocal effects.

The analysis was not conclusive but once again acknowledged the pivotal role played by the principal indirectly or directly in learner achievement. It proposes that there needs to be a deeper and more sophisticated attempt to explain the relationship between school leadership and student achievement. Instructional Leadership, as defined, would be seen mainly as falling under Model A.

The principal is not directly involved in the teaching of learners but is involved in ensuring that the correct contextual factors and variables are in place for effective teaching to occur and in that way has a direct impact of learner achievement.

2.2.2.3.1 Transformational leadership

Transformational Leadership is a form of leadership that assumes that-

"...the central focus of leadership ought to be the commitments and capacities of organizational members. Higher levels of personal commitment to organizational goals and greater capacities for accomplishing those goals are assumed to result in extra effort and greater productivity." (Leithwood, *et al*, 1999: 9.)

According to Leithwood (quoted by Bush, 2003:46) conceptualizes transformational leadership along the following eight dimensions:

- Building school vision
- Establishing school goals
- Providing intellectual stimulation
- Offering individualized support
- Modelling best practices and important organizational values
- Demonstrating high performance expectations
- Creating a productive school culture
- Developing structures to foster participation in school decisions.

From this one could conclude, that transformational leadership presents a normative approach to school leadership, whereby leaders seek to influence school outcomes, rather than on the nature or directions of those outcomes.

Previous work of Leithwood (1992) shows, that he uses the analogy of Type A and Type Z organizations, related to an industrial context, to describe schools as organizations and the leadership that runs them. Type a organisations are hierarchically structured organisations with clearly delineated levels, not dissimilar to our large Corporations. Type A organisations are characterized by top-down decision making. Type Z organisation are not rigidly structured and are characterized by high levels of collaboration, not dissimilar to an advertising agency. He argues that successful organisations and successful schools are both Type Z organisations. He further says, that perhaps the most appropriate leadership style for restructuring schools is Transformational Leadership (especially within a period of intensive change) and not necessarily Instructional Leadership.

The proposition is, that schools in transition need to be led democratically and should not be told what to do. (This offers an interesting reflection point for Gauteng Schools. Where are the schools in the process of transition and transformation? What type or styles of leadership are found in schools?). Leithwood's work sees leadership as focused on the organisation as a whole, and this is the main purpose of leadership.

In Gauteng, during the early 90's, models of training concentrated on developing transformational leaders. The emphasis was on getting school systems and structures in place and this was seen as the role of the principal. The importance of the development plan as a central tool around which, and by implementing it, all aspects for change could be prioritized; this was nominated and accepted, and it was this that the principal used to guide transformation.

Hallinger (1993:124) reviewed the evolvement of models of Instructional Leadership and Transformational Leadership over a period of 25 years. He found that the 1980's influenced by the School Effectiveness movement, propagated Instructional Leadership as the model of choice. The role of the principal as an Instructional Leader is that of directing, coordinating and controlling the school and teachers. The early 90's were characterized by Transformational Leadership as the model of choice. The single most important feature of Transformational Leadership is, that there is a focus on *leadership* as opposed to the *leader*. The principal is not directly involved in the teaching and learning process of learners but creates an environment conducive to innovative practice. The twenty first century has been characterized by the re-emergence of Instructional Leadership, which can be substantiated by the increase in programmes targeting principals, the focus on the measurement of learner results and in South Africa the redesign of the curriculum to be outcomes-based.

Hallinger(1995) concludes by saying that there is no single leadership practice that is appropriate at all times. He describes School Improvement as a journey requiring the use of different leadership models at different times. This type of an eclectic approach to leadership he calls the *contingency model of leadership.*

2.2.2.3.2 Integrated leadership

Previously, Instructional Leadership was defined as the sole responsibility of the principal who gives directives and support to teachers. The notion of Shared Instructional Leadership was introduced, which means that the principal moves collaboratively with teachers or groups of teachers to define and set curriculum and assessment, standards and practice. They further argue that it is a picture of Shared Instructional Leadership with Transformational Leadership, defined as Integrated Leadership that is needed in our 21st century schools.

Marks and Printy rigorous and complicated qualitative research procedures, which uncovered useful evidence for the claim made in favour of Integrated Leadership. As part of the study, detailed interviews, observations and case studies were also made. MGSLG proposes that the Integrated Leadership model is what is needed in Gauteng, and that this model should be explored in training and capacity building programmes.

2.2.2.3.3 Leadership and the postmodern era

Starrat (2001) examines the significance and usefulness of democratic leadership in the postmodern era. He looks at the constraints of democratic leadership with regard to racism, sexism, and class, and in doing so examines at length the following underlying themes.

- Representative democracy in the American context
- American pragmatism with reference to the writings of J. Dewey

- The constructivist approach to knowledge.

Starrat proposes that each of these perspectives can be considered in the practice of the democratic school leadership. He says that from the three principles above, it can be acknowledged that in the twenty-first century-

- schools have existed in a partially compromised democracy
- children will learn that which is useful and practical to them and this should be informed by civic responsibility, and
- there are no solid and undisputed answers to key issues and problems in education and we are constantly learning, unlearning and relearning new knowledge.

What does this means for South Africa and more particularly, our Gauteng schools? It is assumed that democracy underscores how schools operate but a reflection on the weaknesses of the two discussed models of school leadership, shows that democratic principles can be assumed to be in place, but in fact are forgotten/usurped by a leader neglecting to consult properly, who withdraws from debates and does not support classroom interventions positively, who manipulates teachers to follow the vision of the school, who is only concerned with results (the what) but not how these have been achieved.

Gronn and Ribbins (1996) argue, that the leadership debate has not been discussed fully within the opposing perspectives of the positivist era. They further argue, that in analyzing the roles leaders play in school improvement, this has happened without acknowledging the importance of the institutional context in defining the positive or otherwise meaningful impact of leadership. They propose ethnography and biography as alternative perspectives to understanding leadership. The School leadership literature emphasised agency and voluntarism in a naïve and simplistic manner as a means of defining leadership. They argue that we can understand leadership only through understanding context and that some of the studies that have given some reference to context, have been done badly and in a hazy manner.

What is acknowledged is, that institutional context "predates" and "postdates" the lives of particular individuals who inhabit them. The contexts include, inter alia, social class, caste, status, political affiliations, gender, ethnicity and religion. In South Africa, it is important to pay particular attention to the range of different contexts, so the concept of 'one-sock-fits-all" as an approach to training school leadership, is not relevant. Differences should be acknowledged in interventions and training programmes accordingly. In summary, the post-modern era challenges us to think about leadership within the framework of our contextual reality, which is not just broadly democratic, but is also about "who we are and where we come from". It implies adding another layer of thinking to the integrated leadership model.

As a reflection point, consider the work of Gronn(1999) who makes a distinction between the following four stages of leadership.

- Formation
- Accession
- Incumbency
- Divestiture

He argues that each stage is different and requires unique interventions. This work supports the notion that leaders at different stages of leadership need differentiated and customised interventions. Gronn (1999) offer useful insights into the leadership debate by focusing on context. They also suggest, that ethnography and biography could be useful tools for providing in-depth discussions about how and why schools improve.

Harris (2003) in a study commissioned by the National College for School Leadership (UK), researched ten designated poorly performing schools, which were beginning to show improvement. Through a process using a literature review, structured interviews and case studies, the researcher suggested the following observations regarding the 10 schools.

- Leaders in these schools did not subscribe to or use one style of leadership at all times.
- School leaders applied a leadership style appropriate for that particular situation.
- Generally the style of leadership used, could be defined as democratic or transformational or invitational.
- School leaders had clearly defined visions and values that were communicated to teachers, parents and students.
- School leaders were guided by the belief that every child can succeed and can be motivated students to achieve high standards.
- School leaders also paid attention to the need for professional development, for themselves, teachers and support staff.
- School leaders were good at initiating and sustaining relationships of trust between teachers, parents, students and the wider community.
- School leaders encouraged a culture of mutual sharing of skills, especially teaching skills (collaborative culture).
- School leaders possessed high levels of emotional intelligence.

Harris (2003) concludes, that in the quest for formulae to improve schools, issues pertaining to leadership are complex and there are no simple leadership practices that can be applied to all the different types of schools at all times. Her work concurs with those of other researchers discussed previously. It confirms the need for an integrated leadership approach that considers the context in which leaders and schools operate.

The focus on poorly performing schools in the study by Harris, follows on the work at the University of Nottingham in the UK where Hopkins and Harris (1997) identified a need to focus school improvement efforts on the different growth stages of schools, rather than aim to find universal school improvement strategies.

They categorise schools into three types.

- Ineffective/failing schools
- Low-achieving schools
- Effective schools

They argue that the three categories of schools need different intervention strategies. Ineffective schools need a change of leadership, high levels of external support and basic communication and organisational strategies. Low-achieving schools need to experiment with different leadership styles, low levels of external support and a willingness and space to explore different teaching strategies.

Effective schools also need intervention strategies if they are to remain effective. These schools do not need external support, but could improve by exploring new ideas through partnerships.

The contributions by Hopkins and Harris (1997) are useful as they make one think more critically about the appropriateness of interventions. They remind us that intervention strategies usually assume that schools are homogenous. This assumption results in schools not benefiting from what is offered and only incorporating information and practice relevant to their needs. In other words, schools are selective in what they absorb and use. Hopkins and Harris (ibid) also note, that schools are dynamic and not static in nature. This serves as a warning about simplistic categorisation of schools. It is important to keep monitoring schools to see if the categorisation changes or not, to focus on the growth stage of each school and not only present a delineated categorisation.

2.2.3 Trade unions

Trade unions are organisations formed to look after their members and improve the conditions under which they live and work. They are regarded as the voice of the people in the workplace. Although they were initially established to protect workers against exploitation, there has since been a shift in emphasis to the protection of the employee's total well-being. The most recent emphasis in South Africa is on generating money for the implementation of job-creation programmes.

The right to freedom of association is one of the fundamental rights granted to South African Citizens by section 18 of the Constitution (SA, 1996a). Freedom of association is also guaranteed by section 4(1) of the LRA (SA), 1995b), as it states that every employee has the right to participate in forming trade unions or federations of trade unions, and to join a trade union, subject to the Constitution (SA, 1996a).

If a contract of employment between educators and SGB's directly or indirectly contravenes or limits the freedom of association, section 5(4) of the LRA (SA, 1995b) provides that such a contractual provision will be invalid.

Grobler *et al.* (2003:486) define a union as an organisation of workers to further the economic and social interests of its members.

Although the reaction to trade unions is often hostile, trade unionism, collective bargaining and even strikes are accepted as important elements of a democratic society, as they provide a means of expression for the educators' view on matters of society (Basson, 1998:3)

Nel (2005:11) point out, that employers generally have more power in labour relations because they control most resources. The reality of this traditional power imbalance between employer and employee has led employees to join forces and form representative bodies (trade unions) to negotiate with employers on their behalf.

Other reasons for joining trade unions are, according to Grobler (2003:487-488) obtaining job security, fair wages and benefits, better working conditions, fair and just supervision and mechanisms to be heard.

By standing together through unions, educators can increase their power base, improve their chances of promoting greater organisational and social justice and ensure greater distributive, procedural and interpersonal justice (Basson, 1998:2). As members of a trade union, educators will be served and protected, as the union will bargain with employers or employers' representatives on their behalf, will challenge unfair managerial decisions and will protect them in interactive processes about their employment relation matters.

Trade unions strengthen employees to such an extent, that their negotiating force is often equivalent or superior to that of their employers. The advantages definitely outnumber the disadvantages.

2.2.3.1 The functioning of trade unions

According to Nel *et al.* (1998:40) trade unions are permanent informal organisations created by workers to-

- protect themselves at work
- improve the conditions of their work through collective bargaining
- seek better conditions concerning their lives and
- provide a means of expression for the workers' view on matters of society.

Although trade unions may function without registration, only registered unions in terms of Section 95 of the LRA (SA, 1995b), with sufficient representation of the employees in an organisation, have bargaining and organisational rights.

These organisational rights as stated by Basson (1998:38) are-

- the right of access to the workplace in terms of section 12 of the LRA (SA, 1995b) in order to recruit new members, to communicate and meet with members and to serve the interests of its members;

- the right to deduct their levies or subscription fees from the wages of its members (section 13 of the LRA; SA, 1995b);
- the right to elect and appoint union representatives in accordance with section 14 of the LRA (SA, 1995b);
- the right to leave for representatives concerning union activities; and
- the right to the disclosure of relevant information by the employer.

2.2.3.2 The objectives of the trade unions

According to Grogan (2000:275) the primary objectives of trade unions, are to-

- engage in the collective bargaining process;
- represent members in grievance or disciplinary matters;
- ensure employers' compliance with their statutory obligations;
- challenge unfair managerial decisions; and
- represent workers in interactive processes concerning their employment matters;

Lemmer (1999:36) acknowledges the existence of the following three major educators' unions.

- South African Democratic Teachers' Union (SADTU)
- National Professional Teachers' Organisation of South Africa (NAPTOSA)
- Suid-Afrikaanse Onderwysunie (SAOU).

Each of these unions is related to the key role player: the State.

It must be remembered, however, that a trade union also functions as an organisation in its own right and is, therefore, involved not only in fulfilling the needs of its membership as discussed above, but also i.r.o. organizational matters such as pursuing wider trade union principles and establishing political influence. The following functions of trade unions have been identified (Salamon, 1997: 103-117).

(i) The power function

Although the power function is latent and manifested only in the exercise of the other functions, it can be regarded as the most important function. It provides a collective strength to act as a countervailing force to the employer, as well as a pressure group within society.

(ii) Economic Function

This is another major function of trade unions, which relates to maximizing the wages and employment of their members.

The importance of this function is experienced on the macro–level, where negotiated agreements are often extended to the industry with implications for the economy of the country as a whole. In political terms, in South Africa it may be said that this function refers to the redistribution of wealth by means of trade unions.

(iii) Job regulation

In terms of job regulation, the function of the union is to establish a joint rule-making system which protects members from arbitrary management decisions and allows them to participate in decision-making. It is thus concerned with the protection and enhancement of its members' positions in the employment relationship.

(iv) Self-fulfilment

Trade Unions seek to provide a mechanism whereby individuals may develop outside the confines of their jobs and participate in decision-making processes. Individual members are encouraged to participate in the internal system of their unions, for instance, and to take up representative roles in the collective bargaining system.

(v) The social-function

Some unions view the expression of their members' social cohesion aspirations or political ideology as one of their functions, and they also seek to develop a society which reflects these views. This function can, therefore, be seen as the union's political role in relation to government.

2.2.3.3 The role of shop stewards

Trade unions, like other types of organizations, have certain internal structures to assist them in their day-to-day functioning. The structure and organisation of a trade union will depend on its size and scope of operation. Naturally, the organisation of unions which operate on a local or regional scale is relatively small and closely linked to the shop floor. The structure of larger unions organized on a national basis is, however, highly centralized.

Shop stewards serve as links between the trade union and the workers. In a workplace with at least ten members of a representative trade union, the workers are entitled to choose representatives from among themselves. Trade union representatives or shop stewards remain in the service of the employer, and are allowed to carry out their shop steward duties, either on a full-time or part-time basis. To enable them to carry out their duties, they are normally allowed more flexibility than are other employees. They should be permitted to leave their posts at short notice if a union-related matter requires their immediate attention. Employers will often, especially in large organizations, allow employees to act as shop stewards on a full-time basis in order to promote harmonious union-management relations and to prevent disruptive activities. Full-time shop stewards form a committee to co-ordinate their activities in a particular company, as well as to meet with management.

Shop stewards, as the representatives of the unions on the shop floor, play a key role in union-management relations. They are in a position that enables them to influence substantially the climate of an organisation. Probably their most important influence is the critical function of handling individual grievances (Barling, 1983).

Other duties of shop stewards include the regarding the interests of the union's members in the workplace, shop stewards must provide assistance during disciplinary hearings. They must see to it that the stipulations of agreements are observed and that all activities comply with safety regulations. For the most part, they focus on the proper interpretation of these agreements and the individual and collective rights of their members. They must also advise members in all matters concerning their conditions of service, as well as benefits, for instance, medical and unemployment insurance claims. They must also assist members who are completing and submitting claims (Nel, 1997).

Another important function of shop stewards is their role as office bearers of the trade union. As part of this function, they have to carry out their duties as members of a branch committee. They are responsible for the effective functioning of the branch and must report all matters concerning their members at the branch committee meetings (Nel, 1997) Shop stewards are also responsible for the recruitment of new members and act as their socialization agents. They must encourage members to attend trade union meetings and to participate in discussions.

According to Nel (1997) shop stewards also have to perform a liaison function. This includes the discussion of valid complaints with management and the discussion of the resolutions of management with their members.

Although there are certain advantages to being a shop steward, such as opportunities to develop leadership skills, to learn from management, to learn about human resource management, negotiation skills, labour relations, and law, and to gain status, respect, and recognition, can at times also be a very difficult (Finnemore, 1996). The role of shop stewards is first of all inherently stressful (Barling, 1983). One of their main functions is to initiate and process individual grievances. Dealing with conflict, therefore, forms an inherent part of their roles. Shop stewards find themselves in the middle of the conflict between labour and management. Some grievances may also be caused by conflict between members. Shop stewards may also come into conflict with their own members when they fail to adhere to the members' demands.

A conflict of roles is also often experienced by shop stewards. They fulfil two different roles, with two sets of demands that are very often not reconcilable. On the one hand, they are employees working for the employer, and on the other hand they are office-bearers working for the trade union. One of these roles requires them to display a commitment to the union and to protect its members, sometimes even at the expense of the employer, while the other requires them to display commitment to their employer.

Research conducted by the University of Port Elizabeth (Finnemore, 1996:88) indicates the following negative perceptions of shop stewards regarding their position.

- Workers blame them if they lose a case.
- They experience discrimination and prejudice from supervisors who perceive them as trouble-makers.
- They are seen as traitors by the members when they are promoted.
- They become enemies of managers as well as workers
- They become scapegoats when negotiations fail.

From a psychodynamic perspective, it is argued that shop stewards also fulfil a very important unconscious role in the organisation. Aggression is viewed as an inherent part of human nature, and work itself provides the opportunity to act out this aggression. Because of the de-humanisation of work in modern organizations, there will inevitably be aggression towards management, which results in conflict. Although the majority of workers will avoid acting out their aggression against management, these feelings of hostility and anger have to be deposited somewhere in the system. Because they cannot be aimed directly at the perceived cause of their aggression, namely management, these feelings are projected onto into shop stewards. The function of shop stewards is then, to act out the aggression on behalf of the workers. Salary and wage negotiations are the most appropriate way of acting it out.

2.2.4 School governing body (SGB)

2.2.4.1 Representation

Constituencies that elect representatives onto the governing body, are parents, educators, non-educator staff and, in the case of a secondary school, only learners. Regardless of school size, parents always hold a majority through a 50% plus one member representation, and the chairperson must be a parent member. The rationale for this power balance, is that parents of enrolled learners have the greatest stake in the school's development and the quality of teaching and learning within the school. Moreover, they are the fee-paying constituency. The Act defines 'parent' broadly as including a guardian, a person legally entitled to custody of a learner, or a person who undertakes to fulfil the obligations of ensuring the learner's education.

Another innovation concerns the mechanism for learners to elect their member/s to the governing body in the Representative Council of Learners (LRC). This is the first time South Africa has legislated for a governance structure for learners and by learners in secondary schools. Section 11 of the South African Schools Act states, that a LRC must be established in public schools enrolling learners in the eighth grade and higher. Further responsibility for developing guidelines concerning the establishment, election and functions of the LRC are devolved to provinces. The LRC offers the opportunity at secondary school for learners to experience democracy in student affairs, and through their representatives on the governing body, to engage in democratic structures and practices involving all relevant constituencies of the school community.

The electoral process for governing body members that have a three-year term of office occurs in the same year and over a particular period of time throughout South Africa. The term of office for learners is only one year. Thus, in all public schools the first elections to establish governing bodies were held in 1997 (McPherson & Dlamini, 1998), followed by elections in 2000. Any elections held during the three-year term of office would be to fill vacancies that might arise. Although interest in governing body elections remains localised to date, the simultaneity of this national process in all public schools has the potential for elections to be used as a platform among lobbyists for broad or single-issue socio-political matters that may involve schooling.

2.2.4.2 The composition and structure of school governing body

The membership of a school governing body is clearly stated in many documents of the education department. For instance, the South African Schools Act of 1996 as well as the Education Laws Amendment Bill of 2000, indicates the composition and structure of school governing bodies very explicitly. Moreover, this legislation also states the procedure that needs to be followed and adhered to when establishing the governing body of a school (or a learning institution).

According to the South African Schools Act No. 84 of 1996, a legally established governing body should comprise the following groups of persons.

(a) Elected members
(b) The principal (in his or her official capacity)
(c) Co-opted members

Important to note, is that the elected members of the governing body shall comprise a member or members of each of the following categories.

(a) Parents of learners at the school
(b) Educators at the school
(c) Non-teaching staff at the school
(d) Learners in the eighth grade or higher at the school.

The elected members of the governing body have voting rights in any issue, and they have the duty of accountability to their electoral body or people whom they represent.

The experience of many schools, especially in deprived communities, shows that in a governing body there are illiterate and literate governors. The literate governors are often those members of the governing body who are there by virtue of their jobs. This is to say, the literate governors are often the principal of the school who is the ex-officio member in the governing body, and teacher governors. This is not to suggest that all parent governors are illiterate. Of course, some if not all, may be literate.

It has to be noted that governors who are elected by their constituencies are governors by virtue of their election. Thus, elected governors have a special kind of relationship to their constituencies. The representative link between governors and their constituencies is the basis of their legitimacy. Yet, there is no legal obligation or requirement to report back to their separate constituencies.

However, it is important for governors to report back to their constituencies if they are to represent the views of their constituencies in the governing body. Without trying to echo what has been said earlier on, governors have a duty of responsibility to their electoral body. This means that governors have a duty to set up a system of reporting to their constituencies.

Many people would think that teachers have no say in terms of how a school should be governed. This is a wrong kind of thinking because teachers, being stakeholders, have a right to play a full and meaningful role in the governance of the school through their representatives in the governing body. The teacher governors need to set up a system to communicate with their colleagues before and after meetings, as they have a duty to do so (Creese, 1997: 29).

Simply put, teacher governors serve as liaison officers between the staff and the governing body, giving report either ways. Of course, teachers cannot have the final voice on whatever issue is being discussed in the governing body, but their voice or contribution in discussions is a significant one. The decision that is taken at a meeting, is not a parent or teacher decision but a governing body decision, as it has to be agreed by all the governors present at that particular meeting.

It is necessary to explain what "co-opted members" in the governing body mean. The co-opted members of the governing body are from the community, they are community members who are invited to be part of the governing body. Important to note, is that in normal circumstances where the elected members of the governing body represent the racial composition of the learners of the school, co-opted members do not have voting rights. However, if the members of a governing body are not representative of the racial composition of the learners of the school, then the governing body must co-opt parent members with voting rights from the part of the community not represented (RSA, 2000: 2).

The co-opted members are appointed by the governing body to try and establish a balance of interests. Because of this co-option, they are understandably confused about their responsibility and representativeness. In fact, co-opted governors do not have any duty to others. However, they are likely to have important and useful networks within the broader community. This is because co-opted governors may be the source of skills and expertise, as well as experience, which might not be represented on the governing body. This is to say, the choice of co-opted governors has to be broadly and consolentiously done.

In order to perform and execute its legal duties, a governing body should be constituted of elected members, the principal in his or her official capacity, as well as co-opted members. A legally established governing body should, from amongst its members, elect office-bearers. These office bearers must include at least a chairperson, a treasurer and a secretary. It is only the parent member of the governing body, who is not employed at the school, who may serve as a chairperson of the governing body.

Despite the office-bearers, a governing body may establish committees, including an executive committee, and appoint persons who are not members of the governing body to such committees on the grounds of expertise. In such an instance, a member of the governing body must chair each committee (RSA, 1996a: 9).

Once a school governing body is established, it has to serve the institution for a particular period. The term of office of a governing body is three years, as indicated earlier. However, the term of office of a member of a governing body who is a learner may not exceed one year. Equally so, the term of office of an office-bearer of a governing body must not exceed one year as well. Important to note, is that a member of the governing body may be re-elected.

The legal responsibilities of the governing body are clear and well-defined in various Education Acts. However, there are still many uncertainties about how governing bodies should operate and where the boundary should be between the work of the governors and head-teacher and staff of the school. It is clear, that school governors and head-teachers need to work out, together, the division of their broader responsibilities on the basis of genuine partnership and to clarify their mutual roles to avoid misunderstanding.

Without any doubt, the first duty of a governor, is to get to know the school of which he or she is a governor. This is because governors have a wide range of legal responsibilities and are required to make decisions on many issues affecting the future of their schools (Du Toit, 1998: 8). Therefore, it is necessary that an atmosphere of mutual trust and respect is established between governors and teachers. The relationship between governors and the staff, particularly the head-teacher, is vital in determining the effectiveness of the governing body. This is because the relationship between governors and the head-teacher determines the extent to which a governing body is involved in the management of the school.

It is important for the school governing body to be aware of their legal duties and responsibilities, as well as of the legal rights of the parents. The head-teacher of the school should take the initiative in informing parents of their rights and, also, making sure that these rights are being exercised in an atmosphere of openness and trust (Wiles & Bondi, 1983: 275)

The right of the parents include the right to educate their children, the right to keep their children out of school for religious observances, the right to be fully informed of the educational process, i.e. what is being taught, how learners are grouped for instruction and how the curriculum is organised, the right to be informed about school policies and even influence them, and the right to know about the strengths of teachers and of the head-teacher as well (Creese, 1997: 26).

One of the responsibilities of SGB's is to employ new educators. With regard to the employment of educators, school governing bodies are responsible for the recommendation of educators to be appointed by the education department (RSA, 1998c). However, in recommending an educator for an appointment, the governing body needs to follow certain guidelines, i.e. advertisement of vacant posts, conducting interviews and the nomination of successful candidates. In the nomination of successful candidates the governing body need to be conscious of the right of individuals to fair and just administrative actions and, to be conscious of their legal responsibility.

In order to effectively discharge all the required functions, the SGB's have to establish a mutual working relationship between all the stakeholders. It is important to highlight that all governors have the same powers and the same rights. However, there are a few minor exceptions in the co-opted governors, that if a governing body of a learning institution represents the composition of learners of the school, then the co-opted members do not have voting rights.

Having highlighted the duties and responsibilities of the governing body, it is also vitally important to describe the role of the chairperson of the governing body. The chairperson heads the governing body. The job of the chairperson can be divided into a number of parts. As Nigel (1998) states. "First, the chairperson manages the governing body which, of course, ensuring that policies and planning are up-to-date, communicating with individual governors and committees, communicating with the principal and other staff, evaluating the performance of the governing body, that all governors are trained and participate fully and, also, ensures that the decisions taken by the SGB are enacted".

Secondly, the chairperson leads meetings which, of course, include inducting new governors, protecting vulnerable governors, preparing and planning for meetings, and defining, as well as practising the qualities of a good meeting, i.e. constructs and agrees the agenda for meetings, together with the head-teacher and secretary, plans and keep good order at meetings, ensures that all governors receive relevant information and materials, ensures that the rules that keep governing bodies democratic, are well-known and followed by governors, listens and also is a critical friend of the principal.

Thirdly, the chairperson has to lead the school. This includes maintaining good and close relationships with the head and other staff, mediating and listening to problems, as well as complaints and, also, representing the school and speaking for it at public and internal events.

2.2.4.3 Duties and responsibilities of the SGB

Section 21 of the South African Schools, Act No. 84 of 1996, indicates the following basic functions of school governing bodies (RSA, 1996a: 16). These functions are to-

- promote the best interest of the school and to strive to ensure its development through the provision of quality education for all learners of the school,
- adopt a constitution,
- develop a mission statement for the school,
- support the principal and other staff of the school in the performance of their professional functions,
- determine times of the school day consistent with any applicable conditions of employment of staff at the school,
- administer and control the school, including school hostels, if applicable,
- encourage parents, learners, educators and other staff at the school to render voluntary services to the school,
- recommend to the Head of Department the appointment of educators at the school, subject to the Educators' Employment Act and Labour Relations Act,

- recommend to the head of department the appointment of non-educator staff at the school, subject to the Public Service Act and the Labour Relations Act,
- allow the reasonable use, under fair conditions, of facilities of the school for the educational programmes not conducted by the school at the request of the head of department,
- discharge all other functions consistent with the South African Schools Act as determined by the minister by notice in the Government Gazette, or by member of executive council by notice in the Provincial Gazette,
- develop a budget for the school; this could include school fees for approval at a parent's meeting. Once approved, school fees become compulsory and all parents, except if granted exception, are obliged to pay these.

The powers and functions of governing bodies fall into two categories, thereby enabling some schools to have different levels of SGB participation in school affairs than the SGB's of other schools. The functions in section 20 of the South African Act, as well as the responsibilities in sections 36, 37, 38, 41 and 43, are mandatory for all governing bodies, while those in section 21 are available on application to the head of a provincial education department. The effect is two tiers of governance functions. An exception found in Section 39 is the setting of school fees, which requires a resolution passed by a majority at a meeting of parents. Thereafter, the governing body is bound to implement the resolution.

Section 20, which gives most of the mandatory functions, begins with the overarching role of the governing body. Subsection (1) (a) states, that this is to 'promote the best interests of the school and strive to ensure its development through the provision of quality education for all learners at the school' (Republic of South Africa, 1996b, p.14). In addition, Section 20 requires the SGB to adopt a constitution; to develop a mission statement and a code of conduct for learners and support staff in the performance of their professional functions; to determine times of the school day; to administer and control school property; encourage volunteerism to serve the school; to make recommendations about staff appointments and to allow reasonable use of school facilities for other educational programmes.

Sections 36, 37, 38, 41, 42 and 43 define responsibilities concerning school funding, the keeping of financial records, and auditing and reporting procedures. While parents set the amount that must be paid for school fees, it is the governing body that must enforce payment or allow exemptions, and administer collected funds.

2.2.4.4 Appointment of educators by SGB

There is some background information, which the governing body ought to know about the school if they are to employ or appoint new educators. In order to obtain this important information, governing bodies need to equip themselves with a set of probing questions. This set of questions should include ones such as the following (GDE Circular 5/1999).

1. How big is the school, how many pupils on roll and how many teachers at present? Is the roll rising, falling or remaining stable?
2. How is the school organised? What is the management structure?
3. What are the school policies on matters such as equal opportunities, ethnicity, race and gender?
4. What is the curriculum of the school? How is the national curriculum? applied and what is additional provision in terms of the needs of the community?
5. What activities does the school offer after school e.g. sport, music and dramatic events?

Without a sound and detailed knowledge of the school, it is difficult to see how the governing body can make decisions on issues affecting the school, sometimes with far- reaching consequences, like appointing new educators at the school. In order to have sound and detailed knowledge of the school, the governing body needs to answer the five questions stated above.

Once again, the governing body has to establish a good relationship with the whole staff at the school, and more particularly with the principal. Without trying to echo the above, a good relationship between the governors and the principal is crucial in determining the effectiveness of the governing body and the extent to which it is involved in the management of the school. This clearly shows that both the governing body and the staff of the school need to consider the nature of their relationship and, if necessary, take active steps to improve it.

In terms of appointments, all vacancies in a public school are advertised in a gazette, a bulletin, a circular, or a newspaper (RSA, 1998a). The information to be contained in the latter advertisement should include offices and addresses where the gazette, bulletin or circular can be obtained. The gazette, bulletin or circular is circulated to all educational institutions within the province by the department of education.

The advertisement of vacant posts for educators must be self-explanatory and clear, and it must include the following.

(a) Minimum requirements
(b) Procedures to be followed for application
(c) Names and telephone numbers of contact persons
(d) Preferred date of appointment
(e) Closing date for the receipt of applications.

The advertisement of vacant posts for educators must be accessible to all who may qualify or are interested in applying for such post(s). Moreover, the advertisement must be non-discriminatory and in keeping with the provision of the Constitution of the Republic of South Africa.

Educators who are interested in an advertised post, complete the application forms and send them together with the application letters to the employing department, which is the education department. The employing department will handle the initial sifting process in order to eliminate applications of those candidates who do not comply with the minimum requirements for the post as stated in the advertisement. The employing department will then send the applications to the educational institutions concerned where they will be handled by the governing body or the interview committee of that particular institution.

In terms of the Educators Employment Act (RSA, 1998c) the interview committee of every school must be governing body members, and it should comprise the following persons.

(a) One department representative, who may be the school principal, as an observer and resource person.

(b) The principal of the school, if he or she is not the department representative, except in the case where he or she is an applicant.

(c) Members of the school governing body, excluding educator governors who are applicants to the advertised post(s)

(d) One union representative that is a party to the provincial chamber of the Education Labour Relations Council (ELRC) as an observer.

Important to note, is that the union representatives must be observers of short-listing, interviews and the drawing up of a preference list. The governing body is responsible for the establishment of the interview committee, and it must make sure that all relevant persons or organisations are informed at least 5 working days prior to the date, time and venue of the short-listing, interviews and the drawing up of the preference list. In the event of the school principal being an applicant, then a department official may assist the school governing body.

2.2.4.5 The application of the education policy with regard to SGB

At this stage it is necessary to explain the policy-making process, even though in reality this is not the manner in which government departments set about policy-making. In the process of making policy the social forces, i.e. trade unions, civic bodies, teachers, students, youth, parents, and academics are supposed to set agendas for policy-making. The formulated policy will be accepted, implemented and evaluated. Therefore, the implemented policies result in new agendas being set up and the cycle starts again (Badat, 1999: 21).

