



**REPORT OF THE MINISTERIAL TASK TEAM APPOINTED BY  
MINISTER ANGIE MOTSHEKGA TO INVESTIGATE  
ALLEGATIONS INTO THE SELLING OF POSTS OF EDUCATORS  
BY MEMBERS OF TEACHERS UNIONS AND DEPARTMENTAL  
OFFICIALS IN PROVINCIAL EDUCATION DEPARTMENTS**

***Final Report***

**18 MAY 2016**

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## ACRONYMS

<b>ANC</b>	African National Congress
<b>CNE</b>	Christian National Education
<b>COSATU</b>	Congress of South African Trade Unions
<b>DBE</b>	Department of Basic Education
<b>DHE</b>	Department of Higher Education
<b>DoE</b>	Department of Education
<b>DPSA</b>	Department of Public Service and Administration
<b>EEA</b>	Employment of Educator's Act
<b>ELRC</b>	Education Labour Relations Council
<b>FEDSAS</b>	Federation of Association of Governing Bodies
<b>HOD</b>	Head of Department
<b>HR</b>	Human Resource
<b>HRM</b>	Human Resource Management
<b>ISPFTED</b>	Integrated Strategic Planning Framework for Teacher Education Development
<b>MEC</b>	Members of the Executive Council
<b>MTT</b>	Ministerial Task Team
<b>NAPTOSA</b>	National Professional Teachers' Union of South Africa
<b>NASGB</b>	National Association of School Governing Bodies
<b>NATU</b>	National Teachers' Union
<b>NEHAWU</b>	National Education Health and Allied Workers' Union
<b>NWDoE</b>	North West Department of Education
<b>PAM</b>	Performance Administrative Measures
<b>PTSA</b>	Parent-Teacher Student
<b>PED</b>	Provincial Education Department
<b>PEU</b>	Professional Educators Union
<b>SACE</b>	South Africa Council for Educators
<b>SADTU</b>	South Africa Teacher' Union
<b>SAOU</b>	Suid Afrikaanse Onderwysersunie
<b>SASA</b>	South African Schools Act
<b>SGB</b>	School Governing Body

**SMS** Senior Management Staff  
**SMT** School Management Team  
**WCED** Western Cape Education Department

**The Honourable Minister of Basic Education, Mrs Angie Motshekga**

**The Ministerial Task Team has pleasure in submitting its report on the investigation of allegations into the selling of posts of educators by some members of teachers unions and departmental officials in the various provincial education departments.**

**Name**

**Signature**

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Mr Michael Gardiner

Mr Siyabonga Msimang

Mr Paul Nel

Ms Amelia Moleta

Mr Gerhard Scholtz

Advocate Tommy Prins

## **ACKNOWLEDGEMENTS**

The following institutions and sectors made contributions to the investigation for which the committee is grateful:

Members of Executive Councils (MECs)

Provincial Heads of Education Departments (HODs)

Senior Provincial Educational Officials for Labour Relations and Human Resources

District Directors

Several independent educational experts and administrators

National Professional Teachers' Organisation of South Africa (NAPTOSA)

Professional Educators Union (PEU)

South African Democratic Teachers Union (SADTU)

South African Teachers Union (SAOU)

Federation of governing Bodies of South Africa (FEDSAS)

National Association of School Governing Bodies (NASGB)

Federation of governing Bodies of South Africa (FEDSAS)



## EXECUTIVE SUMMARY

Following allegations in the media that some members of teacher unions and department officials were involved in illegal activities involving the selling of educator posts, the Minister of Basic Education, Mrs Angie Motshekga, held meetings with various stakeholders including Teacher Unions as well as the Associations of School Governing Bodies. Consensus was reached on the need to investigate speedily the allegations and it was thus agreed that a Ministerial Task Team instead of a Commission of Inquiry be established by the Minister to probe these allegations. The basis of the investigation by the Task Team would be to inquire into and report to the Minister on allegations reported in the media regarding the alleged irregular appointment of educators at schools and the role played by any Union or by officials of provincial education departments in these alleged irregular appointments.

To provide context we refer to an article published in the *City Press* on 27<sup>th</sup> April 2014 outlining the alleged racket to work as follows:

- A teacher who wants to land a promotion identifies the position he/she wants.
- Typically, this is a job that they know the incumbent will soon be leaving, either because they are retiring or because they are resigning from the department.
- That teacher then approaches a local Union official whom he/she knows to be involved in selling positions for cash, and hands over a minimum of R30 000.
- The Union official then meets with members of the school governing body and department officials to rig the process.
- If the post is already filled, the school governing body is used to agitate against the incumbent individual if necessary to force them out of the post.
- The school governing body then recommends the teacher who paid for that job to the selection panel.
- The selection panel, which contains paid-off Departmental officials, then recommends that person for appointment and this is ratified by the governing body and forwarded to the HoD for appointment.
- The teacher gets the job.

Furthermore, in an article published in the *City Press* on 2 May 2014, it is further alleged that “Crooked SADTU officials are selling not only principals’ posts, but are manipulating the education

system across provinces to control teachers' appointments, retirement packages and transfers in return for bribes of as little as R6 500".

The Minister appointed an eight member task team chaired by an independent educator with the following terms of reference: To enquire into and report to the Minister of Basic Education on:

1. All facets of the allegations reported in the media in regard to the alleged irregular appointments of educators at schools; and
2. The role played in these alleged irregular appointments, whether directly or indirectly and whether by act or omission, by-
  - (i) Any union/or any member of or members and/or any official or officials of any such a union; and /or
  - (ii) Any official or officials of any provincial education department; and/or
  - (iii) Any school governing body and/or any association of school governing bodies and/or any member or members of such an association; and/or
  - (iv) Any organisation, whether an education stakeholder or not; and/or
  - (v) Any individual or individuals, and to make recommendations to the Minister on how these allegations should be addressed; and
3. The challenges pertaining to the advertising and the filling of posts and on any possible legislative changes that may be required to improve the existing legislative provisions relating to the advertising and the filling of posts.
4. To advise the Minister on the appointment and placement policies, applicable to educators and other members of staff at school, in existence in the National Department of Basic Education and in provincial education departments, the implementation of such policies and whether such policies require review and/or amendment.
5. To refer any activities identified during, and flowing from, its investigation
  - (i) Which indicate that criminal offences have been committed to the South African Police Service; and
  - (ii) Which indicate that disciplinary action should be instituted against any official or officials of the Department of Basic Education or of any provincial education department to the appropriate authority; and
  - (iii) To provide the Minister with the interim report in this regard.
6. To conclude its investigation within 120 days from the date of its appointment or within such an extended period as the Minister may determine at the request of the Task Team.
7. To advise and to request the Minister, during the course of its investigation, to extend its terms of reference, should circumstances so require.

## 1. CONTEXTUAL FACTORS

The following factors were identified at the outset, by the Ministerial Task Team (MTT) as potentially affecting the investigation and the nature of the findings:

- The allegations pointed to possible widespread corrupt practices involving the irregular appointment of educators across provinces, districts and schools and the task was therefore seen as vast and complex;
- An additional layer of complexity to the investigation which would affect the collection of evidence is the prevailing culture of secrecy among teachers and officials and fears about safety and confidentiality;
- Most of the initial media allegations focused on the dominant union, however given its brief, the MTT had to investigate the role of all parties in the appointment process and not only one union;
- Legitimate appointment processes which are contested by disgruntled individuals or entities could lead to false accusations of impropriety;
- The initial expectation was that the inquiry would be done by a Judicial Commission of Inquiry and questions have been raised about the efficacy of the Task Team approach. However, Teacher Unions asked the Minister specifically for a Task Team investigation.<sup>1</sup>

## 2. COMPOSITION OF THE TASK TEAM

The Ministerial Task Team as stated in Government Notice No. 848 of 31 October 2014, comprised the following members:

- (i) The Chairperson, Dr John Volmink: Educationist
- (ii) Mr Michael Gardiner: Educationist
- (iii) Mr Siyabonga Msimang: Department Public Service and Administration (DPSA)
- (iv) Mr Paul Nel: Department of Justice and Constitutional Development (DoJ)
- (v) Ms Amelia Moleta: Department of Justice and Constitutional Development (DoJ)
- (vi) Mr Gerhard Scholtz: Deloitte

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<sup>1</sup> The Minister of Basic Education did not deem it necessary to confer the powers contained in the Commissions Act, 1947 (Act No. 8 of 1947), upon the Task Team to probe the allegations of the selling of posts of educators by members of some teacher unions and departmental officials in the various provincial education departments. The abovementioned Act applies only to a (judicial) commission of enquiry appointed by the President in terms of section 84(2)(f) of the Constitution. The Minister therefore decided not to approach the President to appoint a commission of enquiry. Instead, the Minister appointed the Task Team to undertake the investigation while, at the same time, relying on all relevant stakeholders to cooperate with the Task Team to conclude its terms of reference as contained in Government Notice No. 848 of 31 October 2014, and to make recommendations that are just and fair.

(vii) Advocate Tommy Prins: Deloitte.

The DBE provided logistical, conceptual and secretarial support in the persons of:

- Mr Chris Leukes: Chief Director Legal Services
- Ms M Mogale: Assistant Director: Education Labour Relations and Conditions of Services
- Mr AW Kutumela: Director: Education Labour Relations and Conditions of Services.

### **3. APPOINTMENT OF SERVICE PROVIDERS AS MEMBERS OF THE TASK TEAM**

Because of the sensitive nature of the matter it was found appropriate to appoint a service provider to undertake forensic investigation into possible irregular or criminal activities and to report to the Task Team on these investigations. The contracted service provider had to be an Audit firm that had expertise in both auditing as well as HR matters within the government sector. After due process, Deloitte was appointed as the service provider.

Due to the volume of leads stemming from different provinces, and in order to enable the Task Team to cover vast areas, especially in KZN within the strict time frames, the Chairperson requested the representative from the Department of Justice and Correctional Service on the Task team, Mr Paul Nel, to provide a team of investigators who would augment the forensic investigation capacity of the service provider.

The team from the Department of Justice and Constitutional Development comprised of the following three (3) investigators to conduct the field work:

- Mr James Ndlovu: Deputy Director Forensic Auditor
- Mr Amos Moeng: Forensic Investigator; and
- Mr Charles Monye: Senior Forensic Auditor.

This team of investigators was later augmented by three other investigators from Department of Justice and Constitutional Development:

- Malefetsane Mofokeng

- Monyadiwe Mabusela
- Vutshilo Meregí.

#### **4. METHODOLOGY OF THE TASK TEAM**

- i. The Ministerial Task Team commenced its duties in September 2014 by outlining and defining its terms of reference to the members.
- ii. In order to respond to clause two (2) i-vi of the terms of reference, the Task Team interviewed the Heads of Department (HODs) in Education, Members of Executive Council (MEC) for Education in most provinces, District Managers, Labour Relations officials and Human Resource Managers.
- iii. The first set of interviews took place in KwaZulu-Natal followed by Eastern Cape, Mpumalanga, North West, Gauteng, Western Cape, Limpopo, Northern Cape and Free-State provinces. A number of provinces were visited on more than one occasion by the MTT.
- iv. The interviews of the education officials were followed by the national and provincial Teacher Union's leaders. The following Unions were interviewed: National Professional Teachers' Organisation of South Africa (NAPTOSA), Professional Educators' Union (PEU), South African Democratic Teachers' Union (SADTU) and Suid Afrikaanse Onderwysers Unie (SAOU). The President and Executive Director of the National Teachers' Union (NATU) met with MTT for one meeting. They made some suggestions about the approach and requested that they be provided with the MTT's proposed approach in writing as a pre-condition for their participation. This was subsequently provided by the MTT but NATU refused to participate further in the investigation, either at a national or provincial level, despite numerous written and telephonic invitations to do so.
- v. The MTT met with bodies such as South African Council of Educators (SACE), the Education Labour Relations Council (ELRC) and the School Governing Body Associations such as the Federation of Association of Governing Bodies (FEDSAS), National Association of School Governing Bodies (NASGB) and the Governing Body Foundation (GBF).
- vi. Governing Bodies such as the Governor's Alliance (GA), South African National Association for Special Education (SENASE), United Front for School Governing

Bodies (UF4SGBs) and the National Congress of School Governing Body (NCSGB) were invited but did not honour the invitations despite having confirmed their availability. One turned down the invitation.

