

WHEN MAY I SAY **NO**?WANNEER MAG EK **NEE** SÊ?

Education in today's times has resulted in a tremendous change in the workload of educators. High levels of stress to remain competitive as a school to perform at the highest levels in terms of academics, sports and culture lead to educators feeling forced to say "YES" to all the additional work.

It is sometimes necessary for an educator to be entitled to say "NO" to unreasonable instructions. The purpose of this newsletter is to make educators aware of this right anew.

#### Who may give instructions?

In terms of the South African Schools Act, the Employment of Educators Act as well as the Personnel Administrative Measures (PAM), the principal of a public school is responsible for the professional management of the school which includes the management of all the staff.

Therefore, the Principal as the representative of the provincial Department of Education and the School's Governing Body will be the person who gives instructions in person or through direct line managers such as Departmental Heads.

#### When can an educator refuse an instruction?

In terms of South African Labor legislation, an employee may refuse to follow an instruction when the latter amounts to an unfair instruction.

Onderwys in vandag se tye het gelei tot 'n geweldige verandering in die werkslading van opvoeders. Hoë vlakke van stres om as skool mededingend te bly en op die hoogste vlakke met akademies, sport en kultuur te presteer, lei daartoe dat opvoeders gedwing voel om "JA" vir alle addisionele werk te sê.

Dit is somtyds nodig vir 'n opvoeder om "NEE" te sê vir onredelike instruksies. Die doel van hierdie nuusbrief is om opvoeders opnuut van hierdie reg bewus te maak.

#### Wie mag instruksies gee?

Die skoolhoof van 'n openbare skool is in terme van die Suid-Afrikaanse Skole Wet, die Wet op Indiensneming van Opvoeders asook die Personeel Administratiewe Maatreëls (PAM) verantwoordelik vir die professionele bestuur van die skool, wat die bestuur van al die personeel insluit.

Dus sal die skoolhoof as die verteenwoordiger van die provinsiale Departement van Onderwys en die skool se beheerliggaam die persoon wees wat instruksies persoonlik of deur direkte lynbestuurders, bv 'n departementshoof, gee.

#### Wanneer mag 'n opvoeder 'n instruksie weier?

In terme van Suid-Afrikaanse Arbeidswetgewing mag 'n werknemer weier om 'n instruksie te volg wanneer laasgenoemde neerkom op 'n onbillike instruksie.

When is an instruction fair?

An instruction must comply with the following to be fair:

1. Reasonable: The instruction must be feasible as well as within the ability and job description of the employee.
2. Legal: The instruction may not infringe on any other statutory, common law or employer policy.

An educator is entitled to request that the instruction be given to him/her in writing

What are the risks if a fair instruction is refused?

An employee who refuses a fair instruction makes him/herself guilty of possible misconduct, specifically insubordination (disobedience), which must be dealt with through a disciplinary process. Depending on the nature and extent of the refusal, this type of misconduct may lead to dismissal.

What about instructions given by departmental officials?

If an educator receives a fair instruction from the principal in the performance of his delegated duties or from a departmental official such as, among others, a subject advisor or a circuit manager whose duties are to ensure that a high standard of learning and teaching takes place in the classroom in terms of the PAM, it will be an instruction that must be adhered to, provided that it complies with the principle of reasonableness.

**Advice to SAOU members**

If you are in doubt about the fairness of an instruction, do not hesitate to contact your provincial SAOU office or the SAOU Legal Department.

Wanneer is 'n instruksie billik?

'n Instruksie moet aan die volgende voldoen om billik te wees:

1. Redelik: Die instruksie moet uitvoerbaar wees asook binne die vermoë en werksbeskrywing van die werknemer val.
2. Wettig: Die instruksie mag nie inbreuk maak op enige ander statutêre-, gemenereg of werkgewersbeleid nie.

'n Opvoeder is geregtig om te versoek dat die instruksie skriftelik aan hom/haar gegee word

Wat is die risiko's indien 'n billike instruksie geweier word?

'n Werknemer wat 'n billike instruksie weier maak hom-/haarself skuldig aan moontlike wangedrag, spesifiek insubordinasie (on gehoorsaamheid), wat deur middel van 'n dissiplinêre proses hanteer moet word. Afhangende van die aard en omvang van die weiering kan hierdie tipe wangedrag tot 'n ontslag lei.

Wat van instruksies wat deur departementele amptenaar gegee word?

Indien 'n opvoeder 'n billike instruksie ontvang vanaf die hoof, 'n departementele amptenaar soos onder andere 'n vakadviseur of 'n kringbestuurder wie se pligte is om toe te sien dat 'n hoë standaard leer en onderrig in die klaskamer plaasvind in terme van die PAM, sal dit 'n instruksie wees wat nagekom moet word op voorwaarde dat dit as redelik geag kan word.

**Advies aan SAOU lede**

Indien u twyfel oor die billikheid van 'n instruksie, moenie huiwer om u provinsiale SAOU kantoor of die SAOU Regsafdeling te kontak nie.

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