Since 1997 school governing bodies have experienced serious problems in the appointment of new educators, because they did not understand the education policy very clearly. As already stated on before, this is evident from many of the incidents which happened in schools as they brought into question the legal role and authority of school governing bodies in the administrative actions that they have performed, particularly in the appointment of new educators.

In order to understand their administrative action, school governing bodies must take notice of certain basic principles of the constitution, especially those in the Bill of Rights. The Republic of South Africa has had a democratic constitution since 1996. The constitution is the highest law in the country and all other laws and conduct must be in accordance with the constitution.

The constitution also requires that school education must be transformed, or changed for the better, and democratised in accordance with the aim and values in the constitution, i.e. human dignity, non-racialism and non-sexism. The democratisation of education includes the idea that stakeholders such as parents, teachers and other people (such as members of the community near the school) must participate in the activities of the school.

It is for this reason that the South African Schools Act No. 84 of 1996 brought about the reforms in education administration by decentralising school governance to the local school communities (Squelch, 2000: 309). In terms of the Act, parent governors should form the majority in the governing body, and they should be office-bearers or take the position of being the chairperson, secretary and treasurer.

Of course, the challenges posed to the decision taken by school governing bodies have shown the importance of the right to fair and just administrative action in the school context. It is clear, as stressed on page 43 of this report, that for school governors and managers in order to perform legally, valid functions they ought to have a good understanding of the scope and context of the just administrative clause in the Bill of Rights and, also, to have a good interpretation of the education policy.

The governance and management of schools are determined and shaped by a variety of legislation and policies with which governing bodies need to be familiar. For instance, the 1993 Interim Constitution, the Bill of Rights and the South African Schools Act of 1996 have a great influence on how schools should be governed (Squelch, 2000: 308).

The Bill of Rights, in particular, forms the basis for the development and implementation of all school policies (Squelch, 2000: 309). The right to just administrative action is one of the major provisions of the Bill of Rights that underpins school governance. For instance, the Bill of Rights defines the following.

1. Everyone has the right to administrative action that is lawful and reasonable and procedurally fair.
2. Everyone whose right have been adversely affected by administrative actions has the right to be given written reasons.
3. National legislation must be employed to give effect to these rights mentioned above, and must-
   (a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal (official judging committee);
   (b) impose a duty of the State to give effect to the right in Sections (1) and (2) above; and
   (c) promote an efficient administration.

The administrative clause in the Bill of Rights clarifies the manner in which administration must function. It does so in order to protect the individual from administrative abuse. Furthermore, it also ensures that administrative action is lawful, correctly performed, and adheres to certain standards of procedural and substantive fairness. In this fashion, the administrative clause contributes to administrative accountability, openness and transparency in management.

It is for this reason that in chapter 33 of the Bill of Rights administrative officials are compelled to provide reasons for their decisions. This is aimed at facilitating fairness, proper administration, accountability and openness. The reasons provided, should measure up with the decision taken, i.e. the more drastic the action taken thus the more detailed the reason should be.

Once again, in terms of section 8 of the 1996 Constitution, the Bill of Rights applies to all law. However, school governing bodies are bound by section 33 of the Bill of Rights. This, therefore, means that the administrative powers and functions of school governing bodies must comply with the constitution and can be tested against section 33 of the Bill of Rights to private persons and organisation such as independent schools.

Without any doubt, there is a need of educative governance for school governing bodies. Educative governance means the kind of governance that takes an account of the context, culture and values which inform the educational aims. In other words, educative governance goes far beyond merely governing for efficiency. Of course, no one can deny the importance of administrative and managerial efficiency because without these two a learning institution can quickly become out of control.

Most often, it is taken for granted that governors and managers in education will have a vision for education, and will work towards this through their own guiding values. However, vision and values can become worth something only when they are enacted. This means that governors and managers have that duty of fulfilling their educative goals.

Of course, most governors claim to have a vision of the way in which their schools might develop. Against this spirit, applicants in schools are often asked how they see the institution developing in the next five years, if they are unable to make a reasonable statement for improvement and expansion, as well as greater prosperity.

It is true that successful applicants may well have a personal vision of what the future of the institution might be. However, if the vision is not shared with the majority, or all in the institution, then it is likely to be unrealistic. Without any doubt, if a vision is unrealistic, it remains a dream. Consequently, visionary applicants often find themselves wondering or left merely reacting to their own resentful feelings about being misunderstood

2.2.5 Role of performance management, DAS, WSE & IQMS in terms of evaluation

2.2.5.1 Background leading to evaluation

Society needs its public service organisations to perform - to create policies and deliver services that are effective in meeting societal needs. Because the performance of our public service organisations has been the subject of so much criticism, Performance Management and Evaluations have occupied a central position in the radical large-scale reforms that have swept through the public sector during the past decade. The South African experience of evaluations within the schooling system has not been a positive one. Among the most important factors that contributed to the "defiance campaign" of 1989, was the ways in which the evaluation and inspection of educators in mainly black schools was perceived and experienced. Educators felt that they were being policed and victimised through inspections. In addition, educators had no access to the reports that were written about their performances and did not know how and why the judgements that were made about them were arrived at. Finally, educators were not given any developmental support linked to these inspections. Generally evaluations and inspections of educators were experienced as policing, negative and faultfinding. Phele (1997) identified the following aspects of educator perceptions as some of the limitations of the system of inspection used: prevalence of political bias; the unchecked power which inspectors wielded; the victimisation of educators based on their organisational affiliation; the secrecy which surrounded the system; and the difficulty of challenging the inspector's report. Between 1989 and 1990 it became impossible for inspectors and subject advisors to go into schools and this led to a breakdown of the inspectorate and the subject advisory services.

Within the organised teaching profession the need was felt to develop an appraisal instrument that would be acceptable to all stakeholders and would enhance the development of competency of educators and the quality of public education in South Africa. Through negotiations, research and piloting of the various proposals in which educator unions participated, a document which represented the good faith which existed between various stakeholders, and embracing the democratisation that is prevalent in education in South Africa, was finalised. The need to restore an appraisal system for educators was, thus, a concern shared by all educator formations and ex-departments of education. By **1993**, all educator organisations and unions and all ex-departments of education were involved in these negotiations that sought to address the principles, processes and procedures for the new appraisal system. Various consultative workshops were held at a national level by each of the organisations and education departments involved. These led to the formulation of the "guiding principles" that were to inform the new appraisal system and the "appraisal instrument" to be used. **By 1994,** a general agreement on both of these was reached (GDE; 2002).

The purpose of this paper is to provide a historical account of the large-scale reform efforts in Performance Management and Evaluations within the South African schooling system. The Developmental Appraisal System (DAS), what it is and why it failed, will be discussed, then, a description of subsequent large-scale reform efforts- Whole School Evaluation (WSE), Performance Management and Development Scheme (PMDS), Evaluations Procedures, Processes and Standards, and the protocol and instruments for observing educators; what they are , why they arose and the lessons learned from implementation attempts. This will be followed by a description of the current large-scale reform initiative - the Integrated Quality Management System (IQMS); what it is and why it arose. The policy attributes theory is discussed. Finally, the discussion identifies key issues that must be addressed if substantial progress in the implementation of this system is to be made.

2.2.5.2 The national education policy act process (NEPA)

The National Education Policy Act, 1996 was designed to inscribe in law the policy, legislative and monitoring responsibilities of the minister of education, and to formalise relations between national and provincial authorities. It provides for the determination of national policies in general and Further Education and Training for, among others, curriculum, assessment and Quality Assurance. The act embodies the principle of co-operative governance, elaborated in Schedule 3 of the Constitution. (The S.A. Yearbook; 2002). In terms of this act the minister shall within 21 days after determining policy, give notice of such determination in the Gazette and indicate in such notice where the policy instrument may be obtained. Examples of such policies are the following.

- Government Notice 695, National Education Policy Act (27/1996) Policy on Whole - school Evaluation. Gazette No. 22512

- Government Notice 82, National Education Policy Act (27/1996) Norms and Standards for Educators. Gazette No. 20844

- Government Notice 710, National Education Policy Act (27/1996) C 2005. Revised National Curriculum Statements, Gazette No. 23406.

2.2.5.3 The Education Labour Relations Council process (ELRC)

The ELRC is a bargaining council for the education sector. The council consists of equal representation of the employer (National and Provincial Departments of Education) and the employees (Trade Unions representing educators). The ELRC aims to create effective and constructive labour relations and to ensure the promotion and transformation of education at all levels within society (the S.A. Yearbook; 2002). One of the objectives of the ELRC is to conclude and enforce collective agreements. Examples of such agreements are the following.

- Resolution 4 of 1998 – Developmental Appraisal System

- Resolution 7 of 1998 - Workloads of school-based educators

- Resolution 8 of 1998 - Duties and responsibilities of educators

- Resolution 2 of 2002 - Performance management and development scheme for office-based educators

- Resolution 1 of 2003 - Evaluations procedures for institution-based educators

- Resolution 3 of 2003 - The protocol process
- Resolution 8 of 2003 - The Integrated Quality Management System.

2.2.5.4 The legislative context for performance management and evaluations

The Education Policy and Legislative context for performance management include the following.

- The Employment of Educators Act (Act No. 76 of 1998)
- Government Notice 82, National Education Policy Act (27/1996) Norms and Standards for Educators. Gazette No. 20844
- Resolution 4 of 1998 Developmental Appraisal System
- Resolution 7 of 1998 Workloads of School-based Educators
- Resolution 8 of 1998 Duties and Responsibilities of Educators

The Education Policy and Legislative context for evaluation of schools include

Education White Paper, 1995

The National Education Policy Act (N0. 27 of 1996)

Assessment Policy Gazette, December 1998)

Further Education and Training (FET) Act (No. 98 of 1998)

The South African Qualifications Authority (SAQA) Act of 1995; requires that Education and Training Quality Assurance (ETQA) bodies are to be established.

2.2.5.5 Performance appraisal and performance management

Performance appraisal is a process of systematically evaluating performance and providing feedback on which performance adjustments can be made.

Elbert and Hatfield (1995: 260) define the concept Performance Appraisal as "...an on-going process of evaluating and managing both the behaviour and outcomes in the workplace". Byers and Rue (1994:288) define Performance Appraisal as a process that involves determining and communicating to an employee how he or she is performing on the job and, ideally, establishing a plan of improvement. Properly conducted performance appraisals not only indicate the level of employee performance, but also influence future levels of effort and task direction. Organisations use various terms to describe this process and some of the terms used, include performance reviews; annual appraisal; performance evaluation; employee evaluation; and merit evaluation. An analysis of the definitions of Performance Appraisal emphasise the following important aspects.

- It is an on-going process
- It is an evaluation of performance
- It includes feedback and communication
- It allows for performance adjustment or plan of improvement.

According to Byers and Rue (1994), performance refers to the degree of accomplishment of the tasks that make up an employee's job. It reflects how well an employee is fulfilling the requirements of a job. Unlike effort, performance is measured in terms of results, end-products or outcomes. Performance is thus the net effect of an employee's effort, as modified by abilities and role (or task) perceptions. This implies that in a given situation, performance can be viewed as resulting from the interrelationships among effort, abilities, and role perception.

2.2.5.6 Performance management

Performance Management is a means of getting better results from the organisation, its teams and individuals, by understanding and managing performance within an agreed framework of planned goals, objectives and standards (GSSE, 2003). According to Bussing (1992) Performance

Management is "...a systematic approach to managing people, goals, measurement and feedback and recognition as a way of motivating employees to achieve their full potential, in line with the organisation's objectives". Grobler *et al* (2000) maintain that performance management is a broader term than performance appraisal, emphasising the use of all the management tools, including performance appraisal. Tools such as reward systems, job design, leadership and training should be part of a comprehensive approach to managing performance. Performance management plays a vital role in helping the organisation achieve its goals by providing a link between strategic planning and performance appraisal. The White Paper on Human Resource Management in the Public Service (1997) highlights the importance of performance management in the public sector and states that "...the success of the Public Service in delivering its operational and developmental goals depends primarily on the efficiency and effectiveness with employees carry out their duties. Managing performance is, therefore, a key human resource management tool applied to ensure that-

- employees know what is expected of them
- managers know whether the employee's performance is delivering the required objectives
- poor performance is identified and improved
- good performance is recognised and rewarded.

It is suggested that the following principles be applied in the implementation of a performance management system in the public sector.

- Results orientation
- Training and development
- Rewarding good performance
- Managing poor performance

- Openness, fairness.

Performance Management is, therefore, an integral part of an effective Human Resource Management and Development Strategy. It is an on-going process, in which the employee and employer, together, strive constantly to improve the employee's productivity and his /her contribution to the organisation's wider objectives.

2.2.5.6.1 Evaluation

Evaluation is the collection, analysis and interpretation of information about any aspect of a programme of education as part of a recognised process of judging its effective ness, its efficiency and any other outcomes it may have (Thorpe: 1993). This inclusive definition of evaluation has the following characteristics.

- Inclusiveness. Activities not normally thought of as evaluation can be part of so planned;

- Not synonymous with assessment. Evaluation is not synonymous with assessment, which is a procedure of assigning value to the learning achieved during and at the end of a course.

- Component activities. Evaluation has three components – data collection, analysis, and interpretation.

- A planned activity capable of being made public. The methods used must be deliberate and recorded if they are to count as part of evaluation.

- Both intended and unintended effects. The scope of evaluation is not limited to checks of the overt goals of the programme, but can encompass any of its aspects and can also be focused on only a narrow selection of the possible issues provided; this is made clear in the reporting and use of findings.

2.2.5.6.2 Implementation

Implementation is the process of putting into practice an idea, or set of activities, new to the people attempting to bring about a change (Taylor, 1997), whether or not these activities are initiated external to the school by the school or by individual educators (Fullan, 1983)

2.2.5.6.3 Factors affecting implementation

Fullan (1982) is of the opinion, that while more research is needed to unravel the complexities of the implementation process, existing evidence consistently emphasise the following factors as especially critical to changing practice. These factors include the following.

- Characteristics of the innovation or revision: the nature of the change. These include the need for change, the complexity of the change and the quality and availability of materials.
- Characteristics at school level. These include the principals' and educators' actions and relations.
- Factors external to the school system. These include both the role of government departments of education and other education agencies.
- Characteristics of the local education authority. These include the history of innovative attempts or track record built, capacity of the education department, expectations and training of principals, educator input and technical assistance, community support, time-line, monitoring and evaluation.

Fullan (1982) further maintains, that the factors that affect implementation, operate in a changing way as a progression over time, and form a network of "variables" which interact. If any one, two, or three factors work against implementation, the process will be less effective. The more factors supporting implementation, the more effective it will be.

2.2.5.7 The scale reform effort in performance management and evaluations - the developmental appraisal system (DAS)

The Developmental Appraisal System (DAS) forms Chapter C of the Terms and Conditions of Employment of Educators as determined in terms of Section 4 of the Employment of Educators Act of 1998. This policy also relates to Resolution (4/1998) of the ELRC. The aim of DAS was to facilitate the personal and professional development of educators in order to improve the quality of teaching practice and education management. It is based on the fundamental principle of life-long learning and development. This implies that one has to prioritise areas for development and growth throughout one's career in education.

To ensure that the process of appraisal was in line with key job functions, a list of criteria was drawn up for the following levels: (Criterion-based Appraisal)

- Core criteria. These are criteria that are seen as primary elements of the responsibility of the person's job on which the person has i.r.o choice but to be appraised on. They cover the essential elements of the job description of the educator;

- Optional criteria. These are criteria listed as core criteria, some of which may be made optional by the appraisal panel because of the contextual factors at institutions. The panel has to provide motivation for this reclassification.

- Additional criteria. These are criteria that may be added, depending on the needs of an institution and/or individual educator. These should be discussed with the panel, supported by staff and agreed to by the Staff Development Team. A motivation for the inclusion of additional criteria, has to be given (ELRC, 1998).

2.2.5.7.1 Constraints of DAS

Combined inputs from *The National Synopsis* June 1999, *Review Workshop Report* (May 2000), and Provincial progress reports, indicate that the implementation of DAS has not been very successful. The problem analysis session conducted as part of the Gauteng Department of Education, hosted strategic planning workshop that was held in 2001 was used to clarify, analyse and add to the list of constraints. Constraints that were identified, were grouped as operational, policy, training or attitudinal issues.

(i) Policy constraints

Policy constraints involve inhibiting factors relevant to the DAS policy itself. The following challenges were highlighted as policy constraints.

- *Format and language not user-friendly.* The policy documentation is pitched at a level that is too high for the end-user to understand clearly.
- *Complicated core criteria.* The core criteria are too complicated and cannot be understood easily. They need to be unpacked into user-friendly parts that can be scored in a practical and non-intimidating way.
- *Poor linking of DAS to other policies (e.g.* Curriculum 2005 and whole-school evaluation). DAS was not viewed as being linked to other policies that were in the process of , or have already been, implemented. This has compromised the objective of systemic policy implementation.
- *Lack of ownership and unclear roles and responsibilities.* There has been insufficient ownership and levels of accountability for the policy by all stakeholders. This has erupted into a blaming culture whereby each stakeholder was able to attribute lack of policy success to another.

(ii) Training constraints

Issues regarding training can be defined through the identification of trainers and the successful training of all relevant stakeholders in the use and implementation of DAS. Constraints relevant to training include the following.

- * *The cascade model of training.* This model of training is perceived as ineffective and inhibits the smooth running of the process. This model is categorised by the top-down transfer of knowledge where-by information becomes delineated as it cascades. This process tends to be tedious and also takes more time than is necessary

- *Lack of resources to purchase training materials.* Lack of training material such as manuals, overhead projectors and flip charts inhibit the successful running of training sessions.

- *Small workshop venues.* Insufficient venue capacity has resulted in the exclusion of some participants who have had to sit outside. This situation has resulted in basic knowledge transfer, as opposed to interactive training

- *Training Pools.* There is no training pool from which trainers can be drawn.

(iii) Operational constraints

Operational constraints have related to the challenges realised in implementing DAS. The following challenges were identified.

- *Competing Departmental Priorities (e.g. Curriculum 2005, Whole School Development and Systemic Evaluation).* The competing priorities of the department drew energies and attention from the task of implementing DAS effectively, because they encourage a high level of role ambiguity. In an attempt to balance these competing priorities, DAS has often been the first project to be abandoned.
- *Lack of common understanding.* Stake-holders in schools and offices were not sure about the actual purpose of DAS. A stream of thought existed, that maintained that DAS was a means of monitoring performance of educators and not means educator development alone.
- *Lack of communication.* Communication lines between managers and educators were closed and inconsistent as a result of the inhibiting attitudes that were at play for both stakeholders.

- *Delays in implementation.* As a result of the system being too cumbersome, there have been detrimental delays in the implementation of DAS.
- *Dormant appraisal structures.* Structures were set up according to policy, but were not operationalised.
- *Unrealistic implementation plans.* It has been realised and acknowledged, that the national, full-scale implementation of DAS was over-ambitious and unrealistic.
- *Lack of capacity.* Lack of human resources resulted in inadequate capacity for the successful implementation of DAS.
- *Insufficient lines of accountability.* The implementation-specific responsibilities have not been allocated clearly among all stakeholders.
- *Composition of panels.* Each educator is required to select his/her own panel. This has resulted in unnecessary time delays, as well as the selection of peers that are personal friends of educators (cumbersome).
- *No existing database.* There is no database (e.g. H.R.I.S) in place to provide information as to the number of educators that have been appraised, as well as a list of required programmes based on developmental needs.
- *No tangible rewards for DAS implementation at grassroots level.* There were no perceived incentives (be they intrinsic or extrinsic) for the successful implementation and ongoing use of DAS. The link between the incentive of development and the policy was clarified to users.

(iv) Attitude constraints

The term, "attitude constraints" refers to observations regarding stakeholder morale, motivation, commitment and mindsets that may be inhibiting the successful implementation of DAS.

Challenges that were identified, are as follows.

- *Myths and inaccurate perceptions.* There were inconsistencies regarding the purpose of DAS that are not in line with the intended vision of the policy.

- *Fear of victimisation* Educators, who were identified through the DAS process, had a fear of being compared to and judged against fellow educators.
- *Apathy* Senior management had attitudes of indifference regarding the implementation of DAS as a result of another non-standardised appraisal system being in place or the existence of negative attitudes derived from the ineffectiveness of past systems.
- *Lack of advocacy* Insufficient steps, were taken to advocate DAS to its relevant stakeholders. This has resulted in a lack of common understanding and support for the implementation of DAS.
- *Resistance to change* All stakeholders, aware of the operational and policy constraints of DAS, were not willing to accept accountability for this change initiative, for fear that any failure would reflect upon themselves in a negative manner.
- *Users frustration.* As a result of the complexity of the instrument, the intended users were not comfortable, in terms of self-perceived competence, in using DAS.
- *Lack of participation.* As a result of organisational politics and power-control, a closed organisational culture resulted in attitudes of competition as opposed to those of openness and participation towards a common goal.
- *Non-priotisation of office-based educators* Office-based educators felt that they were an after-though in the process of DAS implementation; and
- *Victim mindsets* Reactive mindsets that inhibit personal development, among educators, existed as opposed to those of ownership and pro-active development (GDE; 2001).

2.2.5.8 Whole-school evaluation (WSE)

The policy on whole-school evaluation is a notice in terms of Section 3(4)(1) of the National Education Policy Act, 1996 Act no. 27 of 1996. This policy is aimed at improving the overall quality of education in schools. It seeks to ensure that all learners are given an equal opportunity to make the best use of their capabilities. As a process, whole-school evaluation is meant to be supportive and developmental rather than punitive and judgemental. This policy maintains that it will not be used as a coercive measure, though part of its responsibility will be to ensure that national and local policies are complied with. The policy also contains a built-in mechanism for reporting findings and providing feedback to the school and to various stakeholders: the national and provincial education departments, parents and society generally, on the level of performance achieved by schools.

The aims of the policy have been identified as follows.

- External moderation of schools
- Identification and evaluation of school effectiveness
- Increasing the level of accountability
- Strengthening the support given to schools
- Providing feedback to all stakeholders
- Identifying aspects of excellence within the system.

2.2.5.8.1 Implementation and problems experienced

Some of the problems experienced in the implementation process include:

- flawed consultation processes;
- flawed advocacy processes;
- level of readiness not established before implementation;
- flawed Implementation management processes;
- inconsistent intervention strategies;
- myths and inaccurate perceptions about the use and intentions of WSE;
- fear of victimisation by schools;

- apathy and resistance to change;
- perceived hidden agenda; and
- perceived bad-faith negotiations (Lack of trust).

2.2.5.8.2 Performance Management and Development Scheme for office based educators (PMDS)

The Performance Management and Development Scheme (PMDS) supposes Collective Agreement, Number 2 of 2002 of the ELRC. The performance management and development scheme (PMDS), links the need for effective staff performance to the corporate planning cycle. The PMDS operates on an annual cycle that runs from 1 April to 31 March and is directly linked to the corporate planning cycle. The policy emphasises the importance of integrating the various processes in the scheme into the normal work of supervisors and staff and not viewing them as some additional administrative requirements.

The aim of the Performance Management and Development Scheme comprises the following.

- Improving performance against corporate goals by establishing a performance culture
- Improving individuals' awareness and understanding of their work objectives and the performance standards expected of them
- Ensuring that individuals know how their performance against these standards is perceived
- Improving communication between supervisors and staff
- Evaluating performance fairly and objectively
- Providing opportunities to identify individuals' development needs and to devise, with their supervisors, plans to address those needs

- Facilitating the effective management of unsatisfactory performance
- Providing a possible future basis for decision on rewards.

2.2.5.8.3 Evaluation procedures

Evaluation procedure processes and performance standards for institute-based educators are defined the ELRC Collective agreement, number 8 of 2003. The purpose of this agreement, is to identify the evaluation procedures, processes and performance standards for institution based educators.

The aims of the evaluation system is to -

- provide a basis for decisions on salary progression, rewards and other measures that require a certain level of performance that may be agreed to;
- evaluate performance fairly and objectively; and
- improve the quality of teaching practice and education management.

Standards	Short description
STANDARD 1 Lesson planning, preparation, presentation and management	Competence in planning, preparation, presentation and management of learning programmes.
STANDARD 2 Creation of a learning environment and classroom management	Competence in creating a positive learning environment and maintaining effective discipline.
STANDARD 3 Monitoring and assessment of learners	Competence in monitoring and assessing learner progress and achievement.
STANDARD 4 Professional development in the field of work/career and participation in professional bodies	The educator engages in professional development activities consistent with his/her own goals and objectives and that of the school.

STANDARD 5 Human relations and contribution to school development	Educator engages in appropriate interpersonal relationships with learners, parents and staff and contributes to the development of the school.
STANDARD 6 Knowledge of curriculum and subject matter	The educator is prepared and knowledgeable of the content and demonstrates appropriate preparation for teaching.
STANDARD 7 Leadership, communication and servicing the governing body	Provides an environment that creates and fosters commitment and confidence among colleagues, learners, the governing body and the community and communicates and interacts effectively with all stakeholders in order to ensure that all relevant information is both accessible and understood.
STANDARD 8 Extra-curricular participation	The educator participates in extra-curricular and co-curricular activities in such a way, that it supplements the learning process and leads to the holistic development of the learners.
STANDARD 9 Administration	Administers resources and records in an effective and efficient manner in order to ensure the smooth functioning of the institution.
STANDARD 10 Personnel	Manager and develops personnel under his/her supervision in such a way, that the vision and mission of the institution are accomplished.

STANDARD 11 Decision making and accountability	Establishes procedures that ensure democratic decision-making and accountability within the institution.
STANDARD 12 Strategic Planning, Financial Planning and Education Management Development	The educator displays competence in planning and education management development.

Source: (SOUTH AFRICA: 2000:13)

In terms of the policy, standards 1 to 8 are applicable to educators (Level 1); standards 1 to 11 are applicable to HOD's (Level 2); and standards 1 to 12 are applicable to deputy principals and principals.

2.2.5.9 The protocol process

Protocol and instruments for use when observing educators in practice for the purpose of whole-school evaluation (WSE) and the Developmental Appraisal System (DAS), are collective agreement number 3 of 2003 of the ELRC. The purpose of this agreement is to provide a protocol and an instrument for use when observing educators in practice for the purpose of whole-school evaluation (WSE) and the Developmental Appraisal System (DAS).

The policy clarifies the purpose of WSE and DAS as follows.

THE PURPOSE OF WSE	THE PURPOSE OF DAS
Facilitating improvement of school performance through approaches characterised by partnership, collaboration, mentoring and guidance	An important aspect of educator development and support

Providing an account of the school's current performance	Identifies professional needs of educators in order to develop relevant programmes that will enhance professional competences and growth to improve the quality of teaching and learning
Showing the extent to which the school is able to meet national goals, whilst able also to meet the needs of a community and the public in general	Involves self-appraisal and lesson observation of the appraisee by one or two members of the agreed upon panel
Involves both internal and external evaluation processes	

Source : (SOUTH AFRICA, 2000: 14)

Differences are listed as follows.

Nine areas for evaluation as contained in the policy	Focuses on educator appraisal for development and support
An external audit to evaluate the extent to which processes have been implemented	Equivalent to the Quality of Teaching and Educator Development area for evaluation
All judgements are based on tangible evidence	It is an internal peer evaluation to assist in appraisal for the development and support of an educator
Makes recommendations for implementation & improvement	It develops a professional growth plan for the educator.

Source: (SOUTH AFRICA, 2000:14)

This policy was developed as a result of the deadlock that arose around the implementation of the whole- school evaluation policy and the developmental appraisal System that have existed since April 2002.

2.2.5.9.1 Implementation problems experienced

In most cases the provincial core training team was identified and trained, but further implementation of these policies was not visible. The reasons for non-implementation are the same as those that have been identified and discussed in the previous section. These include:

- Flawed consultation processes
- Accountable unit not clarified
- Communication breakdown
- Unstable environment
- Flawed advocacy process
- Level of readiness not established before implementation
- Flawed implementation management process
- Myths and inaccurate perceptions about the use and intentions of these policies
- Fear of victimisation by schools
- Apathy and resistance to change
- Perceived hidden agenda
- Perceived bad-faith negotiations (lack of trust).

2.2.5.9.2 Lessons learned from these reform efforts

An analysis of the reasons for lack of implementation for all these policies indicates that the constraints are the same. These constraints can be classified into four categories: operational, policy, training or attitudinal issues. This indicates that for implementation to be successful these issues have to be tackled head-on, and that policy mandates on their own are not enough to sustain organisational change. Implementation has to be carefully managed and supported if policies are to live up to their envisaged promises.

2.2.5.10 The Integrated Quality Management System (IQMS)

Integrated Quality Management System is Collective Agreement Number (8 of 2003). The purpose of this agreement is to align the different quality management programmes, which include developmental appraisal, performance measurement and whole-school evaluation. The main objective is to ensure quality public education for all and to constantly improve the quality of learning and teaching. The department has the responsibility of providing facilities and resources to support learning and teaching, and empowering, motivating and training educators. Quality management seeks to monitor and support these processes. The philosophy underpinning the Integrated Quality Management System (IQMS), is based upon the fundamental belief that the purposes of IQMS are fivefold:

- To determine competence
- To assess strengths and areas of and for development
- To provide support and opportunities for development to assure continued growth
- To promote accountability
- To monitor an institution's overall effectiveness.

The main purposes of the alignment process are the following.

- To enable the different QMS programmes to inform and strengthen one another

- To define the relationship among the different programmes of an Integrated Quality Management System
- To avoid unnecessary duplication in order to optimise the use of Human Resources
- To assure that there is ongoing support and improvement
- To advocate accountability.

The IQMS policy defines the purposes of these three systems as follows.

DAS	PM	WSE
To appraise individual educators in a transparent manner with a view to determining areas of strengths and weaknesses, and to draw up programmes for individual development.	To evaluate individual educators for salary progression, grade progression, affirmation of appointments and rewards and incentives.	To evaluate the overall effectiveness of a school – including the support provided by the district, school management, infrastructure and learning resources – as well as the quality of teaching and learning.

Source : (SOUTH AFRICA, 2000: 16)

2.2.5.10.1 Important implementation issues to be addressed

Performance Management and Evaluation changes on a large scale for example DAS, and PPMS and WSE have failed to make an impact in the past, largely because policy attributes and issues of managing implementation were ignored. One reason for the failure of large-scale educational reform, can be attributed to a failure to identify and uphold policy attributes related to successful policy implementation. Porter *et al.*, in Desimone (2002), developed a policy attributes theory that relates the following five components to successful policy implementation: specificity; consistency; authority, power and stability.

- Specificity/prescriptiveness. Refers to how extensive and detailed a policy is. For example, a policy is more specific when accompanied by guidelines to be followed. According to the policy attributes theory, the more specific a policy in terms of materials, information, professional development, guidance and instructions provided, the more likely educators are to implement these factors that increase specificity make the policy message clearer so that it requires less interpretation, and also serves to reinforce policy. The more specific the reform, the higher the implementation fidelity. Specificity is a powerful mechanism to make implementation more successful, but it must be balanced with concerns about educator professionalism; limited capacity in terms of time for professional development and reading and reacting to materials and information, and consideration of the appropriate line between implementation fidelity and necessary adaptation to the local context.

- Consistency. Refers to the extent to which policies within a school contradict or reinforce each other. Implementation of a policy is easier if the policy is consistent with other reform efforts of the school, district, province and national levels; consistency mitigates tensions that might require educators to choose among reforms. Reforms that build on and complement each other, serve to reinforce each other. Reform is more effectively implemented when the design is consistent with other school efforts and with the district and provincial policies. Inconsistencies cause tensions that hinder the implementation authority. Reform implementation is more successful when the reform efforts are consistent.

- Authority. Policies gain authority by becoming law, through their consistency

- with social norms, through knowledge or support from experts, or through promotion by the organisations' leaders. The authoritative aspects of reform implementation fall into three categories: normative authority, which includes educator participation in decision-making, educator buy-in, participation in networks and collaborative activities; individual authority, defined as principal leadership; and institutional authority, which includes district leadership, resource support and community support. Reform implementation is more successful when the reform efforts have authority. In particular, authority established through social norms and through institutional and individual support, increases implementation success.

- Power. Educational policies have power through the rewards and sanctions that they offer to stakeholders. Power operates through the force of the rewards and sanctions associated with the reform effort, while authority operates through the persuasive mechanisms of law, norms and individual and expert backing and support.

- Stability. Policies that are part of a stable environment, and are stable themselves, tend to achieve better implementation success. There are a number of factors that affect the stability of school reform: mobility of learners, educators, management, and district leadership; organisational restructuring the stability of policy environment and the phase of reform. As with most reforms educator, learner and administrator turnover is disruptive to implementation. The higher the mobility the weaker the implementation. Reform implementation is more successful in a stable environment.

Furthermore, Hargreaves (1998), argues that the failure of educational reform has been persistent and predictable and indeed for the following reasons.

- **Connectedness**

First, education systems have tinkered with innovations one at a time. Much of the rest of the system has been left untouched and this has systematically undermined reform efforts. There is a need to tackle different parts of the problem simultaneously, in order to see the connectedness, and to appreciate and act on the big picture.

- **Empowerment**

Secondly, reform has failed because educators are not good at sharing information with students; principals are not good at sharing information with educators, while school systems are not good at sharing power with their schools. Power struggles are major problems at every level.

These two principles of connectedness and empowerment should underpin guidelines on building the capacity of educators and schools to take the innumerable daily actions necessary to change. There is a need for education systems to balance the bottom-up and top-down strategies in order for these to produce more fundamental and effective change. Education departments that recognise the power of capacity-building strategies, along with frameworks for accountability, will achieve significantly more change on the ground, than those that employ distant hierarchical (top-down) methods of compliance.