- vii. The Task Team also heard testimonies from a number of aggrieved individuals and those who were allegedly implicated in the selling of teacher's posts.
- viii. For the purposes of strengthening the education system, the Task Team extended its scope to interview individual educational experts and academics such as Professors Stu Woolman, Prof Crain Soudien, Prof Brian Levy, Dr Eddie Webster, Yusuf Gabhru (former MEC Education, W Cape), Dr Nick Taylor, Clive Roos and Alan Clarke. Also consulted were Prof Salim Vally (Director of CERT at UJ) as well as Prof D Irvine and the Principal of Norman Henshilwood High School, David Millar.
- ix. Meetings were held to establish the validity of the media allegations. To this end the Chairperson and the forensic investigator from Deloitte further interviewed the City Press journalists who revealed further details of the allegations.
- x. When the Task Team visited the Free-State province on 29 May 2015, the Superintendent-General: Education, Mr RS Malope invited the media with an aim of alerting educators and stakeholders in education of the work of the Ministerial Task Team.
- xi. Due to the influx of the leads and the investigations thereof, the Task Team requested an extension of the time-frame until the end of July 2015 and this was granted by the Minister.
- xii. Documentary analysis and individual and group interviews (face-to-face and telephonic), were the primary methods employed by the Task Team.
- xiii. Relevant policy documents were studied and analysed to identify possible gaps and to determine how the system of appointment of educators can be strengthened.
- xiv. The data collected through the various interviews conducted were collated and find voice in this Report. Where more than one view is expressed on a matter we have endeavoured to allow the data to speak. Transcripts and notes of all interview and consultations were recorded and analysed-see Chapter 4 and Addenda I and II.
- xv. The basic attitude of the MTT members was that their task was to ascertain facts and other information towards understanding the circumstances in which the recruitment and appointment of educators was taking place and to make

recommendations to the Minister based on those findings. It has not been the purpose of the MTT to apportion blame or to indict any persons or organisations. However, clear indications of wrongdoing have been pursued.

In summary: the Ministerial Task Team used media allegations about the buying and selling of posts as a focus for discussions with District Managers and Teacher unions in each Province, asking them for their responses to general and specific instances which the *City Press* and other sources had provided. Individual allegations were followed up, individuals interviewed, and follow-up meetings were held with informants. Then the forensic members of the Task Team, drawn from Deloitte as well as the Department of Justice, investigated those instances which are contained in this Report. The Task Team conducted an online search to identify media articles related to its mandate. A spreadsheet and list containing representative selection media allegations is included under Addendum IV.

## **5. TIME FRAMES**

The Task Team commenced its work at the end of September 2014 and was initially given 120 days to complete its work. However, given the complexity of the investigation the timeframe was extended by the Minister at the request of the MTT until the end of December 2015. The Task Team carried out the following sequence of activities:

- Determine and define the investigative questions
- Select the cases and determine data gathering and investigative techniques
- Prepare to collect the information and forensic evidence
- Evaluate and analyse the evidence
- Prepare and finalise the report by the end of February 2016.

## **6. FINDINGS AND RECOMMENDATIONS**

The findings and recommendations made by the Ministerial Task Team on specific cases investigated are provided in summary form in Chapter 3 of this Report with a full narrative report in Addendum V. The recommendations made in chapter 3 and Addendum V are different from the Task Team recommendations to the Minister as in Chapter 6. These

forensic findings are divided into the various provincial investigations and include both the investigations based on media allegations as well as other investigations carried out as required by the Terms of Reference of the Task Team.

When reading this report it must be kept in mind that it contains a number of factual findings made by the Ministerial Task Team. The Report also contains various recommendations that are based on these findings. However, this does not amount to conclusions in matters of law. Such conclusions may be only drawn by the relevant authorities who have the necessary competency in law to draw such conclusions. We have however highlighted certain acts which in our view may amount to criminal misconduct. Where such instances have been identified, we recommend that the matter be further investigated by the relevant law enforcement authorities to establish whether grounds for disciplinary action or prosecution exist.

### **6.1 Overview of Findings from the Forensic Investigation into Specific Cases**

As anticipated many disgruntled individuals saw an opportunity to use the investigation to voice their grievances not always on factual grounds. Of the approximately 120 matters that were brought to our attention, we found after initial investigation, that several of the allegations were unfounded, based on rumour, malice, or hearsay. Furthermore in a variety of the cases the pervasive culture of fear and concerns about safety negatively impacted on the co-operation of the potential witnesses, resulting in them being reluctant or unwilling to commit themselves to statements/affidavits to assist the Task Team in its investigation. These challenges obviously resulted in a situation where no further steps could be taken or contemplated. In these cases we had no choice but to regard them as finalised. In the end 81 cases were investigated some of which were previously the subject of other investigations.

The brief of the MTT was to enquire into all facets of the allegations reported in the media in regard to irregular appointments of educators. The MTT soon became aware that there are many forms of irregular appointments. In many ways the cases reported here constitute only an indicative sample of irregularities but they nevertheless point to widespread practices of improper and unfair influence affecting the outcomes of the appointment of educators. In only a minority of cases are there numerous claims of money being paid to influence the outcome but there are claims and findings of improper influence of many different kinds.



The MTT was also asked to investigate and report on the role played in these irregular appointments, whether directly or indirectly by any union official or union member, any school governing body and/or association of school governing bodies, or any official of any provincial education department or indeed any individual or organization whether an education stakeholder or not. Some cases suggest that there is collusion within the line of command, since the people who seek to influence can only exercise that influence in collusion with individuals who fulfil different roles in the process of selection and appointment. In some cases, there appears to be collusion between union officials and district managers, and sometimes with provincial HR officials leading to a system of patronage. There is a clear basis in such cases for further investigation by a competent authority.

The current process for selecting candidates for appointment in the Education sector is riddled with inconsistencies. As a result, the process is subject to litigation at all levels. There is a need to review this process so as to align it to general Human Resource Management principles which are applied in other sectors of the public service. In the Education sector, non-professional bodies (such as School Governing Bodies) are tasked with the recruitment and selection of professionals. This could undermine the credibility of the process. In addition, dysfunctional SGBs add doubt about the validity of staff selection.

Given its historical legacy policy and practice, the education sector has features that are different from other public service sectors.

All sectors (Health & Social Work, Police and the General Public Service) with the exception of Education, follow similar practices when it comes to the recruitment of staff. In all but this one sector the processes acknowledge the critical nature of acquiring competent professionals and thus they use special tools, processes to give credibility and validity to the process.

Another inconsistency in the appointment process is the weaknesses within some Districts. Where Districts work strictly according to regulated procedures and where their managerial and administrative staff members are persistent and consistent in carrying out their duties

in accordance with a coherent system, the Teacher Unions in those areas are held in check and procedures and decisions are led by the Department. Two examples of this are to be found in the Northern Cape and the Free State. Where there is a balance of power between SADTU and other Unions, such as in the Western Cape, neither Union can behave as SADTU does in North West, Eastern Cape, KZN or Limpopo. So the Department of Education is effectively in control of education of one-third of South Africa's provinces.

In other words, where authority is weak, inefficient and dilatory, teacher unions Teacher Unions move into the available spaces and determine policies, priorities and appointments achieving undue influence over matters which primarily should be the responsibility of the Department. Weak authorities, aggressive Unions, compliant principals and teachers eager to benefit from Union membership and advancement are a combination of factors that defeat the achievement of quality education by attacking the values of professionalism.

Of the 81 cases that were investigated, 38 cases provided grounds for either reasonable suspicion requiring further investigation or point directly to wrongdoing amounting to criminal conduct. (Reasonable suspicion exists when there are objective grounds or empirical facts that form the basis for the suspicion as opposed to mere conjecture.)

In order to make these judgements the MTT was guided by the Prevention and Combating of Corrupt Activities Act 12 of 2004. The general offence of **corruption** is defined in section 3 of the Act as: *the giving or accepting of any gratification, in order to act in an improper exercise or performance of a power or a duty.*

Furthermore **gratification** is defined by the Act (section 1) *to include any valuable consideration or benefit of any kind, including: money, property, office or honour, employment, service or favour, vote or abstention from voting, forbearance, release from obligation, etc.*

In particular, the Act draws attention to offences of receiving or offering of unauthorised gratification within an employment relationship. It identifies any person as guilty of the offence of receiving or offering an unauthorised gratification:

- (a) *who is party to an employment relationship and who, directly or indirectly, accepts or agrees or offers to accept from any other person any unauthorised gratification, whether for the benefit of that person or for the benefit of another person; or*
- (b) *who, directly or indirectly, gives or agrees or offers to give to any person who is party to an employment relationship any unauthorised gratification, whether for the benefit of the party or for the benefit of another person.*

The cases reported to the panel came from 6 provinces and as can be seen from Table 1, the number of cases is generally in proportion to number of schools in province. The exception is the NW province which accounts for 19.8% of all cases investigated even though the province only accounts for 6.4% of all the schools in the country.

**Table 1: Cases Investigated by Forensic Team**

PROVINCE	NO. OF SCHOOLS IN PROVINCE AS % OF NATIONAL	NO. OF CASES FINALISED	FURTHER INVESTIGATION NO. OF CASES	WRONGDOING NO. OF CASES	TOTAL NO.	% OF ALL CASES INVESTIGATED
Eastern Cape	23	11	3	1	15	18.5
Gauteng	8.5	1	2	1	4	4.9
KwaZulu-Natal	24.6	7	8	4	19	23.5
Limpopo	16.3	19	1	0	20	24.7
Mpumalanga	7.3	4	0	1	5	6.1
North West	6.4	7	4	7	18	19.8
<b>TOTAL</b>	<b>86.1</b>	<b>43</b>	<b>22</b>	<b>16</b>	<b>81</b>	<b>100</b>

## **6.2 Legal Obligation to Report Corrupt Activities and to take Action against Wrongdoers**

There have been various allegations that the findings of this Report would be ‘swept under the carpet’ or that no action would be taken against individuals implicated. The Task Team is of the view that by showing firm resolve to deal with corruption encountered in the education sector, the profession may be saved from further decay. If left unchecked it can and will have extremely serious ramifications for the quality of education of the future leaders of our country. It is also a real possibility that once it is realised that the issues are being taken seriously, other potential witnesses may be encouraged to come forward and expose further instances of these practices which have been plaguing the appointment process at various levels for years. Positive action will provide assurance to those who were prepared to come forward that they can expect support from the Department.

In certain instances, however, the MTT encountered witnesses who, at great personal risk, were prepared to speak out with a view to exposing unfairness and patently spurious appointments or practices. These individuals and the public as a whole have every right to expect that appropriate action would be taken based on these findings. The MTT is of the view that, in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, a legal obligation arises to report such matters to the SAPS for further investigation and possible prosecution. It is thus recommended:

**RECOMMENDATION 1:** *That the illegal action by educators identified by the MTT be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.*

When the claims were made in the City Press in April 2014, the NWDOE appointed a forensic company to investigate the claim that SADTU had influenced the appointment of senior officials in the provincial department. The report, dated 15 August 2011, was made available to the MTT. Further investigation by the MTT indicates that in 9 cases investigated by the forensic investigative company, there was no evidence to support the allegations in 2 cases. However in 6 cases SADTU officials or representatives exerted improper influence; however is no evidence of money being involved. In one case, a senior district official acted improperly in support of the promotion of a friend. In none of the cases was action taken in respect of the findings. This is a clear violation terms of section 34 of the Prevention and Combating of Corrupt Activities Act, and it is therefore recommended:

**RECOMMENDATION 2:** *That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.*

Following claims made in *City Press* in May 2014, The GDE acted promptly and appointed a firm of attorneys to investigate the claims of improper influence at school level. The detailed report included information from both written and verbal statements and concluded, *inter alia*, that posts are being sold for cash, that the parties operate in networks, and that there is a climate of fear that keeps people from exposing these

practices. The GDE then moved to take disciplinary action, but the majority of witnesses did not wish to give signed statements.

This outcome is unacceptable as in this case there is evidence that a network exists that is selling posts for cash. Steps need to be taken to support the individuals who were willing to take the risk of speaking. This requires further investigation by a competent authority.

It is not acceptable that a teacher who is courageous enough to report alleged corrupt acts was told must be told to go to her local police station. This cannot be acceptable. In several cases where teachers and other informants have acted with enormous courage to report gross abuse no action has been taken.

It is therefore recommended:

**RECOMMENDATION 3:** *That action be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about the selling of posts and to direct such reports to competent authorities and follow up those reports.*

### **6.3 Recommendations for strengthening the education system.**

Data submitted to the MTT indicate that Union influence often exceeds the regulatory bounds, especially where administrative action is weak. The best remedy for this is that administrative processes should be rigorously and timeously followed.

In terms of Employment of Educators Act, the Head of Department is the employer of Educators and this delegated authority comes with responsibility and accountability to relevant government structures like the MEC, Minister, Legislature and Parliament. The current structure, namely the SGBs, that is empowered to appoint educators is not accountable to any of these structures and therefore it is important to review the current process.

