

EDUCATION LABOUR RELATIONS COUNCIL
Established in terms of the LRA of 1995 as amended



COLLECTIVE AGREEMENT 1 OF 2020

30 MAY 2020

CONCESSION PROCESS TO FOLLOW FOR EMPLOYEES WITH A COMORBIDITY (COVID-19)

Re SA M-J

EDUCATION LABOUR RELATIONS COUNCIL

COLLECTIVE AGREEMENT NO 1 OF 2020

CONCESSION PROCESS TO FOLLOW FOR EMPLOYEES WITH A COMORBIDITY (COVID-19)

1. PURPOSE OF THE AGREEMENT

This collective agreement aims to provide a concession for educators employed in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998), (EEA), who are affected due to risk factors for severe COVID-19.

The document also aims to provide guidance to evaluate and manage vulnerable employees in the context of the current SARS-CoV-2 pandemic as mentioned in the Regulations issued in terms of section 27(2) of the Disaster Management Act, 2002.

A concession in this instance refers to an employee with any condition which may place him/her at a higher risk of complications if they are infected with COVID-19 and employees age 60 and above who are at a higher risk of complications if they are infected with COVID-19.

Under the Occupational Health and Safety Act (No. 85 of 1993), an Employer, in this instance, the relevant National and Provincial Departments of Education (hereafter referred to as The Employer) should provide "*a working environment that is safe and without risk to the health of its employees.*" Also, the Employer should ensure that in instances where hazards cannot be eliminated, they be appropriately controlled to prevent risks.

2. SCOPE AND APPLICATION OF THIS AGREEMENT

This agreement applies to and binds:

- 2.1 The Employer, as defined in the Employment of Educators Act 76 of 1998 as amended;
- 2.2 The Trade Unions in the Education Sector; and
- 2.3 All employees of the employer as defined in the Employment of Educators Act 76 of 1998, whether such employees are members of trade union parties to this agreement or not.

3. THE PARTIES TO THE COUNCIL NOTE AS FOLLOWS:

- 3.1 Occupational Health and Safety Act (No. 85 of 1993)
- 3.2 Employment of Educators Act, 1998 (Act No. 76 of 1998)
- 3.3 Section 27(2) of the Disaster Management Act, 2002
- 3.4 Section 5, subsection 5 (d) and (e) of the Regulations issued in terms of section 27(2) of the Disaster Management Act, 2002, specifically requires employers to adopt "*special measures for employees with known or disclosed health issues or comorbidities, with any condition which or may place such employees at a higher risk of complications or death if they are infected with COVID -19*"; and "*special measures for employees above the age of 60 who are at a higher risk of complications or death if they are infected with COVID-19.*"
- 3.5 Provisions of Chapter G of the Personnel Administrative Measures (PAM)

4. THE PARTIES TO THE COUNCIL THEREFORE AGREE AS FOLLOWS:

- 4.1. Procedure to be followed pertaining to employees who have one or more comorbidities or have any other underlying medical condition that puts them at risk.

For employees with high-risk comorbidities, it is required of the Employer to put appropriate measures in place to accommodate them in the work environment. Due consideration must be given to operational demands and circumstances of employees to accommodate either work from home or for special workplace arrangements to be made.

To this effect, the Individual Risk Assessment Form for Vulnerable Employees due to COVID-19 must be completed for every employee who indicated that they have an underlying medical condition or comorbidity that puts them at risk of being infected with COVID-19. Employees who have comorbidities and those who are 60 years and above will remain home on full pay subject to all the requirements as contained in "*Annexure A*" being met. Those employees with comorbidities and those who are 60 years and above who wish to report to school may do so in agreement with the principal and after appropriate safety measures have been put in place. The employee and manager/principal need to agree on how the underlying medical condition or comorbidity will be accommodated. In the event that there is no agreement to this effect, the grievance procedure in Chapter G of the PAM document will be activated.

Concessions granted in this regard will only be applicable for the duration of **Alert Levels 3 and 2** of the national state of disaster as a result of the COVID-19 outbreak.