2.2.5.10.2 Key roles in managing performance management and evaluations implementation

The purpose of this section is to give an outline of the most important roles of education departments in managing performance management and evaluation implementation based on reviewed literature. While more research is needed to unravel the complexity of the roles of education departments in the management of the implementation of performance management and evaluations change, existing evidence in the literature review consistently emphasises and points to a number of roles being especially critical to the education department's interventions and support. The key management roles identified, are the following. Advocacy, needs analysis, identifying and operationalising appropriate intervention strategies and programmes, disseminating important documents to stakeholders, creating an atmosphere for change, putting networks and partnerships in place, operationalising intervention programmes, monitoring and evaluating, and supporting continued implementation.

a. Advocacy

According to Hargreaves (1998), one of the reasons why educational change is difficult to bring about, is that the change is poorly conceptualised or not clearly demonstrated; that is, there is no clarity on who will benefit, how they will benefit, and what the change will achieve. It is important for education departments to familiarise themselves with policy documents in order to identify gaps between the old and the new and to provide support in the form of guidelines where the department has the capacity to do so. This may lead to greater ownership and commitment at provincial level. Advocacy also includes dissemination of information to all stakeholders. According to Hall (1987), dissemination refers to actions taken to broadcast innovation information and materials to encourage others to adopt the innovation. Education departments should pass on important information about performance management and evaluation to educators. Goals and expectations for the implementation of new performance management and evaluation, should be shared with educators, parents, and other structures having a stake in the implementation of a performance management and evaluation change.

b. Needs analysis

It is important for education systems to conduct an assessment of the needs of individual schools under their authority. Educator attitudes, current practices, educator concerns, support materials used, and erroneous assumptions and interpretations need to be identified. Thus, a base-line data on current practices is provided which will enable education systems to measure progress made. A needs assessment will also serve to identify problem areas with respect to Performance Management and Evaluation implementation, enable education systems to identify gaps in Performance Management and Evaluation practices between different categories of schools, for example between historically advantaged and disadvantaged schools, and to align and prioritise intervention programmes.

c. Identifying and operationalising appropriate intervention strategies and programmes

Education systems should identify intervention strategies/projects with clear management plans, outcomes, and clear expectations. These intervention strategies should take into account the nature of change and the context of specific schools, for example the ability of an education department to balance the tension between system expectations and school variability (Fullan, 1982). It is important to note that these interventions should give a coherent meaning to national and provincial policy and directives, and that they should reflect a long-term sustainable perspective. An intervention is an action or event or set of actions that influence the use of an innovation (Hall & Hord, 1984). The following interventions are viewed as important in the context of education department management of implementation: educator development and capacity building, provision of support materials, and developing and disseminating an education department's Performance Management and Evaluations guide.

d. Creating and atmosphere for change

Education departments should create a desire in educators to change, and should sustain and motivate educators throughout the change process. Fullan and Hargreaves (1996) maintain, that interactive professionalism is the key to achieve this. Interactive professionalism involves redefining the role of educators and the conditions in which they work. More specifically, this entails collaborative work cultures, norms of continuous improvement, discretionary judgement and greater mastery, and efficacy and satisfaction in the profession of teaching.

e. Conducting educator development and capacity building

Many implementation efforts fail, because educators have not been trained in the new skills required. Education departments should note that educator training and development demonstrate a commitment and support on the part of the school districts. Education systems should invest time and resources on professional development and opportunities for collaboration. Educator training and development should be an integral part of the implementation process. These actions should be taken to develop positive attitudes, knowledge and skills in relation to implementing a new performance management and evaluation system through formal, structured and/or pre-planned activities, not limited to workshops, demonstrations and modelling.

f. Providing resources and support material

According to Hargreaves (1998), one of the reasons why educational change is difficult to achieve, is that the change is poorly resourced or the resources are withdrawn once the first phase of innovation is over. The result is, that the change is built on the backs of educators, who cannot bear for long without support. Hall (1995) alludes to an important resource, time, and maintains that time is one of the necessary and expensive resources, and most frequently the scarcest. Education departments should provide time for educators and schools to deal with implementation issues and concerns.

g. Monitoring and Evaluating

Monitoring entails, among other things, collecting information periodically throughout the whole process of implementation about the appropriateness of implementation goals, the extent to which goals are being achieved, the extent to which obstacles are being overcome, the effectiveness of implementation activities and structures, the training needs of implementers, and the effectiveness of role-players in implementing performance management and evaluation. Furthermore, it entails using the collected information to modify goals, actions and structures, as warranted. Evaluation is an act of collecting systematic information regarding the nature and quality of educational objects (Nevo, 1995). Education departments should evaluate the value of and assist with on-going improvement of Performance Management and Evaluation implementation, through actions that include formal and informal assessment, analysis, interpretation and feedback.

h. Supporting institutionalisation

Education departments should have plans to support continued implementation so as to institutionalise a new Performance Management and Evaluation system. Institutionalisation is the degree to which the innovation is "built in", incorporated into the ordinary structures and procedures of the school and its surrounding district. The important indicators of institutionalisation of a new Performance Management and Evaluation structure, will be the presence of supporting conditions related to current operations, the completion of important passages and the survival of the innovation through several organisational cycles (Taylor, 1997).

2.3 CHAPTER SUMMARY

It is imperative for various stakeholders in education to know their roles and responsibilities as required by the South African Schools Act and other related legislations. Educators must also be familiar with developmental programmes set by department of education in collaboration with labour unions in ensuring quality education.

The next chapter will present the procedures to deal with educators in terms of Labour Relations, as well as the South African Council of Educators, as a document that regulates educators' conduct.

CHAPTER THREE

LABOUR RELATIONS AND THE SOUTH AFRICAN COUNCIL OF EDUCATORS

3.1 LABOUR RELATIONS

3.1.1 Introduction

The most recent labour legislation ensures, that employees are protected against employers in superior positions. Strict rules concerning the fairness of disciplinary proceedings in labour relations have been accepted and implemented. The Labour Relations Act (SA 1995), like the Constitution of the Republic of South Africa (SA 1996c), provides for certain fundamental rights such as the right to strike, fair labour practices and the right to freedom of association.

In a certain sense, education is unique in labour matters. The work that educators do, for example, involves more than just performing a service with monetary profit for the employer and a salary for the employee. The educator is in direct contact with the main clients of the enterprise, children. The educator works with human material, and the result of this labour, is of crucial importance to the learner, the community and the country as a whole. Not only are physical lives at stake, but also (and especially) the psychological and spiritual lives of adults-to-be. Another unique aspect of labour relations in education is the decentralisation aspect of the latest legislation, which implies that a fellow employee in the person of the principal becomes a quasi-employer in the event of certain disciplinary matters.

As far as discretionary decision-making power is concerned, Oosthuizen (2000:155) makes a clear distinction between administrative managerial activities and discretionary managerial activities. In administrative activities, decisions are made according to predetermined principles and refer mainly to daily routine decisions. When principals investigate alleged misconduct by staff members, however, a certain amount of discretion would be exercised.

This makes it extremely important for managers on all levels of education to be knowledgeable about the basic principles of labour relations, especially with regard to fair conduct.

Schedules 1 and 2 of the Employment of Educators' Act, 76 of 1998, as amended in 2000, provide the full procedure that the head of the education department as employer (or someone appointed by him) has to follow in the case of alleged misconduct, incapacity or incompetence. Fairness in the procedure is equally important as substantive fairness, which is related to the reason for the disciplinary action.

Up to the end of 2000 the principal of a school was not directly involved in the disciplinary process. In the Education Laws Amendment Act, which was implemented in November 2000, the legislators have gone a step further in the decentralising decision-making power to the level of the principal in the case of a number of disciplinary matters related to staff misconduct. It has now been determined for the first time, that the principal may and should take the initial steps in the informal phase of the disciplinary process. This was formerly the official duty of the different heads of the departments of education, who are the actual employers of all educators. It is a fact that many of these duties, such as counselling and warnings, have always been performed by principals, but Oosthuizen (2000:5) mentions in this regard that the duties "have never before been elevated to statutory status".

3.1.2 Substantive and procedural fairness

Substantive and procedural fairness are equally important in disciplinary matters. Substantive fairness relates to the *reason* for the proposed or actual dismissal, and procedural fairness to the *process* that has been followed.

With regard to substantive fairness, the Employment of Educators Act, 76 of 1998 (as amended in 2000), stipulates a list of 38 examples of misconduct that may lead to the dismissal of an educator (sections 17 and 18).

Substantive fairness is determined by means of two enquiries; firstly, whether the employer acted against the employee for a valid reason, and secondly, whether the action taken was appropriate (suitable) in the light of the proven reason. Van Kerken (in Oosthuizen, 2003:142). In the case of substantive fairness, the answers to every one of the following questions must be affirmative.

As for consistency, it should be noted that *historical consistency* should be distinguished from *contemporaneous consistency.* The former takes into account the employer's approach in previous cases of the same kind of infringement. It would be unfair for an employer to overlook a certain individual's misconduct and then later punish another for the same offence. If an employer wants to change the approach to a specific offence, he must give prior notice of the change in policy Van Kerken(in Oosthuizen, 2003: 153).

The following are questions constituting substantive fairness.

- Did a rule or standard regulating employee conduct exist?
- Was the rule or standard valid and reasonable?
- Was the employee aware, or could he reasonably have been aware, of the rule or standard?
- Did the employee contravene the rule?
- Was the rule or standard consistently applied by the employer?
- Was the dismissal an appropriate sanction for the contravention of the particular rule or standard?

Contemporaneous consistency has to do with the employer's approach when two or more employees are guilty of the same offence. Unless there is an acceptable reason, for example the previous records of the different offenders; it would be unfair to announce different sanctions. It should be noted here that item 4(4) (e) of the Employment of Educators' Act, 76 of 1998, stipulates that the record of a certain form of misconduct by an educator should remain valid only for six months.

Procedural Fairness implies hat the employer must take certain procedural steps in accordance with the rules of natural justice before taking action against an employee. An employer's failure to follow a fair procedure will normally on its own be unfair and the employee concerned will be entitled to some form of legal redress" Van Kerken (in Oosthuizen, 2003:142 – 143).

Various sources may be quoted where procedural fairness is provided for

- Section 23 of the Bill of Rights determines that every employee has the right to fair labour practices, by implication including fairness in procedure.
- Section 33 of the Bill of Rights stipulates the importance of administrative action that is "lawful, reasonable and procedurally fair". If an employee's rights have been adversely affected, he has the right to be given reasons in writing for administrative action.
- Section 188 and Schedule 8 item 2 of the LRA. A dismissal is unfair if the employer fails to prove that the reason for dismissal is a fair reason, related to the employee's conduct or capacity; or based on the employer's operational requirements, and that the dismissal was effected in accordance with a fair procedure.
- Schedule 2 (Disciplinary Code and Procedures for Educators) of the Employment of Educators' Act, 76 of 1998 determines ...discipline must be supplied in a prompt, fair, consistent and just manner".

Discussing fair procedures, Grogan (2000:110) mentions that, under the 1956 LRA, the labour courts developed a comprehensive set of guidelines on what an employer should do before dismissing an employee, and these procedures differed according to the reasons for the dismissals.

3.1.3 Fair and unfair dismissals

In general terms, the 1995 Labour Relations Act specifies only three types of fair dismissals.

- Incapacity of the employee

- Misconduct by the employee
- Operational requirements

An employer must, in other words, prove that a specific employee is guilty of one or more of these offences to dismiss him or her fairly. If the employer fails to prove this, the dismissal is unfair. According to section 187 of the LRA, some dismissals are automatically unfair. This section reads as follows.

Automatical unfair dismissals (187)

(1) A dismissal is automatically unfair if the employer, in dismissing the employee, acts contrary to section 549 or, if the reason for the dismissal is –

(a) that the employee participated in or supported, or indicated an intention to participate in or support, a strike or protest action that complies with an appropriate provisions.

(b) To compel the employee to accept a demand in respect of any matter of mutual interest between the employer and employee.

(c) That the employee took action, or indicated an intention to take action, against the employer by –

i. exercising any right conferred by this Act; or

ii. participating in any proceedings in terms of this Act.

(d) The employee's pregnancy, intended pregnancy, or any reason related to her pregnancy.

(e) That the employer unfairly discriminated against an employee, directly or indirectly, on any arbitrary ground, including, but not limited to race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, marital status or family responsibility.

(2) Despite subsection (1) (e)

(a) a dismissal may be fair if the reason for dismissal is based on an inherent requirement of the particular job; and/or

(b) a dismissal based on age is fair if the employee has reached the normal or agreed retirement age for persons employed in that capacity.

This section may be summarised by stating the basic forms of automatically unfair dismissal

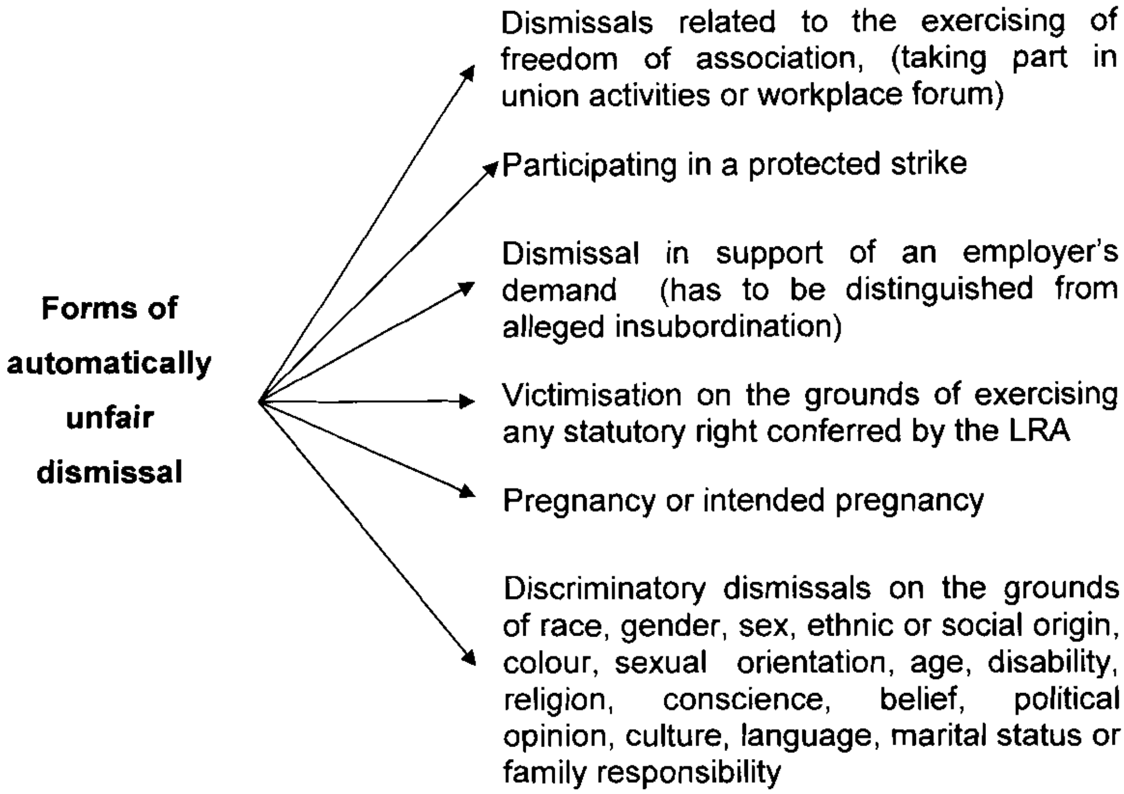


Figure 3.1: Forms of automatic unfair dismissal

Source: Rossouw (2004:66)

3.1.4 Fault and non-fault dismissals

The importance of both substantive and procedural fairness cannot be overemphasised. If the correct procedure is not followed or disciplinary action is taken on the wrong grounds (e.g. a lawful strike or pregnancy), an eventual dismissal or termination of the employment contract may be regarded as automatically unfair and therefore, unlawful, as indicated in the previous section.

This framework provides the manager investigating alleged misconduct or one of the other reasons for dismissal with a guideline according to which he can determine whether it is because of a fault on the side of the employee or not. Dismissals on the grounds of poor work performance and ill health are regarded as "no-fault dismissals". Incapacity must clearly be distinguished from misconduct. The former is based on grounds where there is *no fault* on the side of the employer. Grogan (2000: 165) states the following.

"Dismissals for incapacity and the employer's operational requirements arise from circumstances for which the employee is not to blame. It is to be noted, however, that the dividing line between dismissals relating to conduct and dismissals relating to capacity ... may not always be clear."

This unclear distinction or dividing line may create a problem because one must differentiate between fault and no-fault. In the educational sphere, section 18 of the Employment of Educators' Act, 76 of 1998, as amended in 2000, specifies that if an educator fails or refuses to follow a programme of counselling, to subject himself to a medical examination or to attend a rehabilitation programme, it will be regarded as misconduct. What started as alleged incapacity becomes a form of misconduct.

The disciplinary processes in recent labour and education legislation in South Africa have changed from a punitive approach to one that may be termed *progressive discipline*. The Labour Relations Act, 66 of 1995, as well as the Education Laws Amendment Act, 53 of 2000 (SA 2000b), prescribes a corrective approach for employers according to which efforts are being made to correct employees' behaviour through a system of graduated disciplinary measures (such as counselling and warnings).

When considering the desirability of an educator continuing to render a service, a clear distinction should be made between *misconduct* on the one hand, and *incapacity or poor work performance* on the other. This distinction is not always very clear, but the possible sanctions imposed on educators differ, as well as the procedure according to which allegations are investigated. In less serious types of misconduct, the prescribed disciplinary action in the informal phase ranges from informal, verbal warnings to five written warnings by the principal before more serious steps are taken. The formal phase starts with a final written warning and may eventually end in dismissal if all the prior sanctions have failed. Further training, counselling, a rehabilitation programme or transferring the educator to another position, may be considered in cases of incapacity or poor work performance.

To ensure fairness towards the employee in the disciplinary process, labour legislation determines that dismissal should be considered only as a last resort (Squelch, 1999:43). Schedule 8, section 3 (3) of the LRA stipulates the following.

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 and repeated offences

Although a clear distinction should be made (and has been made in the latest legislation, as mentioned earlier) between serious misconduct and less serious offences, the important question in education is how much patience the employer of an educator should show. The constitutional principle (in section 28) of the best interests of the child always being *of paramount importance,* should be kept in mind in all matters relevant to labour relations in education. The child's right to education is stressed in section 29 of the Bill of Rights (SA 1996c). This is not only refers to quality teaching, but surely also to a high level of professionalism demonstrated by educators.

Squelch (1999:28) remarks, that it is common practice and sound management for employers to have a written code of professional ethics (code of conduct) that regulates the behaviour of employees in the workplace. According to De Villiers *et al.* (2000:13) the SACE Code of Professional Ethics plays a vital role in encouraging educators to act professionally and to show moral integrity. This will be discussed later in the chapter.

3.1.4.1 Defining poor work performance

Whatever the reason for poor work performance by educators, it will probably have a negative effect on the educational process. Provided that there is a fair reason for the dismissal and that a fair procedure has been followed, incapacity is recognised internationally as grounds for dismissal (Christianson, 1998:161). Incapacity may be distinguished from misconduct in the sense that the former is based on grounds where there is "no fault" on the side of the employer, which means that the educator is not intentionally or negligently incapable (Squelch, 1999: 54). Van Kerken (in Oosthuizen, 2000:130) says, that ...the main reason for making a distinction, is that incompetence and incapacity are not disciplinary issues". It should be noted that Van Kerken, unlike Grogan (2000:165) or the LRA, uses two different terms, *incompetence,* referring to poor work performance, and *incapacity* when referring to ill health or injury. For the purposes of this research, only the term *incapacity* will be used in order to stay in line with the terminology used in the different acts.

In section 16 of the Employment of Educators' Act, 76 of 1998 (SA 1998a) reference is made as follows to *incapable educators.*

If it is alleged that an educator is unfit for the duties attached to this educator's post, or is incapable of carrying out those duties efficiently, the employer must assess the capacity of the educator and may take action against the educator in accordance with the incapacity code and procedures for poor work performance as provided in Schedule 1.

Section 1 (2) of Schedule 1 provides the key to the matter. The employer (or his representative who is investigating the case) must assess the degree of incapacity of the educator. It should be noted that the interests of all stakeholders are taken into consideration.

Schedule 1: Employment of Educators' Act, 76 of 1998

3.1.4.2 Incapacity code and procedures for poor work performance

(2) In applying this Code and Procedures, the relevant employer must assess the incapacity of an educator by considering -

(a) the extent to which the incapacity impacts on the work of the department of education or provincial department of education, or the public school, public further education and training institution or public adult learning centre;

(b) The extent to which the educator fails to meet the required performance standards as contemplated in item 2(2);

(c) the extent to which the educator lacks the necessary skills to perform in accordance with the educator's job description;

(d) the nature of the educator's work and responsibilities; and

(e) the circumstances of the educator (SOUTH AFRICA, 2000:14).

The first four factors refer to the school and the educator's responsibilities, and fairness and balance are built into the system by also taking the circumstances of the educator into consideration. It may be assumed that the interests of the learners are synonymous here with the interests of the school.

Technological change results in another example of no-fault incompetence which is very applicable to the education sphere. Some educators may be quite experienced in years, but may find themselves incompetent to perform as effectively as they did a number of years ago because they have not kept up with the rapid technological changes that have taken place in their subject or the school setting. In a certain sense their younger, "less experienced" colleagues may have an advantage over them, which should be kept in mind when assessing poor work performance.

The incompatibility factor resulting in educators' inability to perform their duties satisfactorily may be the result from redeployment, affirmative action or the employee's being underqualified. A certain educator may be quite effective in one school, but be found to be "unsuitable" for a similar post at another. He or she may simply not fit into a new staff or be able to work with learners from another cultural group. Certain governing bodies have been put under pressure by education minister Kader Asmal to appoint staff members from other cultural groups (Rademeyer, 2001:1). If not managed properly, this process could result in poor work performance by educators who may not be compatible with the new school settings in which they are appointed. This will definitely not be to the advantage of the learners, the educator or the school. Education at local, regional and national levels may be affected adversely.

Different procedures have been determined for the different grounds for eventual dismissal. Alleged incapacity, for instance, is not treated in the same way as misconduct, and dismissal resulting from operational requirements has its own procedure. Even incapacity resulting from poor work performance is treated differently from cases of ill health or injury.

The procedure laid down for investigating an educator's alleged poor work performance, will be subsequently discussed.

3.1.4.3 Procedures: incapacity-poor work performance

During the investigation into the educator's capacity, all relevant factors should be considered and the educator must be given ample opportunity to be heard, as stipulated by both common-law principles and national legislation (Joubert & Prinsloo, 2001:164-166). After this evaluation, considering all relevant factors and giving the educator ample opportunity to be heard, realistic time frames must be determined for the educator to meet the required standards of performance after appropriate training or counselling. It is important to note that, if the educator fails or refuses to follow a programme of counselling and training, the employer may consider taking disciplinary action against the educator for misconduct.

If, after having completed a programme of counselling and training, the educator still does not meet the required performance standards, the employer may-

- consult the educator and provide further training or counselling, and/or
- transfer, demote or dismiss the educator.

Since all these sanctions will have an effect on the learners who are in close contact with the educator, it stands to reason that the best interests of the learners should also be of paramount importance in this regard. Schedule 1, the *Incapacity code and procedures for poor work performance,* is presented as Annexure C.

3.1.4.4 Incapacity: ill health and injury

Although the two forms of incapacity are closely related (both are of a non-disciplinary nature), a distinction should be made between incapacity as a result of poor work performance and incapacity due to ill health or injury, because the approach in the investigation of matters differs. The focus in the following paragraphs will be on the latter.

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

To define ill health or injury, the guidelines regarding dismissals resulting from ill health or injury in item 11 in Schedule 8 of the LRA, may be consulted.

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

(a) whether or not the employee is capable of performing the work; and
(b) if the employee is not capable i.r.o.
    (i) the extent to which the employee is able to perform the work;
    (ii) 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
    (iii) the availability of any suitable alternative work.

The general terms of ill health and injury are used, but Grogan (2000:172) states, that any form of physical disability "will be enough to fall under this heading". There may, however, be a hierarchy identified in this respect if the extent of the consideration on the side of the employer has to be determined. This may be illustrated as follows.

Figure 3.2: Consideration of ill health and injury

Source: Rossouw (2004:79)

Some forms of incapacity resulting from ill health or injury are obviously less serious than others. If the absenteeism owing to ill health or injury is of a relatively short duration, it would be unfair to consider dismissal.

In the light of the impact of the HIV/Aids pandemic on labour relations in particular, as discussed earlier, problems arise when an employee is absent for short periods on a regular basis. Although the courts have held that dismissal is in principle permissible in cases of habitual absenteeism, Grogan (2000:173) mentions the fact, that the Code of Good Practice: Dismissal in the LRA does not specify that the absence must be for an unbroken period.

According to Grogan (2000:173) the factors that should be taken into account in such cases may be illustrated as follows.

Factors to be considered in regular absenteeism		The strategic importance of employee's position
		The length of service
		How difficult or easy it is to replace the employee
		The financial capacity of employer to pay temporary staff
		The prospect of recovery
		The effect of employee's absence on other employees

Figure: 3.3: Factors to be considered in regular absenteeism of employees

Source: Grogan (2000: 173)

The possibility of adapting a disabled employee's work to accommodate him or her, should be a priority for an employer. Disabled persons are a designated group and according to the principles laid down by the Employment Equity Act, 55 of 1998 (Chapter I, under Definitions: designated groups, means Black people, women and people with disabilities), special arrangements should be made. The inherent requirements of a specific job would play an important role in adapting such an employee's work.

3.1.5 Disciplinary actions delegated to principals

The first group, as indicated in Table 3.1, is specified by the National Department of Education as those types of misconduct that principals should be able to handle themselves, at least up to the conclusion of the informal phase, while the other types are investigated by departmental officials. Although only public schools have been mentioned, these acts are also applicable to other educators falling under the definition of an educator: those in public further education and training institutions, public adult basic education centres and departmental offices, as stated previously.

The types of less serious misconduct listed may be categorised as follows: property and finances, criticism of employer or institution, misuse of his or her position to promote certain interest, poor work performance, improper behaviour, disregarding safety regulations, dishonesty and refusal of counselling or rehabilitation ROSSOUW, 2004 : 85).

An attempt is made to categorise misconduct under subheadings (Rossouw, 2001:128). These subheadings have not been indicated by the legislators, but may result in better reference to related forms of misconduct. The description of the misconduct has been abbreviated in certain cases and does not necessarily reflect the full scope of the misconduct. (The original numbering as used in the Employment of Educators' Act, 76 of 1998 has been retained).

These forms of misconduct are typically those that most principals were involved in previously (Oosthuizen, 2000:5). The National Department of Education demonstrates its confidence in principals being able to cope with these and expects the MEC's to add to this list if they see it fit (Boshoff, 2001). In the following paragraph, the proposed list of non-delegated acts of misconduct is presented and discussed.

3.1.6 Disciplinary actions not delegated to principals

The following list contains the more serious forms of misconduct which are, as part of the decentralisation policy, not proposed for delegation to principals by the national Department of Education. As with the previous table, these are categorised under subheadings that were not suggested by the legislators. (The original numbering as in the Employment of Educators Act, 76 of 1998 has again been retained).

Official from the Department of Education should become involved right from the start of the informal phase.

The specification of "a breakdown in the employment relationship" in the introduction to this section is important as this is one of the issues that have to be addressed at disciplinary hearing.

Table 3.1 (a): Cases of misconduct delegated to principals

CATEGORY	Misconduct refers to a breakdown in the employment relationship and an educator commits misconduct if he or she -
General	(a) Fails to comply with this act or any other legal obligation relating to education and the employment relationship;
Property and finances	(b) without permission possesses or wrongfully uses the property of a school, another employee or a visitor; (w) operates any money- lending scheme for employees for his or her own benefit during working hours or from the premises of the educational institution where he or she is employed.
Safety regulations	(e) In the course of duty endangers the lives of himsel or herself or others by disregarding set safety rule or regulations; (y) refuses to obey security regulations;
Criticism	(a) unjustifiably prejudices the administration, discipline or efficiency of the Department of Education or a school;
Misuse of position	(b) misuses his or her position in the school to promote or to prejudice the interests of any person; (j) absents himself or herself from work without a valid reason or permission;
Poor work performance	(l) performs poorly or inadequately for reasons other than incapacity;
Improper behaviour	(o) without authorisation, sleeps on duty; (i) fails to carry out a lawful order or routine instruction without just or reasonable cause; (q) while on duty, conducts himself or herself in an unacceptable manner;

	(s) incites other personnel to unprocedural and unlawful conduct; (t) displays disrespect towards others in the workplace or demonstrates abusive or insolvent behaviour; (u) intimidates or victimises fellow employees, learners or students.

Source: Rossouw (2001:128)

When establishing whether an educator is guilty of one or more of these forms of misconduct, proof will have to be presented that the act actually led to a breakdown in the employment relationship. This phrase has not been included in section 17, which is an indication of how serious the legislators are in their endeavours to eliminate the kinds of misconduct referred to in this section.

Table 3.1 (b): Cases of misconduct delegated to principals

CATEGORY	Misconduct refers to a breakdown in the employment relationship an educator commits misconduct if he or she -
Property and Finances	(b) wilfully or negligently mismanages the finances of a school;
	(d) wilfully, intentionally or negligently damages or causes loss to the property of a school;
	(c) accepts any compensation from a member of the public or another employee for performing his or her duties without written approval from the employer;
	(m) without the written approval of the employer, performs work for compensation for another person or organisation either during or outside working hours;
	(n) 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 or other reward to which the educator is not entitled by virtue of the educator's office;
Improper behaviour	(k) 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 constitution;
	(p) while on duty, is under the influence of an intoxicating sub-stance, including alcohol;
	(r) assaults, or attempts to or threatens to assault, another employee or another person;
	(v) prevents other employees from exercising their rights to freely associate with trade unions in terms of any labour legislation;
	(bb) participates in unprocedural, unprotected or unlawful industrial action;
	(ff) victimises an employee for, among others, his or her association with a trade union;

Safety regulations	(x) carries firearms or other dangerous weapons on state premises, without the written authorisation of the employer;
Dishonesty	(z) gives false statements or evidence in the execution of his or her duties; (aa) falsifies records or any other documentation; (ee) commits a common law or statutory offence; (ff) commits an act of dishonesty
Refusal of counselling or rehabilitation	(cc) fails or refuses to - (i) follow a formal programme of counselling; (ii) subject himself or herself to a medical examination; (iii) attend rehabilitation or follow a formal rehabilitation programme.

Source: Rossouw (2001:128)

In addition to this list, six forms of misconduct have been added to section 17(5), mostly to specify certain types of misconduct that have already been mentioned. These are dishonesty, victimisation of other employees, unfair discrimination, rape, murder and administering of corporal punishment. The precise meaning of subsection 5 may not be clear. Acts or rape and murder cannot be regarded as less serious misconduct, yet item (5) states that the educator "may be dismissed", while the words "must be dismissed" are used in section 17 regarding serious misconduct. According to Boshoff (2001), the argument, is that the forms of serious misconduct mentioned in section 17 are typically those acts where an educator misuses his or her position and where the misconduct has a direct and immediate influence on the well-being of learners, especially with regard to sexual matters, assault and drug abuse. The words "must be dismissed" indicate that there is no discretion, lesser sanction or mitigating circumstances that will be considered in the disciplinary process; such an educator will be dismissed.

This is a clear indication of the legislators' intention to implement the values and principles stipulated in the Bill of Rights, particularly section 28, which stipulates that every child has the right to be protected from maltreatment, neglect, abuse and degradation and that the best interest of every child is of paramount importance.

Procedures: misconduct

The Code of Good Practice. Dismissal, in the 1995 Labour Relations Act (SA 1995) has been formulated to determine whether a dismissal by an employer was carried out according to fair procedure or not. It may, however, also be regarded as the basic manual according to which any person who is appointed to investigate a case of alleged misconduct may ensure that the correct procedure is followed. Schedule 2 of the Employment of Educators, Act, 76 of 1998, is based upon this Code of Good Practice and it has been made more specific for the educator-as-employee relationship with his or her employer.

Fairness in the procedure that the principal or an official from the Department of Education follows is, as previously mentioned, a key concept in all labour relations concerned with disciplinary action, and is equally as important as substantive fairness. This aspect will be discussed later on, with the emphasis on those aspects that are most important for the principal according to the decentralisation policy, as well as on the directions given in Schedule 2 of the Education Laws Amendment Act, 53 of 2000.

Fairness and mutual respect in the relationship between employers and employees are just as important as the efficient operation of a business. Employees must be protected from arbitrary action, while employers are entitled to satisfactory conduct and work performance from their employees (Grogan, 2000:45). It is also important to share a common understanding of misconduct and discipline by providing educators and their employers with an easy reference for the application of disciplinary measures.

Under the heading *Principles,* the following have been stipulated in Schedule 2.

3.1.7 Disciplinary code and procedures for educators

According to (Rossouw, 2004 : 89).

Discipline, in this respect, could be defined as follows.

(a) Discipline is a corrective and not a punitive measure.

(b) Discipline must be applied in a prompt, fair, consistent and just manner.

(c) Discipline is the responsibility of an employer.

(d) A disciplinary code is necessary for the efficient delivery of service and the fair treatment of educators, and ensures that educators -

  (i) have a fair hearing in a formal or informal setting;

  (ii) are timeously informed of allegations of misconduct made against them;

  (iii) receive written reasons for any decision taken; and

  (iv) have the right to appeal against any decision.

(e) As far as possible, disciplinary procedures are held at the place of work and are understandable to all educators;

(f) If an educator commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different proceedings.