The HOD should then be able to delegate some of the responsibilities to Districts with specific conditions attached in order to maintain a certain level of control. Since there is nowhere in any provision in the Education legislation, where SGBs are required to account for their crucial role in the recruitment of Educators, this creates problems when officials are required to account for outcomes of processes where they are supposed to act only as resources and not decision makers.

To further strengthen the DBE, the roles, responsibilities and formal relations between Head Office, the Districts and Circuits should be mapped out explicitly to ensure a functional HRM value chain. Such a process should include mechanisms for the creation of selection panels which have authority and which are accountable as a measure to eliminate corruption in the recruitment process. Delegation of functions to Districts and Circuits should be clear and unambiguous.

It is therefore recommended:

**RECOMMENDATION 4:** *That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.*

**RECOMMENDATION 5:** *That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjusts the Education sector legislation accordingly.*

#### **6.4 Recommendations for the selection and appointment of educators.**

Education officials and other stakeholders in nearly all the provinces visited, cited flaws in the process of the recruitment of educators. This process is the only one in the public service that does not follow the standard recruitment principles. The RSA Government Human Resource Management (HRM) is de-centralised and as a result Executive Authorities and specialised sectors can determine their own HRM practices within the norms and standards set by the Minister for Public Service and Administration.

This flexibility of practice has created challenges in trying to standardise HRM practices within the Public Service.

It should be borne in mind that SGBs were established to ensure community participation in schools, and so changes to the processes of appointments should not remove the capacity of parents to participate in choices that affect their lives and those of their children.

The Task Team therefore sees *no need to remove the process of selecting PL1 educators from SGBs*. Furthermore the instances of improper influence reported to the Task Team are levelled at Union observers, tricks and ploys by applicants, and dubious behaviour by Circuit officials and those in the offices of District Managers.

However, although the Task team does not believe that removal from SGBs of powers to recommend candidates for promotion posts only will solve the larger problems of corruption and undue influence in the making of appointments, it nevertheless recognises that promotion posts are heavily contested owing to their significance for personal income, status and influence. The integrity of this process of selection and appointment needs to be carefully protected. It is imperative that positions of school management should be subjected to selection processes which ensure that competent and qualified candidates are appointed.

The MTT therefore recommends:

**RECOMMENDATION 6:** *That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.*

The appointment process including advertising, interviewing of candidates and appointments could be conducted by panels with at least one professional and independent person who is not from the school community. The governing body should not play any role in the appointment process other than an advisory role.

The MTT also considered the appointment process for principals. Since it is the case that principals are key to shaping and strengthening the culture and ethos of our schools. It is recommended that in the case of school principals:

**RECOMMENDATION 7:** *Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.*

**RECOMMENDATION 8:** *It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.*

#### **6.5 Recommendations on the Role of the Unions and their impact on the appointment process**

Despite disclaimers by Teacher Unions that their representatives at selection panels are mere observers, it has been made clear to the MTT that they frequently play active and interventionist roles. This is not acceptable practice. The MTT supports Union presence at all selection panel meetings but under strict conditions.

**RECOMMENDATION 9:** *That the observer status of Unions be renegotiated with respect to the recruitment process.*

Senior management (SMS) membership of trade unions presents the biggest problem in most provinces. It interferes with objectivity when it comes to their recommending candidates for appointment. It should be noted that SMS members in the public service are not covered by collective agreements because they represent the Employer as policy



implementers at the bargaining council (e.g., ELRC) leading to a conflict of interest if they belong to and are active in a labour union. The deployment of officials to the Department from Unions weakens the Department because those so deployed often struggle to demonstrate that they are able to balance the complexity of competing loyalties and demands.

Yet when questioned, officials and senior educators claim that they can distinguish between their obligations to the general public and their loyalty to their Union or political party. This becomes problematic when they occupy high positions in the Union and/or the party. Evidence received by the Task Team calls into question such glib distinctions.

It is therefore recommended:

**RECOMMENDATION 10:** *That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions.*

The MTT encourages the formation of occupational Unions for office-based educators. These Unions should address the interests and concerns of those who are no longer practising teachers. Models of unions from universities and civil service sectors might be investigated so as to inform the kind of professional union which the MTT has in mind.

**RECOMMENDATION 11:** *That it seems desirable that separate and distinct Unions be established for office-based educators.*

Data submitted to the Task Team suggests that cadre deployment by Unions has weakened the education system. It has been alleged, for example, that SADTU determines who and for how long HoDs in many provinces stay in office, and that it deploys cadres into levels of provincial departments regardless of their qualifications. However, SADTU is not alone in exercising cadre deployment. Such domination and influence has been made possible, it was submitted, by the feeble and dilatory conditions of Districts and Circuits, permitting Unions

to move into areas in which they have no business. In the view of the Task team, this amounts to the exercise of undue influence.

If 'undue influence' (a polite name for corruption) is a result of cadre deployment, then cadre deployment is likely to lead to corruption. It is the impression of the Task Team that such corruption is endemic to greater and lesser degrees in the entire education system and that as a first move to cleanse the system, cadre deployment should not be permitted.

Reading Recommendations 4, 5 and 11 together, it is therefore recommended:

**RECOMMENDATION 12:** *That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.*

A further concern in the supply value chain in the appointment of educators is the roles played by District and Circuit officers and the professional quality of District and Circuit staff. The roles that Unions play vary from Province to Province and from District to District. However, in most Districts SADTU is a potent and often decisive presence. Furthermore, if it and the other Unions were to withdraw from their current dominance, the present education system in a number of Provinces would probably collapse owing to the weaknesses of Departmental management. In these cases it is the Teacher Unions in effect which are holding the system together.

It is therefore recommended that:

**RECOMMENDATION 13:** *Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should no political appointments nor cadre deployments.<sup>2</sup> People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment relations closer to institutions/schools.*

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<sup>2</sup> This is not intended to mean that appointees should not have their own political affiliations. But they should not be placed into a position by a political organisation and should not hold office in a political party.

## 6.6 Recommendation for developing a common vision for education

Since the abolition of the apartheid-based ideology of 'Christian National Education', no philosophy or overall vision for the post 1994 Departments of Basic and Higher Education and Training has developed. Various important strands of thought underpinned the education struggle from the 1980s onwards, including People's Education for People's Power, Paulo Freire's *Pedagogy of the Oppressed* and numbers of others. We have at present our Constitution, the Bill of Rights and crucial documents such as the Freedom Charter, but these admirable declarations do not provide a general and comprehensive vision of what education seeks to achieve in this country.

The vision which an overall educational philosophy expresses should be the foundation of the education of teachers, the mission statements of schools and give coherence to the kind of education which should characterise this country. The task of developing such a vision or philosophy for education should be co-ordinated and funded by the DBE and the DHET with the participation of all teacher education institutions as well as a wide range of stakeholders including the Unions.

**RECOMMENDATION 14:** *That the DBE and the DHET, with universities and other stakeholders, including the unions, lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in schools throughout South Africa.*

## 6.7 Role of South African Council of Educators (SACE)

SACE plays a crucial role in the regulation of the teaching profession. However its close links with and allegiance to a single Teacher Union, SADTU, has raised questions about its independence, even though the composition of its Council is in accordance with current structural agreements. The MTT believes that SACE can enhance teacher professionalization by reaffirming its leadership as the custodian of the teaching profession and give effect to its regulatory role. It is therefore recommended:

**RECOMMENDATION 15:** *That the South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.*

From its meetings with the SACE, the MTT was led to believe that the SACE investigation would yield hard and fast instances of malpractice in Umlazi, KZN and in Mpumalanga. Inexplicably, SACE has produced nothing of use for the Task Team other than an incomplete synopsis of some of the cases investigated. Since the Task Team has not been shown the final SACE Report, we suggest strongly that the Minister requires SACE to provide copies of the narrative Report to her once completed. It is therefore recommended:

**RECOMMENDATION 16:** *That SACE releases to the Minister its full Report on the buying and selling of posts when completed.*

## **CHAPTER 1: CONCEPTUALISING THE PROBLEM**

### **1.1 UNDERSTANDING THE CONTEXT**

At the dawn of democracy and with the advent of the new administration under the government of national unity, the Ministry of Education produced two ground breaking white papers that formed the basis for the current system of education. The first white paper set the tone for developing a new system that brought together the various race based education departments and systems. The various values and principles on which this new order is based are set out in chapter four of the policy. One of these principles is that parents and guardians have the primary responsibility for the education of their children, and have the right to be consulted by the state with respect to the form that education should take and to take part in its governance. Furthermore, parents have an inalienable right to choose the form of education which is best for their children, particularly in the early years of schooling, whether provided by the state or not, subject to reasonable safeguards which may be required by law. The parents right to choose includes the choice of the language, cultural or religious basis of the child's education, with due regard for the rights of others and the rights of choice of the growing child.

The second White Paper dealt in detail with the issue of the organisation, governance and funding of schools. Minister Bengu appointed a review committee under the leadership of Professor Peter Hunter in March 1995 to recommend to the Minister a proposed framework for school organization, governance and funding. The report produced by the committee formed the basis for White Paper 2 on the organisation, governance and funding of schools. This white paper recommended that each public school should be governed by a governing body that should have wide and unprecedented powers. The current system of appointment of educators has its origin in the work produced by the committee and the subsequent White Paper that was published as a result of the work of the committee.

The basis for the current system is set out in paragraph 3 of the policy where it is stated that all teachers in public schools who are paid by the Provincial Education Departments should be appointed and employed by the departments on the recommendation of and in

consultation with school governing bodies. The rationale behind this position was that parents should be involved and consulted on the teachers who will educate their children.

At the time when the White Paper was published the position in respect of the appointment of educators was governed by the Educators Employment Act of 1994 and specifically section 4 of the Act. Educators were appointed in terms of this provision by the Head of Department without any recommendation by the Governing body. The entire appointment process was dealt with by the education department.

The Educators Employment Act was repealed in terms of section 37 of the Employment of Educators Act No. 76 of 1998 (EEA). The current appointment procedure was introduced for the first time in section 6 of the EEA and as indicated above had its genesis in the work of the Hunter Commission and White Paper 2. The initial provision looked different to what it does today. This particular provision was amended four times, Education Laws Amendment Acts of 1999, 2000, 2005 and the Basic Education Laws Amendment Act 15 of 2011.

The major amendment of the provision came about with the Education Laws Amendment Act 15 of 2005 when subsection 3 was substituted. Prior to the 2005 amendment the major criticism of the section 6 was that the HOD did not have any discretion on whom to appoint and that he/she was a rubberstamp and had to appoint the governing body's preferred candidate. The amendment gave the HOD the power to appoint any of the recommended candidates or may even decline to make an appointment which was a major departure from the previous position.

## **1.2 OUTLINE OF THE EXISTING PROCESS OF MAKING EDUCATOR APPOINTMENTS**

A more comprehensive and description of the appointment process for educators is provided in Chapter 2 of this report.

However in broad terms the process can briefly be described as follows:

- As soon as an educator has retired/resigned the circuit manager will be informed of the available posts.

- HR compiles post schedule and bulletin and draws up a list of requirements and a management plan which sets out the closure dates and other timelines in respect of:
  1. Sifting – Performed by PED
  2. Shortlisting – Performed by the SGB
  3. Interview – Performed by Interview committee (appointed by SGB)
  4. Submission –Submitted by the SGB to the PED.

The bulletin is advertised in the Government Gazette via an HRM circular, issued by the HOD, calling for applicants to apply as per application form. The District Directors will ensure that all circuit managers provide all school principals / acting principals with this bulletin and applications are sent to the PED for sifting.

The SGB appoints an interview committee and may co-op members if required. The interview committee shall consist of the following:

- One PED representative as a resource person being the Circuit Manager (to provide guidance on procedural issues). A school principal from another school (unless he or she is the applicant and a PED representative)
- Members of the SGB – excluding educators, learners or applicants
- One union representative per union as observers to the shortlisting, interview, drafting of preference list and ratification of recommendations
- The Chairperson should be a member of the SGB.

*All are to sign a confidentiality agreement. At any stage of the process, objections in respect of the process irregularities can be submitted.*

### 1.2.1 Sifting

1.2.1.1 The HRM in the PED sifts the CVs for technical errors and to check that candidates meet the requirements. The processes are more objective than subjective as they must meet the requirements in respect of the submission of documents.

1.2.1.2 All qualifying CVs are submitted to the SGB appointed interview committee

1.2.1.3 Unions are involved in observing the sifting process however they are not provided with the names of the applicants.