For the manager/principal to properly complete the Risk Assessment Form, the employee must provide a medical report by his/her **treating doctor** indicating the following medical evidence:

- a) The name and the qualification of the medical practitioner issuing the certificate;
- b) His or her contact number and physical address;
- c) A proper practice or registration number; and
- d) Confirming that he/she falls within the category of comorbidities as determined by the Department of Health

The following medical conditions and comorbidities as verified by the Department of Health have been classified into High Risk and medical evidence must be provided to assist in classifying the employee's vulnerability:

HIGH-RISK VULNERABILITY

- Age >60 with one or more diseases/conditions as listed.
- Solid organ transplant recipients
- People with specific cancers or receiving immunosuppressive treatment for their cancer:
 - undergoing active chemotherapy or radical radiotherapy for lung cancer;
 - cancers of the blood or bone marrow such as leukemia, lymphoma or myeloma who are at any stage of treatment;
 - receiving immunotherapy or other continuing antibody treatments for cancer; and
 - receiving targeted cancer treatments which can affect the immune system, such as protein kinase inhibitors or Poly ADP-ribose Polymerase (PARP) inhibitors.
- People who have had bone marrow or stem cell transplants in the last 6 months, or who are still taking immunosuppressive drugs.
- People with severe respiratory conditions including cystic fibrosis, severe and unstable asthma and severe Chronic Obstructive Pulmonary Disease (COPD), or current active tuberculosis of the lung.
- People with rare diseases and inborn errors of metabolism that significantly increase the risk of infections (such as Severe Combined Immunodeficiency (SCID), homozygous sickle cell).
- People on immunosuppressive therapies sufficient to significantly increase the risk of infection.
- People who are moderately or intermittently immunocompromised.
- Women who are pregnant with significant heart disease, congenital or acquired.
- Chronic lung problems (moderate to severe asthma, previous complicated TB, etc.). Pulmonary Tuberculosis – untreated or in early treatment and who have not completed the intensive phase or first two months of treatment in line with the National Department of Health Standard Treatment Guidelines. Asthma which requires treatment with

Collective Agreement 1 of 2020

Concession Process to Follow for Employees with a Comorbidity (COVID-19)

He SA M J

high dose inhaled corticosteroids plus a second controller (and/or systemic corticosteroids) to prevent it from becoming 'uncontrolled' or which remains 'uncontrolled' despite this therapy.

- Confirmed clinical diagnosis of congestive cardiac failure or other serious cardiovascular diseases.
- Severe hypertension: systolic BP ≥ 180 mmHg and/or diastolic BP ≥ 110 mmHg.
- Confirmed cerebrovascular disease, including stroke, and transient ischemic attack.
- Severe obesity (BMI > 40).
- Underlying medical conditions, particularly if not well controlled, such as type II Diabetes Mellitus (HBA1c $\geq 7.5\%$ within last 6 months); Chronic Kidney Disease with an eGFR < 45 ; or liver disease.
- More than 27 weeks pregnant.
- Immunosuppression such as poorly controlled type II diabetes mellitus, cancer undergoing active treatment, Human Immunodeficiency Virus (HIV) with advanced immunosuppression, and transplant on chronic immunosuppressants.

Should the employee have a condition not listed above, which in the opinion of the doctor renders this employee vulnerable a motivation from the treating doctor would be necessary.

The Head of Department may subject the application to the Health Risk Manager or a Health Professional for further assessment for a period not exceeding 30 calendar days. The educator shall be allowed to remain and/or work from home with full pay whilst waiting for the outcome by the Health Risk Manager or a Health Professional.

The attached Individual Risk Assessment form for Vulnerable Employees to be completed by both the educator and manager/principal and submitted with the medical evidence as follows:

- a) All educators at educational institutions to submit to their Circuit Manager;
- b) All office-based educators at district level to submit to their District Director; and
- c) All office-based educators at Head Office to submit to the Chief Director: HR.

All information relating to the process as well as medical evidence submitted must be treated with the utmost **sense of confidentiality** to respect the employee's privacy and to prevent discrimination or stigmatisation.

4.2. Grievance Procedure

Any grievance arising from this process shall be dealt with in terms of the Grievance Procedure as outlined in Chapter G of the PAM.