(g) Disciplinary proceedings must be concluded in the shortest possible time- frame.

With these principles in mind, the principal must follow the correct, fair procedure during the informal phase, after which, if necessary, the investigation should be taken over by an official from the Department of Education. Principals should be knowledgeable about the fact that they do not have the power to take the process into the formal phase (Rossouw, 2004 : 89)

This step-by-step procedure for cases of less serious misconduct is set out in item 4 of Schedule 2, and may be summarised as follows (Rossouw, 2004:89)

Step 1

Determine the -

- extent to which alleged misconduct impacts on the work;
- nature of the educator's work and responsibilities ; and
- circumstances in which the alleged misconduct took place.

Step 2

If the seriousness of the misconduct warrants it,

- call the educator's attention to the misconduct;
- give the educator the opportunity to respond to the allegations; and
- after consultation with the educator, decide on a method to remedy the conduct.

Step 3

Warnings, if necessary.

The following could apply.

- Verbal warning
- Written warning (in accordance with Form A in Schedule 2)
- Final written warning (according to Form B) if previous steps do not bring about the required positive change.

The moment the misconduct is more serious, a formal enquiry process should be followed that is not delegated to principals. This procedure is set out in item 5 of Schedule 2 (ANNEXURE C). The sanctions to be imposed in each of the different phases may be illustrated as follows.

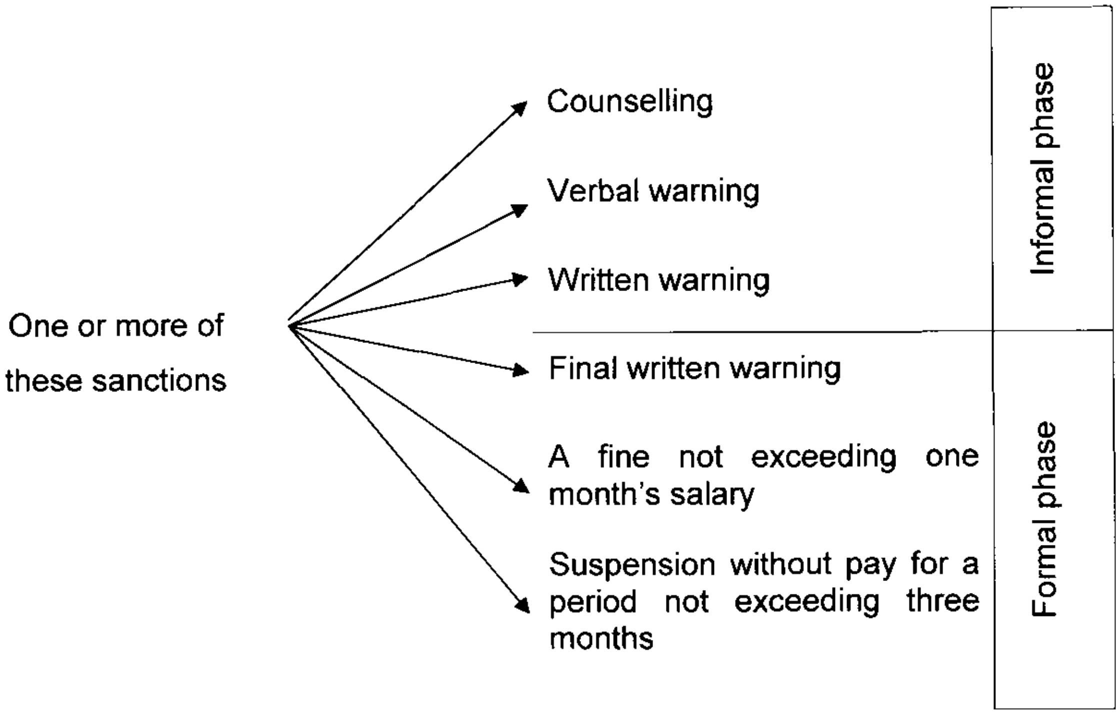


Figure 3.4: Sanctions against misconduct by educators

Source: GDE Training manual (2005:251)

The correct procedure to be followed in these matters, is that the person investigating, should convene a meeting at which the educator and, if he or she so chooses, the educator's trade union representative or another employee who is based at the institution, are present. Boshoff (2001) stresses the fact, that this union representative must be based at the institution, to minimise the negative effect of possible delays.

For the purpose of determining appropriate disciplinary action, valid warnings for similar offences by the educator must be taken into account. It is an important principle in labour relations that the guilt of the accused ... should be determined on the evidence, without reference to the employee's disciplinary record" (Grogan, 2000:160.) The record should be considered only after having decided whether the accused is guilty of the current allegation of misconduct.

A penalty should be determined which is appropriate to the offence and the particular employee. Only at that stage should the presiding officer refer to the employee's disciplinary record (Grogan, 2000:160).

A copy of the written warning must be handed to the educator, who must (in writing) acknowledge receipt. The fact that an educator signs the copy, does not imply that he or she admits any guilt.

If the educator refuses to sign the copy to acknowledge receipt, the employer must hand the warning to the educator in the presence of another educator, who shall sign in confirmation that the written warning was conveyed to the educator.

The written warning must be filed in the educator's personal file and can be taken into consideration when determining suitable sanctions, if further disciplinary actions take place within six months (Rossouw, 2004 : 91).

Any additional information and possible written objections by the educator must be filed with the written warning.

The formal phase has to be followed immediately in cases of alleged serious misconduct in terms of section 17, where the employer may suspend the educator on full pay for a maximum period of three months. These procedures, which are part of the formal phase in the disciplinary process, are primarily of importance to the official from the Department of Education dealing with the case. Aspects that are covered in Schedule 2, are suspension of the educator, the way in which to conduct the disciplinary hearing, steps that may be taken after the disciplinary hearing, and appeals against a sanction by the educator. Of these, the *disciplinary hearing* is of importance to the principal (because it is sometimes also conducted in the informal phase) and, therefore, needs further clarification (Rossouw, 2004:91).

An analysis of Schedule 2 of the Employment of Educators Act, 76 of 1998 shows important procedural stipulations for disciplinary hearings in case of more serious misconduct. The complete version of the procedure, as set out in items 5 and 6 of Schedule 2, should, however, be followed, as this analysis highlights only the most important aspects and does not reflect the full procedure (Rossouw, 2004:91).

- The educator must be given written notice at least five working days before the meeting.
- The educator should be present, as well as the educator's trade union representative or another employee, if the accused so chooses.
- Reasons should be given to the educator as to why it is necessary to initiate the procedure.
- The educator or the representative should be heard on the misconduct and reasons thereof.
- The written notice of the disciplinary hearing must be given in accordance with Form C of Schedule 2, and should include a description of the allegations of misconduct and the main evidence on which the employer will rely, details of the time, place and venue of the hearing, information on the rights of the educator to representation by a legal representative if the presiding officer so directs and on the rights of the educator to call witnesses at the hearing.

The educator should acknowledge receipt of the notice by signing a copy.

- If the educator fails to attend the hearing without a valid reason, the hearing may continue in the educator's absence.
- A record of the notice of the disciplinary hearing and the proceedings must be kept and be read before the start of the hearing.
- The representative of the employer must lead evidence on the conduct giving rise to the hearing.
- The educator or the representative may question any witness called by the employer's representative.

- Where the educator has requested that a person be present at a hearing as a witness, the employer must provide the educator with the assistance to ensure that such witnesses attend.
- The summons to appear at a disciplinary hearing, must be in accordance with Form D in Schedule 2. (Annexure D)
- The educator or the representative must be given an opportunity to lead evidence, and the representative of the employer may question the educator's witnesses.
- The presiding officer must give a finding on whether or not the educator has committed the misconduct, and must inform the educator of the finding and the reasons thereof.
- Before deciding on a sanction, the presiding officer must give the educator an opportunity to present evidence in mitigation, while the representative of the employer may present evidence of aggravating circumstances.
- The presiding officer must communicate the final outcome of the hearing to the employer and the educator within five working days of the conclusion of the disciplinary enquiry, and the outcome must be recorded in the educator's personal file.

It should be clear from the extract from (Schedule 2) that procedural fairness towards the educator is very important. Although these regulations are aimed at the formal phase, the principal should take note of them to be able to advise a staff member who might be accused of one or another form of misconduct.

The third kind of dismissal, that of operational requirements, will be discussed in the next section.

3.1.8 Operational requirements

Besides misconduct and incompetence or incapacity, which have been discussed in the previous sections, dismissal for operational requirements is the third type of dismissal that may qualify as fair dismissal. Like incapacity, this is where the employee did not necessarily do anything wrong.

3.1.8.1 Defining operational requirements

This form of dismissal is generally known as retrenchment. In the Labour Relations Act, 66 of 1995 "operational requirements" are defined: Operational requirements means requirements based on the economic, technological, structural or similar needs of an employer." (Rossouw, 2004:93.)

In education, the redeployment and retrenchment processes are examples of changes in operational requirements that have a direct impact on labour relations in schools.

In section 189 of the same act the procedure according to which these processes should be carried out is set out in detail. This will be discussed in the following paragraph.

3.1.8.2 Procedures: Operational requirements

The procedure according to which dismissals resulting from operational requirements should be carried out, is set out in detail in section 189 of the LRA, which reads as follows (Rossouw, 2004:93).

3.1.8.3 Dismissals based on operational requirements (189)

(a) LABOUR RELATIONS AND THE SOUTH AFRICAN COUNCIL OF EDUCATORS The employer shall consult any person whom the employer is required to consult in terms of a collective agreement.

(b) If there is no collective agreement that requires consultation, a workplace forum should follow if the employees likely to be affected by the proposed dismissals are employed in a workplace in respect of which there is a workplace forum

(c) If there is no workplace forum in the workplace in which the employees likely to be affected by the proposed dismissals are employed, any registered trade union should involve itself, whose members are likely to be affected by the proposed dismissals.

(d) If there is no such trade union, the employees likely to be affected by the proposed dismissals or their representatives nominated for that purpose, will become part of the process.

According to (Rossouw, 2004:94) consulting parties must attempt to reach consensus on -

(a) appropriate measures to -

 (i) avoid the dismissals;
 (ii) minimise the number of dismissals;
 (iii) change the timing of the dismissals; and
 (iv) mitigate the adverse effects of the dismissals.

(b) the method for selecting the employees to be dismissed; and

(c) the severance pay for dismissed employees.

(3) The employer must disclose in writing to the other consulting party all relevant information, including, but not limited to –

 (a) the reasons for the proposed dismissals;
 (b) the alternatives that the employer considered before proposing the dismissals and the reasons for rejecting each of those alternatives;
 (c) the number of employees likely to be affected and the job categories in which they are employed;
 (d) the proposed method for selecting which employees to dismiss;
 (e) the time when, or the period during which, the dismissals are likely to take effect;
 (f) the severance pay proposed;
 (g) any assistance that the employer proposes to offer to the employees likely to be dismissed; and
 (h) the possibility of the future re-employment of the employees who are dismissed.

(4) The Provisions of Section 16 apply, read with the changes required by the context to the disclosure of information in terms of subsection (3).

(5) The employer must allow the other consulting party an opportunity during consultation to make representations about any matter on which they are consulting.

(6) The employer must consider and respond to the representations made by the other consulting party and, if the employer does not agree with them, the employer must state the reasons for disagreeing.

(7) The employer must select the employees to be dismissed according to selection Criteria -

1. that have been agreed to by the consulting parties; or
2. if no criteria have been agreed upon criteria that are fair and objective.

The most important aspects of this procedure are as follows.

- The hierarchy of the groups to consult is prescribed in item (1); any collective agreement is of paramount importance, then a workplace forum, then a trade union, then the employees themselves.

- An attempt to reach consensus on the measures, methods and payment (item 2) must be made, which does not mean that the process will stop if consensus is not reached.

- Every point under item 2 should be discussed in an attempt to reach consensus.

- Every point under item 3 should be disclosed in writing to the consulting parties.

- To follow the correct procedure is of the utmost importance in every step of the procedure. In a possible challenge in court after the dismissal, the procedure will be scrutinised point by point so as to determine whether it was fair.

- As regards item 7, the selection criteria, the customary method of selecting employees for retrenchment, is LIFO (Grogan, 2000:176).

3.2 SOUTH AFRICAN COUNCIL OF EDUCATORS

3.2.1 Background on disciplinary procedures

This document emanates from the provisions of the South African Council for Educators Act, - (Act 31 of 2000).

The purpose of this document is to provide a fair procedure governing the investigation and hearing of alleged breaches of the code of professional ethics for educators.

The Council commits itself through these procedures to the development of a high standard of ethics governing the teaching profession.

These procedures are intended to be corrective and not punitive, where this is possible and desirable, taking into account the interests of the teaching profession as a whole.

3.2.2 Functions of the disciplinary committee

According to (SA, 2000:13) the disciplinary committee must -

- ensure that alleged breaches of the code are investigated;
- establish investigating panels to investigate alleged breaches of the code;
- establish disciplinary panels to conduct disciplinary hearings into alleged breaches of the code;
- ensure that disciplinary hearings are fair and comply with the procedures set out in this document; and
- on the basis of recommendations received from disciplinary panels, recommend findings and appropriate sanctions if any, to the Council in respect of breaches of the code (SA, 2000:14)

The members of investigating and disciplinary panels established by the disciplinary committee, need not be members of the Council.

(i) The disciplinary hearing

Once a matter has been referred for hearing by a disciplinary panel, the chief executive officer or the chairperson of the disciplinary committee must issue a summons to the educator who has allegedly breached the code.

The summons must disclose the following stipulations.

- The nature of the alleged breach
- The date, time and venue of the disciplinary hearing
- The educator's right to be represented at the disciplinary hearing, including the right to legal representation
- The educator's right to be represented at the disciplinary hearing, including the right to legal representation
- The educator's right to call witnesses to give evidence and to produce books, documents and other items in support of the educator's case; and
- The educator's right to make written submissions against any recommendation of the disciplinary panel to the disciplinary committee.

The summons must be served by way of –

- delivery by hand;
- telefax; or
- registered post.

The date on which the summons is served, is regarded as, in the case of -

- service by hand, the date of delivery;
- service by telefax, the dispatching date reflected on the telefax; and
- service by registered post, the date on which the letter was signed for in the absence of proof to the contrary.

The summons must be served on the accused at least twenty (20) days before the date of the disciplinary hearing.

The chief executive officer or the chairperson of the disciplinary committee may issue a summons to any other person to attend the disciplinary hearing in order to give evidence or to produce any books, documents or other items (SA, 2000:14)

If the educator fails to attend a disciplinary hearing, the disciplinary panel may deal with the matter in the absence of the educator.

A witness who attends a disciplinary hearing, is entitled to such allowance as the Council may from time to time determine.

Any person who fails to attend a disciplinary hearing when summoned to do so, or fails to stay in attendance until excused by the disciplinary panel, commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding six (6) months.

(ii) Procedure at the disciplinary hearing

The disciplinary panel may exclude any person or category of persons from attending a disciplinary hearing –

- on reasonable grounds; or
- if the orderly conduct of the inquiry so requires.

(iii) The disciplinary panel may postpone or adjourn a disciplinary hearing -

- at its discretion; or
- on the request of any party to the hearing.

The disciplinary committee may appoint one or more suitably qualified assessors to be present at a disciplinary hearing, and to advise the disciplinary panel on matters of law, procedure and evidence, or other matters requiring specific expertise (SA, 2000:14)

An educator charged with an alleged breach of the code, is entitled to representation, including legal representation at any disciplinary hearing.

(v) The disciplinary panel must -

- record the evidence at a hearing; and
- administer an oath or affirmation to any witness at a hearing.

(vi) At the commencement of the hearing, the disciplinary panel must-

- put the charge to the educator and ask the educator to plead to the charge;
- inform the educator of the his/her rights –
    - to representation, including legal representation;
    - against self-incrimination;
    - to an interpreter; and
    - to adduce evidence and challenge evidence at the hearing.

(vii) If the educator -

- pleads guilty to the charge, the disciplinary panel must decide whether or not to hear evidence regarding the charge;
- pleads not guilty, the disciplinary panel must hear the evidence regarding the charge;
- refuses or fails to plead, the disciplinary panel must enter a plea of not guilty and must hear evidence regarding the charge (SA, 2000:15)

If the educator charged with a breach of the Code fails to attend the disciplinary hearing, and the disciplinary panel decides to proceed with the matter in the absence of the educator, It must enter a plea of "not guilty" and hear evidence regarding the charge

If the disciplinary panel decides to hear evidence pertaining to the charge, every party to a hearing or the party's representative is entitled to -

- lead evidence in support of their case;
- cross-examine any witness of an opposing party; and
- re-examine any witness led by that party.

Members of the disciplinary panel may question any witness at the hearing.

The record of any evidence of a breach of the code in any criminal proceedings or disciplinary proceedings by an employer, constitutes prima facie evidence of such breach by an educator for purposes of a disciplinary hearing In terms of the Act.

3.2.2.1 Recommendation of the disciplinary panel

The disciplinary panel must make its recommendation on whether or not there has been a breach only after -

- evidence has been completed; and
- every party to an inquiry has been given a fair opportunity to be heard.

If the disciplinary panel recommends that the educator has breached the code, the panel must request the parties to make representations on an appropriate sanction. This may include the leading of further evidence, including evidence on any previous convictions of the educator for breaches of the code. A certificate issued by the chief executive officer containing details of any previous convictions constitutes prima facie evidence of such previous convictions (SA, 2000:15)

If the disciplinary panel recommends that the educator has breached the code and recommends a sanction it must -

- record its recommendations;
- inform the educator in writing of its recommendations; and
- submit the record of the hearing and its recommendations to the disciplinary committee.

An educator who is dissatisfied with the recommendation of the disciplinary panel, may make written submissions to the disciplinary committee within fourteen (14) days of his or her knowledge of the recommendation of the disciplinary panel.

The written submissions must set out the grounds on which the educator believes the recommendation to be wrong (SA, 2000:15).

Recommendation of the disciplinary committee

On the basis of the recommendation of the disciplinary panel and the submissions of the educator charged with a breach of the code, if any, the disciplinary committee must recommend a finding and appropriate sanction, if any, to the council and inform the educator concerned accordingly.

An educator, who is dissatisfied with a recommendation of the disciplinary committee, may make written submissions to the council within fourteen (14) days of his or her knowledge of the recommendation of the disciplinary committee (SA, 2000:15)

The written submissions must set out the grounds on which the educator believes the recommendation to be wrong.

(viii) Decisions of the Council

The Council, after considering the recommendation by the disciplinary committee and submissions by the educator concerned, if any, may -

- accept, reject or substitute the recommendation of the disciplinary committee; or

- refer the matter back to the disciplinary committee for further deliberation.

The council may also impose the following sanctions on an educator who is found guilty of a breach of code;

- A caution or reprimand
- A fine not exceeding one month's salary
- The removal of the educator's name from the register for a specified period or indefinitely, or subject to specific conditions.

The council may suspend any sanction contemplated for a period and on conditions determined by it.

The council must inform the educator in writing of its decision.

The council -

- may publish such information relating to the hearing as it deems reasonable; and
- must not publish information relating to a hearing which reveals or may reveal the identity of any person affected by the proceedings who is under the age of eighteen (18) years.

3.2.3 Code of professional ethics and obligations by members

The educators who are registered or provisionally registered with the South African Council for Educators, have certain commitments.

According to (SA, 2000:17) educators shall:

- acknowledge the noble calling of their profession to educate and train the learners of our country;
- acknowledge that the attitude, dedication, self-discipline, ideals, training and conduct of the teaching profession determine the quality of education in this country;

- acknowledge, uphold and promote basic human rights, as embodied in the Constitution of South Africa;
- commit themselves, therefore, to do all in their power, in the exercising of their professional duties, to act in accordance with the ideals of their profession, as expressed in this Code; and
- act in a proper and becoming way, such that their behaviour does not bring the teaching profession into disrepute.

3.2.4 Conduct: The educator and the learner

An educator -

- respects the dignity, beliefs and constitutional rights of learners and in particular children, which includes the right to privacy and confidentiality;
- acknowledges the uniqueness, individuality, and specific needs of each learner, guiding and encouraging each to realise his or her potentialities;
- strives to enable learners to develop a set of values consistent with the fundamental rights contained in the Constitution of South Africa;
- exercises authority with compassion;
- avoids any form of humiliation, and refrains from any form of abuse, physical or psychological;
- refrains from improper physical contact with learners;
- promotes gender equality;
- refrains from any form of sexual harassment (physical or otherwise) of learners;
- refrains from any form of sexual relationship with learners at a school;
- uses appropriate language and behaviour in his or her interaction with learners, and acts in such a way as to elicit respect from the learners;

- takes reasonable steps to ensure the safety of the learner;
- does not abuse the position he or she holds for financial, political or personal gain;
- is not negligent or indolent in the performance of his or her professional duties;
- recognises, where appropriate, learners as partners in education (SA, 2000:17)

3.2.5 Conduct: the educator and the parent

An educator, where appropriate -

- recognises the parents as partners in education, and promotes a harmonious relationship with them; and
- does what is practically possible to keep parents adequately and timeously informed about the well-being and progress of the learner (SA, 2000:17)

3.2.6 Conduct: The educator and the community

An educator -

- recognises that an educational institution serves the community, and therefore acknowledges that there will be differing customs, codes and beliefs in the community; and
- conducts him/herself in a manner that does not show disrespect to the values, customs and norms of the community (SA, 2000:18)

3.2.7 Conduct: The educator and his or her colleagues

An educator -

- refrains from undermining the status and authority of his or her colleagues;

- respects the various responsibilities assigned to colleagues and the authority that arises therefore, to ensure the smooth running of the educational institute;
- uses proper procedures to address issues of professional incompetence or misbehaviour;
- promotes gender equality and refrains from sexual harassment (physical or otherwise) of his or her colleagues;
- uses appropriate language and behaviour in his or her interactions with colleagues;
- avoids any form of humiliation, and refrains from any form of abuse (physical or otherwise) towards colleagues (SA, 2000:18)

3.2.8 Conduct: The educator and the profession

An educator -

- acknowledges that the exercising of his or her professional duties occurs within a context requiring co-operation with and support of colleagues;
- behaves in a way that enhances the dignity and status of the teaching profession and that does not bring the profession into disrepute;
- keeps abreast of educational trends and developments;
- promotes the ongoing development of teaching as a profession (SA, 2000:18)
- accepts that he or she has a professional obligation towards the education and induction into the profession of new members of the teaching profession.

3.2.9 Conduct: The educator and his or her employer

An educator -

- recognises the employer as a partner in education;
- acknowledges that certain responsibilities and authorities are vested in the employer through legislation, and serves his or her employer to the best of his or her ability;
- refrains from discussing confidential and official matters with unauthorised persons (SA, 2000:18)

3.2.10 Conduct: The educator and the council

An educator -

- makes every effort to familiarise him/herself and his/her colleagues with the provisions of the Code;
- complies with the provisions of this Code;
- discloses all relevant information to the council;
- informs the council and/ or relevant authorities of alleged or apparent breaches of the code within his/her knowledge;
- co-operates with the council to the best of his or her ability; and
- accepts and complies with the procedures and requirements of the council, including but not limited to the registration procedures, the disciplinary procedures of the council and the payment of compulsory fees (SA, 2000:18)

3.2.11 Educator statistics with regard to misconduct

In this regard, education minister Kader Asmal (as quoted by De Villiers *et al*, 2000:48) accused educators of neglecting their professional duties, claiming that the public does not believe they are worthy of the money the state is paying them.

Educators cannot avoid teaching values through their personal words and actions. Every educator should, therefore, be a role model for young, developing learners, since children learn first and foremost through the example of, , those who have authority over them Van der Bank (in De Villiers *et al*, 2000:13). This becomes evident especially when educators abuse their positions for either financial or personal gain. Numerous allegations of sex-related acts of misconduct by educators are also currently being published on a regular basis. The public actions of a teacher, made headlines because of her, as the editor of the education newspaper *The Teacher* put it, ...obscene behaviour and cucumber-sucking antics" as a contestant on the reality television programme Big Brother (*The Teacher,* 2001: 1).

- How serious should an offence be before an educator may be barred from contact with learners?
- How many warnings should an educator receive?
- What kinds of offences may be excused?
- What forms of misconduct should lead to an educator being transferred to a position where no personal contact with learners is possible?
- When is dismissal the only possible sanction?

If continued acts of misconduct by educators hamper and even endanger the educational process, serious questions should be asked about the *fairness* of the disciplinary procedure – fairness not towards the employee, but towards the learner. The fundamental rights of the learners should be weighed against those of the educators, considering the possibility of limiting certain labour rights for educators.

To answer the question of how serious the problem of misconduct among educators is, some statistics may be investigated. An indication of the types of misconduct and the annual frequency of these transgressions, as supplied by SACE (Kikine, 2003:3 – 6) are given in Table 3.2.

Table 3.2: Educator misconduct reported to the SACE (1999 – 2002)

Types of misconduct dealt with by the SACE	1999	2000	2001	2002
Verbal abuse, victimisation, harassment	19	19	25	27
Sexual misconduct	2	6	12	72
Theft/fraud	1	1	3	12
Assault	5	5	10	32
Unprofessional behaviour	2	5	21	17
Racism	0	1	4	3
Corporal punishment.	0	1	3	8
	29	38	78	171

Source: Kikine (2003: 3)

From these statistics, it seems that educator misconduct is increasing at an alarming rate, especially with regard to sexual misconduct. Cases of assault are also increasing, in spite of the strict legislation that was implemented in November 2000 with the Education Laws Amendment Act, 53 of 2000. There was no decrease or stabilisation in the frequency of any of the types of misconduct mentioned. Statistics available for the first term of 2003 (Kikine 2003: 6), show that in Gauteng and KwaZulu-Natal (together), cases of misconduct are more frequent than in the rest of the country combined.

It should also be kept in mind, that all cases of misconduct are not necessarily reported to the SACE. The increase in reported cases may also have been caused by other factors, such as a possible increasing awareness of the role the SACE can play in reducing educator misconduct.

While the SACE approaches misconduct from the viewpoint of professional ethics, the employer of educators, the Department of Education, deals with misconduct as part of the employment relations that exist. This discrepancy calls for more in-depth research than is the purpose of this research findings.

Table 3.3: Misconduct: Gauteng Department of Education (1999 – 2000)

	Dismissal	Fined	Demotion	Suspended	Warning	Not Guilty	Pending Cases	Total
ABSENTEEISM	46	6	-	5	11	3	26	97
NEGLIGENCE	13	18	5	4	19	-	12	71
INSUBORDINATION	1	14	7	2	18	5	4	51
FRAUD	9	3	2	-	-	12	8	34
THEFT	15	1	-	-	-	8	7	31
CORORAL PUNISHMENT	2	2	-	-	4	-	-	8
SEXUAL OFFENCES	2	-	-	-	-	1	2	5

Source : Rossouw (2004:72)

Offences like fraud, theft and insubordination are directly related to the labour relationship between the employer and the educator as employee, while corporal punishment, sexual offences and negligence reflect on the educator-learner relationship. Absenteeism, by far the most frequent type of offence, is related to the labour relationship, but will also indirectly have an adverse effect on the learners. It is a positive sign that the occurrence of corporal punishment and sexual offences are less that the other types of offence.

Without reference to the frequency of each type of misconduct, the following statistics from the Eastern Cape Province may be added to present an overview of some other (to a certain extent minor) offences prevalent.

It is clear that, although some may be regarded as minor offences, most of these offences must have had a very negative effect on the learning environments of the schools where they occurred. What should be noted here, is the bad example set by educators through such offences as misappropriation of funds, alcohol abuse, absenteeism, insubordination, and a combination of some – visiting a shebeen (township bar) instead of being at school. It becomes almost impossible for the rest of the staff to establish a culture of learning and teaching if one or more educators are found guilty of these offences.

3.3 CHAPTER SUMMARY

Strict rules pertaining to the fairness of disciplinary proceedings in labour relations have been accepted and implemented. These rules, as well as certain rights entrenched in the Constitution, rule out arbitrary action against all employees, and collective agreements between the state as employer of educators and the trade unions are to the benefit of the individual educator.

Substantive and procedural fairness are equally important in disciplinary matters. As regards substantiveness, only three types of fair dismissal exist: incapacity of the employee, misconduct by the employee and operational requirements. Attempts are being made to ensure that the unclear distinction between dismissals resulting from fault or no fault is eliminated.

The disciplinary processes in recent labour and education legislation in South Africa have changed away from a punitive approach to one that may be termed progressive discipline, which is an internationally accepted principle aimed at the enhancement of fairness in labour relations.

The next chapter will deal with the Empirical Study of the questionnaire.

CHAPTER FOUR

EMPIRICAL RESEARCH DESIGN

4.1 INTRODUCTION

The previous chapters are comprised of the literature review on roles and responsibilities of stakeholders, as well as Labour Relations in Education. The purpose of this chapter is to outline the design of the Empirical Research regarding the current status at various schools with regard to labour relations in education in primary and secondary schools in the Vaal Region. There are 171 schools in the Vaal Region, and for the purpose of this study, a questionnaire was distributed through the District Office to 35 schools and 622 questionnaires were received from respondent's before the deadline 31 May 2006.

Therefore, 92 % of questionnaires were received before the deadline and were used for statistical purposes.

This chapter sets out to present the research design with regard to the research method and the development of the research.

4.2 THE AIM OF THE EMPIRICAL RESEARCH

The empirical investigation aims at gathering data on the current status of schools in the Vaal Region in order to develop a conducive model for schools in the area. The literature study suggests, that most stakeholders in education received little training in terms of capacity building.

4.3 RESEARCH INSTRUMENTS

For the purpose of this research, the questionnaire was chosen as the research tool. The rationale for the use of the questionnaire, will now be presented.

4.3.1 The questionnaire as a research tool

A survey questionnaire is one of the tools used in the collection of research data and is ultimately dependent on the purpose of study (Tuckman, 1994:216). According to Best and Kahn (1933:230), the questionnaire is a self-reporting instrument used for gathering data about variables of interest to the researcher and consists of a number of questions or items that a respondent reads and answers.

Tuckman (1994:230) avers, that questionnaires are used by researchers to directly convert the information provided by the people into data. In this sense, the questionnaire became appropriate to gather data for this research, in that it elicits factual data about the labour relations in education currently prevailing is South African Schools (Vockel & Acher, 1995:124).

The questionnaire was seen as being cost-effective in this research (Fraenkel & Wallen, 1990:336). This was because it would be very easy to administer, since contact persons would be used to distribute and collect the questionnaires.

The use of questionnaires in this research is based on the following assumptions (Wolf, 1997:422).

- Respondents can read and understand the questions.
- Respondents are presumably possible willing to answer the questions.
- Respondents are in the position to supply the information to answer the questions, and especially in view of the presumed willingness to find a suitable model for schools, to run effectively.

The suitability of the questionnaire is based on the fact, that the respondents are schools principals, deputy principals, heads of departments and educators who will profoundly be interested in the final outcome of the research and its implications for the betterment of these respondents' situation as stakeholders in education.

Since the questionnaire is in writing the interaction is impersonal, it has, according to Fraenkel & Wallen (1990:36), both advantages and disadvantages

4.3.2 Advantages of questionnaires

The following are some of the advantages of the questionnaire as used in this study (Fraenkel & Wallen, 1990:336).

- It can be distributed to respondents with financial and time cost-effectiveness and covers a wide field.
- It reaches people who otherwise would be difficult to reach, thus obtaining a broad spectrum of views.
- Since questions are phrased identically, the questionnaire allows for uniformity and elicits more comparable data.
- Anonymity of respondents is assured, since respondents are not required to divulge their identities, addresses and schools.
- It is relatively easy to plan, construct and administer.
- It can be administered by anybody on behalf of the researcher.
- Respondents can answer the questionnaires at leisure, without any pressure for an immediate response.
- Permission from the district authorities can be given easily, since the contents of the questionnaire can be pre-viewed.
- The influence an interviewer could have on the respondent, is obviated.
- Processing is made easy by the questionnaire being well compiled.
- Because of its impersonal nature, the questionnaire may elicit more candid answers and objectives and, therefore, more valid responses.

- The questionnaire enhances progress in many areas of research and brings to light much information, which would otherwise have been lost.

4.3.3 Disadvantages of questionnaires

Despite its usefulness, the questionnaire has the following limitations (Ary *et al.*, 1990:421)

- The motivation of respondents may be difficult to check, which could lead to misleading responses.
- A low response rate is the biggest common limitation of the questionnaire. This will affect the validity of the results.
- Questionnaires can frustrate respondents who may feel that their personal options are left out.
- Respondents may be unwilling to respond to questions bordering on private matters or controversial issues and may consequently give what they believe to be socially desirable responses.
- The length of the questionnaire may lead to careless or inaccurate responses and may result in low return rates.
- Questionnaires may not probe deep enough to reveal a true picture of opinions and feelings.
- Little can be done to rectify a misinterpreted question.
- Because of its apparent simplicity, a questionnaire might appeal to the amateur investigator and may be abused.
- The respondents may have little interest in a particular problem and, therefore, may answer the questionnaire indiscriminately.

In spite of these limitations, a questionnaire still is a valid instrument for data collection and is still commonly and widely used. Wolf (1997:422) argues, that careful and sensitive developmental work will help to identify and make full provision for these limitations. In using the questionnaire, the researcher must be satisfied that the questions are stated with sufficient clarity in order to function in the impersonal interaction and he/she must try to maximise the likelihood that a respondent will answer the questions and return the questionnaire (Ary *et al.*, 1990:422-423).

4.3.4 The design of the questionnaire

4.3.4.1 Preparing the questionnaire

The design of a questionnaire must be well-organised by a thorough process. Moloko (1996:90) cites Sidhu's exposition, that a well-designed and administered questionnaire can serve as an appropriate and useful data-gathering device and can boost the reliability and validity of the data.