#### 1.2.2 Shortlisting

1.2.2.1 The committee shortlists the applications and usually ranks the top 5 candidates. Representatives of the various unions are invited as observers, as is a departmental representative. They are only there to ensure procedures are followed.

#### 1.2.3 Interviews

1.2.3.1 Must meet within 5 days. The top candidates (usually 5) are invited to interviews and the unions are also invited to attend the interviews

1.2.3.2 The interviews take place and the candidates are scored and ranked according to their scores.

#### 1.2.4 Submission

1.2.4.1 The committee chooses the top three and forwards them to the SGB who recommends them in rank order according to the principles of equity and representivity. These recommendations are then forwarded to the Departments District HR.

1.2.4.2 The department then chooses one of the three candidates recommended. The appointment list is submitted to the HOD. Once the HOD signs, this list is sent to the HR Director who will draft the appointment letters and the DD will sign

1.2.4.3 If a grievance is launched, a grievance committee is appointed by the DD and consists of:

- Chairperson: Deputy Manager (HRM)
- Members:
  - Assistant Director (HR Policies)
  - Assistant Director (Employee relations)
  - Additional members may be co-opted provided they were not involved in the process.

### **1.3 INTERLINKS BETWEEN DISTRICTS, TEACHER UNIONS AND SGBs**

The interlinks between Districts, Teacher Unions and SGBs are the dynamic forces which need to be understood and reconsidered before an adequate grasp of what is happening in the management and governance of basic education at Provincial and



District levels can be achieved. Only with that understanding can real alternatives and fresh options be explored.

Many of those interviewed by the Task Team commented on the strengths and the weaknesses of SGBs. The best guidance available to the Task Team to make recommendations concerning SGBs appears to be the 2003 Report, *School Governance and South African Public Schools*, known as the 'Soudien Report', compiled under the Ministership of Kader Asmal, but never released.

Chapters 7 and 8 of the 'Soudien Report' offer many useful points from its analysis of aspects of SGBs and their duties. In the macro sense, the Soudien Report recommends the establishment of a National School Governing Council as well as a National and Local Governance Structures (p. 168), all intended to provide SGBs with stronger support than that provided by the Department. The point here is that this country's third biggest democratic exercise and fourth tier of democracy should be strengthened so as to make it work much better as a force in the learning and teaching in South Africa as well as a means of establishing productive relationships between schools and communities.

Given the extent to which history and changing circumstances require the review of established practices and organisations, a full-scale examination and discussion of Unions and SGBs needs to take place, using the work of Soudien, Chaka, Sayed, Woolman & Fleisch and others so as to rethink matters of school governance for the present and the near future.

The main problem addressed by the Task Team is how to diminish if not eliminate corruption in the selection and appointment of candidates for posts in the Department of Basic Education. Thus the focus has been on two areas: the environment generated by the Department and the Teacher Unions, and the processes by which recruitment and selection occur. The Task Team has sought to understand the factors and forces at work in this situation and, without dispensing blame or formulating a string of

indictments, it has made Recommendations which are intended to make possible processes which are less open to undue influence than at present.

## **CHAPTER 2: LEGISLATION AND POLICY**

### **2.1 INTRODUCTION**

The Department of Public Service and Administration supported the Department of Basic Education (DBE) in developing the Generic Functional Organisational structure for Provincial Education Departments (DoE Generic). The reason for this exercise was to develop consistency through norms and standards in organisational design in the public service.

The DoE Generic was developed taking into cognisance, the single policy statement for quality basic education in government and the National Treasury budget programme structure for funding purposes in the Basic Education Department. The resolution of the Council for Education Ministers was that the DPSA and DBE should assist provincial departments to align with the DoE Generic and also support its implementation. Eight out of nine provincial Education departments have committed to becoming aligned and some are in the process of concluding alignments.

The exception is the Eastern Cape Department of Education which was put under section 100 intervention in 2011 and an organisational review was conducted with the aim of aligning their structure to the Generic. The process never took off because of leadership challenges and their organisational structure has never consulted the DPSA for approval as outlined in the Public Service Regulations.

The Generic structure outlines the service delivery model for the curriculum and institutional support delivery within the education sector. It also articulates roles and responsibilities of all delivery layers (head office, districts and circuits) and the resourcing thereof.

### **2.2 APPLICABLE LEGISLATION**

The procedure for the creation of posts, advertising, sifting, short listing recommendation of candidates and appointment is set out in various pieces of legislation. The following are applicable:

- The South African Schools Act (the SASA)<sup>3</sup>
- The Employment of Educators Act (the EEA)<sup>4</sup>
- The Personnel Administration Measures (the PAM)<sup>5</sup>
- The PPN Regulations<sup>6</sup>
- Regulations published under the name “*Regulations regarding the terms and conditions of employment of educators*”.

## 2.3 SCHOOLS AS JURISTIC PERSONS

2.3.1 Public schools are juristic persons.<sup>7</sup> This means that a public school can obtain rights and incur obligations, enter into contracts, sue and be sued in its own name. A public school as a juristic person cannot manage and govern itself, and needs, a governance and management structure.

2.3.2 The governing body of a public school is the management and governance structure of such school.<sup>8</sup> However a principal of a public school is responsible for the professional management of the public school.<sup>9</sup> The professional management of the public school is done under the authority of the Head of Department (HOD)<sup>10</sup>. The principal is an employee of the HOD.<sup>11</sup> The governance of a public school is vested in its governing body which may perform only such functions and exercise only such rights as prescribed in the SASA.<sup>12</sup>

## 2.4 COMPOSITION OF SCHOOL GOVERNING BODIES

2.4.1 The membership of a governing body consists of the following three categories:

- a) elected members;
- b) the principal in his or her official capacity;
- c) co-opted members.<sup>13</sup>

2.4.2 The elected member category, is further made up of the following sub categories:

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<sup>3</sup> Act 84 of 1996.

<sup>4</sup> Act 76 of 1998.

<sup>5</sup> Published under GN 222 in GG 19767 of 18 February 1999.

<sup>6</sup> Regulations published under the name “*Regulations for the Creation of Educator Post in a Provincial Department of Education and the Distribution of such Post to the Educational Institutions*”.

<sup>7</sup> Section 15 of the SASA.

<sup>8</sup> Section 16 of SASA.

<sup>9</sup> Section 16(3) of the SASA.

<sup>10</sup> Section 16(3) of SASA.

<sup>11</sup> Section 3(1)(b) of the EEA.

<sup>12</sup> Section 16(1) of the SASA.

<sup>13</sup> Section 23(1) of the SASA.

- Parents of learners at the school. A parent who is employed at the school is excluded from this sub category.
- Educators at the school.
- Members of staff at the school who are not educators.
- Learners at the school who are in the eighth grade or higher.<sup>14</sup>

2.4.3 A governing body must elect office bearers from amongst its members which include a chairperson, treasurer and a secretary.<sup>15</sup> Only a parent member who is not employed at the school may serve as the chairperson of the governing body.<sup>16</sup>

## 2.5 FUNCTIONS OF SCHOOL GOVERNING BODIES

2.5.1 A governing body has various and wide ranging functions and may also apply to the HOD to be granted additional functions.<sup>17</sup>

2.5.2 One of the functions of a governing body is to recommend the appointment of educators to the HOD.<sup>18</sup> It should be noted that Section 20 of SASA allocates many further complex and profound functions to SGBs. The selection and recommendation of possible appointees to the school staff is but one such responsibility.

2.5.3 A governing body of a public school recommend to the HOD the appointment of educators and non-educator staff.<sup>19</sup>

2.5.4 A public school may establish posts for educators and employ educator staff additional to the establishment determined by the MEC in terms of the Educators Employment Act, 1994.<sup>20</sup>

2.5.5 A public school may establish posts for non-educators and employ non-educator staff additional to the establishment in terms of the PSA.<sup>21</sup>

## 2.6 CREATION AND DISTRIBUTION OF EDUCATOR POSTS

2.6.1 The MEC creates educator posts for a provincial education department. The HOD must allocate such posts to public schools in his or her province.<sup>22</sup> This process is further set out in detail in the PPN Regulations.

2.6.2 The MEC must determine the educator post establishment of a provincial education department in accordance with applicable policies and must take into account the

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<sup>14</sup> Section 23(2) of the SASA.

<sup>15</sup> Section 29 of the SASA.

<sup>16</sup> Section 29(2) of the SASA.

<sup>17</sup> See section 20 and 21 of the SASA for functions of a governing body.

<sup>18</sup> Section 20(1) of the SASA.

<sup>19</sup> Section 20 (1)(f) and (g) of the SASA.

<sup>20</sup> Section 20 (4) of the SASA.

<sup>21</sup> Section 20 (5) of the SASA.

<sup>22</sup> Section 5 (1)(b) and 5(2) of the EEA.

budget of the department.<sup>23</sup> He or she must also consult with the education trade Unions.<sup>24</sup>

- 2.6.3 The HOD allocates the posts, which have been determined by the MEC, to all public schools using the post distribution model and formula.<sup>25</sup>

## **2.7 APPOINTMENT OF EDUCATORS IN TERMS OF THE PAM AND EEA**

- 2.7.1 The appointment process starts when the Department advertises posts in the bulletin.<sup>26</sup>

- 2.7.2 The District Office receives the applications and then sifts the applications. The sifting process in essence is an exercise to determine whether the applicants met the minimum requirements of the post such as for example registration with SACE.<sup>27</sup>

- 2.7.3 The District Office will compile a list of applicants who met the minimum requirements.<sup>28</sup> This list will be submitted to the governing body who must shortlist candidates from this list.<sup>29</sup>

- 2.7.4 The governing body must interview the candidates and must submit a list with the names of at least three recommended candidates in order of preference to the Head of Department. The governing body, in consultation with the HOD, may submit less than three names.

- 2.7.5 The Unions and the Departments are observers of the interview process though the Departmental representative is deemed a Resources Person who advises on procedure but should not influence decisions.

- 2.7.6 The Head of Department has the discretion to appoint a candidate from the SGBs list.<sup>30</sup>

- 2.7.7 The issue of the discretion of the HOD to appoint has been the subject of litigation in a number of court cases. One of the lessons that one can take from these court

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<sup>23</sup> Regulation 1(b) and(c) of the PPN Regulations.

<sup>24</sup> Regulation 1(c).

<sup>25</sup> As set out in annexure 1 of the regulations.

<sup>26</sup> The process of advertising of post is set out in detail in paragraph 3.1 of Chapter 3 of the PAM. The advertisement must be self-explanatory and clear and must include as a minimum the procedure to be followed for the application; names and telephone numbers of contact persons; preferable date of appointment and closing date for the receipt of applications and clearly state that the state is an affirmative action employer.

<sup>27</sup> Trade union parties must be provided with a report which must include the names of the educators who have met and those who have not met the minimum requirements-see Chapter 3, Paragraph 3.2(d) of the PAM.

<sup>28</sup> The minimum requirements are set out in chapter 2, paragraph 2.2 of the PAM. An educator must have a recognised three year qualification (REQV13) which must include appropriate training as an educator. No experience is required for appointment to a post level one post. Three to Nine years experience is required for appointment to post level 2-6 respectively.

<sup>29</sup> An Interview committee comprise of a departmental representative, the principal of the school, members of the governing body (excluding educators who are applicants for the post) and one education union representative. The union representative is an observer. See chapter 3 paragraph 3.3 of the PAM.

<sup>30</sup> This is however not an unfettered discretion and is, like any other administrative action, subject to the Constitution and the Promotion of Administrative Justice Act.

cases is that the HOD can deviate from appointing the preferred candidate of the public school, provided that the reasons for deviation are reasonable. One such reason for deviating from the recommendation of the governing body could be considerations of representivity and affirmative action.

2.7.8 The appointment process in respect of educators is set out in detail in the EEA and PAM.<sup>31</sup>

2.7.9 Section 6 of the EEA sets out the appointment process in detail.

2.7.10 The appointment process as set out in section 6 of the EEA can be summarized as follows:

- a) Appointments of educators to the provincial education department are made by the HOD.<sup>32</sup>
- b) The appointment of educators can only be made on the recommendation of the governing body. However If there are educators who are in excess, then the governing body must recommend educators from candidates identified by the HOD as being in excess and suitable.<sup>33</sup>
- c) The governing body must submit, to the HOD, a list of at least three names of recommended candidates in order of preference. The governing body must take into account the principles of representivity and equity.<sup>34</sup>
- d) The HOD must also ensure that the governing body has met these requirements before making an appointment.<sup>35</sup> He or she must decline making an appointment if the governing body has not met the requirements.<sup>36</sup>
- e) The HOD has the discretion to appoint, or decline to appoint any of the suitable candidates on the list.<sup>37</sup>
- f) . If the HOD declines to appoint any of the candidates on the list, then he or she must consider all the applications submitted for that post and appoint a suitable candidate temporarily or re-advertise the post.<sup>38</sup>
- g) The governing body may appeal to the MEC against the decision of the HOD to appoint a temporary candidate, within 14 days after receiving the notification of the temporary appointment. The MEC must finalise the appeal within thirty days of receiving the appeal.<sup>39</sup>

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<sup>31</sup> Section 6,6A,6B of the EEA and paragraphs 2 and 3 of chapter 3 of the PAM.