5. DISPUTE RESOLUTION PROCEDURE

5.1 Any dispute about the interpretation or application of this agreement shall be dealt with according to the dispute resolution procedure of the ELRC.

6. DATE OF EFFECT

6.1 This agreement shall, in respect of parties, come into effect on the date it is signed in Council.

SIGNATURES OF THE PARTIES

Thus done and signed at Centurion on the 30th day of May 2020 by:

ON BEHALF OF THE STATE AS EMPLOYER

DEPARTMENT	NAME	SIGNATURE
BASIC EDUCATION	MR HM MWELI	

ON BEHALF OF THE EMPLOYEE PARTIES

TRADE UNION	NAME	SIGNATURE
SADTU	MUGWENA MALULEKE	
CTU-ATU	ALLEN THOMPSON	

ANNEXURE A

INDIVIDUAL RISK ASSESSMENT FOR VULNERABLE EMPLOYEES

Individual Risk Assessment for COVID-19 for Vulnerable employees

<u>Risk Assessment:</u>	<u>Key considerations:</u>
This should be completed for all vulnerable staff 1. This can be undertaken by the line manager/principal or supervisor 2. Involve the member of staff 3. Consider actions to minimise risk 4. Agree on risk management with the staff member 5. Discuss the work options with the employee and use the checklist to indicate which measures will be implemented. <i>The manager/principal and staff member should consider together, in the light of the risk assessment, whether alternative work arrangements are appropriate and practicable.</i>	1. Limit/avoid duration of close interaction with individuals. Virtual meetings/telephonic conversations are advised where applicable. 2. Maintain all social distancing rules should you meet face to face. 3. Consider whether public transport /rush hour can be avoided through adjustments to work hours. 4. Arrange to travel using private transport/lift clubs. 5. Use PPE appropriately. 6. Consider remote working if the staff member is enabled including access to equipment and the internet.

Has the Educator submitted the required medical report:

	YES / NO (√ / X)
a) The name and the qualification of the medical practitioner issuing the certificate;	
b) His or her contact number and physical address;	
c) A proper practice or registration number; and	
d) Confirming that he/she falls within the category of comorbidities as determined by the Department of Health.	

Individual Risk Assessment

Name of Staff Member.		
PERSAL No.		
Rank.		
School/Directorate.		
Name of Supervisor.		
Date.		
Employee Comorbidity – (Evidence)	Yes	No

Medical evidence to include:

- a) The name and the qualification of the medical practitioner issuing the certificate;
- b) His or her contact number and physical address;
- c) A proper practice or registration number; and
- d) Confirming that he/she falls within the category of comorbidities as determined by the Department of Health.

Agreed action plan to manage the employee (indicate those that have been agreed to)	
Tick √ where applicable	
	Working off-site (remotely); the necessary equipment, internet access, etc. is available
	Adaptation of duties
	Other, please specify (inclusive of additional risk control measures):
	Dedicated alcohol-based hand rub provided (or available) for the

Re SA *MJ*

	employee
	Protective isolation and physical distancing
	Limit duration of close interaction with learners/colleagues and/or the public
	Alternative accommodation in a lower exposure-risk area-cellular office/boardroom/floor/classroom
	Implementing a co-worker screening programme
	Sharing of relevant COVID related information and social distancing information
	Specialized personal protective equipment (PPE) provided
	Other, please specify:

The above action plan agreed / not agreed (Mark with X whichever is applicable)	_____ Employee Signature:
	_____ Date

_____ Manager's/Supervisor's Signature	_____ Date
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INDIVIDUAL RISK ASSESSMENT
CHECKLIST FOR COVID-19 FOR
VULNERABLE EMPLOYEES

REQUIREMENTS	YES / NO (√ / X)
<i>At-Risk Declaration (Employee)</i>	
<i>Assessment (Principal/Manager)</i>	
Individual Risk Assessment Completed by Manager/Principal	
<i>Medical Evidence</i>	
Certificate from Medical Practitioner available	
Signature (Manager/Principal)	
Employee Signature	

_____ District Director / Senior Manager Signature	_____ Date
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