According to Ary *et al*, (1990:422-424) and Gall *et a.*, (1996:294), state that, the following factors need to be considered in preparing a questionnaire.

- The questionnaire should reflect scholarship so as to elicit high returns.
- The questionnaire should be kept as brief as possible so that answering it requires a minimum of the respondents' time. All unnecessary items, especially those answers readily available from other sources, should be eliminated.
- Questionnaire items should be phrased in such a way, that every respondent can understand them. It would be best to construct simple and short sentences.
- Items in the questionnaire should be phrased in a way that will elicit unambiguous responses. Words like 'often' and 'sometimes' should be avoided as they mean different things to different people.
- Items should be so phrased as to avoid bias or prejudice that might predetermine respondents' answers.

- Questionnaire items should not be misread because of unstated assumptions. The frame of reference for answering questions should be clear and consistent for all respondents.

- Alternatives to items should be exhaustive; e.g. what is your marital status? It should not include only restricted alternatives *married* or *single*, but also *widowed, divorced and separated.*

- Questions that might elicit embarrassment, suspicion or even hostility in the respondents, should be avoided.

- Questions should be arranged in the correct psychological order, e.g. if both general and specific questions are asked, the general questions should precede the specific ones.

- The questionnaire should be attractive in appearance, neatly arranged and clearly duplicated or printed.

Questions should allow for respondents to review their own relevant experiences thoroughly, arrive at accurate and complete responses and should communicate some rules about the process of answering questions by providing respondents with the necessary rules, so as to reduce complexities and ambiguities (Ary *et al*, 1990:426-427).

4.3.4.2 Construction of the questionnaire items

According to Tuckman (1994:225) questionnaire items must be developed carefully in such a way, that they would measure a specific aspect of the study's objectives or hypotheses.

The questionnaire items in this particular study were carefully constructed. The aim of the empirical study was throughout taken into consideration. Section B is constructed in such a way, as to elicit responses that would give an indication of what the roles and responsibilities of various stakeholders in education, are with special reference to primary and secondary schools in the Vaal Region. Section C required respondents to respond to questions on level of knowledge of labour relations in education. The last part (Section D) requires respondents to respond to questions relating to the behaviour of educator with regard to the South African Council for Educators. This would shed light on whether there was a need for the development model for schools in the Vaal Region. Since the same questionnaire would be administered to various categories of the target population, the results would shed light on a balanced view of the respondents' needs, as their belonging to each category or being equally applicable for the entire respondent population in various schools. It would, for instance, be interesting to see if there were core-relations or discrepancies among the respondents regarding the questionnaire items as in consequence of possible influences by, inter alia their various backgrounds, e.g. school type, position held and gender.

A total of 34 questions were used in the questionnaire (Annexure E). First, the literature study (Chapter 2 and 3) was used to construct items relating to the following.

- Roles and Responsibilities of various stakeholders in education and the Integrated Quality Management System (IQMS) as a developmental instrument (Section B).
- Conditions of employment as outlined in Employment of Educators' Act 76 of 1998 and disciplinary procedures in terms of misconduct. (SECTION C), and
- South African Council of Educators as a professional body dealing with educators' behaviour (SECTION D).

In line with the exposition of Ary *et al*, (1990:423), the questionnaire items were ordered in a logically sound sequence, i.e. simple, interesting and neutral questions preceded more difficult and crucial items or those that established a frame of reference or provided keys to recall, before those relating to details (Annexure A).

4.3.4.3 The questionnaire format

Ary *et al*, (1990:429) propound, that the questionnaire and the covering letter are the main sources of information that the respondent will refer to in deciding whether or not to complete the questionnaire. The following rules of questionnaires are set forth (Ary *et al*, 1990:429).

- The questionnaire should be made attractive.
- Questions should be laid out or organised in such a way, that the questionnaire is as easy to complete as is possible.
- Questionnaire items and pages should be numbered.
- Brief, clean and bold-typed printed instructions should be included.
- A few introductory interesting and non-threatening items should be included.
- Questionnaires should not be too long and should include enough information so that items are interesting to respondents.

The afore-mentioned rules were taken into consideration in formatting the questionnaire. Instructions for completing and keys for ranking the items were provided in each Section (Moloko, 1996:92).

For each item in various sections (B – D), respondents were required to rank items on a three-point scale, e.g. –

1 = Yes

2 = No

3 = Not Sure

4.3.4.4 Pilot study

Ary *et al*, (1990:428) and Tuckman (1994:235) assert, that in addition to the preliminary check made of the questions in order to locate ambiguities, it is desirable to carry out a thorough pre-test of the questionnaire before using it in the research.

For this pre-test, a sample of individuals from the population similar to that of the research subject, should be selected. The pre-test form of the questionnaire should provide space for respondents to make comments about the questionnaire itself, so as to indicate whether some questions seem ambiguous or not and to indicate other points that can lead to improving the questionnaire.

The questionnaire was first submitted to the study leader for his scrutiny and comments. The questionnaire was thereafter piloted to a sample of principals (n = 5), deputy principals (n = 5) heads of departments (n = 5) and educators (n = 5).

This pilot group was drawn from the intended target population that would not be part of the final study sample. The pilot study group was requested to comment on the questionnaire with regard to its length, any unclear or ambiguous questions and to make any comments or suggestions as advised by Ary *et al.* (1990:428).

The pilot study responses were analysed. The analysis revealed general satisfaction with the questionnaire. A few adjustments were made and the questionnaire was finalised.

4.3.4.5 Questionnaire distribution

The final questionnaire was then distributed to the sample population. A covering letter was enclosed (Annexure F).

The covering letter was aimed at orientating the respondents to the questionnaire, and assuring them of confidentiality and anonymity (Best & Kahn, 1993:241). Contact persons were enlisted to distribute the questionnaires. Principals were requested to act as contact persons. Contact persons were used to minimize the disadvantage of postal questionnaire surveys and to ensure a high return rate, as well as to exercise control over the time span allowed for the return of questionnaires. Consequently it took four weeks for distribution, completion and collection and return of the questionnaires.

4.4 POPULATION AND SAMPLING

The target population was comprised of principals, deputy principals, heads of departments and educators in primary and secondary school in the Vaal Region.

The first step was to ascertain the number of educators employed by the Gauteng Department of Education under the Employment of Educators' Act 76 of 1998, which will comprise the target group. The data indicated a target population of principals (n = 171), deputy principals (n = 256), heads of departments (n = 855) and educators (n = 2138). Table 4.1 shows the target population data.

Table 4.1: Target population

Principals	Deputy principals	Heads Of departments	Educators	Total
171	256	855	2138	3420

Source: Own research

The second step was to determine a sample of four categories of the target population that would be representative of the target population. The size of the sample should be reasonably small for reasons of time and cost, yet being large enough to ensure that it was representative enough (Vermeulen, 1998:52). According to Vermeulen (1998:52), the following should guide the sample size.

- The larger the population, the smaller the percentage of that population the sample needs to be
- The relative homogeneity of the population will influence the size of the sample.

A random sample of schools consisting of school principals (n = 34), deputy principals (n = 51), heads of Departments (n = 170) and educators (n = 425) was then selected. This distribution was guided by guidelines of sample size (Vermeulen, 1998:52).

Table 4.2: Sampling

Population Group	Total	Sample
Principals	171	34
Deputy principals	256	51
Heads of departments	855	170
Educators	2138	425

Source : Own research

4.5 RESPONSE RATE

Questionnaires were distributed to the sample population in primary and secondary schools in the Vaal Region. Table 4.3 shows the return rate per sample category.

Table 4.3: Return rate per sample category

Population category	Questionnaires distributed	Questionnaires received	Percentage
School principals	34	34	100
Deputy principals	51	50	98
Heads of departments	171	140	82
Educators	425	398	94

Source: Own research

From table 4.3, it can be seen, that the response rates exceed 80 percent for all respondent categories. This, according to Landman (1980:112) is an acceptable response rate from which generalisations can be made.

4.6 ADMINISTRATIVE PROCEDURES

4.6.1 Approval from GDE (Head office)

The head office was requested to give permission for the questionnaire to be administered to the target population in primary and secondary schools in the Vaal Region. The questionnaire was distributed to the target population. The distribution was done personally and through principals in various schools.

4.6.2 Follow-up on questionnaire

The response rate was good, because contact persons were personally able to follow-up outstanding responses. There was a need for telephonic and personal follow-up.

4.7 STATISTICAL TECHNIQUES

Statistical Services of the Vaal Triangle Campus of the Potchefstroom University for Christian Higher Education analysed and processed the data collected by means of the SAS programme. The programme was used to assess the frequencies.

4.8 CHAPTER SUMMARY

This chapter briefly presents the research design. The research method, development and pilot study were outlined.

The questionnaire was upon to be used, because of its advantages; subsequently it was distributed and collected by contact persons in primary and secondary schools in the Vaal Region.

The next chapter will present the research data analysis and interpretation.

CHAPTER FIVE

DATA ANALYSIS AND INTERPRETATIONS

5.1 INTRODUCTION

The purpose of the emperical survey was to determine, by means of a questionnaire, the impact of labour relations in education with special refernce to primary and secondary schools in the Vaal Region. The summary of date collected, is presented in this chapter.

5.1.1 Reviews of respondents

Questionnaires distributed amounted to 622, and were distributed amongst 34 schools in the Vaal Region, i.e. Sedibeng East and Sedibeng West Districts. (Annexure A)

5.2 DATA ON GENERAL INFORMATION (SECTION A)

5.2.1 Data on gender

Table 5.1: Data on gender

A O1	PRINCIPAL		DEPUTY PRINICIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
MALE	18	53	26	52	81	57	168	42	293	47
FEMALE	16	47	23	46	58	41	228	57	325	52
N.R.F.	0	0	1	2	1	2	2	1	4	0.6
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The highest percentage with regard to gender, is females at (52%), with educators at (57%) and the lowest be heads of departments at (41%). It is, therefore, evident that based on the research conducted, females are more than males, the latter standing at a total percentage of (47%).

The principals' respondentals in terms of gender is 53% for males and 47% for females. The difference between the two is above 3%, which is quite reasonable in achieving gender equity in principals' posts.

It is also evident, that males constitute the majority of deputy principals and heads of departments in the region, with (52%) and (57%) as opposed to females with (46%) and (41%) respectively.

5.2.2 Data on age

Table 5.2: Data on age

A 02	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Less Than 20	0	0	0	0	0	0	0	0	0	0
20 – 30 years	0	0	1	2	2	1.4	28	7	31	4.9
30 – 40 years	4	11.7	6	12	34	24.2	115	28.8	159	25.5
40 – 50 years	11	32.3	22	44	33	23.5	78	19.5	144	23
50 and more	18	52.9	21	42	70	50	175	43.9	284	45.6
N.R.F.	1	2.9	0	0.0	1	0	2	0.5	4	0.6
Total	34	100	50	100	140	100	398	100	622	105

Source : Own Research

Table 5.2 reflects data on the age of respondents. The highest percentage is (45.6%), indicating respondents that are 50 years and more, followed by (25,5%) of respondents between 30 and 40 years.

The lowest percentage is between 20 and 30 years at 4.9%. The above scenario clearly indicates, that learners from colleges don't get employment after completion of. They, therefore, stay for a number of years without employment, and are employed after some period, and this demotivates learners to venture into the education the field.

The above analysis clearly indicates, that we are on the verge of losing highly experienced managers, due to age retirement dates.

From a total percentage of (45,6%) of respondents that are above 50 years, principals constitute 52.9, followed by heads of departments at 43,9% and deputy principals at (44%). The average percentage of school management teams stated above, is 46.9%.

Based on the above information, it is evident that 47% of school management teams will be retiring in the next 10 years, and this will have an effect on the department in the way of losing experienced managers.

Similarly we need to balance the ratio of young educators entering the system, so as to maintain educators with acquired skills for a number of years.

5.2.3 Data on level of education achieved

Table 5.3: Data on education achieved

A 03	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Below Matric	0	0	0	0	1	0	1	0	2	0.3
Matric	0	0	0	0	0	0	6	1.5	6	0.9
Diploma	0	0	0	0	35	25	196	49.2	231	37.1
B Degree	12	35.2	6	12	33	23.5	76	19.0	127	20.4
Honours	6	17.6	23	46	36	25.7	46	11.5	111	17.8
M Degrees	13	38.2	18	36	34	24.2	68	17.0	133	21.3
D Degree	2	5.8	3	6	1	0.7	2	0.5	8	1.3
N.R.F.	1	2.9	0	0	0	0	3	0.7	4	0.6
Total	34	100	50	100	140	100	398	100	622	

Source: Own Research

Table 5.3 reflects data on the education achieved by respective respondents. The highest total is 37.1% of respondents who acquired a diploma in Education. The highest category of 37.1% is educators with 49,2%, followed by HOD's at 25%. In the light of the above, it is evident that educators' category need to be motivated to further their studies, and try to acquire degrees. The second level of education is Master's degree, with a total of 21,3%, with principal's responding at 38,2%, followed by deputy principals at 34% and HOD's and educators respectively at 24,2% and 17%. The above scenario clearly indicates, that school management teams are motivated to learn and improve their qualifications.

The minimum acceptable qualification for an educator in South Africa, is matric plus three years' appropriate training. In terms of the Relative Educational Qualification Value (REQV), categories are :

C = Matric + 3 years + Training

D = Matric + 4 years + Training

E = Matric + 5 years + Training

F = Matric + 6 years + Training

H = Matric + 7 years + Training

In the light of the above, we have one head of department and six educators who are below the minimum requirements. It will, therefore, be advisable for these educators to undergo training so as to meet expected requirements.

We also need to encourage a total of about 37.1% of educators with diploma (M + 3 years training) to improve their qualifications further since the minimum requirement is expected to change to M + 4 years in the near future.

It is also evident that educators are less interested in improving their qualification with registered universities, since the department of education no longer recognises qualifications in terms of increasing salaries.

It is really not impressing to realize that only 1,3% of the total population have a Doctor's Degree within the Department that deals with Education. Educators need to further their studies so as to adapt to the latest developments and challenges in our country.

5.2.4 Data on area where schools are situated.

Table 5.4: Data on where schools are situated

A 04	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Farm	4	11.7	2	4	9	6.4	47	11	62	9.9
Township	27	79.4	47	94	128	91.4	343	86	545	87.6
N.R.F.	0	0	0		2	1.4	6	1.5	8	1.2
N.R.F.	3	8.8	1	2	1	0.7	2	0	7	0.1
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.4 reflects data on the area with regard to schools in the Vaal Region. Most schools in the Vaal Region are situated in the townships (87,6%). It is, therefore, obvious that research is based particularly on 27 township schools (a total of 34 schools). The developed model with greatly assist the above schools.

5.2.5 Data on position held at school

Table 5.5: Data on position held at school

A 05	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Principal	34	100	0	0	0	0	0	0	34	5.4
Deputy Principals	0	0	50	100	0	0	0	0	50	8.0
HOD	0	0	0	0	140	100	0	0	140	22.5
Educator	0	0	0	0	0	0	398	100	398	63.9
N.R.F.	0	0	0	0	0	0	0	0	0	0
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The questionnaires were distributed to a number of educators of different categories. The highest category is educators (63,9%), followed by heads of department (22,5%) and deputy principals (8%), and eventually principals at 5.4%. All levels are equitably represented, following the job descriptions outlined in the departmental circular 129 of 1998, and post- establishment issued by the department of education.

5.2.6 Data on number of years on current position

Table 5.6: Data on number of years on current position

A 06	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
1 – 5 years	3	9	5	10	13	9	77	19	98	15.7
6 – 10 years	7	21	20	40	56	40	124	31	207	33.2
11 – 20 years	7	21	23	46	60	43	144	36	234	37.6
21 + years	17	49.0	2	4	11	8	52	13	82	13.1
N.R.F.	0	0	0	0	0	0	1	1	1	0.1
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.6 shows the experience acquired by respective respondents. Experience of between 11 – 20 years has the highest number of respondents, with a total of 37,6%, with principals at 21%, deputy principals 46% , HOD's (43%) and educators at 36%.

The second highest percentage is 33,2% with experience between 6 – 10 years; the respondents are basically the same as the above 37,6%.

The category with many years of experience, is principals with 49%.

It is, therefore, evident that most schools are managed by experienced principals, who might also quit the education sphere very soon, due to age of retirement.

There is an opportunity of sustaining skills of deputy principals and head of department of 40%, with less than 10 years experience. It, therefore, is highly possible that they could be kept in the industry for the next 10 years, with their growing experience.

5.2.7 Data on type of school

Table 5.7: Data on type of school

A 07	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Primary	22	65	28	56	84	60	265	67	399	64.1
Secondary	10	29.4	21	42	54	39	124	31	209	33.6
N.R.F.	2	6	1	2	2	1	9	2	14	2.3
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The study was conducted in primary and secondary schools in the Vaal Region, i.e. 22 primary (64,1%) and 10 secondary (33,6%) schools.

Based on the research conducted, it is evident that there are more primary schools than secondary schools. The above statement is also attested by the departmental policy requiring two primary schools to feed secondary schools; for every secondary school there must be two primary schools in the vicinity.

5.2.8 Data on number of learners

Table 5.8: Data on number of learners

A 08	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
0 – 50	0	0	0	0	1	1	9	2.26	10	0.1
50 – 100	0	0	0	0	1	1	9	2.26	10	0.1
100 – 300	4	11.7	1	2	6	4.3	15	3.76	26	4.1
300 – 600	7	20.5	1	2	21	15	66	16.58	95	15.2
600 – 1000	15	44.1	31	62	61	43	188	47.2	295	47.4
Over 1000	8	23.5	17	34	50	35	108	27.1	183	29.4
N.R.F.	0	0	0	0	0	0	3	0.7	3	0.4
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

- Based on table 5.4 above, it is clear that 87,6% of schools are situated in the township and 9,9% in farm schools. Most schools will, therefore, have learners ranging from 300 and above. The highest number is between 600 – 1000, with a total of 47,4%, followed by 29,4%, consisting of over 1000 learners.

- The third percentage is 15,2% of all learners between 300 – 600, and these are schools i.r.o. deadlines in learner enrolment and eventually a redeployment educators to schools with a high learner enrolment.

- It is, therefore, imperative for institutions to maintain their enrolment, so as not to lose experienced educators.

- The number of learners in a school, is the determinant of the post establishment.

5.3 ROLES AND RESPONSIBILITIES OF VARIOUS STAKEHOLDERS IN EDUCATION AND INTEGRATED QUALITY MANAGEMENT SYSTEM (IQMS) AS A DEVELOPMENTAL INSTRUMENT. (SECTION B)

5.3.1 Data on roles of principals

Table 5.9: Data on roles of principals

B 09	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	48	96	104	75.7	289	72	475	76.3
No	0	0	0	0	23	16	60	15	83	13.3
Not Sure	0	0.0	2	4	11	8	46	11.5	59	9.4
N.R.F.	0	0.0	0	0	2	1.4	3	0.7	05	0.8
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.9 reflects data on the role of principals in various institutions. The highest total percentage of respondents 76,3% were certain about the role of a principal at schools, with principals at 100%, deputy principals at 96% and HOD's and educators at 75,7% and 72% respectively.

It is, therefore, clear that roles of both the principal and deputy principal are more or less the same; hence they reflect the highest % in terms of respondents.

Heads of Department based on the above research, seem not to be aware of the principals role (16%) and some were not sure of roles, at 8%. It is, therefore, imperative to brigde the gulf between principals and heads of departments.

Most educators seem to be aware of the roles of principals at a school

5.3.2 Data on roles and responsibilities of the school governing body (SGB)

Table 5.10: Data on the roles of the SGB

B 10	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	45	90	88	62	246	61	413	66.3
No	0	0	0	0	32	22	76	19	108	17.3
Not Sure	0	0.0	5	10	19	13	75	18.8	99	15.9
N.R.F.	0	0.0	0	0	1	1	1	0.2	2	0.3
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.10 reflects the role of the SGB, with a total of 66,3% of respondents being aware of the roles of the SGB.

It is then followed by a total percentage of 17,3 of respondents who do not know the roles of the SGB, and finally 15,9% not being sure.

From the total of 66,3%, principals were at 100%, deputy principals at 90%, HOD's at 62% and educators at 61%.

It is, therefore, clear that about 23% need to be empowered with the roles of school governing bodies, so as to alleviate tension between various stakeholders.

5.3.3 Data on term of office of the school governing body

Table 5.11: Data on term of office of the SGB

B 11	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
1 year	10	29.4	4	8	21	15	76	19.0	111	17.9
3 years	24	70.5	46	92	100	71	267	67.0	437	70.3
5 years	0	0.0	0	0	18	12.8	49	12.3	67	10.7
N.R.F.	0	0.0	0	0	1	0	6	1.5	7	1.1
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

According to the South African Schools Act 108 of 1996, the term of office of a school governing body is 3 years. Based on the research, a total percent of (70.3) know the term of office. The deputy principal at 92% knows the term of office better, as compared to the rest of the category. The principal at 29,4% seems strange as they are expected to know better than the rest of the groups. It is, therefore, clear that intervention is needed in terms of empowerment with regard to, the school governing bodies.

School governing bodies, subject to regulations, may hold office for a period not exceeding three years. A learner member may hold office for a period not exceeding one year, and most importantly, a member whose term of office has expired, may be re-elected to the governing body.

5.3.4 Data on term of office for office bearers

Table 5.12: Data on term of office for office bearers

B 12	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
1 year	27	79.4	24	48	56	40	114	28.6	221	35.5
3 years	7	20.5	25	50	66	47	218	54.7	316	50.8
5 years	0	0.0	0	0	15	10.7	53	13.3	68	10.9
N.R.F.	0	0.0	1	2	3	2	13	3.2	17	2.7
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The South African Schools Act stipulates that the term of office for an executive committee of the school governing body must not exceed 12 months from the date of election and may after the expiry of the term of office, be re-elected. Based on the research conducted, it is obvious that most educators are not aware of the duration of the term of office. The principals, out of a total of 35,5%, constitute 79,4%, followed by deputy principals at 48%, head of departments at 40%, and finally, educators at 28,6%.

It is, therefore, evident that capacity building programmes on SGB should be provided, as in most categories there is a need of about 50% of educators who aught to be capacitated.

5.3.5 Data on composition of the school governing body

Table 5.13.1: Data on composition of the SGB

B 13	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	25	73.5	41	82	87	62	221	55.5	374	60.1
No	0	0	2	4	26	18.5	55	13.8	83	13.3
Not Sure	9	26	7	14	25	17	115	28.8	156	25.0
N.R.F.	0	0	0	0	2	1.4	7	1.7	09	1.4
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The composition of the SGB is determined by the nature of the school it serves.

A total percentage of 60,1 agrees to be familiar with the composition of the school governing body, followed by 25,0% who happens to be "not sure" and finally, 13,3% that does not know completely. Based on the above research, deputy principals represent 82% of 60,1%, followed by principal at 73,5%, and HOD's and educators at 62,0% and 55,5% respectively. The research further shows, that deputy principals have the highest percentage, as opposed to principals.

5.3.5.1 Composition of governing bodies by type and grading of school

1. The number of members of a governing body of a school are set out for each category of membership in the table below.
2. The number of members in each category will vary, in terms of regulation 8, according to the type of school and its grading, as set out in columns 1 and 2.
3. In a school which has no non-teaching staff, the number of parents set out in column 4 will be reduced by one and the total number of members set out in column 10, will be reduced by two.

4. The governing body of a combined ordinary school will have the same composition as an ordinary secondary school.

Table 5.13.2: Composition of SGB according to learner enrolment

1	2	3	4	5	6	7	8	8	10
Type Of School	Grading Of School	Number Of Learners Enrolled	Number Of Parent Members	Number Of Educator Members	Number Of Learner Members	Number Of Non-Teaching Members	Number Of Resident, Workers OR Alumnus Members	Principal	Total Number Of Members
Primary Ordinary Schools	P1	<80	5	1	0	1	1	1	9
	P2	80-159	5	1	0	1	1	1	9
	P3	160-719	6	2	0	1	1	1	11
	P4	720+	7	3	0	1	1	1	13
Secondary Ordinary Schools	S3	<630	8	2	2	1	1	1	15
	S4	630+	10	3	3	1	1	1	19
Compre-hensive School	S3	<500	8	2	2	1	1	1	15
	S4	500+	10	3	3	1	1	1	19

Source : (GDE: 1999)

The above diagram indicates the composition of school governing bodies having different learner enrolment.

5.3.6 Data on powers of the SGB in terms of appointments

Table 5.14: Data on powers of the SGB in terms of appointment

B14	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	22	64	42	84	95	67.8	219	55.1	378	60.7
No	1	2	1	2	20	14.2	82	20.6	104	16.7
Not Sure	11	32	7	14	23	16.4	93	23.3	134	21.5
N.R.F.	0	0	0	0	2	1	4	1.0	06	0.9
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The governing body of a school may recommend to the head of department the appointment of educators at the school, subject to the Educators' Employment Act, 1994, and Labour Relations Act, 1995 (Act 66 of 1995).

Based on the above statistics, it is obvious that 60,7% of the total sample are familiar with the above function of the SGB. A total of about 16,7 seem not to know the function, while 21,5% are not sure or rather certain about the function of the SGB in terms of recommending appointments. Out of 60,7% of the total sample, the highest category in terms of understanding the above function, is that deputy principals, with 84%, followed by heads of department at 67,8%, principals at 64,7% and finally, educators at 55,1%. In the light of the above, it is evident that about 36% of the principals are not sure in terms of the powers of school governing bodies with regard to appointments. The uncertainty in terms of functions may cause conflict between principals and school governing bodies. It is, therefore, advisable to clearly differentiate the roles and functions of both the principal as a manager and the school governing body as governor within the establishment.

According to legislation, it is, therefore, the responsibility of the school governing body to recommend the appointment of educators by the department. However, in recommending an educator for appointment, the governing body need to follow certain guidelines, i.e. advertisement of the vacant posts, conducting interviews and the nomination of successful candidates. In the nomination of the successful candidates, the governing body needs to be conscious of the right of individuals to fair and just administrative action and, to be conscious of their legal responsibility.

Once again, the governing body has to establish a good relationship with the whole staff at the school, and more particularly, with the principal. Without trying to echo the above, a good relationship between the governors and the principal is crucial in determining the effectiveness of the governing body and the extent to which it is involved in the management of the school. This clearly shows, that both the governing body and the staff of the school need to consider the nature of their relationship and, if necessary, take active steps to improve it.

In terms of appointments, all vacancies in a public school are advertised in a gazette, bulletin, a circular, or a newspaper (RSA, 1998a). The information to be contained in an advertisement, should include offices and addresses where the gazette, bulletin or circular can be obtained. The gazette, bulletin or circular, is circulated to all educational institutions within the province by the department of education.

The advertisement of vacant posts for educators must be self-explanatory and clear, and it must include the following.

- Minimum requirements
- Procedures to be followed for application
- Names and telephone numbers of contact persons
- Preferred date of appointment
- Closing date for the receipt of applications.

The advertisement of vacant posts for educators must be accessible to all who may qualify or are interested in applying for such a post(s). Moreover, the advertisement must be non-discriminatory and in keeping with the provision of the Constitution of the Republic of South Africa.

Educators who are interested in an advertised post, complete the application forms and send them, together with the application letters, to the employing department, which is the education department. The employing department will handle the initial sifting process to eliminate applications of those candidates who do not comply with the minimum requirements for the post as stated in the advertisement. The employing department will then send the applications to the educational institutions concerned, where they will be handled by the governing body or the interview committee of that particular institution.

In terms of the Educators' Employment Act (RSA, 1998c) the interview committee of every school must be governing body members, and should comprise the following persons:

- One department representative, who may be the school principal, as an observer and resource person.
- The principal of the school, if he or she is not the department's representative, except in the case where he or she is an applicant.
- Members of the school governing body, excluding educator governors who are applicants to the advertised post(s).
- One union representative that is a party to the provincial chamber of the Education Labour Relations Council (ELRC) as an observer.

Important to note, is that the union representatives must be observers of short-listing, interviews and the drawing up of a preference list. The governing body is responsible for the establishment of the interview committee, and it must make sure that all relevant persons or organisations are informed at least five working days prior to the date, time and venue of the short-listing, interviews and the drawing up of the preference list. In the case where the school principal is an applicant, then a department official may assist the school governing body.

5.3.7 Data on roles and responsibilities of the school governing bodies (SGB's)

Table 5.15: Data on roles and responsibilities of SGB

B 15	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Develop	34	100	50	100	137	97.8	373	93.71	594	95.4
Control	0	0	0	0	1	1	18	4.52	19	3.0
Allocate sub.	0	0	0	0	0	0	3	0.75	03	0.4
N.R.F.	0	0	0	0	2	1.4	4	1.00	06	0.9
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

It is interesting to realise, that from the entire sample, 95,4% clearly know and understand the responsibility of a school governing body in terms of determining the budget of the school. Both the principal and deputy principals constitute a 100%, followed by heads of departments at 97,8% and finally, the educators at 93,7%.

The regulations for a public school clearly state that, a governing body of a school shall establish budget priorities and prepare a budget each year, according to guidelines determined by the member of the executive council, which shows the estimated income and expenditure of the school for the following financial year.

They also need to present the budget at a meeting of parents, for consideration and approval by the majority of parents present and voting.

Section 21 of the South African Schools Act No. 84 of 1996 indicates the following basic functions of school governing bodies (RSA, 1996a: 16).

- Promoting the best interest of the school and striving to ensure its development through the provision of quality education for all learners of the school.
- Adopting a Constitution.
- Developing a mission statement for the school.
- Supporting the principal and other staff of the school in the performance of their professional functions and duties.
- Determining times of the school day, consistent with any applicable conditions of employment of staff at the school.
- Administering and controlling the school, including school hostels, if applicable.
- Encouraging parents, learners, educators and other staff at the school to render voluntary services to the school.
- Recommending to the head of department the appointment of educators at the school, subject to the Educators Employment Act and the Labour Relations Act.
- Recommending to the head of department the appointment of non-educator staff at the school, subject to the Public Service Act and the Labour Relations Act.
- Allowing the reasonable use, under fair conditions, of facilities of the school for educational programmes not conducted by the school, at the request of the head of department.
- Discharging all other functions consistent with the South African Schools Act as determined by the minister by notice in the Government Gazette, or by a member of the Executive Council, by notice in the Provincial Gazette.
- Developing a budget for the school; this could include school fees, for approval at a parents' meeting. Once approved, school fees become

compulsory and all parents, except if granted exception, are obliged to pay these.

In order to effectively discharge all the functions mentioned above, SGB's have to establish a mutual working relationship between all the stakeholders. It is important to stress that all governors have the same powers and the same rights. However, there are few minor exceptions i.r.o. co-opted governors, (page 42) of a governing body of a learning institution represent the composition of learners of the school, then the co-opted members do not have voting rights.

Having highlighted the duties and responsibilities of the governing body, it is also vitally important to describe the role of the chairperson of the governing body. The chairperson heads the governing body. The job of the chairperson can be divided into a number of parts. As Nigel Gann (1998) puts it: "First, the chairperson manages the governing body which, of course, includes ensuring that policies and planning are up-to-date, communicating with individual governors and committees, communicating with the head-teacher and other staff, evaluating the performance of the governing body, ensuring that all governors are trained and participate fully and, also, ensuring that the decisions taken by the SGB are enacted".

Secondly, the chairperson leads meetings which, of course, includes inducting new governors, protecting vulnerable governors, preparing and planning for meetings, and defining, as well as practising the qualities of a good meeting, i.e. construct and agree on the agenda for meetings, together with the head-teacher and secretary, plan and keep good order at meetings, ensure that all governors receive relevant information and materials, ensure that the rules that keep governing bodies democratic, are well-known and followed by governors, listens and remains a critical friend of the head-teacher.

Thirdly, the chairperson has to lead the school. This includes maintaining good and close relationships with the head and other staff, mediating and listening to problems and complaints and, also, representing the school and speaking for it at public and internal events.

The powers and functions of governing bodies fall into two categories, thereby enabling some schools to have different levels of SGB participation in school affairs than have the SGB's of other schools. The functions in section 20 of the South African Act, as well as the responsibilities in sections 36, 37, 38, 41 and 43, are mandatory for all governing bodies, while those in section 21 are available on application to the head of a provincial education department. The effect is two tiers of governance functions. An exception found in Section 39 is the setting of school fees, which requires a resolution passed by the majority at a meeting of parents. Thereafter, the governing body is bound to implement the resolution.

Section 20, which gives most of the mandatory functions, begins with the overarching role of the governing body. Subsection 1(a) states, that this is to "... promote the best interests of the school and to strive to ensure its development through the provision of quality education for all learners at the school' (Republic of South Africa, 1996b, p.14). In addition, Section 20 requires the SGB to adopt a constitution; to develop a mission statement and a code of conduct for learners and to support staff in the performance of their professional functions; to determine times of the school day; to administer and control the school property; to encourage volunteerism to serve the school; to make recommendations about staff appointments and to allow the reasonable use of school facilities for other educational programmes.

Sections 36, 37, 38, 41, 42 and 43 define responsibilities concerning school funding, the keeping of financial records, auditing and reporting procedures. While parents set the amount that must be paid for school fees, it is the governing body that must enforce payment or allow exemptions, and administer collected funds.

5.3.8 Data on functions of the site steward

Table 5.16: Data on functions of the site steward

B 16	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	17	50.0	39	78	102	72.8	228	57.2	386	62.0
No	6	17.6	6	12	18	12.8	71	17.8	101	16.2
Not Sure	11	32.4	5	10	19	13.6	95	23.8	130	20.9
N.R.F.	0	0	0	0	1	1	4	1.2	05	0.8
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Most respondents (62,0%) indicate, that they are, conversant with the function of the site steward, hence 16,2% of the respondents are not familiar with the function, and finally, 20,9% are not sure.