<sup>32</sup> Section 6(1)(b) of the EEA.

<sup>33</sup> Section 6(3) of the EEA.

<sup>34</sup> Section 6(3)(a) and (b) of the EEA. These principles of equity and representivity are set out in section 7(1) of the EEA.

<sup>35</sup> Section 6(3)(d) of the EEA.

<sup>36</sup> Section 6(3)(e) of the EEA.

<sup>37</sup> Section 6(3)(f) of the EEA.

<sup>38</sup> Section 6(3)(g) of the EEA.

<sup>39</sup> Section 6(3)(h)-(k) of the EEA.

## 2.8 DELEGATION

- 2.8.1. The HOD may delegate or assign any of his or her powers conferred to him or her under the act to any person in the provincial department of education, on such conditions that the HOD may determine.<sup>40</sup>

Analysis of current delegations frameworks reflects inconsistencies from province to province and recommendations to the Minister for Basic Education must be made in line with Cabinet approved 2013 Public Administration delegations framework and the DBE can assist in aligning these to the Education sector legislation should it be necessary.

- 2.8.2 Section 62 (1) of the SASA provides that the MEC may delegate any power conferred upon him/her to the Head of Department or an officer, except except the power to publish a notice and the power to decide an appeal lodged with him or her in terms of the Act.

- 2.8.3 Section 62 (2) of the Act provides that the HOD may delegate any power conferred upon him/her to the Head of Department or an officer.

Clauses 2.8.2 and 2.8.3 above enable both the HOD and the MEC to delegate the appointments to any official in the department in terms of the Education Act. This requires greater checks and balances than at present to be built in the delegation's conditions and limitations column to ensure that delegations are properly executed. Furthermore, Section 6 of the Employment of Educators Act gives original powers to the HOD for appointments. The HOD may determine the levels of delegations in his or her Department. The SGB has no legal power to appoint, but can only recommend (Section 6 (3) (a)).

Having considered the above legislative prescripts, the Delegations Directive for the Public Services provides for transparency in the appointment process. The person that approves the shortlist and selection panel is not the person who makes the

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<sup>40</sup> Section 36 (4)(a) of the EEA.



appointment. Hence, it is advisable for the HOD to maintain a central repository of suitable educators with clearly defined competencies which is devolved to District Offices for short listing.

## **2.9 FIRST APPOINTMENT OR APPOINTMENT AFTER BREAK IN SERVICE OF AN EDUCATOR**

- 2.9.1 The EEA provides for an exception to the appointment process in respect of an educator who joins the department for the first time or after a break in service of one or more years.<sup>41</sup>
- 2.9.1 The Provincial Education Department may receive applications of first time applicants, or applicants returning after a break in service; process and match the applications to vacant post; and make appointments to a school.<sup>42</sup>
- 2.9.2 The Provincial Education Department must however consult the relevant governing body on the specific post and the requirements thereof prior to the appointment of a candidate; ensure that the applicant to be appointed matches the requirements of the post and has the prescribed qualifications.<sup>43</sup>

## **2.10 CONVERSION OF TEMPORARY EMPLOYMENT TO PERMANENT EMPLOYMENT**

- 2.10.1 The HOD may convert a temporary educator appointment at a public school to a permanent educator appointment.<sup>44</sup>
- 2.10.2 The HOD may only do the conversion after he or she had consulted the relevant governing body.

## **2.11 POLICY ON THE SOUTH AFRICAN STANDARD FOR PRINCIPALSHIP**

- 2.11.1 The Department recently published the policy on standards for principalship. The policy is intended to serve the following purpose:
- The establishment of a clear understanding of what the education system expects of those leading and managing its schools;
  - Providing clearly defined roles of principals and the key aspects of professionalism and expertise required in such positions;

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<sup>41</sup> This is set out in section 6A of the EEA.

<sup>42</sup> Section 6A(1) of the EEA.

<sup>43</sup> Section 6A(2) of the EEA.

<sup>44</sup> Section 6B of the EEA.

- Providing information to all stakeholders in education about what is expected of a principal;
- Serving as a template against which professional leadership and management development needs may be addressed;
- Informing better recruitment and selection procedures;
- Providing the basis for improved performance management processes applicable to principals;
- Being used by principals to identify their personal professional development needs throughout their careers;
- Guiding those aspiring to be principals on what is expected of a school principal; and
- Enhancing and sustaining the image, professionalism and core competencies of school principals.

2.11.2 The policy also clearly sets out what is expected from principals in terms of strategic, executive, instructional, cultural and organizational leadership.

2.11.3 The policy is intended to improve the management capacity of principals, thereby creating conducive environment for learners to improve learning outcomes.

2.11.4 Provincial Education Departments, Districts and Circuits should benefit on the guidance in the policy to recruit and appoint a suitable principal within the context of the school where the post is vacant. These offices would be able to use policy to hold principals accountable as they monitor and support schools in performing their roles and responsibilities.

2.11.5 The policy will assist in preparation of aspirant principals with the career path of leadership and management they have selected, in managing the schools for which they apply for principalship. It will assist appointed principals to lead and manage their schools in such a manner that all learners can achieve according to their ability and he/she will guide teachers to deliver quality teaching.

2.11.6 The Policy will assist School Governing Bodies with recruitment, selection and recommendation for appointment of principals in schools including how governing bodies should work with principals in governing schools.

## **2.12 BASIC EDUCATION LAWS AMENDMENT BILL**

2.12.1 The Department appointed a Task Team to review all education legislation. The Task Team drafted the Basic Education Laws Amendment Bill. The Bill has been approved by the CEM and HEDCOM for publication for comments.

2.12.2 The Draft Basic Education Laws Amendment Bill, 2014 (the Draft Amendment Bill) proposes to amend the South African Schools Act, 1996 (Act No. 84 of 1996), and the Employment of Educators Act, 1998 (Act No. 76 of 1998) (the SASA and the EEA, respectively), so as to align it with developments in the education landscape, and to ensure that systems of learning and excellence in education are put in place in a manner which respects, protects, promotes and fulfils the right to basic education enshrined in section 29(1) of the Constitution of the Republic of South Africa, 1996. The Draft Amendment Bill seeks to amend the SASA and the EEA so as to make certain technical and substantive adjustments, to clarify certain existing provisions and to insert certain provisions to cover matters which are not provided for in the existing legislation.

2.12.3 Clause 10 seeks to amend section 20 of SASA by limiting the powers of a governing body to recommend to the Head of Department the appointment of only post level 1 educators, having the effect that the selection and appointment of post levels 2 to 4 educators will be the sole responsibility of the Head of Department of the province.

2.12.4 Clause 32 seeks to amend section 6 of the EEA to provide for a limitation on the post levels recommended by the governing body to the Head of Department. Any appointment, promotion or transfer to any promotional post levels 2 to 4 on the educator establishment of a public school are to be determined from candidates identified by the Head of Department and educators on these post levels will be appointed directly by the Head of Department.

## 2.13 THREATS TO THE current APPOINTMENT PROCESS

- 2.13.1 The system as set out in the legislative framework relies to a large extent on there being a functional governing body with governing body members who have the necessary skills or who have access to persons with the necessary skills that can conduct the interviewing process.
- 2.13.2 There are over twenty four thousand public schools in the country. There could therefore theoretically be the same number of selection panels. Many public schools do not have functional governing bodies and persons with the necessary skills to conduct interview processes especially in deep rural areas. The interviewing process requires persons with knowledge of curriculum statements, management processes and the content knowledge of subjects. In many instances the selection panels do not know what is required of a principal, deputy principal or HOD.
- 2.13.3 In such instances the selection panel relies to a large extent on the principal or Union representatives for guidance. In most cases the principal serves as the Resource Person of the Department when interviews are conducted for deputy principal and HOD posts leaving the process open to manipulation.
- 2.13.4 The function to recommend candidates for appointment and other wide ranging functions that governing bodies must perform was provided to governing bodies based upon the premise of a governing body having the necessary capacity to perform these functions. The following statement is made in paragraph 4.2 of White Paper 2:  
*“The new arrangement and governance system, to say nothing of new funding arrangements, involve a radical decentralization of management and governance responsibilities to local schools and communities. It is no exaggeration to say that decentralization and democratization will not succeed- that is, they will be incapable of stimulating and supporting the regeneration of the culture of teaching and learning and enhancing the quality of educational delivery and performance-unless managers and governing bodies are able to understand and perform their tasks competently and in co-operation with each other.”*
- 2.13.5 It is also stated in that White Paper that Provincial Education Departments should ensure effective in service programmes and that District Offices provide

- professional leadership and support to school principals, teachers and governing bodies and monitor their development, and identify local priorities for resourcing.
- 2.13.6 It is clear that Districts have NOT supported SGBs to the extent that is required. Many district directors indicated that they do not have the necessary resources to provide effective support to governing bodies. Ideally the district should provide a subject advisor and circuit manager to interview committees.
- 2.13.7 It should be noted that HODs are restricted in terms of who they may appoint. Although the HOD has in terms of the legislation a discretion on who to appoint, such appointment can be challenged by governing bodies especially if the HOD does not appoint the preferred candidate of the governing body. The HOD has to justify his/her decision to deviate from the recommendation of the governing body and has to provide good reasons that stand up to legal scrutiny in the courts. The reason for this is that the appointment process is seen as administrative action in terms of the Promotion of Administrative Justice Act. In terms of that Act the person exercising the discretion or taking the administrative action has to do so in terms of the principles as set out in that Act. Administrative action can be taken on review if it is viewed as unjust or unreasonable.
- 2.13.7 Educators form part of the interview committee of a governing body. It is therefore conceivable that an educator could be in a position to recommend the appointment of his/her supervisor.
- 2.13.8 The HOD as the employer of educators does not have a say in the short listing of his/her employees.
- 2.13.9 The minimum requirements as set out paragraph 2.2 of the PAM does not require any management experience for promotion appointments such as Deputy Principal and Principal. A post level one educator may become a principal or Deputy Principal.

### CHAPTER 3: SUMMARY FROM THE FORENSIC INVESTIGATION INTO ALLEGATIONS OF IRREGULAR APPOINTMENT OF EDUCATORS AT SCHOOLS AS REPORTED IN THE MEDIA AND ELSEWHERE

#### 3.1 SYNOPSIS

When reading this report, the following must be kept in mind: This report contains a number of factual findings made by the Panel. The Report also contains various recommendations that are based on the factual findings. However, the report does not amount to conclusions on matters of law. Such conclusions may be only be drawn by the relevant authorities who have the necessary competency to draw such conclusions. We have however highlighted certain acts which in our view may amount to criminal misconduct. Where such instances have been identified, we recommend that the matter be further investigated by the relevant law enforcement authorities to establish whether grounds for prosecution exist.

