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WHO IS RESPONSIBLE FOR APPOINTING SUBSTITUTE EDUCATORS?

The SAOU frequently receives queries from members who are being instructed to find and pay for their own substitute when taking leave.

The Union wants to make it crystal clear that such an instruction is neither reasonable nor lawful, and should not be followed.

Who is responsible?

It will always remain the responsibility of the employer to appoint and pay for a substitute educator.

Departmental Educators

The Employment of Educators Act stipulates that substitute educators may be temporarily employed for a fixed period of time, either as full-time, part-time or in a shared capacity. It further stipulates that such an appointment is done by the relevant Provincial HOD. The school (SGB) in turn, recommends the educator they want as substitute. (In terms of the South African Schools Act).

These substitutes are only for instances where the educator takes leave for:

- Maternity leave;
- Sick leave;
- Study leave;
- Suspension; or
- Secondment.

However, the process of making these appointments may sometimes take a long time. (Which might be the reason why some schools resort to these unlawful instructions).

If a school does not qualify for a departmental substitute as mentioned above, and the school never the less deems one necessary, the SGB must appoint a substitute and pay their salary.

SGB appointed educators

With regard to SGB appointed educators the situation is equally clear.

WIE IS VERANTWOORDELIK VIR DIE AANSTELLING VAN PLAASVERVANGENDE OPVOEDERS?

Die SAOU ontvang gereeld navrae van lede wat opdrag kry om hul eie plaasvervanger te vind en te betaal wanneer hulle verlof neem.

Die Unie wil dit duidelik stel dat so 'n opdrag nie redelik of wettig is nie, en dus nie gevolg moet word nie.

Wie is verantwoordelik?

Dit sal altyd die verantwoordelikheid van die werkgewer bly om 'n plaasvervanger-opvoeder aan te stel en daarvoor te betaal.

Departementele Opvoeders

Die Wet op Indiensneming van Opvoeders bepaal dat plaasvervangende opvoeders tydelik vir 'n vasgestelde tydperk in diens geneem kan word, hetsy as voltyds, deelyds of in 'n gedeelde hoedanigheid. Dit bepaal verder dat sodanige aanstelling deur die betrokke Provinsiale HOD gedoen word. Die skool (SBL) beveel op sy beurt die opvoeder wat hulle wil hê as plaasvervanger aan. (Ingevolge die Suid-Afrikaanse Skolewet).

Hierdie plaasvervangers is slegs vir gevalle waar die opvoeder verlof neem vir:

- Kraamverlof;
- Siekverlof;
- Studieverlof;
- Opskorting; of
- Sekondering.

Die proses om hierdie aanstellings te maak kan egter soms lank neem. (Dit kan die rede wees waarom sommige skole hierdie onwettige instruksies gebruik).

Indien 'n skool nie kwalifiseer vir 'n departementele plaasvervanger soos hierbo genoem nie, en die skool ag dit nogtans nodig, moet die SBL 'n plaasvervanger aanstel en hul salaris betaal.

SBL-aangestelde opvoeders

Met betrekking tot SBL-aangestelde opvoeders is die situasie ewe duidelik.

Where the employee/educator is entitled to leave, whether paid or unpaid, they remain entitled to it. That is the nature of leave.

The employer (SGB) remains responsible for any substitute educator should they deem it necessary. The SAOU strongly recommends that schools refrain from forcing educators to find and pay for their own substitutes.

It can not only lead to possible labour related liabilities for both parties, but also possible disciplinary steps being taken by the relevant Provincial Department of Education against the principal of the school and possibly the educator if they are departmentally employed.

Do not hesitate to report such behaviour to the Union.

However! Where an educator is **NOT** entitled to leave, but wishes to take it, the arrangement between the educator and their employer becomes a grey area. This situation should be avoided at all costs, especially with regard to departmental educators.

But if for whatever reason the situation cannot be avoided, simply applying leave without pay should suffice. Thus, the withheld salary of the educator going on leave may be used to pay for a substitute.

SMTs and SGBs - know and adhere to the law.

Waar die werknemer/opvoeder geregtig is op verlof, betaal of onbetaald, bly hul geregtig daarop. Dit is die aard van verlof.

Die werkgever (SBL) bly verantwoordelik vir enige plaasvervanger-opvoeder indien hul dit nodig ag. Die SAOU beveel sterk aan dat skole hul daarvan weerhou om opvoeders te dwing om hul eie plaasvervangers te vind en daarvoor te betaal.

Dit kan nie net lei tot moontlike arbeidsverwante aanspreeklikhede vir beide partye nie, maar ook moontlike dissiplinêre stappe wat deur die betrokke Provinsiale Departement van Onderwys geneem word teen die skoolhoof en moontlik die opvoeder indien hulle departementeel in diens is.

Moenie huiwer om sulke gedrag by die Unie aan te meld nie.

Maar! Waar 'n opvoeder **NIE** geregtig is op verlof nie, maar dit wil neem, word die reëling tussen die opvoer en hul werkgever 'n grys area. Hierdie situasie moet ten alle koste vermy word, veral ten opsigte van departementele opvoeders.

Indien die situasie om watter rede ook al nie vermy kan word nie, behoort dit voldoende te wees om verlof sonder betaling toe te pas. Die teruggehoue salaris van die opvoeder wat met verlof gaan, kan dus gebruik word om vir 'n plaasvervanger te betaal.

SBS'e en SBL'e - ken en hou by die wet.