Based on the research, it is therefore evident, that deputy principals, in terms of priority, show 78,8%, educators 57,2% and principals at 50%.

The above scenario clearly shows, that there is a lack of co-operation or understanding between principals and site stewards, since a total of 50% of the principals either "don't know" or "are not sure" about functions of site stewards.

The Labour Relations Act allows employees to be represented by their site steward during a formal hearing. It is, therefore, imperative for union representatives and employers to work collectively in terms of addressing disputes within the school environment. They also have to ensure that disciplinary procedures are conducted fairly and reasonably.

Basically, shop stewards serve as a link between the trade union and the workers. In a workplace with at least ten (10) members of a representative trade union, the workers are entitled to choose representatives from among themselves. Trade union representatives or shop stewards remain in the service of the employer, and are allowed to carry out their shop steward activities, either on a full-time or a part-time basis.

A conflict of roles is also often experienced by shop stewards. They fulfil two different roles, with two sets of demands that are very often not reconcilable. On the one hand, they are employees working for the employer, and on the other hand, they are office-bearers working for the trade unions. One of these roles requires them to display a commitment to the union and to protect its members; sometimes even at the expense of the employer, while others require them to display commitment to the employer. Hence table 5.16 reflects of principals (50%) who are "not sure" of the role of shop stewards.

5.3.9 Data on availability of policies in schools

Table 5.17: Data on availability of policies in schools

B 17	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	50	100	135	96.4	374	93.9	593	95
No	0	0	0	0	3	2.1	10	2.5	13	2.0
Not Sure	0	0	0	0	1	0.7	13	3.2	14	2.2
N.R.F.	0	0	0	0	1	0.7	1	0.2	02	0.3
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

This section intends to investigate whether policies are available in various institutions.

The majority of respondents (95%) responded positively to the question. From the total respondents, principals and deputy principals constitute 100%, followed by heads of departments at 96,4% and educators, with 93,9%.

It, therefore, is evident that most schools are in possession of policies to govern their own institutions.

It is required by legislation that every school must have policies; amongst others a financial policy, admission policy, religious policy, language policy, etc.

The above-mentioned policies form the foundation on which an institution must operate.

5.3.10 Data on participation during formulation of policies

Table 5.18: Data on participation during formulation of Policies

B 18	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	44	88	75	53.5	170	42.7	323	51.9
No	0	0	5	10	39	27.8	166	41.7	210	33.7
Not Sure	0	0	1	2	24	17	56	14.0	81	13.0
N.R.F.	0	0	0	0	2	1.4	6	1.5	08	1.2
Total	34	100	50	100	140	100	398	100	622	100

Source : Own Research

In the previous Section, (table 5.18), it is shown that 95% of schools are in possession of policies. The most important question is, how many respondents participated during the formulation of policies.

Based on the above, 51,9% of respondents participated in the formulation, while 33,7% were not involved and 13,0% were not certain.

It is, therefore, clear that decisions are taken by school management teams, with less involvement of educators. In the light of the reports, principals reflect a 100%, deputy principals 88%, heads of departments 53,5% and finally, educators, with 42,7%. Legislation requires all stakeholders to be involved during the formulation of policies. It is important to note, that policies formulated, are definitely going to govern all stakeholders within the establishment.

5.3.11 Data on knowledge of job description for various levels of educators

Table 5.19: Data on knowledge of job description: various levels of educators

B 19	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	23	67.64	42	84	87	62.1	278	69.8	430	69.1
No	11	32.35	0	0	25	17.8	61	15.3	97	15.5
Not Sure	0	0.00	8	16	27	19.2	58	14.5	93	14.9
N.R.F.	0	0.0	0	0	1	1	1	0.2	02	0.3
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

This item elicits information from respondents about their knowledge with regard to their job descriptions.

The majority of respondents (69,1%) responded positively to this item, while 31% do not know or rather are not sure of their job description.

It is, therefore, important for employees to know their job description, and execute their task in line with the Employment of Educations' Act, as well as the Education Labour Relations Council. Most importantly, circular 129/1998 that emanates from Personnel Administrative Measure, is also important. Amongst others. educators need to engage in class teaching, including the academic and administrative sides, educational and disciplinary aspects and organising extra- and co-curricular activities, so as to ensure that the education of learners is promoted in a proper manner. They are also expected to participate in the agreed upon school/educator appraisal process in order to regularly review their professional practice with the aim of improving teaching, learning and management.

5.3.12 Data on the implementation of the Integrated Quality Management System Process

Table 5.20.1: Data on the implementation of the IQMS process

B 20	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	23	67.6	44	88	89	63.5	226	56.7	382	61.4
No	0	0	0	0	18	13.3	72	18.0	90	14.4
Not Sure	11	3.42	6	12	32	22.8	98	24.6	147	23.6
N.R.F.	0	0	0	0	1	0.7	2	0.5	03	0.4
Total	34	100	50	100	140	100	398	100	622	100

Source : Own Research

This section intended to ascertain whether respondents are familiar with the implementation process of IQMS.

Table 5.20 indicates, that more than half of the respondents (61,4%) agreed that they are familiar with the process, while 23,6 of respondents are not sure, and 14,4 % are absolutely not familiar with the process.

It is, therefore, imperative for 39% of the respondents to be capacitated in terms of the implementation process of IQMS.

Integrated Quality Management System is divided into three phases, i.e. performance management, internal whole school evaluation and external whole school evaluation. The first phase of the process is where individual educators identify their area that needs development.

Internal school evaluation and performance management. The Integrated Quality Management System has 12 performance standards that are used to evaluate educator from post level 1 to 4. The performance standards are set out as follows.

Table 5.20.2: Performance standards of the IQMS

COMPOSITE SCORE SHEET FOR USE IN PERFORMANCE MEASUREMENT FOR PAY PROGRESSION AND GRADE PROGRESSION FOR LEVEL 3 & 4 EDUCATORS (52

EDUCATOR: ______________________ **DATE:** __________

PERSAL NUMBER: ______________________

PERFORMANCE STANDARDS		**MAX**	**SCORE**
1.	Creation of a positive learning environment	16	
2.	Knowledge of curriculum and learning programmes	16	
3.	Lesson planning, preparation, and presentation	16	
4.	Learner assessment	16	
5.	Professional development in the field of work/career and participation in professional bodies	16	
6.	Human Relations and contribution to school development	16	
7.	Extra-curricular & co-curricular participation	16	
8.	Administration of resources and records	20	
9.	Personnel	16	
10.	Decision-making and accountability	20	
11.	Leadership, communication and servicing the governing body	24	
12.	Strategic planning, financial planning and education management development	16	
TOTAL SCORE		**208**	

THE ABOVE-MENTIONED EDUCATOR'S SCORE HAS BEEN/HAS NOT BEEN ADJUSTED.

COMMENTS/REASONS FOR ADJUSTMENT

I agree/ do not agree with the overall performance rating.

______________________ ______________________

EDUCATOR **DSG**

______________________ ______________________

DATE **DATE**

PRINCIPAL: ______________________ **DATE:** __________

Source (GDE: 2000:37)

Respective educators are, therefore, evaluated by different developmental support groups, using various personal growth plans formulated by Apraisee and the (DSG).

There are first and second developmental cycles. After the developmental process, a final summative report follows. The marks obtained will, therefore, determine whether the educator qualifies for salary or grade progression, and indeed as follows.

Educators (1-8)

- For salary progression, the educator needs to obtain 56
- For grade progression, the educator needs to obtain 78.

Head of Department (1-10

- For salary progression, the educator needs to obtain 84
- For grade progression, the educator needs to obtain 118

Principal/ Deputy Principal (1-12)

- For salary progression, the educator needs to obtain 104
- For salary progression, the educator needs to obtain 146

Finally, records are submitted to the District Office to finalise the salary of the educator.

5.3.13 Data on differentiating between DAS, IQMS and WSE

Table 5.21: Data on differences between DAS, IQMS and WSE

B 21	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	19	55.8	36	72	97	69.3	220	55.2	372	59.8
No	0	0	2	4	20	14.3	71	17.8	93	14.9
Not Sure	15	44.1	12	24	21	15	105	26.3	153	24.5
N.R.F.	0	0.0	0	0	2	1.4	2	0.50	04	0.6
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.21 above reflects data on differentiating between DAS, IQMS. and WSE Respondents (a total percentage of 59,8% agree to knowing the difference between the Developmental Appraisal System (DAS), Integrated Quality Management System (IQMS) and Whole- school Evaluation (WSE). A total of 14,9% do not know the difference, while 24,5% who are "not certain".

Based on the above statistics it is clear a total of (40%) of various levels of educators really need empowerment with regard to the above mentioned programmes.

It is also worrying to realize that 44,1% of the principals are not sure of the difference of above programmes.

Whole-school evaluation (WSE)

The policy on Whole-school Evaluation is a notice in terms of Section 3(4)(1) of the National Education Policy Act, 1996 (Act no. 27 of 1996). This policy is aimed at improving the overall quality of education in schools. It seeks to ensure that all learners are given an equal opportunity to make the best use of their capabilities. As a process, whole-school evaluation is meant to be supportive and developmental rather than punitive and judgemental. This policy maintains, that it will not be used as a coercive measure, though part of its responsibility will be to ensure that national and local policies are complied with. The policy also contains a built-in mechanism for reporting findings and providing feedback to the school and to various stakeholders – the National and Provincial Education Departments, parents and society generally – on the level of performance achieved by schools.

The aims of the policy have been identified as follows.

- External moderation of schools
- Identification and evaluation of the school's effectiveness
- Increasing the level of accountability
- Strengthening the support given to schools
- Providing feedback to all stakeholders
- Identifying aspects of excellence within the system.

The developmental appraisal system (DAS)

The Developmental Appraisal System (DAS) forms Chapter C of the Terms and Conditions of Employment of Educators determined in terms of Section 4 of the Employment of Educators' Act of 1998. This policy is also Resolution 4/1998 of the ELRC. The aim of DAS is to facilitate the personal and professional development of educators in order to improve the quality of teaching practice and education management. It is based on the fundamental principle of life-long learning and development. This implies that one has to prioritise areas for development and growth throughout one's career in education.

To ensure that the process of appraisal was in line with key job functions, a list of criteria (Criterion-based Appraisal) were drawn up for the following levels.

- Core criteria These are criteria that are seen as primary elements of the responsibility of the person's job on which the person has no choice but to be appraised by. They cover the essential elements of the job descriptions of the educator.

- Optional criteria These are criteria that are listed as core criteria, some of which may be made optional by the appraisal panel because of the contextual factors at institutions. The panel has to provide a motivation for this reclassification.

- Additional criteria These are criteria that may be added depending on the needs of an institution and/or individual educator. These should be discussed with the panel, supported by staff and agreed to by the Staff Development Team. A motivation for the inclusion of additional criteria has to be given (ELRC: 1998).

IQMS

The Integrated Quality Management System is Collective Agreement Number 8 of 2003. The purpose of this agreement, is to align the different Quality Management programmes, which include Developmental Appraisal, Performance Measurement and Whole-school Evaluation. The main objective, is to ensure quality public education for all and to constantly improve the quality of learning and teaching. The department has the responsibility of providing facilities and resources to support learning and teaching, and empowering, motivating and training educators. Quality Management seeks to monitor and support these processes. The philosophy underpinning the Integrated Quality Management System (IQMS), is based upon fundamental principles.

5.3.14 Data on the benefit of IQMS at schools

Table 5.22: Data on the benefit of IQMS at schools

B 22	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	17	50.0	39	78	73	52.1	191	47.9	320	51.4
No	1	2.9	3	6	32	22.8	102	25.6	138	22.1
Not Sure	16	47	8	16	33	23.5	104	26.1	161	25.8
N.R.F.	0	0.0	0	0	2	1	1	0.2	03	0.4
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

The majority of the respondents, 51,4%, regarded Integrated Quality Management Systems (IQMS) Instrument as the best tools benefiting schools in terms of development. We also have about 22,1% who answered "no" of IQMS and 25,8% who are "not sure" of the instrument.

Similarly, like in the previous table (5.21), principals (47%) are not sure of the benefit of the IQMS instrument.

Deputy principals 78% believe in the instrument, followed by 52,1% of heads of departments and educators (47,9%).

Based on the above research, it is evident that above 50% of the respondents believe in the instrument, and above 49% of the respondents are not certain.

There is a strong possibility of shortfalls, and therefore, it is advisable to conduct further research on the above aspect.

5.3.15 Data on in-service training received

Table 5.23: Data on in-service training received

B 23	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	13	38.2	33	66	68	48.5	187	46.9	301	48.3
No	19	55.8	14	28	45	32	133	33.4	211	33.9
Not Sure	2	5.8	3	6	25	17.8	73	18.3	103	16.5
N.R.F.	0	0.0	0	0	2	1	5	1.2	07	1.1
Total	34	100	50	100	140	100	398	100	622	100

Source : Own Research

Table 5.23 indicates the level of in-service-training received by various respondents. A total of 48,3% of respondents receive sufficient training, followed by 33,9% who are definitely not receiving training and 16,5% who are not certain.

The two latter percentages amount to 510% of respondents who are not receiving sufficient training. A total of 19 principals (55,8%) denied the fact, that enough training is provided by the Department of Education. It is, therefore, recommended, that sufficient training be provided, especially with the ever-changing curriculum. Educators are therefore supposed to adapt to change implemented within the department.

Based on the above findings, it is evident that more than 50% of the respondents are not happy with the training provided by the Department of Education. The skills development programme should be recommended, after identifying areas that need support and development.

5.3.16 Data on a safe and conducive environment for teaching and learning

Table 5.24: Data on a safe and conducive environment for teaching and learning

B 24	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	28	82.3	45	90	90	64.2	276	69.3	439	70.5
No	5	14.7	4	8	26	18.5	76	19.0	111	17.8
Not Sure	1	2.9	1	2	22	15.7	44	11.0	68	10.9
N.R.F.	0	0.0	0	0	2	1	2	0.5	04	0.6
Total	34	100	50	100	140	100	398	100	622	100

Source : Own Research

It is clear from Table 5.24 that most respondents (70,5%) regarded their schools as safe and conducive environments for learning and teaching. From the total percentage mentioned above, deputy principals constitute 90%, followed by principals (82,3%), heads of departments at (64,2%) and educators (69,3%).

A total percentage of 17,8% strongly believe, that their schools are not conducive to teaching and learning, while 10,9% who (10,95) that happened not to be sure of the environment. It is therefore imperative to ensure that schools are safe and conducive to learning and teaching.

The above condition can be achieved by involving various stakeholders in our environment, such as the South African Police Services, Department of Health, Department of Social Services as well as community- based structures. Over and above, this, each school should develop safety and security policy. The purpose of the policy is to ensure a safe environment for learners, educators and all visitors. It also aims to identify possible hazards at school and minimize the risks they pose. The policy will be effective if frequently communicated and if all members of the school community cooperate in its full implementation.

5.4 CONDITIONS OF EMPLOYMENT AS OUTLINED IN THE EMPLOYMENT OF EDUCATORS ACT 76 OF 1998 AND DISCIPLINARY PROCEDURES IN TERMS OF MISCONDUCT (SECTION C)

5.4.1 Data on knowledge of conditions of employment

Table 5.25: Data on knowledge of conditions of employment

C 25	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	23	67.6	45	90	88	62.8	219	55.0	375	60.2
No	0	0	0	0	19	13.5	71	17.8	90	14.4
Not Sure	11	32.3	5	10	31	22	107	26.8	154	24.7
N.R.F.	0	0.0	0	0	2	1	1	0.2	03	0.4
Total	34	100	50	100	140	100	398	100	622	100

Source : Own Research

More than half (60,2%) of the total respondents are familiar with the knowledge i.r.o. conditions of employment, and above (24,7%) are "not sure" of the conditions, and finally 14,4% are not familiar with the conditions.

From the total percentage of 60,2%, we have deputy principals' with (67,6%), heads of departments (62,8%), and educators at (55%).

Emphasis should be based on 32,3% of principals who are not sure of the conditions.

It is, therefore, imperative for the department to provide capacity building programmes on conditions of employment.

No person shall be appointed as an educator either in a permanent, or a temporary capacity, or on special contract, or be promoted, unless he or she complies with the experience requirements determined by the minister and is in possession of an approved qualification, at the same time being able to submit satisfactory evidence thereof; provided that an employer may appoint a person who is not in possession of an approved qualification as an educator in a temporary capacity for a specified period if the employer deems such appointment necessary and in the interest of education.

Educators who are not suitably qualified, i.e. those with REQV 10 to 12, may be appointed only in a temporary capacity; some of these qualifications were regarded as suitable when these educators were initially appointed. These educators, if still employed, should not be refused permanent employment on the grounds of their qualifications.

Appointment on probation

- An educator shall be appointed on probation for a period of at least 12 months, which period may be extended, on good cause shown, for a further period not exceeding 12 months.

- An employer may approve the transfer or promotion of an educator during his or her period of probation; provided that such transfer or promotion will be on probation and such probation may be for a period of less than 12 months if such period, together with the probation served in the former post, shall total at least 12 months.

- The employer may, if it is deemed necessary, require that the promotion of an educator employed in a permanent capacity, be on probation, provided that the conditions above apply.

- The probation period of an educator shall be extended by the number of days leave of whatever nature, taken by him or her during a probation period or any extension thereof: provided that a school holiday shall not be considered as leave for the purposes of this sub-regulation.

- If the head of the relevant institution or office certifies that during his or her probation period or extended probation period, such educator has been diligent and his or her conduct uniformly satisfactory and that he or she is in all respects suitable for the post which he or she holds, the employer may confirm the permanent appointment, transfer or promotion if the educator has complied with all the conditions to which his or her appointment, transfer or promotion was subject.

- For the purposes of the first condition above, an appointment on probation shall, notwithstanding the fact that the period during which it was in force has expired and notwithstanding anything to the contrary contained in that subregulation, be deemed to continue until the educator concerned is notified in writing by the employer that his or her probationary appointment–

    - has been confirmed;
    - has not been confirmed;
    - has been extended for a further period.

- Finally, the educator shall be expected to comply with policies regarding leave.

5.4.2 Data on rights in terms of joining labour unions

Table 5.26: Data on rights in terms of joining labour unions

C 26	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	46	92	91	65	252	63.31	423	68.0
No	0	0	1	2	22	15.7	69	17.33	92	14.7
Not Sure	0	0	3	6	25	17.8	77	19.34	105	16.8
N.R.F.	0	0	0	0	2	1	0	0	02	0.3
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Most respondents are familiar with rights in terms of joining labour unions of (68%), followed by 16, 8% who are "not sure", and 14,7 who are completely not conversant with the above stated clauses.

It is impressing to have 100% of principals indicating, that they are fully aware of employed rights in terms of joining labour unions, as well as also 92% of deputy principals.

Based on the above research, it is, therefore, evident that management teams of various schools are aware of labour matters. Over and above this, there is a concern about 37% of educators who does not know or rather, exercise their rights in terms of labour rights as stipulated in the Bill of Rights.

Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the constitution.

- Furthermore, every worker has the right to form and join a trade union; and
- participate in the activities and programmes of a trade union, as well as
- to strike

5.4.3 Data on the process a formal disciplinary hearing

Table 5.27.1: Data on being familiar with the process of formal disciplinary hearing

C 27	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	23	67	42	84	73	52.1	192	48.2	330	53.0
No	1	2.9	2	4	29	20.7	106	26.6	138	22.1
Not Sure	10	29	6	12	36	25.7	98	24.6	150	24.1
N.R.F.	0	0	0	0	2	1	2	0.5	04	0.6
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.27 reflects familiarity with the process of a formal disciplinary hearing, as shown by 53% of respondents who are acquainted with the process, followed by 24,10 % who are "not sure" of the process, as well as 22,1% who are completely not familiar with the process.

It is meaningful to have school management teams (60%) who are fully knowledgeable with regard to the process of a formal disciplinary hearing. The area of concern is that above 50% of educators are not familiar with the process.

It is obvious, that if educators are not aware of the process, they will, therefore, not exercise their constitutional rights during the hearing.

The statistics above clearly indicate that capacity building programmes need to be instituted.

Table 5.27.2: Formal discipline

INFORMAL	Informal advice and correction	This occurs internally and informally. No record of the process is kept
	Counselling	This is a more formal process and a record should be kept of the counselling sessions. As no warning may be issued in the education sector unless a disciplinary enquiry has been held, the counselling sessions are the phase in which it is drawn to an employee's attention that if a certain trend in behaviour continues, a disciplinary enquiry and the attendant sanctions could follow.
FORMAL	Verbal warnings	Verbal warnings occur in most disciplinary procedures and need not be preceded by an enquiry. With regard to the education sector, there is no provision for verbal warnings and they should be seen as part of the counselling process.
	Written warnings up to final warnings	Some disciplinary systems provide for written warnings without disciplinary enquiries. These usually provide for the warning to be challenged through the grievance procedure if the employee is unhappy about the warning. Other systems require a formal enquiry before a written warning is issued. In the education sector there is no provision for written warnings without a formal disciplinary enquiry. This means that a disciplinary enquiry must be held before a written warning is issued.
	Fines	A disciplinary enquiry is always required.
	Dismissal	A disciplinary enquiry is always required.

Source: GDE Training Manual(2005:24)

5.4.4 Data on administrative procedures in terms of educators' rights

Table 5.28: Data on administrative procedures in terms of educators' rights

C 28	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	22	64,7	44	88	90	64	200	50.2	356	57,2
No	0	0	2	4	14	10	59	14.8	75	12,1
Not Sure	12	35	4	8	33	23,5	136	34.1	185	29,7
N.R.F.	0	0	0	0	3	2	3	0.7	6	0,9
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.28 reflects data with regard to administrative procedures. A total of 57,2% of respondents are familiar with administrative procedures, followed by 29,1% who are "not certain" of the procedures, and 12,1% of respondents who are completely not familiar with the above-mentioned process.

Similarly, with table 5.27, it is encouraging to see that school management teams of various institutions are conversant with the administrative process.

There is a concern about of educators (49%) who are not familiar with the process. It is, therefore, imperative to encourage the department to provide courses relating to the above-mentioned procedure.

Everyone has the right to administrative action that is lawful, reasonable and procedurally fair. Everyone whose rights have been adversely affected by an administrative action, has the right to be given written reasons.

The administrative action must be procedurally fair.

The administrator must give the affected person -

- adequate notice of the nature and purpose of the proposed administrative action; and

- a reasonable opportunity to make representations.

5.4.4.1 Procedures

- a clear statement of the administrative action;
- adequate notice of any right of review or internal appeal; and
- adequate notice of the right to request reasons for the decision.

5.4.4.2 Discretionary procedures

- In addition the administrator may also give the affected person the opportunity to
  - obtain assistance, and in complex cases, legal representation;
  - present and dispute information and arguments; and
  - appear in person.

5.4.4.3 The administrator opinion

- to hold a public inquiry;
- to follow a notice and comment procedure;
- to hold a public inquiry and follow notice and comment procedures, or
- where the action is empowered by another law that provides for a fair but different procedure, to follow that procedure.

5.4.4.4 Public enquiry procedure

- The administrator must conduct the public enquiry or appoint a suitably qualified person or panel of persons to do so.
- Adequate notice of the enquiry must be given to all persons likely to be affected by the proposed administrative action.

- The person conducting the enquiry, must determine its procedure, which must-
    - include a public hearing; and
    - comply with the enquiry procedures to be prescribed by regulation.
- After the enquiry a written report on the enquiry must be compiled and reasons must be given for any administrative action taken or recommended.
- As soon as possible thereafter, a notice containing a concise summary of the report and particulars of the places and times at which the report may be inspected and copied, must be published in the Provincial Gazette.
- This information must also be conveyed to the public concerned by such other means of communication, as the administrator considers appropriate.

5.4.4.5 Notice and comment procedure

The administrator must -

- take appropriate steps to communicate proposed action to those likely to be materially and adversely affected by it;
- call for comments from them;
- consider any comments received;
- decide whether or not to take the administrative action, with or without changes;
- comply with any notice and comment procedures prescribed by regulation.

Any person whose rights have been materially and adversely affected by administrative action may request written reasons for such action with 90 days of becoming aware of it.

The administrator must provide adequate reasons in writing within 90 days of receiving the request.

5.4.5 Data on identifying circumstances constituting fair administrative **procedures in a formal hearing**

Table 5.29: Data on identifying circumstances constituting fair administrative procedures in a formal hearing

C 29	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	21	61.7	44	88	69	49	169	42.4	303	48,7
No	2	5.8	2	4	30	21,4	86	21.6	120	19,2
Not Sure	11	32.3	4	8	39	27,8	140	35.1	194	31,1
N.R.F.	0	0.0	0	0	2	1	3	0.7	5	0,8
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.29 reflects data on identifying Circumstances Constituting a fair administrative procedure in a formal hearing.

A total of 48.7% of respondents which is less than half the total sample, are familiar with fair administrative procedures, followed by 31,1% who are "not sure", and 19,2% who are completely not familiar with the above procedure.

It is, therefore, evident that more than 50% of the respondents need to enlightened i.r.o. circumstances constituting fair administrative procedures at a formal hearing.

Everyone has the right to administrative action that is lawful, reasonable and procedurally fair. For the administrative action to be lawful, the administrator must be legally empowered to perform the administrative action. The administrative act must be performed in accordance with any mandatory and material procedure or condition prescribed by the relevant empowering provision.

In addition, the administrator may give an affected person –

- An opportunity to obtain assistance and, in serious or complex cases, legal representation;
- present and dispute information and arguments,
- appear in person; and
- receive adequate notice of the nature and purpose of the proposed administrative action.

PROCESS		COMMENTARY
Grievance		• As defined
Oral Interview		• Oral grievance • meeting between principal and grievant (and representative)
	Resolved	• problem- solving approach • no record kept • off the record (without prejudice)
Formal written grievance		• within 90 days • in writing • signed • principal must file with province
Head to confer		• meeting within 3 days • grievant may be represented by trade • union representative
	Resolved	• problem- solving approach • principal to report outcome to province • if grievance is about principal, grievance lodged at regional/district level
Referral to Region/District		• in writing • by hand or registered p • within five days • copy to principal and to trade union
Head of Region/District		• must attempt to resolve within 5 working days • problem- solving approach • outcome communicated to all parties
Referral to ELRC		• under auspices of ELRC • differentiate between rights and interest disputes
Interest disputes	Rights disputes	• both have consensus seeking phase • next stage arbitration or strike
Mediation	Conciliation	•

Figure 5.1: Grievance procedure

Source: GDE Training Manual(2005:37)

5.4.6 Data on actions of misconduct that may lead to dismissal

Table 5.30: Data on actions of misconduct that may lead to dismissal

C 30	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	29	85	46	92	92	65,7	215	54.0	382	61,4
No	0	0	2	4	19	13,5	68	17.0	89	14,3
Not Sure	5	14,7	2	4	27	19	115	28.8	149	23,9
N.R.F.	0	0	0	0	2	1	0	0	2	0,3
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Most respondents (61,4%) are familiar with the actions of misconduct that may lead to dismissal, followed by 23,9% who are "not sure", and 14,3% of respondents who are completely not familiar with the above-mentioned misconduct. From a total of 61,4%, there are principals 85%, deputy principals (92%) and heads of departments (65,7%). The above school management statistics clearly reflect, that managers (70%) are knowledgeable about misconduct that may lead to dismissal. The most important concern is that 46% of educators are not familiar with misconduct that may lead to dismissal. It is, therefore, imperative to equip educators with the necessary information with regard to the above-mentioned process. Below are forms of misconduct as outlined in the Employment of Educators Act.

Misconduct

(1) An educator shall be guilty of misconduct if the educator –

(a) contravenes or fails to comply with a provision of this Act or any law relating to education;

(b) performs or causes or permits to be performed, or connives at any act which is prejudicial to the administration, discipline or efficiency of any department of education, departmental office or educational institution;

(c) disobeys, disregards or wilfully defaults in carrying out a lawful order given to the educator by a person having the authority to give it, or by word or conduct displays insubordination;

(d) is negligent or indolent in the carrying out of the duties attached to the educator's post;

(e) without permission of the employer, undertakes any private agency or private work in relation to a matter connected with the carrying out of the educator's official duties;

(f) attempts to secure intervention from any person, other than a person in the employ of the State or a trade union, in connection with the educator's position or conditions of service, unless such intervention occurs in an endeavour to obtain redress of any grievance in accordance with the Labour Relations Act or through Parliament or the relevant provincial legislature, as the case may be;

(g) behaves in a disgraceful, improper or unbecoming manner, or while on duty, is discourteous to any person, or commits sexual or any other form of harassment;

(h) while on duty or acting in an official capacity, is under the influence of intoxicating liquor or stupefying drugs;

(i) without prior permission of the employer, discloses otherwise than in carrying out the educator's official duties, information gathered or obtained by the educator through the educator's employment, or uses that information for any purpose other than for carrying out the educator's official duties, whether or not the educator discloses the information;

(j) 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;

(k) misappropriates or makes improper use of any property of the State under circumstances not amounting to an offence;

(l) commits an offence;

(m) without leave or a valid reason, is absent from office or duty; or

(n) with a view to obtaining any privilege or advantage in connection with the employer's official position or duties, or to causing prejudice or injury to the State or a department of education or a fellow employee, makes a false or incorrect statement knowing it to be false or incorrect.

Preliminary investigation of misconduct

(1) Whenever an educator is accused of misconduct, the employer may in writing appoint a person as investigating officer –

(a) to investigate the matter;

(b) to obtain evidence in order to determine whether there are grounds for a charge of misconduct against that educator; and

(c) to report to the employer thereon.

(2) An investigating officer shall not question the educator concerned, unless the investigating officer informs that –

(a) the educator has the right to be assisted or represented by another person;

(b) the educator is not obliged to make any statement; and

(c) any statement made, may be used in evidence against the educator.

PROCESS	SECTION	ISSUES
Misconduct	17	• misconduct broadly defined • relationship with criminal law defined
Suspension	20	• educator may be suspended • suspension must be preceded by 14 days notice
Investigation	18	• employer may appoint investigating officer • investigating officer gathers evidence • investigating officer reports • investigating officer's right to question the accused restricted
Charge	19	• charge where sufficient grounds • charge whether or not investigation is carried out • charge served on educator • admit or deny • trade union must be notified
Guilty/Not guilty	18	• educator who admits, is deemed to be guilty
Disciplinary tribunal	21	• chairperson and two others • powers
Enquiry	22	• evidence heard • representation • cross examination
Finding	23	• Guilty or not guilty
		• Recommendation
Sanction	24	• Different possible sanctions
Appeal	25	• Minister or member of the Executive Council
S.A. Council of Educators	26	• Record of proceedings

Source : GDE Training Manual(2005:84)

Figure 5.2: Overview of the formal disciplinary process

5.5 SOUTH AFRICAN COUNCIL OF EDUCATORS AS A PROFESSIONAL BODY DEALING WITH EDUCATORS' BEHAVIOUR (SECTION D)

5.5.1 Data on knowledge of South African Council of educators

Table 5.31: Data on knowledge of South African Council of Educators

D 31	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	34	100	45	90	96	68,5	259	65.0	434	69,7
No	0	0	2	4	21	15	65	16.3	88,	14,1
Not Sure	0	0	3	6	21	15	72	18.0	96	15,4
N.R.F.	0	0	0	0	2	1	2	0.5	4	0,6
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.31 reflects data on being familiar with the South African Council of Educators. The highest total percentage of respondents (69,7%) are familiar, followed by 15,4% who are "not sure", and finally, 14,1% who are completely not familiar with the South African Council of Educators.

It is encouraging to see that School Management Teams are familiar with the South African Council of Educators document, with principals (100%), deputy principals at 90% and finally heads of departments (68,5%).

5.5.2 Data on functions of the South African Council of Educators

Table 5.32: Data on functions of the South African Council of Educators

D 32	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	31	91	47	94	86	61,4	223	56.03	387	62,2
No	2	5.8	0	0	21	15	71	17.83	94	15,1
Not Sure	1	2.9	3	6	31	22,1	101	25.37	136	21,8
N.R.F.	0	0	0	0	2	1,4	3	0.75	5	0,8
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Respondents (62,2%) know the functions of the South African Council of Educators, followed by 21,8% of respondents who are "not certain", and finally, 15,1% who do not know the functions of the South African Council of Educators.

Therefore, we have 36,9% of respondents who need to be capacitated in terms of the above activity. From different levels of educators, we have 91% of principals who are familiar with the functions, followed by deputy principal (94%), heads of departments (61. 4%), and finally 56,03% of educators.

In all the categories, respondents are above 50% and therefore, most respondents are familiar with functions of the South African Council of Educators.

5.5.3 Data on code of professional ethics that governs educators

Table 5.33: Data on code of professional ethics that governs educators

D 33	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	32	94	43	86	89	63,5	234	58.7	398	63,9
No	0	0	1	2	22	15,7	61	15.3	84	13,5
Not Sure	2	5.8	6	12	27	19,2	101	25.37	136	21,8
N.R.F.	0	0	0	0	2	1,4	2	0.5	4	0,6
TOTAL	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Most of the respondents (63,9%) are familiar with the code of professional ethics that governs educators, followed by 21,8% who are "not sure", and finally, 13,5% of respondents who completely are not conversant with code of professional ethics outlined in the SACE document. From various levels of educators, we have principals that are familiar with the above-mentioned code (94%), followed by deputy principals (86%), head of departments (63,5%), and finally educators (58,7%).

It is, therefore, evident that, from the total statistics 41,6% of educators need to be capacitated with the code of professional ethics that governs educators.