	NO OF SCHOOLS IN PROVINCE AS % OF NATIONAL	FINALISED	FURTHER INVESTIGATION	WRONGDOING	TOTAL	% OF ALL CASES INVESTIGATED
EC	23	11	3	1	15	18.5
Gauteng	8.5	1	2	1	4	4.9
KwaZulu-Natal	24.6	7	8	4	19	23.5
Limpopo	16.3	19	1	0	20	24.7
Mpumalanga	7.3	4	0	1	5	6.1
North West	6.4	7	4	7	18	19.8
<b>TOTAL</b>	<b>86,1</b>	<b>43</b>	<b>22</b>	<b>16</b>	<b>81</b>	<b>100</b>

**NB: THE NAMES OF THE PERSONS IN THE TABLES BELOW, HAVE BEEN EXPUNGED AND REPLACED WITH CODES, BECAUSE THE FORENSIC INVESTIGATIONS ARE STILL ONGOING. THIS WAS DONE TO ADHERE TO THE PRINCIPLES OF THE “PRESUMPTION OF INNOCENCE” AND THE “AUDI ALTEREM PARTEM”.**

### 3.2 INVESTIGATIONS INTO MEDIA REPORTS AND LEADS IN RELATION TO OF KWAZULU NATAL

	Summary of issues raised	Findings	Contraventions of policy/ legislation
1	<p><b>Article published in the City Press on 27 April 2014</b></p> <p>Based on Media reports it was alleged that <b>Mr KZN-1</b>, a District Director was implicated in the murder of <b>MrKZN-2</b> who allegedly blew the whistle on corruption within SADTU.</p>	<ul style="list-style-type: none"> <li>○ <b>Mr KZN-1</b> was charged with conspiracy to commit murder.</li> <li>○ At the request of the SAPS the Task Team did not interview any of the witnesses involved in the matter.</li> <li>○ <b>Mr KZN-1</b> was however recently acquitted on the charges.</li> </ul>	None noted.
<p><b>Recommendations</b></p>			
<p>That no further action be taken in this regard.</p>			
2	<p><b>Matters reported by Ilembe District Director, Ms KZN-3</b></p> <p>It is alleged that there are often clashes between the SGBs and SADTU and SADTU often oversteps their role as observers to the appointment process and participates by “bullying” members of the SGBs in order to favour their members.</p> <p>Appointments at the following schools have been affected:</p> <ul style="list-style-type: none"> <li>○ Rhada Roopsingh</li> <li>○ New Guelderland Combined School</li> <li>○ Chief Albert Luthuli.</li> </ul>	<p><b>KZN-4</b></p> <p>The Department representative (<b>Mr KZN-4</b>) stopped the process based on the circular dated 5 September 2015.</p> <p>The ELRC also evaluated the claims by <b>Mr KZN-5</b> and failed to find any procedural irregularities during the interview process and the scoring of <b>Mr KZN-6</b>’s CV with the missing pages.</p> <p><b>New Guilderland Combined School</b></p> <p>The SGB requested the Department to take over the appointment process based on the fact that they could not form a quorum.</p> <p>The panel met to do the interviews and on two occasions</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
		<p>SADTU representatives disrupted the process.</p> <p>The Department obtained an interdict to prevent them from disrupting the process.</p> <p>The Department shortlisted and interviewed the candidates and confirmation of the appointment is waited by the HOD.</p> <p><b>Chief Albert Luthuli</b></p> <p>In this matter SADTU officials also disrupted the interviewing process on several occasions.</p> <p>The process was moved to another location to prevent disruptions and a candidate has been appointed.</p> <p>SADTU lodged a grievance which was later withdrawn.</p>	<p>Undue interference by union officials.</p>
<b>Recommendations</b>			
We recommend that no further action be considered in these matters.			
<b>3</b>	<p><b>Matters reported by Mr KZN-8, a District Director</b></p> <p>It is alleged that there is manipulation of the appointment process through delays in appointing principals in order to retain the acting principals in duty as well as through bribery of SGB members and post fixing.</p> <p><b>The following irregularities pertaining to Mr KZN-9 were identified:</b></p> <p>It was alleged that <b>Mr KZN-9:</b></p>	<p><b>Findings pertaining to Mr KZN-9</b></p> <p>According to the Detective, records show that <b>Mr KZN-9</b> was arrested for Malicious Damage to Property with case number 102/8/2014.</p> <p>Detective also stated that there was no arrest for corruption of bribery against <b>Mr KZN-9</b> on their system.</p> <p><b>Findings pertaining to Ms KZN-10</b></p> <p>While <b>Mr KZN-11</b> was awaiting for the outcome of the interviews, he was approached by the branch secretary, <b>Ms</b></p>	<p>None noted.</p> <p>Corruption.</p>



	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<ul style="list-style-type: none"> <li>o Was involved in selling of PL1 posts and promotional posts, bribery and post fixing.</li> <li>o Mr Ill was previously allegedly arrested for Bribery.</li> <li>o That he manipulated and bullied the SGBs and forced them to sign appointment letters.</li> </ul> <p><b>The following irregularities pertaining to Ms KZN-10 were identified:</b></p> <p>It was alleged that <b>Ms KZN-10</b> Solicited a bribe from a candidate, <b>Mr KZN-11</b>, in order to release an appointment letter.</p> <p><b>Alleged irregularities committed by Mr KZN-12 of Kenville Primary School's SGB</b></p> <p>Based on documents provided by <b>Mr KZN-13</b> where <b>Mr KZN-12</b> SGB Chairperson attempted to solicit a bribe from <b>Ms KZN-13</b> who was the acting principal of the school.</p>	<p><b>KZN-10</b> stating that the appointment letter would not be released unless he paid her R1 000. He only had R500 and paid her this amount.</p> <p><b>Ms KZN-10</b> confessed in a meeting which was held at Umlazi on the 20th of October 2014 that she demanded a bribe of R1 000-00 from <b>Mr KZN-11</b> which was to be paid in two instalments.</p> <p><b>Ms KZN-10</b> alleged that <b>Mr KZN-12</b> attempted to solicit a bribe of R50 000 from her in order to secure a post as Deputy Principal.</p> <p><b>Mr KZN-12</b> refused to be interviewed.</p>	<p>Corruption.</p>
	<p><b>Recommendations</b></p> <p>In terms of the allegations against <b>Mr KZN-12</b>, the matter should be regarded as finalised as we found no substance to the allegations.</p> <p>In terms of the allegations against <b>Ms KZN-10</b>, we recommend that:</p> <ul style="list-style-type: none"> <li>o The Department institute disciplinary proceedings against <b>Ms KZN-10</b>.</li> <li>o The matter be reported to the SAPS for further investigation.</li> </ul> <p>In terms of the allegation against <b>Mr KZN-7</b> we recommend that he Department lease with the SAPS to investigate the matter further</p>		

	Summary of issues raised	Findings	Contraventions of policy/ legislation
5	<p><b>Report by the SGB foundation</b></p> <p>A report issued by The Governing Body Foundation's, <b>Ms KZN-14</b> highlighted alleged appointment irregularities within the following schools in KwaZulu Natal:</p> <ul style="list-style-type: none"> <li>o Clayhaven Primary School</li> <li>o Lenham Primary School</li> <li>o Waterloo Primary School.</li> </ul>	<p><b>Clayhaven and Lenham Primary School</b></p> <p>We conclude that the DOE after issuing the appointment letter to <b>Mr KZN-15</b> as Principal of Lenham Primary, issued an appointment letter to <b>Ms KZN-16</b>, which appears to be a decision from the HOD's office.</p> <p>The appointment of <b>Ms KZN-16</b> was allegedly rescinded by the HOD, which impacts on the placement of <b>Ms KZN-16</b> at Clayhaven Primary as Principal due to being a surplus official, in that the placement appears invalid.</p> <p><b>Waterloo Primary School</b></p> <p>We conclude that the matter be considered as finalised as DOE halted the interview and selection process for the Principal position and found irregularities with the compilation of the Interview Committee.</p> <p>However, the Interview Committee was allowed to continue with the process and the Principal was appointed.</p>	
<b>Recommendations</b>			
<p><b>Clayhaven and Lenham Primary</b></p> <p>We recommend that the DOE re-advertise the Principal position at Clayhaven and that in consultation with the SGB, the proper procedures be followed in shortlisting and interviewing prospective candidates. Furthermore that the DOE re-evaluate the placement of <b>Ms KZN-16</b> as principal of Clayhaven Primary School, based on the fact that the Lenham Primary appointment was rescinded.</p> <p><b>Waterloo Primary</b></p>			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
<p>We recommend that the matter be considered as finalised.</p>			
6	<p><b>Irregularities in the appointment of Principal at Seven Fountains Primary School (Kokstad)</b></p> <p>A SADTU observer, <b>Ms KZN-17</b>, allegedly offered a bribe to a member of the SGB to influence the scoring to favour a candidate, <b>Ms KZN-17</b>.</p>	<p>A member of the SGB and the interview panel alleged that the evening before the shortlisting <b>Ms KZN-17</b>, who was part of the process as an SADTU observer approached him at his house and offered to pay him R30 000 in order to ensure that <b>Ms KZN-18</b> (SADTU Branch Secretary) was shortlisted.</p> <p>She offered to inform him how to identify <b>Ms KZN-17</b>'s CV. He refused.</p> <p><b>Ms KZN-17</b> was not shortlisted and <b>Ms KZN-18</b> refused to sign the EHR 8 (Assessment of CV) and EHR 9 (Schedule of Shortlisted Applicants) in respect of <b>Mr KZN-19</b>.</p> <p><b>Ms KZN-18</b> appeared to be aggrieved that <b>Ms KZN-17</b> was not shortlisted. The Committee proceeded to forward the short-listed candidates to the Department and recommended that <b>Mr KZN-19</b> be appointed.</p> <p>SADTU registered a grievance in the name of another candidate who withdrew the grievance as she was not aware that SADTU had lodged the grievance in her name. SADTU then lodged a further grievance in the name of <b>Ms KZN-17</b>.</p> <p>We note that the members of the SGB did not want to</p>	Possible Corruption.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
		make an affidavit out of fear of reprisal.	
<b>Recommendations</b>			
We recommend that the Department report the matter to the SAPS for further investigation.			
7	<p><b>Simla Primary School</b></p> <p>It is alleged that on the day prior to the interview process, <b>Mr KZN-20</b> met with <b>Dr KZN-21</b>, of Rose Heights Primary, who promised him the Principal position at Simla Primary and that the post was "in the bag" as he knew the chairperson of the Interview Committee.</p>	<p><b>Mr KZN-20</b> was appointed as the principal at Simla Primary. There appears to be substance to the allegation that the appointment of <b>Mr KZN-20's</b> appointment was irregular and improper.</p>	Corruption.
<b>Recommendations</b>			
We recommend that the matter be investigated to determine the roles played by the DOE representatives and the Interview Committee chairperson during the interview process and the subsequent appointment of <b>Mr KZN-20</b> . That the matter be reported to SAPS.			
8	<p><b>Highlands Primary School</b></p> <p>The Department received an anonymous letter wherein it was alleged that corruption took place in the promotion of principals and office based personnel within the KZN Department of Education. A number of individuals paid large sums of money to <b>Mr KZN-22</b> of SADTU in order to secure positions.</p> <p>The following individuals were implicated in the letter:</p>	<p>It appears that <b>Dr KZN-21</b> was the author of the anonymous letter and <b>Dr KZN-21</b> could not provide any evidence for the allegations made.</p> <p>No further evidence came to light to substantiate the allegations.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<ul style="list-style-type: none"> <li>○ <i>Mr KZN-22</i></li> <li>○ <i>KZN-23</i></li> <li>○ <i>Mr KZN-24</i></li> <li>○ <i>Mr KZN-25.</i></li> </ul>		
<b>Recommendations</b>			
No further action to be taken unless new information comes to light.			

### 3.3 INVESTIGATIONS INTO MEDIA REPORTS AND OTHER LEADS OBTAINED IN GAUTENG

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>The GDE appointed Nchupetsang Attorneys on 14 May 2014 to investigate allegations of sale of posts in the Gauteng Province.</p>	<p>Nchupetsang found, amongst others that:</p> <ul style="list-style-type: none"> <li>○ The allegations of posts being sold for cash were found to be true.</li> <li>○ There are corrupt procurement processes and maladministration by SGBs when selecting and appointing teachers to top positions.</li> <li>○ The parties involved operate like a network involving SGBs, union Officials, Principals.</li> <li>○ Most SGBs, especially in Townships and Rural settlements are uneducated and ill-equipped to understand and manage the Human Resource matters.</li> <li>○ SADTU takes advantage of SGBs who are poor and</li> </ul>	Possible corruption.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
		<p>uneducated by influencing them to recommend their own preferred comrades into promotional positions.</p> <ul style="list-style-type: none"> <li>○ In most cases there is no proof or evidence to confirm these corruption allegations and this makes it difficult for most teachers who want to report the activities.</li> <li>○ Most Teachers (SADTU members) with minimum qualifications are placed in top positions which they do not qualify for.</li> <li>○ Most educators and District Officials are afraid to talk because of fear of victimisation.</li> </ul> <p>Nchupetsang recommended disciplinary action against the implicated individuals.</p> <p>It transpired that the witnesses did not commit to written statements and no further action was taken.</p> <p>The MTT endeavoured to obtain written statements from the witnesses concerned.</p> <p>The witnesses however again failed to cooperate.</p>	
<b>Recommendations</b>			
	Given the serious nature of the allegations, we recommend that the Department report the matters to the SAPS for further investigation.		
<b>Recommendations</b>			
<b>5</b>	<b>Cultura High School</b>	The DBE task team could not find proof that <b>Mr GAU-1</b>	

Summary of issues raised	Findings	Contraventions of policy/ legislation
<p data-bbox="260 1361 531 2007">During August 2015, the Department of Education received allegations of irregular appointments of <b>Mr GAU-1</b> and <b>Ms GAU-2</b>. According to the allegation, <b>Mr GAU-1</b>, the Principal of Cultura High School, appointed his son <b>GAU-3</b>, as a technology teacher level one and his wife <b>GAU-4</b> without following proper channels.</p>	<p data-bbox="260 685 432 1296">contacted the District to inform them of the problem they had of not getting responses from their advertisement nor could proof be obtained of the fact that <b>Mr GAU-1</b> obtained the list of possible candidates.</p> <ul style="list-style-type: none"> <li data-bbox="456 685 679 1335">○ <b>Mr GAU-3</b> claims to have initiated the search for a teacher who could teach Engineering Graphic Design as well as Technology, however, <b>Mr GAU-1</b> stated that he and his father first went to the District Director regarding the addition of Engineering Graphic Design.</li> <li data-bbox="703 685 826 1296">○ <b>Mr GAU-1</b> contradicted himself when he said <b>Ms GAU-4</b> gave him a print out because he had previously written in his report that the District sent him the list.</li> <li data-bbox="850 685 1169 1335">○ Furthermore, <b>Mr GAU-1</b> could not give proof of the SGBs resolution to appoint parents when three or more teachers are absent. He further lied when he said that parents, including <b>Mrs GAU-4</b>, would be paid a stipend of R120 as the EFTs found indicated that <b>Mrs GAU-4</b> was paid R150 per day. <b>Mrs GAU-4</b> was paid a total of R109 413.17 that was unsupported by SGB resolutions.</li> <li data-bbox="1193 685 1316 1335">○ <b>Mr GAU-1</b> is unreliable as he contradicted himself on more than one occasion. It is not clear how <b>Mr GAU-3</b> came to be at the school as <b>Mr GAU-3</b>, <b>Mr GAU-1</b> and</li> </ul>	

Summary of issues raised	Findings	Contraventions of policy/ legislation
	<i>Mr GAU-5</i> all tell stories that differ.	
<b>Recommendations</b>		
Based on the findings, it is recommended that disciplinary steps be taken against <b>Mr GAU-1</b> for nepotism and corruption as he used his position as principal to favour his wife <b>Mrs GAU-4</b> and his son <b>Mr GAU-3</b> , as well as the irregular expenditure of R 109 413.17 for payments made to his wife.		

### 3.4 INVESTIGATIONS INTO MEDIA REPORTS AND OTHER LEADS OBTAINED IN NORTH WEST

Summary of issues raised	Findings	Contraventions of policy/ legislation
<b>1</b> <b>Nexus report</b> The DBE appointed Nexus Forensic Services (Nexus) two years ago to investigate allegations that SADTU had irregularly influenced the appointment of officials to senior positions in the North West Bojanala district.	<p>We established that Nexus did indeed perform the investigation as appointed by the DBE and obtained a copy of their report reflecting the relevant allegations and findings to the report.</p> <p>The Task Team endeavored to establish what action was taken by the NWDoE in respect of the findings.</p> <p>We interviewed the HOD and no action was taken after the Nexus report. The task team is of the view that HOD's reasons for failing to take action in respect of the findings from the Nexus report, are untenable.</p>	
<b>Recommendations</b>		
We recommend that the report should be considered by the Legal Department with a view of instituting disciplinary action against implicated individuals.		
<b>2</b> <b>Allegations regarding threats against Ms NW-1 at</b>	<input type="radio"/> She was never threatened by any SADTU member.	None noted.



	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p><b>Vryburg: Thatemolathwa Primary School</b></p> <p>Ms NW-1, the Principal from Vryburg at Thatemolathwa Middle School, was threatened to be killed by SADTU members.</p>	<ul style="list-style-type: none"> <li>○ The only incidents that she could recall were that the parents of two learners were not happy with her as she phoned them regarding their kids misbehaving at the school.</li> <li>○ The learners concerned did not adhere to the student school policies and it was when she summoned their parents to school to tell them about their children's behavior they were furious and in a fighting mood.</li> <li>○ She reported those parents to their respective departments as one was a Police Official and the other a Social worker and the problems were resolved.</li> </ul>	
<b>Recommendations</b>			
The task team found no substance in the allegations made and considers the matter finalised.			
<b>3</b>	<p><b>Findings of allegations pertaining to the aggrieved SGBs about the appointment of Principal at Bodiri Primary school</b></p> <p>It is alleged that SGBs at Bodiri Primary School were aggrieved because they believed that the appointment of Principal was a scam.</p>	<p>We obtained and reviewed the appointment file and found that the appointment of <b>Ms NW-2</b> as a Principal at Bodiri Primary School was irregular as <b>Mr NW-3</b> was the recommended candidate who scored the highest percentage during the interview.</p>	None noted.
<b>Recommendations</b>			
We recommend that the Department of Basic Education appoint <b>Mr NW-3</b> as he was recommended by the selection and committee members as the candidate who scored the highest percentage during the interview.			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
4	Allegations pertaining to <b>NW-4</b> and <b>NW-5</b> , the Departmental officials who solicited R2 000.00 for the renewal of contracts for contract Teachers.	There is no evidence to suggest that <b>Ms NW-4</b> and <b>NW-5</b> solicited R2000.00 in bribes from Contract Teachers as their appointments are done by Principals and District Offices.	None noted.
<b>Recommendations</b>			
We recommend no further action in this regard.			
6	It was alleged that <b>Mr NW-6</b> did not have the qualifications and experience for the post, but was appointed to the post due to his affiliation to SADTU.	<b>Mr NW-6</b> did not meet the requirements for the position from the onset. His shortlisting and subsequent appointment was irrational and indefensible.	
<b>Recommendations</b>			
We recommend that he matter be investigated in further detail.			

### 3.5 INVESTIGATIONS INTO MEDIA REPORTS AND OTHER LEADS OBTAINED IN MPUMALANGA

	Summary of issues raised	Findings	Contraventions of policy/ legislation
1	<b>Alleged kidnapping of Former Deputy Principal of WCCM Primary School</b> According to the allegations, <b>Ms MPU-1</b> was kidnapped by people who claimed they were sent by SADTU members and were paid R10 000 to kidnap her in 2007.	Based on the findings of the investigation that was conducted, there is no evidence that a union was identified as being involved. It appears that only a teacher from WCCM was involved.	None noted.
<b>Recommendations</b>			
Based on the findings of the investigation conducted, it is recommended that a follow-up be made with a Detective regarding the progress of the court action and the matter should be regarded as finalised for the purposes of this report.			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
2	<p><b>Gert Sibande District – Ms MPU-2</b></p> <p>Allegations that the former District Director of Gert Sibande district, <b>Ms MPU-2</b>, was removed from her post because she did not want to get involved in the selling of posts.</p>	<p>Based on the findings of the investigation that was conducted, <b>Ms MPU-2</b> was not forced to resign but agreed to leave the Gert Sibande District as part of her sanction.</p>	<p>None noted.</p>
<p><b>Recommendations</b></p>			
<p>We recommend no further action.</p>			
3	<p><b>Ehlanzeni District: Legazi Primary School</b></p> <p>Allegations that <b>Mr MPU-3</b> was appointed as a Principal at Lekazi Primary School. According to the allegations, the appointment was irregular as there was no advertisement for the post.</p>	<p>Based on the findings of the investigation that was conducted, <b>Mr MPU-3's</b> appointment at Lekazi Primary School was not irregular as he was horizontally transferred from Mpatleng Secondary School where he was a Principal to Lekazi Inclusive School when the previous Principal <b>Ms MPU-4</b> retired.</p> <p>The transfer was duly approved by the Circuit Manager and the Regional Director.</p>	<p>None noted.</p>
<p><b>Recommendations</b></p>			
<p>We recommend no further action.</p>			
4	<p><b>Ehlanzeni District: Thandulwazi Primary School</b></p> <p>Allegations that <b>Ms MPU-5</b> was deployed as a Principal at Thandulwazi Primary School. According to the allegations, the appointment was irregular as there was no advertisement for the post. Furthermore, she later</p>	<p>Based on the findings of the investigation that was conducted, <b>Ms MPU-5's</b> appointment at Thandulwazi Primary School was not irregular as she was horizontally transferred from Ramosukula Primary School where she was a Principal to a vacant post at Thandulwazi where she is</p>	<p>None noted.</p>

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	got appointed as a Circuit Manager, replacing the Circuit Manager who deployed her.	<p>still a Principal.</p> <p>The transfer was duly approved by the Circuit Manager and the Regional Director.</p> <p>All recruitment and appointment processes were adhered to in the appointment of <b>Ms MPU-5</b> as Circuit Manager.</p>	
<b>Recommendations</b>			
We recommend no further action.			
<b>5</b>	<p><b>Bohlabela District: Esselman Primary School</b></p> <p>Allegations that <b>Mr MPU-6</b> replaced his mother in law when she retired at Esselman Primary School</p>	<p>Based on the findings of the investigation that was conducted, <b>Mr MPU-6's</b> appointment was flawed and unfair during the short-listing phase as several applicants who were more qualified than <b>Mr MPU-6</b> were not short-listed.</p> <p>The resource person, <b>MPU-7</b>, failed to guide the SGB with regards to the proper recruitment and appointment transcripts.</p>	
<b>Recommendations</b>			
Based on the findings of the investigation conducted, it is recommended the resource person be charged with misconduct for failure to carry out her duties appropriately.			

### 3.6 INVESTIGATIONS INTO MEDIA REPORTS AND OTHER LEADS OBTAINED IN LIMPOPO

	Summary of issues raised	Findings	Contraventions of policy/ legislation
1	<p><b>Allegations of bribes at Moloisi Secondary School and Nkoshing Secondary School</b></p> <p>Allegations that the Principal of Moloisi Secondary School and Head of Department of Nkoshilo Secondary School, namely <b>Mr LIM-1</b> and <b>Mr LIM-2</b> respectively, paid bribes to <b>Mr LIM-3</b>, a Chairperson of Stanza Bopape Branch belonging to the South African Democratic Teachers Union (SADTU), amounts of R28 000.00 and R10 000.00 respectively.</p>	<p>The allegations were refuted by <b>Messrs LIM-1</b> and <b>LIM-2</b> and based on the procedures performed, we could not find any evidence supporting the allegations.</p>	<p>None noted.</p>
<p><b>Recommendations</b></p>			
<p>We recommend no further action.</p>			
2	<p><b>Appointment of CS1 educator to the post of Principal without meeting the requirements</b></p> <p>It is alleged that the appointed Principals of the schools listed below were appointed from CS1 post to the post of Principalship and that they did not meet the requirements for a Managerial (Potential) experience.</p> <p>The following schools have been implicated:</p> <ul style="list-style-type: none"> <li>o Seula Mimako Primary School</li> <li>o Ramakgotho Primary School</li> </ul>	<p>Based on the procedures performed, we found no substance in the allegations.</p> <p>Concerns however were noted in the recruitment process of the Principal at Khureng Primary School which will require further follow up. A file has been requested at the Lebowakgomo District to pursue the matter further.</p>	<p>None noted.</p>