5.5.4 Data on the SACE having powers of instituting disciplinary actions against educators

Table 5.34: Data on SACE having powers of instituting disciplinary actions against educators

D 34	PRINCIPAL		DEPUTY PRINCIPALS		HOD'S		EDUCATORS		TOTAL	
	f	%	*f*	%	*f*	%	*f*	%	*f*	%
Yes	27	79,4	43	86	97	69,2	232	58.2	399	64,1
No	0	0,	1	2	12	8,5	44	11.0	57	9,1
Not Sure	7	20,5	6	12	29	20,7	120	30.1	162	26
N.R.F.	0	0	0	0	2	1,4	2	0.5	4	0,6
Total	34	100	50	100	140	100	398	100	622	100

Source: Own Research

Table 5.34 reflects data on SACE having powers of instituting disciplinary actions against educators. Most of the respondents seem to be familiar with the above-mentioned powers of the SACE, with a total percentage of 64,1%, followed by 26% who are "not certain", and finally 9,1%, who are completely not conversant with the powers of the South African Council of Educators. We, therefore, have 86% of deputy principals who are familiar, followed by principals 79,4%, heads of departments (69,2%), and finally, educators at (58,2%).

It is imperative for the Department to provide in-service training for educators who are not familiar with powers of SACE in instituting disciplinary action, since they are directly affected by the process.

The next chapter presents a model of development for the use of schools, which intends to make it easy for educators to use.

CHAPTER SIX

DEVELOPMENT MODEL

6.1 INTRODUCTION

The literature study (Chapters 2 and 3) has shown clearly, that capacity building is essential in ensuring a conducive environment and better understanding of numerous legislations that govern the education sector. It is also clear, that management teams have had insufficient training and are in dire need thereof.

Training should be given reasonable time for educators to follow and develop from the training provided.

The Gauteng Department of Education should embark on a development programme to capacitate educators from different levels with knowledge and skills required to better the standard of education, as well as conditions of service.

It is, therefore, necessary to design a model that would have to relate directly to the development needs of adductors, in such a manner that each category of educators is able to embark on a process that is sensitive to its peculiar needs and circumstances.

This chapter purports to design a model for use by educators in the Vaal Region. The design of a development model is premised on the assumption that models attempt to represent reality (Nadler, 1998:4). The development model will, therefore, attempt to help management teams to put into place programmes of action to kick-start the development process.

6.2 FRAMEWORK FOR DESIGNING A DEVELOPMENT MODEL

Nadler (1998:4) describes a model as the representation of reality, so that sense could be made out of the world around us. Mouton and Marais (1990:140) postulate, that a model does not pretend to be more than a partial representation of given phenomenon, but Marais *et al.*, also points out, that the value of a model is its ability to draw attention to specific themes, so it has a strong guiding function. Nadler (1998:5) points out that a model should be based on answers to the following questions.

- For which kind of learning is it appropriate?
- Does it tell what to look for?
- Does it help its user to anticipate what he or she will find?
- Does it provide alternatives?

Nadler (1998:5) emphasises, that a model is valuable in so far as it improves understanding or helps the user to understand what is otherwise an essential complicated process.

Mounton and Marais (1990:141) add, that a model.

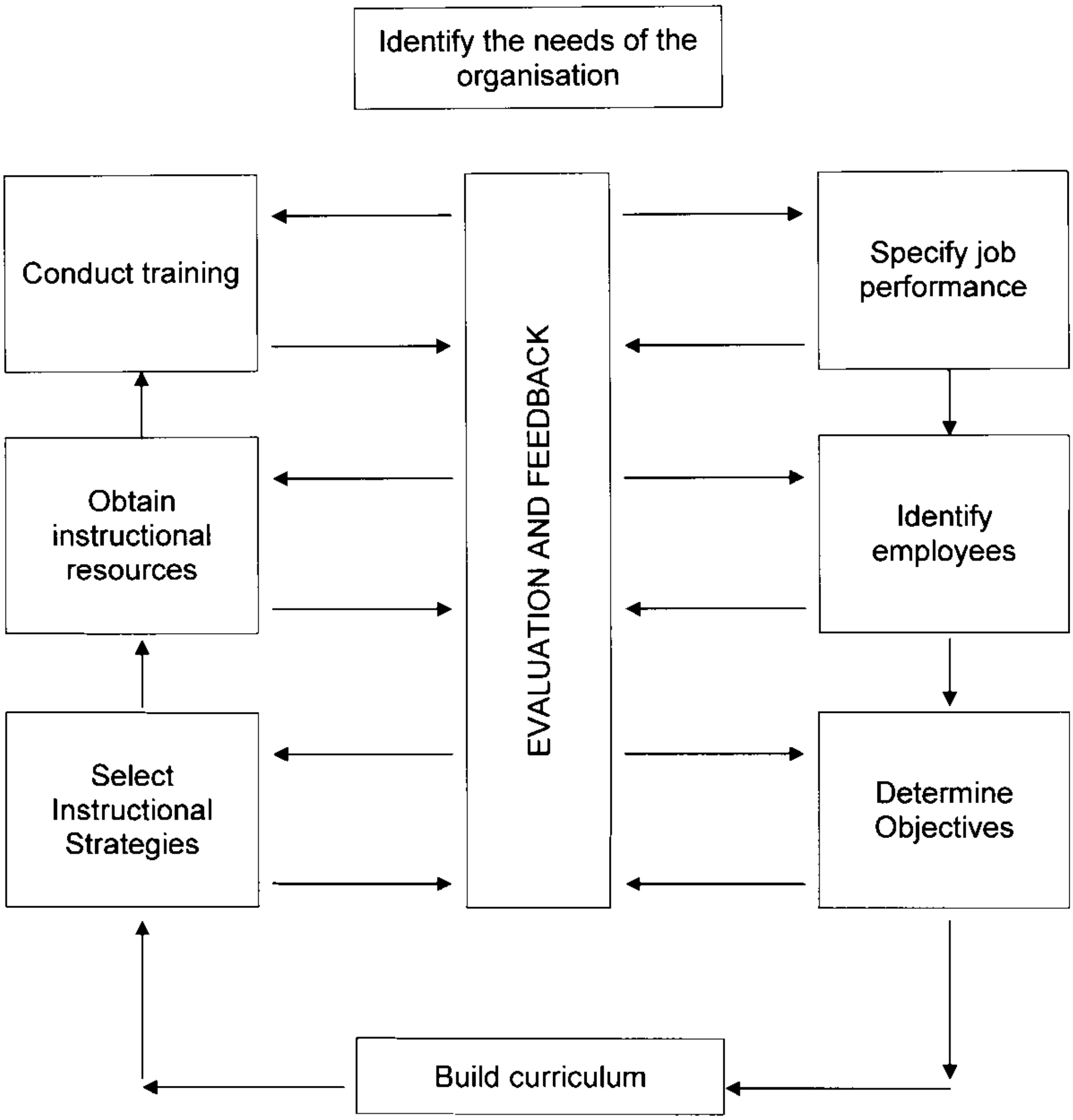
- identifies central problems or questions concerning a phenomenon to be investigated;
- limits, isolates, simplify and systematises the domain that is investigated; and
- provides a new language game or universe of discourse and means for making predictions.

Jansen and Steinberg (1991:9) warn, that a model highlights certain aspect of a complex process and offer a simplistic representation of the aspect covered. It should, therefore, be noted that models generally accentuate certain aspects, so as to serve a particular purpose. This highlights the need for careful consideration of the purpose of a particular model and for applying it for its express purpose.

There are various ways to design models. For the purpose of this research, the appropriate model will be the critical events model (CEM).

The critical events model (CEM) is essential for training, i.e. learning programmes related to the job the individual is currently holding.

The Critical Events Model



Source : Nadler (1998:18)

Figure 6.1: The Critical Events Model

According to this model, the first step is the *identification of organisational needs.* These relate to in what way the organisation have to attain its goals, while recognising that there are constraints on the kinds and amount of resources available. Nadler (1998:17) postulates, that the underlying assumption behind needs identification, is training; and therefore, development cannot be undertaken unless there is a specific need. This step, therefore, entails identifying the needs(s) and clarifying them. It is only when that has been done, that the next step could be realised.

Needs identification involves determining *where needs come from.* Nadler (1998:20-24) postulates, that needs can emanate from the following.

- Production or service of the organisation.
- Equipment or regulations.
- Output in terms of products or service.
- Outside pressures.
- People within the organisation.

Needs assessment also entails an *organisational diagnosis* (Nadler, 1998:24). This implies finding answers to questions such as the following.

- How are we doing?
- How can we do it better?
- What problems do we have?
- What is our future?

Organisational diagnosis includes *performance analysis.* Nadler (1998:27) relates to performance analysis as an activity seeking to find out what the performance component is and how the need(s) of the organisation relate to some kind of performance problem.

Performance analysis would then answer the following questions.

- How did the need arise?

- Which human resource area is to be focused upon?

The consideration of the afore-mentioned aspect of the needs assessment, would then lead to assessing alternatives to development and training programmes, if necessary. Some alternatives could be to "hire and fire", internal mobility, re-engineering the job, equipment changes or organisational change or redesign. It is only after the consideration of alternatives that a decision to design a development and training programme would be undertaken (Nadler, 1998:30-34).

A look at the CEM (Figure 6.1) shows one event, that is involved in every other event, until the culmination of the programme *viz, evaluation and feedback.* Evaluation is concerned with how the model designer is meeting the objectives of a particular event (Nadler, 1998:39). Nadler (1998:39-41) emphasises, that evaluation and feedback are automatic steps built into the CEM, so that it alerts everybody to the necessity for some decision-making before proceeding further.

This process involves answering the following questions at each event o the CEM

- Who will be asked to make decisions?
- Who must receive the feedback so they can make decisions?
- Who must receive the analysis so they can provide feedback?

The most important point to make about evaluation and feedback, is that it runs through the events and affords opportunities for the designer to apply corrective action throughout the process of model designing (Nadler, 1998:45-46).

After completing the first event in the CEM, the designer would then move on to the next event, namely, *specifying the job performance.*

Nadler (1998:47) explains, that this event stems from the job being identified as relating to a need of the organisation, which makes the event of job specification a crucial one. The CEM is based on the premise that needs can be assessed against some kind of standard, as this is based on agreement about the job to be performed. Nadler (1998:47) emphasises, that an agreement about the job to be performed is essential and that such an agreement would sow how the job contributes to the organisation and makes it meaningful to try to find ways of how to improve it.

Specifying job performance, involves knowing what job performance is, by gathering the perceptions about the job and clarifying them (Nadler, 1998:51). Issues needing clarification would be (Nadler, 1998:53) the following.

- *Interdependence* of people's inputs and outputs in respect of the job, and the nature of an organisation, which requires that for tasks to be accomplished and to reach goals, there be human interdependence.

- *Standards of the job* relating to stating the output of the job as either quality or quantity. Agreement should exist as to the meaning of these standards, since they mean different things to different organisations.

- Whether the job *involves* a group or an individual. Some considerations would be whether people work alongside others or alone, and/or working with others. It can also be considered whether substitutes have to be trained on a regular basis.

Job specification necessitates gathering data on job performance. There are various ways of gathering data about job performance. Nadler (1998:57) explains, that when gathering data for this event, sources of information such as people, records and reports and methods like questionnaires, interviews, meetings, literature search, observation and critical incidents have to be considered.

Evaluation and feedback in this event would be analysis, feedback and decision-making on job performance with regard to for instance, the question whether there is still agreement on the problem of the needs assessment, whether there is agreement on job performance, should consideration be given to alternatives and will time be allocated for development and training?

It is only after the designer is confident that appropriate decisions have been made, that it would be possible to proceed to the next event, namely identifying learning needs (Nadler, 1998:77-80).

The next event in the model is *identifying learning needs.* According to Nadler (1998:83-102), the objective here is to identify the learning needs of those who are doing the designated job, so that the focus of this event is on the persons in the job; since people bridge the differences between the person and the job, so that the individual can perform in a way that meets the organisational goals (Nadler, 1998:83). Identifying the learning needs, entails considering a person's values, *vis-à-vis,* job performance and the needs that are related to the job performance thereof.

Identifying learning needs involves gathering data by using such methods electronic data gathering by teleconferencing, including performance appraisal, supervisors and employees, for whom the development and training have been, designated (Nadler, 1998:88).

Evaluation and feedback in this event, involve the analysis of what has been gathered under the previous event in order to ascertain how the identified needs are related to job performance. Decisions to be taken, would relate to whether job performance will be acceptable if the needs are met, how important the needs are, whether the job has to be redesigned, whether tasks should be reallocated, whether subordinates should be transferred rather than trained, and what the availability of employees is (Nadler, 1998:100-101).

If there are positive decisions about the preceding questions, the designer can then move on to the next event.

The next event is the *determination of objectives* (Nadler, 1998:103-123) which intends to identify elements that must be considered in determining objectives for the programme and for the individual learning experiences, and to list specific programme objectives and learning objectives (Nadler, 1998:103). Determining objectives has as a point of departure, the understanding and consequent definitions of what they are and how they are developed and used?

In order to develop the objective of a management development process, priorities such as time, resources, and availability of personnel play a major role (Nadler, 1998:106-108). It is also necessary to consider skills, knowledge and attitudes as aspects of international learning (Nadler, 1998:112-113). Nadler (1998:115) opines, that three components of an objective should appear, namely performance, condition and criterion; the emphasises is also, that writing objectives should be done in a way that states the desired outcome, this indicating performance at the end of the development and training experience.

Evaluation in this event, takes place after objectives have been defined and discussed. For any analysis to take place, the written objectives are shared with at least the supervisor, as well as with managers. In the analysis, the designer indicates how each objective relates to what has been previously agreed upon under the identification of the learning needs, so that each need should have an objective or a reason for not defining writing an objective for these needs (Nadler, 1998:120).

Feedback considers who should be involved. Management or the supervisor is crucial. Feedback could include the discussion of the rank order of objectives, which might differ from unit to unit or department to department, depending upon such factors as personnel, work schedules, production schedules and locale.

Decisions to be taken in this event, would look at the acceptability of the objectives, the reflection of all the needs in the objectives, the acceptability of the priority of learning objectives, the relation of objectives to the performance specification and the location of the achievement of the objectives, i.e. whether they can be met internally or externally.

The next event after determining objectives, is *building the training program* (Nadler, 1998:124-157). The designer aims to develop a specific list of items to be learned in order to meet the previously determined objectives and to list the order in which training is to take place (Nadler, 1998:124). Building the curriculum, is the event where the designer, given the objectives from the previous event of the CEM, starts identifying what must be learnt to reach the stated objectives (Nadler, 1998:126). The curriculum, therefore, deals with skills, attitudes and knowledge and how these are, is partially a reflection of the beliefs of the designer and the nature of the subject matter. Objectives then serve as a checklist, so that each of the stated objectives should be readily identifiable in the curriculum.

A variable, to be considered in building the curriculum, includes the employee who has had prior learning experiences before the one under consideration (Nadler, 1998:128-129). Therefore, the culture of the employee or his/her prior experience when designing the present learning experience, cannot be ignored. The nature of the instructor is another variable, e.g. the instructor could be machine-mediated or a subject matter specialist.

Building the curriculum, also involves selecting content for the programme. Selecting content involves people. These may be people internal to the organisation, such as supervisors, manager and employees, or external concerns, such as professors from colleges and universities, consultants, NGO's, professional organisations and societies. These concerns could provide goods or services Nadler (1998:132-133).

All contents related to the objectives, can be organised under one of the following four categories (Nadler, 1998:134-136).

Essential content, which is the absolute minimal content that the curriculum must contain if the learning programme is to meet the previously stated objectives.

Helpful content, which refers to that content which supplements what is essential. This type of content is indirectly related to the performance expected, but which will help the job performer understand more about the job.

Peripheral content, which can be tested in respect of whether the performance can change if the peripheral content is not included. The inclusion of this content, may primarily be political decisions than design decisions.

Unrelated content, which arises in various ways and is, as implied by the term, unrelated to the developmental need. It arises as a result of a tendency of some people who feel, that if the content was good for somebody in another organisation, it should also be included.

According to Nadler (1998:136) the content should then be categorised, so that it becomes possible to instruct almost directly from that content. Thereafter sequencing becomes important, i.e. the order in which the content should be presented to a target group. Sequencing should reflect both content and learner. After these activities it should be decided whether to design the model or to obtain an appropriate programme that already exists.

The designer then needs to produce work-plans. The work-plan takes the content and sequence and translates the material into a form that is a plan for the development and training situation. The form of the work-plan depends on various factors, *inter alia* the users of the material, such as the instructor (Nadler, 1998:144). The general form of the work-plan should contain the work-plan objectives, preparation, time/duration of the work-plan, major topic(s), instructor activity, employee activity, learning strategies, and evaluation.

Evaluation in this sense entails determining which approach to the analysis would prove most helpful. The decision regarding the approach, would be influenced by the nature of the content and the form of the workplans. Nadler (998:154) postulates that the question feedback? The analysis involves issues like the assumptions made about the nature of the content matter, time in terms of the reduction or increase thereof and the decision to designer-buy an existing programme.

Feedback in this event, includes feedback to people like supervisors or managers, by virtue of the major decisions that would have to be taken.

Decisions to be taken in this event, would relate to whether the content meets the previously determined objectives, whether it will satisfy the needs of the employees, whether the content relates to performance and the previously identified organisational needs and whether the potential employees will be made available for the period. The final decision would be to buy a packaged learning programme, if available. In this case the next event, namely *selecting instructional strategies,* would not be entered upon, as it would be part of the purchased programme (Nadler, 1998:157). However, in the absence of a packaged programme, the next event would then be embarked upon.

Selecting instructional strategies entails selecting those strategies that are appropriate for the curriculum, the employee(s), the trainer and the organisation. Nadler (1998:160:161) states, that instructional strategies should include method, techniques, devices, media and equipment. He emphasises, that the use of strategies reinforces the proposition that the learning situation involves a combination of various methods and device.

In selecting strategies, there are factors that should be considered, *inter alia,* concepts of learning psychology, administrative practices, the culture of the organisation, the instructor and the learner (Nadler, 1998:164-169). After considering these variables, the designer will then return to the curriculum and select the appropriate strategies that would include the various development methods discussed earlier in this text Nadler (1998:170).

Evaluation in this event, entails using external people to react.to what has been accomplished (Nadler, 1998:180). Various strategies can be listed and reasons for their choice are propounded.

Feedback involves senior managers or supervisors to provide insight into how their subordinates might react to the instructional strategies selected for the learning situation.

Decisions to be taken in this event, will focus on whether the instructional strategies complement the curriculum, if the objectives will be reached, if the working plans reflect the identified learning needs, if the curriculum will relate to the current job performance, if the selected strategies can be implemented and, if the selected learning strategies will be available when needed (Nadler, 1998:182-183).

The next event entails *obtaining instructional resources* (Nadler, 1998:186-205). The objective of this event, is to assure that all the necessary resources will be made available for the development and training programme (Nadler, 1998:186). A variety of resources are available and this would be the function of the size of the organisation. The variety of resources needed, falls within the traditional categories of the physical, financial and human resources (Nadler, 1998:188-196). The following checklist will assist the designer immediately in this event (Nadler, 1998:196-201).

6.2.1 Scheduling

- Are the necessary facilities available?
- Who will instruct?
- Do the instructors need any prior instruction before beginning their duties?
- Will the employees be available?
- Equipment and material.
    - If to be purchased, produced in-house or rented, is there a specific list of items?
    - For all and material, have delivery schedules been prepared?

6.2.2 Budget

- Have there been previous budget estimates so that these could be reviewed and updated as based on decisions made during the intervening events?
- What is included in the budget?
- Will the training be cost-effective?
- Who will be charged for the training?
- Are there alternative budgets?

Evaluation in this event, will entail the analysis of resources, schedules and budgets. Scheduling, selection of participants and identification and preparation of instructors will also form part of the analysis (Nadler, 1998:202).

Feedback would include a variety of people, depending on how the organisation is structured (Nadler, 1998:202-2003). The prime person would be the supervisor by virtue of the decisions he/she would have to take, such as who will go for training. Budget people are also crucial in this event, since they control funding.

Decisions that have to be taken in this event, would include whether the cost is acceptable, the required resources would be available when needed, whether, there is a list of potential learners (employees), whether specific instructors can be assigned and whether the programme with modification would solve the problem it seeks to address (Nadler, 1998:203-205).

The next event is actual *conduct of training*. This event is the culmination of all the work done previously. According to Nadler, (1998:207) for some programmes, no variations from the design and work-plans will be permitted, while for others, work-plans are expected to serve only as general guidelines with modifications by the instructor in the actual learning situations.

Conducting training involves considering the participants in the training programme. This entails their selection, considering their needs, as well as their notification about the training programme (Nadler, 1998:209:213). Afterwards the programme is opened. This would involve climate setting, which consists of those activities that will communicate an attitude conducive to effective training. This can be either formal or informal (Nadler, 1998:214).

Evaluating the programme should be summate. The evaluation and feedback will all be influenced by the need to report to the supervisors and managers. The programme should then be closed by giving recognition to the participants and instructors.

At the end of the programme, it would be important to analyse the impact of the programme on learners (participants). Decisions to be taken, would entail assessing if the results of the programme have solved the problem, and assessing if there is a need to repeat the programme and if the modifications will be necessary if the programme is repeated (Nadler, 1998:225).

6.3 PROPOSED DEVELOPMENT MODEL FOR SCHOOLS IN THE VAAL REGION

Chapter 5 highlighted the need for capacity building for educators in various legislative frameworks.

There are thus initiatives that should realised. These initiatives should focus on the following.

- A fully developed programme, which should include initial training and continuous in-service training.
- Creating conditions for continuous evaluations with regard to the Performance Management System.
- Developing training material that are user-friendly, and allows room for reference when the need arise.
- Encouraging educators to participate in educational conferences and programmes related to the acquiring of skills and knowledge i.r.o. educational matters.
- A programme should clearly differentiate and separate roles and responsibilities of various stakeholders in the education sector.
- Encouraging educators to improve their qualifications as per latest minimum requirement prescribed by the Education Department.
- Educators to be part in identifying areas that need development and support, since their full participation will ensure ownership.

The development model proposed here, intends to provide education with a readily usable tool in the process of continuous improvement of our schools.

The model is appropriate since it addresses most problems encountered by educators.

The proposed model seeks to induce and encourage a commitment from parties involved in the operational activities of various schools through their participation and involvement. The commitment approach is also regarded as the appropriate model for this study.

6.4 COMMITMENT APPROACH TO DEVELOPMENT

The commitment approach (CA) is premised on the need to ensure full participation by various stakeholders in the development process. The reasoning behind this, is that, when people are part of the process from its inception, they commit themselves to its completion and strive hard to make it success. However, perhaps the most important reason for commitment, is the use of vision as the starting point of the process and the reference thereof throughout the process.

The CA is based on the Quality Assurance Framework instrument developed for use in describing the qualify instruments. These indicators could also be used for self-evaluation and monitoring purposes. Examples of indicators of good practice for personnel management systems are the following.

- Staff with personal or professional problems are supported.
- Staffs are deployed efficiently.
- The work of all staff members is evaluated.
- Personnel records are efficient, and user- friendly.
- Code of conduct and grievance procedures are procedurally fair.
- Development programmes are consistent.

Focus points are descriptions of indicators of good practice. They provide more details about what the indicators imply. The focus points are the narrowest of the process criteria and are thus used for the measurement of management performance, i.e. improvement and or the need thereof. There are six focal points for each indicator of good practice. Examples of focal points for the first indicator above, are the following.

- Every effort is made to reduce sources of stress in the operation of the institution, e.g.
- Communication systems allow staff to voice criticism rather than to nurse grievances.
- Change to the feelings and interests of those involved, is introduced with sensitivity.
- Enmities, tensions and divided loyalties are resolved by reconciliation.
- Staff members experiencing problems or failure, are supported with sensitivity and empathy.
- Grievance and disciplinary issues result, if possible, in healing and reconciliation.

6.5 CHAPTER SUMMARY

In conclusion, it is evident from this empirical study conducted that educators are ignorant to most aspects that govern the education sector. Their commitment and full participation in development programmes will instil the sense of ownership.

In the light of the above result achieved in terms of out put, it will be regarded as collective efforts.

The next chapter presents a summary, findings and recommendations.

CHAPTER SEVEN

SUMMARY, FINDINGS AND RECOMMENDATION

7.1 INTRODUCTION

This chapter presents a summary of the previous chapters, followed by specific findings from the research. Finally recommendations are made, aimed at ensuring various stakeholders know and understand legislation governing the education sector, as well as ensuring a conducive environment for learning and teaching.

7.2 SUMMARY

In **Chapter one**, the problem which gave rise to the research, was expounded. Moreover the problem statement, research objectives and demarcation of the field of study were formulated.

The research methodology and the content of the study were outlined.

Chapter two provides a picture on roles and responsibilities of various stakeholders and developmental programmes in education operating with and existent in the legislative framework required by the education sector.

Chapter three deals with the operation of the Education Labour Relations Act, as well as the South African Council For Educators as a juristic person in education in terms of dealing with the misconduct of educators, and ensuring that culture of learning and teaching is maintained.

Chapters Four and Five present the research design and data analysis and interpretation respectively.

Chapter Four details the research instruments, design and administration, as well as the method of research.

Chapter Six presents the data analysis and interpretation by means of tables detailing frequencies, rankings and responses i.r.o. various categories of data colleted. Chapter six presents the proposed model for primary and secondary schools in the Vaal Region. Firstly, the Critical Events Model is discussed, followed by a diagram indicating the entire process. The commitment approach for the use of schools in the Vaal Area, is discussed and regarded as the most appropriate approach.

The next section deals with findings in accordance with the stated research objectives, so as to indicate how objectives were achieved.

7.3 FINDINGS

7.3.1 Findings based on objective 1

The rights of both employers and employees in terms of forming or joining employers' organisations and labour unions respectively, were discussed, as this was objective one.

Based on the empirical research findings, the following emerged.

- Very few educators had knowledge with regard to their rights in terms of general labour practice.
- Most respondents are not clear on what their labour rights and duties are in terms of the stipulated legislation according to the literature study. They have insufficient knowledge concerning legal specifications applicable to a contract of employment.

7.3.2 Finding based on objectives 2

Educators in managerial positions should be allowed to effectively handle problems of misconduct and poor work performance. This was objective two.

Based on the empirical research (table 5.27), the following points emerged.

A total percentage of 47% of the respondents were not familiar with the process of a formal disciplinary hearing an effective way of handling problems.

The process of handling problems of misconduct is also discussed, in detail in chapter three of the literature study.

7.3.3 Finding based on objective 3

Educators should be encouraged to observe and acknowledge the establishment of the South African Council for Educators (SACE) as a juristic person, which sets the code of conduct for educators in the workplace. This was objective three.

From the research conducted, it was found that 41% of PL1 educators need to be capacitated with regard to professional ethics developed by the SACE.

7.3.4 Finding based on objective 4

Objective four is aimed at the understanding and outlining roles played by labour unions in education.

It was discovered from research conducted, that 50% of principals, as well as 43% of post level one educators, are not clear with regard to the roles of site stewards. The above scenario clearly shows that there is a lack of co-operation or common understanding between top managers (principals) and union representatives. It also evident, that post level one educator need to be capacitated i.r.o. the above objective.

7.3.5 Finding based on objective 5

Objective five aims at promoting and encouraging the utilization of developmental programmes, i.e. (IQMS) for improving educators' performance.

It was discovered, that one third of all respondents were not familiar with the Integrated Quality Management System. It is, therefore, imperative for all educators to be conversant with the instrument, since it is the only tool that determines the salary progression and grade progression of educators.

7.3.6 Finding based on objective 6

Objective 6 aims at identifying the roles of school governing bodies. About one fifth of educators concerned, need to be empowered with regard to the above-mentioned objective. Chapter two of the literature study clearly stipulates the roles and responsibilities of the school governing bodies in the light of the South African Schools Act 108 (1996).

In the light of findings from the literature and from relevant empirical studies, the following recommendations are proposed.

7.4 RECOMMENDATIONS

The following recommendations are made towards ensuring that schools provide the best possible education through empowerment of various stakeholders in terms of legislation that governs the education sector.

- Educators should be paid according to their job descriptions; experience and should be considered qualifications. The minimum acceptable qualifications for an educator in South Africa, is matric plus three years, appropriate training. In terms of the Relative Education Qualification Value (REQV) ratings, the following are stipulated.

C	=	Matric + 3 years' training
D	=	Matric + 4 years' training
E	=	Matric + 5 years' training
F	=	Matric + 6 years' training
G	=	Matric + 7 years' training

  According to research conducted, most educators are found to be in Category C. It is, therefore, evident that educators are less interested in improving their qualifications. It is therefore, specifically recommended that the department should also consider improving salary notches based on the guidelines of the Relative Education Qualification Value (REQV).

- Principals and site stewards need to work together in order to solve problems within the working environment. Based on the research conducted, it has become clear that most principals are not familiar with the duties of union representatives. It is therefore, recommended, that empowerment workshops be conducted, to ensure the best possible way to be implemented with regard to conflict resolution. Basically, shop stewards serve links between trade union and workers. The union representative remains in the service of the employer, and is allowed to carry out his/her activities, either on a full-time or part-time basis.

Both managers and union representative should strive to create a conducive environment for teaching and learning.

All stakeholders should be involved in the formulation of policies. Full participation of various stakeholders in the formulation of policies promotes ownership by participants. Policies are guidelines established to operate or control an organisation. Policies must be within the legislative frame work of the Department of Education.

- The, Integrated Quality Management System need to be continuously evaluated in order to check the strength and the weakness of the instrument. Based on the research conducted, about two-fifths of respondents still need to be capacitated with regard to the above-mentioned instrument. Most evaluation instruments failed, such as the Development Appraisal System (DAS) which was not continuously evaluated and improved within the required time-frame. This Development Appraisal System failed because of the following:
    - Format and language is not user friendly; policy documents were often too difficult for the end-user.
    - Core criteria set, were too complicated and could not be easily understood.
    - DAS was not seen to be linked with other policies that were in process of being or have already been implemented.
    - There was a lack of ownership, as well as unclear roles and responsibilities.

- There were no perceived incentives for the successful implementation and ongoing use of DAS.

Based on the above constraints, it is, therefore, recommended that the Integrated Quality Management System be consistently utilised. Incentives should also be consistent and clear.

The following recommendations also merit attention.

- Educators should be subjected to receive a fully developed programme, which should include initial and continuous in-service training. It is evident from the empirical research, that more than fifty percent of the respondents are in dire need of sound training. It is, therefore, recommended that the Department of Education identify areas that need development and subsequently provide relevant programmes.

- It was furthermore discovered, that one-third of the educators are not conversant in terms of their rights i.r.o. joining labour unions. From the above findings, it is therefore, recommended that educators be empowered with regard to their rights and limitations with regard to labour practice.

- Educators need to be empowered by having direct access to the process of a formal disciplinary hearing, since it affects their daily activities. The study showed that about 47% of all respondents are not familiar with the above procedure. It is, therefore, evident that if educators are not aware of the constitutional rights and limitations in terms of labour relations, they might act inappropriately and lose the case, with the possibility of being dismissed. Necessary developmental programmes will reduce unnecessary dismissals occurring within the Department of Education.

7.5 CONCLUDING REMARKS

It is imperative for various stakeholders in the education sector, to be empowered in terms of policies and legislation that govern their different institutions. All educators should know their rights as employees, and the duties they have towards their employers. School governing bodies should execute duties allocated to them in terms of the South African Schools Act, and most importantly, school management teams should manage their institutions in the light of various pieces of legislation guiding them. Finally, the South African Council for Educators' document should be observed and regarded as a juristic person, with the aim to promote the professional development of educators, thus establishing a fair and equitable procedure in terms of handling any misconduct by educators.

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ANNEXURE A

LIST OF SCHOOLS IN THE VAAL AREA (PRIMARY AND SECONDARY SCHOOLS)

1. BEVERLY HILLS SECONDARY SCHOOL
2. BAFOKENG PRIMARY SCHOOL
3. BARRAGE PRIMARY FARM SCHOOL
4. BATLOUNG INTERMEDIARY SCHOOL
5. **ATLEHANG PRIMARY SCHOOL**
6. BOIKETHELO SECONDARY SCHOOL
7. BOPHELONG PRIMARY SCHOOL
8. BOTEBO-TSEBO SECONDARY SCHOOL
9. BOTLEHADI PRIMARY SCHOOL
10. **BOIKAGO PRIMARY SCHOOL**
11. BULADITSHABA PRIMARY SCHOOL
12. DIE ANKERSKOOL
13. DINALEDI PRIMARY FARM
14. DINOKANENG SECONDARY SCHOOL
15. **BULAMALIBOHO PRIMARY SCHOOL**
16. DINOKENG PRIMARY SCHOOL
17. DR NHLAPO INTERMEDIARY SCHOOL
18. ED MASHABANE SECONDARY

19. EKUJULENI PRIMARY SCHOOL

20. BULATSELA PRIMARY SCHOOL

21. EL SHADDAI SCHOOL

22. EMMANUEL PRIVATE SCHOOL

23. IMBALI PRIMARY SCHOOL

24. INSEBENZO SECONDARY SCHOOL

25. ELITE PRIMARY SCHOOL

26. EMANG PRIMARY SCHOOL

27. KGORO YA THUTO SECONDARY

28. ISIZWE-SETJHABA SECONDARY SCHOOL

29. ITSOSE INTERMEARY SCHOOL

30. EMANZINI PRIMARY SCHOOL

31. KHANYA-LESEDI SECONDARY

32. KOPANONG PRIMARY SCHOOL

33. KRUGERLAANSKOOL

34. KEUDUNG INTERMEDIATE SCHOOL

35. ITOKISETSE PRIMARY SCHOOL

36. LEBOWA PRIMARY SCHOOL

37. LEHLASEDI PRIMARY SCHOOL

38. LEONICK PRIMARY FARM SCHOOL

39. LEKOA SHANDU SECONDARY

40. KGOMOCO PRIMARY SCHOOL

41. LIFE MINISTRIES CHRISTIAN SCHOOL

42. MABOHLALE PRIMARY SCHOOL

43. MASIZAKHE PRIMARY SCHOOL

44. MERWEDE PRIMARY FARM SCHOOL

45. LEFIKA PRIMARY SCHOOL

46. MEYERTON PRIMARY SCHOOL

47. MEYERTON SECONDARY SCHOOL

48. MICHAEL RUA INTERMEDIATE FARM SCHOOL

49. MILTON PRIMARY SCHOOL

50. MATSIE STEYN PRIMARY SCHOOL

51. MOHLOLI SECONDARY SCHOOL

52. MOLLWANA PRIMARY SCHOOL

53. MONTIC PRIMARY FACTORY SCHOOL

54. NOMNEKANE PRIMARY SCHOOL

55. MOELI PRIMARY SCHOOL

56. "NUUTBEGIN" PRIMARY FARM SCHOOL

57. OLIVER LODGE PRIMARY SCHOOL

58. PALMIETFONTEIN PRIMARY FARM SCHOOL

59. PARK RIDGE PRIMARY SCHOOL

60. MONTSOSI PRIMARY SCHOOL

61. PHAHAMANG PRIMARY SCHOOL

62. PHEASANT FOLLY PRIMARY FARM SCHOOL

63. PHEHELLO PRIMARY SCHOOL

64. PHEPANE PRIMARY SCHOOL

65. NTSELE PRIMARY SCHOOL

66. PHUTHULLA PRIMARY SCHOOL

67. PINEDENE PRIMARY SCHOOL

68. PITSENG PRIMARY SCHOOL

69. "PLATKOPPIE" PRIMARY FARM SCHOOL

70. PANFONTEIN INTERMEDIATE

71. POELANO SECONDARY SCHOOL

72. POHOPEDI PRIMARY SCHOOL

73. QEDILIZWE SECONDARY SCHOOL

74. QHAQHOLLA PRIMARY SCHOOL

75. PHAMEHLO PRIMARY SCHOOL

76. QHOWENG PRIMARY SCHOOL

77. RADIPEU PRIMARY FARM SCHOOL

78. RAMOLELLE COMBINED SCHOOL

79. RAMOSUKULA PRIMARY SCHOOL

80. PHULANENG PRIMARY SCHOOL

81. RATANDA SECONDARY SCHOOL

82. RATANG THUTO PRIMARY SCHOOL

83. REUBEN MOKOENA PRIMARY FARM SCHOOL

84. REITUMETSE PRIMARY SCHOOL

85. QWELANG PRIMARY SCHOOL

86. REUTLWILE-SIZWILE PRIMARY SCHOOL

87. RIVERSIDE HIGH SCHOOL

88. ROODEKRAAL PRIMARY FARM SCHOOL

89. ROSHNEE ISLAMIC SCHOOL

90. RATASETJHABA PRIMARY SCHOOL

91. ROSHNEE PRIMARY SCHOOL

92. ROSHNEE SECONDARY SCHOOL

93. RUSOORD INTERMEDIATE SCHOOL

94. RUST-TER-VAAL COMBINED SCHOOL

95. RESIDENSIA SECONDARY SCHOOL

96. SANCTA MARIA JUNIOR SCHOOL

97. SANDPOS PRIMARY FARM SCHOOL

98. SAPPHIRE SECONDARY SCHOOL

99. SEBOKA SA KRISTE (EX UITVLUCHT) PRIMARY FARM SCHOOL

100. RUTASETJHABA SECONDARY SCHOOL

101. SEDAVEN PRIMARY SCHOOL

102. SEDIBENG SA THUTO SCHOOL

103. SEEISO PRIMARY SCHOOL

104. SIYAPHAMBILI SECONDARY SCHOOL

105. SAKHILE PRIMARY SCHOOL

106. SEBOKENG TECHNICAL HIGH SCHOOL

107. SEPHARANA PRIMARY FARM SCHOOL

108. SETJHABA SOHLE SECONDARY SCHOOL

109. SHESHISANI FARM SCHOOL

110. SELIBA PRIMARY SCHOOL

111. SIBONGENI PRIMARY FARM SCHOOL

112. SIBONILE SCHOOL FOR THE BLIND

113. SITHEMBISO PRIMARY SCHOOL

114. SITHOKOMELE PRIMARY SCHOOL

115. SETLABOTJHA PRIMARY SCHOOL

116. SIVIWE PRIMARY SCHOOL

117. SIVUSE PRIMARY SCHOOL

118. SELBORNE PRIMARY SCHOOL

119. SEHOPOTSO SECONDARY SCHOOL

120. SEEISO PRIMARY SCHOOL

121. SKANSDAM PRIMARY FARM SCHOOL

122. SKIKFONTEIN PRIMARY FARM SCHOOL

123. SLANGFONTEIN PRIMARY FARM SCHOOL

124. SONOP PRIMARY FARM SCHOOL

125. SPRINGFIELD JNR SECONDARY SCHOOL

126. STADIGFONTEIN PRIMARY FARM SCHOOL

127. STRETFORD EXT 8 PRIMARY SCHOOL

128. SUNCREST HIGH SCHOOL

129. SIZANANI THUSANANG COMPREHENSIVE SCHOOL

130. THANDUKWAZI SECONDARY SCHOOL

131. TAMBOEKIESKRAAL PRIMARY FARM SCHOOL

132. THABANG PRIMARY FARM SCHOOL

133. THABENG PRIMARY SCHOOL

134. THABOTONA PRIMARY FARM SCHOOL

135. TLHOLO INTERMEDIATE SCHOOL

136. THE VAAL HIGH SCHOOL

137. THREE RIVERS SCHOOL OF TOMORROW

138. THUBELIHLE PRIMARY SCHOOL

139. THUSA PRIMARY FARM SCHOOL

140. THUTO LORE SECONDARY SCHOOL

141. THUSA-SETJHABA SECONDARY

142. THUTHUKANI PRIMARY SCHOOL

143. TOKELO PRIMARY FARM SCHOOL

144. TITIMA PRIMARY SCHOOL

145. TJHABATSATSI PRIMARY SCHOOL

146. TOKELO SECONDARY SCHOOL

147. TSEBO PRIMARY FARM SCHOOL

148. TSHEBETSO PRIMARY SCHOOL

149. TSHEDISO PRIMARY SCHOOL

150. TSHEPO-THEMBA SECONDARY

151. TSHEMEDI PRIMARY SCHOOL

152. TSHEPANA PRIMARY SCHOOL

153. TSHEPISO SECONDARY SCHOOL

154. TSHIRELA PRIMARY SCHOOL

155. TSOARANANG PRIMARY SCHOOL

156. TSHITSO PRIMARY SCHOOL

157. UBUHLE PRIMARY SCHOOL

158. TSOKOLIBANE PRIMARY SCHOOL

159. TSOLO SECONDARY SCHOOL

160. VUKUZAKHE PRIMARY SCHOOL

161. VAAL TRIANGLE PRIMARY SCHOOL

162. VAALDAM PRIMARY FARM SCHOOL

163. VOSKOP PRIMARY FARM SCHOOL

164. VUYO PRIMARY SCHOOL

165. WALKERVILLE PRIMARY FARM SCHOOL

166. WITKOP PRIMARY FARM SCHOOL

167. WORD OF LIFE CHRISTIAN SCHOOL

168. ZIKHETHELE SECONDARY SCHOOL

169. ZITHULELE PRIMARY SCHOOL

170. ZITHA PRIMARY SCHOOL

171. ZWARTKOPPIES PRIMARY SCHOOL

ANNEXURE B

PRESCRIBED FORMS:
WRITTEN WARNINGS TO EDUCATORS(S:2)

The following forms are letters that serve as an example of the wording and content of letters of warning in disciplinary cases of educators, as prescribed by the Employment of Educators Act, 76 of 1998. The fifth form should be provided to an educator that considers an appeal against a sanction. Educators may only appeal against the finding and resultant sanction of -

(a) suspension without pay for a period not exceeding three months;

(b) demotions;

(c) a fine;

(d) a combination of the above sanctions together with warnings; or

(e) dismissal.

FORM A: 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; you may lodge a written objection or supply additional information which will be filed together with this warning.

The nature of the misconduct is

____

____

____

______________________________	______________________________
SIGNATURE OF REPRESENTATIVE OF EMPLOYER	**SIGNATURE OF EMPLOYEE**
______________________________	______________________________
DATE	**DATE**

SIGNATURE OF WITNESS (if applicable): ______________________________

DATE: ______________________________

FORM B: 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	**SIGNATURE OF EMPLOYEE**
______________________________	______________________________
DATE	**DATE**

FORM C: NOTICE OF DESCIPLINARY 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 and the available evidence is based on the following evidence

A DETAILED DESCRIPTION OF THE *ALLEGED* MISCONDUCT MAY BE ATTACHED

The hearing will be 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	**ACKNOWLEDGEMENT OF RECEIPT BY EMPLOYEE**
______________________________	______________________________
DATE	**DATE**

SIGNATURE OF WITNESS (if applicable): ______________________________

DATE: ______________________________

FORM D: SUMMONS TO APPEAR AT A 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 of 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

____

____

DATE

FORM E: NOTICE OF APPEAL

DATE: ______________________________

NAME OF APPEAL AUTHORITY: ______________________________

I, (NAME OF EMPLOYEE) hereby appeals against the FINDINGS and/or SANCTIONS 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:- Educators 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

SCHEDULE 1

(Schedule 1 added by s. 15 of Act No. 53 of 2000
and amended by Act No. 50 of 2002.)

INCAPACITY CODE AND PROCEDURES FOR POOR WORK PERFORMANCE

Codes, rules and standards

a (1) The Code of Good Practice contained in Schedule 8 of the Labour Relations Act, 1995 ((Act No. 66 of 1955), insofar as it relates to incapacity, constitutes part of this Code and Procedures, in respect of poor work performance.

(2) In applying this Code and Procedures, the relevant employer must assess the incapacity of an educator by considering -

(a) the extent to which the incapacity impacts on the work of the Department of Education or provincial department of education, or the public school, public further education and training institution or public adult learning centre;

(b) the extent to which the educator fails to meet the required performance standards as contemplated in item 2(2);

(c) the extent to which the educator lacks the necessary skills to perform in accordance with the educator's job description;

(d) the nature of the educator's work and responsibilities; and

(e) the circumstances of the educator.

Procedure in respect of poor performance

(a) 2 (1) If the employer is of the view that an educator, whether on probation or a permanent staff member, is not performing in accordance with the job that the educator has been employed to do, the employer must –

(a) give written reasons to the educator why it is necessary to initiate the procedure in respect of poor performance; and

(b) after serving the written reasons referred to in paragraph (a), meet with –

(i) the educator; or

(ii) the educator and the educator's trade union representative or a fellow employee, if the educator so chooses.

(2) Despite Section 4 of this Act, the performance of educators must be evaluated according to performance standards which may be prescribed by the Minister. (Sub-item (2) substituted by s. 12 of Act No. 50 of 2002

(3) In the meeting referred to in item 2(1)(b), the employer must –

(a) explain the requirements, grade, skills and nature of the job;

(b) evaluate the educator's performance in relation to the job;

(c) indicate the perceived poor performance; and

(d) hear the educator or, if the educator agrees, the educator's trade union representative or a fellow employee on –

(i) whether or not the educator has performed in accordance with the requirements of the job; or

(ii) reasons why the educator has not performed in accordance with the requirements of the job.

(4) After hearing the educator, his or her trade union representative or the educator's fellow employee, the employer must, if necessary, develop and initiate a formal programme of counselling and training to enable the educator to reach the required standard of performance, which must include –

(a) assessing the time that it would take for the educator to overcome the poor work performance;

(b) on the basis of the assessment referred to in paragraph (a), the establishment of realistic time frames within which the employer will expect the educator to meet the required performance standards; and

(c) the identification and provision of appropriate training.

(5) (a) If the educator fails or refuses to follow a formal programme of counselling and training as contemplated in subitem (4), the employer may initiate disciplinary proceedings against the educator for misconduct as contemplated in section 18.

(b) If the educator, after being subjected to a formal programme of counselling and training as contemplated in subitem (4), fails to meet the required performance standard for the post, the employer, after consulting the educator, may –

(i) provide further training to the educator;

(ii) provide counselling to the educator;

(iii) transfer the educator;

(iv) demote the educator; or

(v) terminate the employment of the educator.

(6) (a) Before transferring or demoting an educator or terminating his or her services poor performance, the employer must convene an inquiry in order to give the educator the opportunity to make representations in response to the allegations against him or her, which shall include the right to –

(i) call, examine and cross-examine witnesses;

(ii) bring all relevant documentation to the attention of the person presiding over the inquiry and have access to documents produced in evidence by the employer;

(iii) be represented at the proceedings by a co-employee or trade union representative;

(iv) have an interpreter present if the educator so requires;

(v) lead all relevant evidence, including in mitigation of the sanction, if necessary.

(b) The provision of items 5, 7, 8 and 9 of Schedule 2 apply to these inquiries, read with the changes required by the context.

(7) (a) The person appointed by the employer to conduct procedures referred to in subitems (1) to (4), must be an employee on a higher post level than the ducator concerned, and must as far as practically possible be his or her direct supervisor or the immediate superior of such supervisor.

(b) If the direct supervisor or the immediate superior of such supervisor of the educator is the cause for the procedures referred to in subitems (1) to (4), the employer must appoint a person within the Department of Education or the Provincial Department of Education, as the case may be, who is on the same level as the supervisor or the immediate superior of such supervisor.

INCAPACITY CODE AND PROCEDURES IN RESPECTOF ILL HEALTH OR INJURY

Procedures in respect of ill health or injury

3. (1) If the employer is of the view that an educator is not performing in accordance with the post requirements that the educator has been employed to perform, as a result of poor health or injury, or an educator applies for a discharge from service on account of continuous ill health or injury, the employer must investigate the extent of the ill health or injury.

(2) In conducting the investigation, the employer must give the educator, or the trade

union representative of the educator or fellow employee, the opportunity to state the case of the educator and to be heard on all the issues that the employer is investigating.

(3) (a) Subject to Section 7 of the Employment Equity Act, 1988 (Act No. 55 of 1988), the employer must appoint at least one registered medical practitioner to examine the educator at the State's expense and to report on the educator's state of health.

(b) An educator is entitled to nominate any other registered medical practitioner of his or he choice at the educator's own expense to report on the educator's state of health.

(c) The record of any medical examination performed in terms of this Act must be kept confidential and may be made available only -

(i) in accordance with the ethics of medical practice;

(ii) if required by law or court order; or

(iii) if required by the employer to determine the extent to which the educator is able to perform in accordance with the job requirements.

(d) (i) the Medical Practitioner contemplated in paragraph (a) must, on completion of the medical examination, provide the employer with a report on the nature and extent of the educator's ill health or injury and whether it is temporary or permanent, and the expected period of the educator's incapacity.

(ii) The Medical Practitioner contemplated in paragraph (b) may also submit a report if the educator is dissatisfied with a report contemplated in paragraph (a).

(4) Based on the medical reports the employer must determine whether or not the nature of the educator's ill health or injury is of a temporary or permanent nature and the period of time that the educator is likely to be absent from work.

(5) After the investigation of the extent of the educator's health or injury, the employer must provide the educator with a written report setting out the results or findings of the investigation.

(6) If the educator's ill health or injury is of a permanent nature the employer must investigate the possibility of -

(a) securing alternative employment for the educator;

(b) adapting the duties or work circumstances of the educator to accommodate the educator's ill health or injury; or

(c) consider the termination of the educator's service with effect from a date determined by the employer.

(7) If an educator refuses or fails to be subjected to an examination contemplated in subitem (3) when requested to do so by the employer, the employer may initiate disciplinary proceedings against the educator for misconduct as contemplated in Section 18.

(8) (a) Before acting in accordance with subitem (6), the employer must convene an inquiry in order to give the educator the opportunity to make representations in response to the allegations against him or her, which shall include the right to –

(i) call, examine and cross-examine witnesses;

(ii) bring all relevant documentation to the attention of the person presiding over the inquiry, and have access to documents produced in evidence by the employer;

(iii) be represented at the proceedings by a co-employee or trade union representative;

(iv) have an interpreter present if the educator so requires;

(v) lead all relevant evidence, including evidence in mitigation of sanction, if necessary.

(b) The provisions of items 5, 7, 8 and 9 of Schedule 2 apply to these inquiries, read with the changes required by the context.

(9) If the educator's ill health is as a result of alcohol or drug abuse, the employer may -

(a) counsel the educator;

(b) encourage the educator to attend rehabilitation;

(c) recommend a formal rehabilitation programme which the educator will be expected to follow at the cost of the employee; or

(d) terminate the employment of the educator, if the behaviour is repetitive.

(10) The employer must give the educator or the educator's representative a written report and consult again with the educator if the educator fails to -

(a) follow the formal rehabilitation programme;

(b) attend rehabilitation; or

(c) address the problem of alcohol or drug abuse.

(11) After consulting with the educator as contemplated in subitem (10), the employer may initiate disciplinary proceedings against the educator for misconduct as contemplated in Section 18.

ANNEXURE D

SCHEDULE 2

(Schedule 2 added by s. 15 of Act No. 53 of 2000
and amended by Act No. 57 of 2001 and by Act No. 50 Of 2002)

DISCIPLINARY CODE AND PROCEDURES FOR EDUCATORS

Purpose and scope

1. The purpose and scope of this Code and Procedures is to -

   (a) support constructive labour relations in education;

   (b) promote mutual respect among educators and between educators and the employer;

   (c) ensure that employers and educators share a common understanding of misconduct and discipline;

   (d) promote acceptable conduct;

   (e) provide educators and the employer with a quick and easy reference for the application of disciplinary measures;

   (f) avert and correct unacceptable conduct; and

   (g) prevent arbitrary or discriminatory actions by employers towards educators.

Principles

2. The principle underlying the Code and Procedures and any decision to discipline an educator are that-

   (a) discipline is a corrective and not a punitive measure;

   (b) discipline must be applied in a prompt, fair, consistent and just manner;

   (c) discipline is the responsibility of an employer;

   (d) a disciplinary code is necessary for the efficient delivery of service and the fair treatment of educators, and ensures that educators –

      (i) have a fair hearing in a formal or informal setting;

      (ii) are timeously informed of allegations of misconduct made against them;

      (iii) receive written reasons for any decision taken; and

(iv) have the right to appeal against a finding or sanction contemplated in section 25 (2); (Sub-para. (iv) substituted by s. 8 of Act No. 57 0f 2001)

(e) as far as possible, disciplinary procedures are held at the place of work and are understand-able to all educators

(f) if an educator commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different proceedings; and

(g) disciplinary proceedings must be concluded in the shortest possible time frame.

Code of Good Practice

3. (1) The Code of Good Practice contained in Schedule 8 of the Labour Relations Act1995 (Act No. 66 of 1995), insofar as it relates to discipline, constitutes part of this Code and Procedure.

(2) (a) The conduct of an educator that may warrant a disciplinary action is listed in sections 17 and 18.

(b) After consultation with the trade unions, the Minister may prescribe other conduct which constitutes misconduct.

(3) In dealing with misconduct contemplated in Section 18, 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 Department of Education or provincial department of education, or the public school, public further education and training institution or public adult learning centre;

(b) the nature of the educator's work and responsibilities; and

(c) the circumstances in which the alleged misconduct took place.

(4) The form of disciplinary procedure to be followed in any case must be determined by the employer.

Sanctions and disciplinary procedures pertaining to less serious misconduct cases

4. (1) (a) The employer must delegate the function to deal with misconduct referred to in subitems (2) to (6), to -

(i) the head of the institution or office where the educator is employed; or

(ii) the immediate superior of the educator where the educator concerned is the head of the institution or office.

(2) In cases where the seriousness of the misconduct warrants counselling, the employer of the educator must

(a) bring the misconduct to the educator's attention;

(b) determine the nature of the misconduct and give the educator an opportunity to respond to the allegations;

(c) after consultation with the educator decide on a method to remedy the conduct; and

(d) take steps to implement the decision as contemplated in subitems (3), (4) or (5).

(3) (a) In cases where the seriousness of the misconduct warrants it, the employer of the educator may give the educator a verbal warning.

(b) The employer must inform the educator that further misconduct may result in more serious disciplinary action.

(c) The employer must record the warning contemplated in paragraph (b).

(4) In cases where the seriousness of the misconduct warrants it, the employer may give the educator a written warning. The following provisions apply to written warnings:

(a) The written warning must be in accordance with Form A attached to this Schedule.

(b) The employer must give a copy of the written warning to the educator, who must acknowledge receipt on the copy.

(c) If the educator refuses to sign the copy for acknowledgement of receipt, the employer must hand the warning to the educator in the presence of another educator, who shall sign in confirmation that the written warning was conveyed to the educator.

(d) The written warning must be filed in the educator's personal file.

(e) A written warning remains valid for six months.

(f) If during the six-month period the educator is subject to disciplinary action, the written warning and the written objection or additional information contemplated in paragraph (g), may be taken into account in deciding on an appropriate sanction; (Para (f) substituted by s. 9(a) of Act No. 57 of 2001.)

(g) (i) If the educator 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 paragraph

(a) must be filed with the written warning.

(5) In cases where the seriousness or extent of the misconduct warrants it, the employer must give the educator a final written warning. The following provisions apply to a final written warning:

(a) A final written warning must be in accordance with Form B attached to this Schedule.

(b) The employer must give a copy of the final written warning to the educator, who must sign a copy to acknowledge receipt.

(c) If the educator refuses to sign a copy to acknowledge the receipt of the final written warning, the employer must hand the warning to the educator in the presence of another educator, who must sign in confirmation that the written warning was conveyed to the educator.

(d) The final written warning must be filed in the educator's personal file.

(e) A final written warning remains valid for six months.

(f) If during the six-month period the educator is subject to disciplinary action, the final written warning and the written objection or additional information contemplated in paragraph (g), may be taken into account in deciding on an appropriate sanction; (Para (f) substituted by s.9(b) of Act No. 57 of 2001.)

(g) (i) If the educator 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.

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

(b) The employer must convene a meeting where -

(i) the educator and, if he or she so chooses, the educator's trade union representative or other employee who is based at the institution, are present;

(ii) reasons are given to the educator as to why it is necessary to initiate this procedure; and

(iii) the educator or the educator's representative is heard on the misconduct and reasons therefore.

(c) After hearing the educator or his or her representative, the employer must–

(i) counsel the educator;

(ii) issue a verbal warning;

(iii) issue a written warning;

(iv) issue a final written warning;

(v) impose a combination of any of the above; or

(vi) take no further action.

(g) (i) An educator 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.

(ii) The objection or additional information must be filed together with a record of the sanction in the educator's personal file.

(7) For the purpose of determining appropriate disciplinary actions, valid warning for similar offences by the educator must be taken into account.

Notice of enquiry for misconduct cases other than those contemplated in item 4

5. (1) The educator must be given written notice at least five working days before the date of the hearing

(2) The written notice of the disciplinary hearing must be given in accordance with Form C attached to this Schedule and 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 delivered by registered post, the date on which the letter was received by the educator as indicated by the post office;

(d) information on the rights of the educator to representation by a fellow educator or a trade union representative;

(e) information on the rights of the educator to representation by a legal representative, if the presiding officer so directs; and

(Para. (e) substituted by s. 10 of Act No. 57 of 2001)

(f) information on the rights of the educator to call witnesses at the hearing.

(3) (a) The educator must acknowledge receipt of the notice by signing a copy of the notice.

(b) If the educator refuses to sign for the receipt of the notice, it must be given to the educator.

Suspension

6. (1) In the case of serious misconduct in terms of Section 17, the employer may suspend the educator on full pay for a maximum period of three months.

(2) In the case of misconduct in terms of Section 18, the employer may suspend an educator in accordance with the procedure contemplated in subitem (1), or transfer the educator to another post if the employer believes that the presence of the educator may jeopardise any investigation into the alleged misconduct, or endanger the well-being or safety of any person at the work-place.

(3) (a) If an educator is suspended or transferred, the employer must do everything possible to conclude a disciplinary hearing within one month of the suspension or transfer.

(b) The presiding officer may decide on any further postponement. Such a postponement must not exceed 90 days from the date of suspension.

(c) 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.

(d) At the time of the enquiry contemplated in paragraph © the employer may, after giving the educator an opportunity to make representations, direct that the further suspension will be without pay.

Conducting 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 educator.

(2) The presiding officer must be appointed by the employer.

(3) If the educator so chooses, he or she may be represented at the hearing by a fellow educator or a representative of a trade union.

(4) If the presiding officer deems it necessary, an interpreter must assist at the hearing.

(5) Subject to section 3(3) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), if the presiding officer so directs, the employer or educator may be represented by a legal representative.

(6) If the educator fails to attend the hearing and the presiding officer concludes that the educator does not have a valid reason, the hearing may continue in the absence of the educator.

(7) The presiding officer must keep a record of the notice of the disciplinary hearing and of the proceedings.

(7A) (a) The record referred to in subitem (7) includes an electronic recording of the proceedings.

(b) A transcript of electronic recordings or a portion of the transcript of a recording may be made on request of the educator or his or her representative on payment of the prescribed fee contemplated in Section 22 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).(Sub-item (7A) inserted by s. 13(a) of Act No. 50 of 2002.)

(8) The presiding officer must read the notice for the record before the start of the hearing.

(9) (a) The representative of the employer must lead evidence on the conduct giving rise to the hearing.

(b) The educator or the educator's representative may question any witness called by the representative of the employer.

(10) 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.

(10A) (a) Whenever disciplinary proceedings are pending before any presiding officer, and it appears to him or her that it would expose a witness under the age of 18 years to undue mental stress or suffering if he or she testifies at such proceedings, the presiding officer may, if practicable, appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through that intermediary.

(b) (i) An examination, cross-examination or re-examination of a witness in respect of whom the presiding officer has appointed an intermediary under paragraph (a), except examination by the presiding officer, must not take place in any manner other than through that intermediary.

(ii) such intermediary may, unless the presiding officer directs otherwise, convey the general purport of any question to the relevant witness.

(c) If the presiding officer appoints an intermediary under paragraph (a), he or she may direct that the relevant witness must give his or her evidence at any place which -

(i) is informally arranged to put that witness at ease;

(ii) is arranged in a manner in which any person whose presence may upset that witness, is outside the sight and hearing of that witness; and

(iii) enables the presiding officer and any person whose presence is necessary at the relevant proceedings to hear, through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony. (Sub-item (10A) inserted by s. 13(b) of Act No. 50 of 2002.)

(11) Where the educator has requested that a person be present at a hearing as his or her witness, the employer must provide the educator with the assistance to ensure that such witnesses attend.

(12) The summons to appear at a disciplinary hearing, must be in accordance with Form D attached to this Schedule and served on the person by way of delivery by-

(a) hand;

(b) telefax; or

(c) registered post

(13) The date on which the summons 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 educator as indicated by the office.

(14) (a) The educator or his or her representative must be given an opportunity to lead evidence.

(b) The representative of the employer may question the witnesses of the educator.

(15) The presiding officer may ask any witness questions for clarification.

(16) The presiding officer must give a finding whether or not the educator has committed the misconduct, and must inform the educator of the finding and the reasons therefore.

(17) (a) Before deciding on a sanction, the presiding officer must give the educator an opportunity to present evidence in mitigation.

(b) The representative of the employer may present evidence regarding aggravating circumstances.

(18) The presiding officer must communicate the final outcome of the hearing to the employer and the educator within five working days after the conclusion of the disciplinary enquiry, and the outcome must be recorded on the personal file of the educator.

Steps after disciplinary hearing

8. (1) If the presiding officer finds that an educator has committed misconduct, the presiding officer must, on behalf of the employer, impose a sanction, as contemplated in Section 18 (3) of the Act, taking into account –

(a) the nature of the case;

(b) the seriousness of the matter;

(c) the educator's previous record; and

(d) any mitigating or aggravating circumstances.

ANNEXURE E

QUESTIONNAIRE

Instructions for completing the questionnaire.

1. This questionnaire is strictly for research purposes only and to address issues around Labour Relations in Education with special references to primary and secondary Schools in the Vaal Region.

   Your honest response will therefore be of great value to the research and will be treated confidentially. Please note that, there are no right or wrong answers, only honest ones.

2. Questionnaires consist of 4 (Four) sections.

   Make a cross in the appropriate box

SECTION A: GENERAL INFORMATION

SECTION B: ROLES AND RESPONSIBILITIES OF VARIOUS STAKEHOLDERS IN EDUCATION AND I.Q.M.S AS DEVELOPMENTAL INSTRUMENTS

SECTION C: CONDITIONS OF EMPLOYMENT AS OUTLINED IN EEA 76 OF 1998 AND DISCIPLINARY PROCEDURES IN TERMS OF MISCONDUCT

SECTION D: SOUTH AFRICAN COUNCIL OF EDUCATORS AS A PROFESSIONAL BODY DEALING WITH EDUCATORS' BEHAVIOUR

SECTION A : DEMOGRAPHIC INFORMATION

(Please make cross to the appropriate box):-

1. Gender

Female	Male

2. Age

Less than 20	20-30 yrs	30-40 yrs	40-50 yrs	50 and more

3. What level of education achieved

Below Matric	Matric	Diploma	B. Degree	Honours Degree	Masters Degree	D. Degree

4. Where is your school situated?

Farm	Township	Suburb

5. Position at school

Principal	Deputy Principal	H.O.D	Educator

6. Number of years in the current position

1-5	6-10	11-20	21 +

7. What type of school is it

Primary	Secondary

8. What is the number of learners in your school?

0-50	50-100	100-300	300-600	600-1000	Over 1000

SECTION B

9. Do you understand the roles of the principal as the employer at your school?

Yes	No	Not Sure

10. Do you clearly understand the role of S.G.B (School Governing Body) as per SASA(South African Schools Act) in your school?

Yes	No	Not Sure

11. What is the term of office for the SGB (School Governing Body) member?

1 yr	3 yrs	5yrs

12. What is the term of Office for the Executive Committee of SGB (School Governing Body?

1 yr	3 yrs	5yrs

13. According to SASA, (South African Schools Act) a legally established governing body should Compromise of (i) elected members, (ii) Principal in his or her capacity (iii) Co-opted member

Yes	No	Not Sure

14. According to SASA, (South African School Act) SGB (School Governing Body) has the powers of recommending educators and not appointing them	Yes	No	Not Sure
15. Amongst others, the responsibility of the SGB (School Governing Body) is to	Develop the Budget & Control Funds	Control Educator	Allocate Subject
16. Do you understand the role of Site Steward at your school?	Yes	No	Not Sure
17. Does your school have Policies?	Yes	No	Not Sure
18. Were you part of the formulation of Policies within your institution?	Yes	No	Not Sure
19. Do you know your Job Description as outlined in G.D.E (Gauteng Department Of Education) Circular 129/1998?	Yes	No	Not Sure
20. Do you clearly understand the implementation process of Q.M.S. (Integrated Quality Management System)?	Yes	No	Not Sure
21 Can you distinguish between DAS, I.Q.M.S (Integrated Quality System)and Whole School Evaluation (WSE)?	Yes	No	Not Sure
22. Does the implementation of I.Q.M.S (Integrated Quality Management System) Programme benefit your Institution?	Yes	No	Not Sure
23. Do you receive enough in-service training for capacity building?	Yes	No	Not Sure
24. Does your school reflect a safe and conducive environment to teaching and learning?	Yes	No	Not Sure

SECTION C

25. Do you know your conditions of employment as outlined in the EEA (Employment of Educator Act) 76 of 1998?	Yes	No	Not Sure
26. Do you know your rights in terms of joining Labour Unions?	Yes	No	Not Sure
27. Are you familiar with the process that has to be followed in a formal disciplinary hearing?	Yes	No	Not Sure

28. Does everyone whose right have been adversely affected by administrative actions, have the right to be given written reasons?	Yes	No	Not Sure
29. Do you know circumstances constituting fair administrative procedure at a formal hearing?	Yes	No	Not Sure
30. Do you know actions of misconduct that may lead to dismissal as outlined in Schedule 17 of the Education Law and Policy Handbook?	Yes	No	Not Sure

SECTION D

31. Are you familiar with South African Council of Educators Act 31 of 2000?	Yes	No	Not Sure
32. Do you know the function of South African Council of Educators?	Yes	No	Not Sure
33. Do you know the Code of Professional Ethics that governs Educators in Terms of SACE (South African Council of Educators)?	Yes	No	Not Sure
34. Does the SACE (South African Council of Educators) have the power of instituting disciplinary actions against the educator	Yes	No	Not Sure

ANNEXURE F

LETTER TO PRINCIPALS

P.O. Box 395
SEBOKENG
1983
01 May 2006

Dear Principal

I am presently conducting a Research on the topic "impact of Labour Relations in Education with Special Reference to Primary and Secondary School in the Vaal Region" with the aim of developing a model they will be used in our schools.

In the light of the above you are therefore kindly requested to distribute questionnaires amongst your staff members in order to assist in designing the best possible model for our schools.

I hereby assure you and your staff that the information gathered through this questionnaire, shall be treated absolutely confidentially and anonymously and shall not be used in any report relating to this research.

Allow me to thank you in advance for your co-operation for completing the questionnaires.

Yours sincerely

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Rampa P.L (Researcher)
Department Of Business Management
North-West University
Vanderbijlpark
Cell: (072 4222 514)

ANNEXURE G

AREA MAP OF THE VAAL TRIANGLE