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<ul style="list-style-type: none"> <li>o Dikgeu Primary School</li> <li>o Khureng Primary School</li> <li>o Sello Primary School</li> <li>o Chita Kekana Primary School</li> <li>o Botshwa Primary School</li> <li>o Mapotla Primary School</li> <li>o Radira Secondary School</li> <li>o Selowe Primary School</li> <li>o Kgotloana Primary School</li> <li>o Sefahone Primary School.</li> </ul>		
<b>Recommendations</b>			
Further investigation is required relating to the Khureng Primary School.			
<b>3</b>	<p><b>The Department of Basic Education is currently conducting investigation into the allegations of selling of posts of Educators at Province.</b></p> <p>The following allegations were made:</p> <ul style="list-style-type: none"> <li>o All the Acting Principals were appointed despite failing during the interviews. The Principals were appointed because they are related to the District Director. They were appointed because of SADTU. The individuals and schools (5) implicated are as follows:</li> </ul>	<p><b>Luvhengo Secondary School</b></p> <ul style="list-style-type: none"> <li>o Based on the investigation, we conclude that the Principal post was advertised and <b>Ms LIM-4</b> was shortlisted and went through the interview process.</li> <li>o <b>Ms LIM-4</b> was recommended as the best candidate and was appointed for the Principal post.</li> </ul> <p><b>Tshapasha Primary School</b></p> <ul style="list-style-type: none"> <li>o Based on the investigation, we conclude that the principal post was advertised and <b>Ms LIM-5</b> was shortlisted and went through the interview process.</li> </ul>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<ul style="list-style-type: none"> <li>○ Principal of <b>Luvhengo Secondary School</b> is the younger brother of the District Director.</li> <li>○ Principal of <b>Tshapasha Primary School</b> is the younger brother of the District Director.</li> <li>○ Principal of <b>Magiledzhi Primary School (LIM-6)</b> is the daughter in law of the District Director.</li> <li>○ Principal of <b>Khadzinge Secondary School (LIM-7)</b> is the cousin to the District Director.</li> <li>○ Principal of <b>Ladzani Primary School (LIM-8)</b> is the wife of <b>Mr LIM-7</b>, the cousin to the District Director.</li> <li>○ Proper procedures were not followed during the appointment of the acting principal of Wayeni Primary school (<b>Mr LIM-9</b>).</li> </ul>	<ul style="list-style-type: none"> <li>○ <b>Ms LIM-5</b> was recommended as the best candidate and was appointed for the principal post.</li> </ul> <p><b>Magiledzhi Primary School</b></p> <ul style="list-style-type: none"> <li>○ Based on the investigation, we conclude that the principal post was advertised and <b>Ms LIM-6</b> was shortlisted and went through the interview process.</li> <li>○ <b>Ms LIM-6</b> was recommended as the best candidate and was appointed for the principal post.</li> </ul> <p><b>Khadzinge Secondary School</b></p> <ul style="list-style-type: none"> <li>○ Based on the investigation, we conclude that the Principal post was advertised and <b>Mr LIM-7</b> was shortlisted and went through the interview process.</li> <li>○ <b>Mr LIM-7</b> was recommended as the best candidate and was appointed for the Principal post.</li> </ul> <p><b>Ladzani Primary School</b></p> <ul style="list-style-type: none"> <li>○ Based on the investigation, we conclude that the Principal post was advertised and <b>Ms LIM-8</b> was shortlisted and went through the interview process.</li> <li>○ <b>Ms LIM-8</b> was recommended as the best candidate and was appointed for the Principal post.</li> </ul> <p><b>Wayeni Primary School</b></p> <ul style="list-style-type: none"> <li>○ Based on the investigation, we conclude that Wayeni</li> </ul>	

	Summary of issues raised	Findings	Contraventions of policy/ legislation
		<p>Primary School was underperforming under the principal of <b>Mr LIM-10</b>.</p> <ul style="list-style-type: none"> <li>○ Most educators were not doing their work as expected by the Department.</li> <li>○ <b>Mr LIM-9</b> was brought to Wayeni Primary School during the Rationalisation and Redeployment process to fill in the HOD post after the resignation of <b>Mr LIM-9</b>.</li> <li>○ <b>Mr LIM-9</b> was recommended and appointed as the Acting Principal of Wayeni Primary School.</li> <li>○ The Recommendation of <b>Mr LIM-11</b> to act as an HOD was not approved by the Department. The school is performing since the arrival of <b>Mr LIM-9</b>.</li> </ul>	
<b>Recommendations</b>			
It is recommended that the matter should be regarded as finalised.			

### 3.7 INVESTIGATIONS INTO MEDIA REPORTS AND OTHER LEADS OBTAINED IN EASTERN CAPE

	Summary of issues raised	Findings	Contraventions of policy/ legislation
1	<p><b>DD Siwisa Primary School: Grahamstown Education District</b></p> <p>The allegations are that:</p> <ul style="list-style-type: none"> <li>○ <b>Mr EC-1</b> could not have been successful in the</li> </ul>	<ul style="list-style-type: none"> <li>○ <b>Mr EC-3</b> failed to advise the initial Selection and Interview committee about the District management plan which set out the selection and interview process.</li> </ul>	



	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>interviews for a position of Principal at DD Siwisa.</p> <ul style="list-style-type: none"> <li>○ <b>Mr EC-1</b> was the SADTU preferred candidate.</li> <li>○ <b>Mr EC-2</b> of NAPTOSA was initially recommended for the position by the SGB. But due to alleged SADTU influence the panel re-performed the interviews. We understand that in this process, the panelists were instructed to “over score” <b>Mr EC-1</b> above other candidates.</li> <li>○ <b>Mr EC-2</b> disputed the proceedings and the consequent outcome. As a result a settlement amount of R90 000 was paid to <b>Mr EC-2</b>.</li> </ul>	<ul style="list-style-type: none"> <li>○ <b>Mr EC-3</b> did not delay the process and wait for the appointment of the new SGB in accordance with the dates set out in the plan.</li> </ul>	
<b>Recommendations</b>			
Disciplinary action be instituted against <b>Mr EC-3</b> for failing to adhere to the dates contained within the District Management Plan. <b>Mr EC-3</b> should be held accountable for the fruitless and wasteful expenditure caused for failing to implement the Districts Management Plan on dates of shortlisting and interviews.			
<b>2</b>	<p><b>Allegations relating to Mr EC-4 of Uitenhage Education District</b></p> <p>It is alleged that:</p> <ul style="list-style-type: none"> <li>○ <b>Mr EC-4</b>, a SADTU Executive member, was appointed as a Chief Education Specialist (CES) having been a Principal of a school.</li> <li>○ He has never in the history of his employment submitted any certified copies of education</li> </ul>	<p><b>Mr EC-4</b> submitted an affidavit in support of not having his original qualification which he claims he lost due to fire. When he submitted the affidavit, he attached either uncertified or old certified copies of his qualifications.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>qualifications. He always makes affidavits and ends up being appointed on the basis of the affidavits.</p>		
<b>Recommendations</b>			
The qualifications of <b>Mr EC-4</b> should still be sent to SAQA for verification of authenticity.			
<b>3</b>	<p><b>Allegations At Mizamomhle Special School At Uitenhage Education District</b></p> <p>The allegations were that <b>Ms EC-5</b> an HOD in a special school was deprived of a post of a principal at the above mentioned school and a SADTU linked person, <b>Mr-EC-6</b> was recommended for the post, who by now has been suspended along with his Deputy Principal <b>Mr EC-7</b> for embezzlement of school funds.</p> <ul style="list-style-type: none"> <li>o A Circuit Manager (<b>Ms EC-8</b>) who apparently was not a member of SADTU noticed the misappropriation of funds by the School Principal and she raised the matter with Labour relations unit headed by <b>Mr EC-5</b> (CES drawn from SADTU). But strangely enough, the Principal was not charged, instead the Circuit Manager was charged with the intention to be dismissed, and as such she was ultimately dismissed, so as to save <b>Mr EC-6</b>.</li> <li>o Currently <b>Mr EC-6</b> (along with his Deputy Principal)</li> </ul>	<p><b>Ms EC-8</b> has since been dismissed from the Department on various charges.</p> <p>The matter of <b>Mr EC-6</b> is now held by the Provincial Office after it was referred to by the District Office.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	is suspended due to intervention of the Eastern Cape Standing Committee for Education after whistle blowing. <b>Ms EC-8</b> is ready to testify when need arises.		
<b>Recommendations</b>			
That no further action be taken in this regard.			
<b>4</b>	<p><b>Kwanoxolo Primary School at Port Elizabeth Education District</b></p> <p>The allegations were that:</p> <ul style="list-style-type: none"> <li>o The Principals' post profile required someone having an experience in teaching Arts and Culture in the primary school. <b>Mr EC-9</b> who had only a background of teaching IsiXhosa in grade 12 at Willhope Secondary School (A SADTU prominent guy) was recommended.</li> <li>o <b>Ms EC-10</b> who has a PhD degree and who was HOD in a primary school was not shortlisted, and on declaring a dispute she receive a handshake of R40 000 as a settlement from the department of education.</li> </ul>	<p>The matter raised as per the allegations has been dealt with at an arbitration level.</p> <p>Any further dispute should be done with the Labour Court, as the matter can be disputed at that level in so far as challenging the conclusions and recommendations of the commissioner in arbitration.</p>	None noted.
<b>Recommendations</b>			
No further action to be taken.			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
5	<p><b>Fumiskoma Primary School at Port Elizabeth Education District</b></p> <p>The allegations were that:</p> <ul style="list-style-type: none"> <li>o <b>Mr EC-11</b>, the Deputy Principal of Nxanelimfundo Primary School, with 19 years' experience as a Deputy Principal of a primary school applied for the post.</li> <li>o He was not recommended for the post instead <b>Mr EC-12</b> (then SADTU Motherwell Branch Secretary) who was teaching at Ndebebo SSS.</li> <li>o <b>Mr EC-13</b> a Circuit Manager under whom the school belongs, was not allowed to be a resource person but rather <b>Mr EC-14</b> (Circuit Manager who was a SADTU member) was deployed under instruction to be a resource person.</li> </ul>	<p>The matter raised as per the allegations has been dealt with at an arbitration level.</p> <p>Any further dispute should be done with the Labour Court as the matter can be disputed at that level in so far as challenging the conclusions and recommendations of the commissioner in arbitration.</p>	None noted.
<b>Recommendations</b>			
We recommend no further action.			
6	<p><b>Luthando Luvuyo Special School at Port Elizabeth Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o A post of a Deputy Principal: <b>Ms EC-15</b> (NAPTOSA) who was an experienced HOD of a Special school</li> </ul>	<p>The matter was dealt with at the Labour Court as per judgement dated 20 August 2015. In so far as the complaint relates and as far as conducting any investigation, the matter can only be dealt with by the Labour Court.</p> <p>The matter raised as per the allegations has been dealt with</p>	

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>came position 2 as per scores of the panel and <b>Ms EC-16</b> (SADTU member) with no experience of working in a special school whatsoever came position 1 as per scores of the panel.</p> <ul style="list-style-type: none"> <li>o When the SGB wanted to use their power to rectify the position and recommend <b>Ms EC-15</b> as the more appropriate candidate.</li> <li>o The SADTU Circuit Manager, who was a resource person, threatened the SGB not to do so. And as such <b>Ms EC-16</b> was appointed the deputy principal of the school.</li> </ul>	<p>at an arbitration level. Any further dispute should be taken to the Labour Court, as the matter can be disputed at that level, in so far as challenging the conclusions and recommendations of the commissioner in arbitration.</p>	
<b>Recommendations</b>			
<b>7</b>	<p><b>Khanyisa Special School for the Blind/Visual Impaired at Port Elizabeth Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o The post of a Principal was advertised in 2012 and interviews were conducted on 5 October 2012.</li> <li>o Amongst the shortlisted there was a Deputy Chief Education Specialist (DCES) – <b>Ms EC-17</b>, Principal of a nearby special school – <b>Mr EC-18</b> (who did not show up on the interview day) and <b>Mr EC-19</b>, who</li> </ul>	<p>The allegations were refuted by both <b>Mr EC-21</b> and <b>Mr EC-19</b>.</p> <p>No evidence could be obtained to substantiate the allegations.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>was a Deputy Principal at Khanyisa Special School for the blind/visual impaired and a post level one teacher <b>Ms EC-20</b> from Senior Primary without any background of a special school, but who was a prominent SADTU member.</p> <ul style="list-style-type: none"> <li>o <b>Mr EC-19</b>, the Deputy Principal had since crossed the floor from NAPTOSA as he was advised that the SADTU circuit manager <b>Mr EC-21</b> has pronounced that he was going to ensure that only SADTU members shall be considered for appointment.</li> </ul>		
<b>Recommendations</b>			
We recommend no further action.			
<b>8</b>	<p><b>Allegations at Jongisizwe Nkwenkwezi Senior Secondary School: Cofimvaba Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o <b>Mr EC-22</b>, the former school Principal, was formerly charged for a number of misconducts and the final sanction was demotion to a post of a deputy Principal.</li> <li>o <b>Mr EC-22</b> challenged the sanction but the status remained unchanged. The allegations also stated that <b>Mr EC-22</b> was not taken to the post of deputy</li> </ul>	<p><b>Mr EC-22</b> was demoted to a post of a Deputy Principal after he was found guilty in three counts of misconduct.</p> <p><b>Mr EC-22</b> is working at the District Office as currently there is no post of a deputy Principal within the Cofimvaba Education District. <b>Mr EC-22's</b> salary is reduced from the level of the Principal to the level of the deputy Principal.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>Principal but was seconded to the District Office.</p> <ul style="list-style-type: none"> <li>Mr EC-23: Acting District Director wrote letters stating that Mr EC-22 should be translated to an office-based post, which resulted as a promotion due to his Union affiliation.</li> </ul>		
<b>Recommendations</b>			
We recommend no further action.			
<b>9</b>	<p><b>Allegations at Entilini Senior Primary School: Cofimvaba Education District</b></p> <p>It was alleged that</p> <ul style="list-style-type: none"> <li>Mr EC-23: Acting District Director at Cofimvaba Education District had targeted someone who was not meeting the criteria to be appointed to the Principalship post at Entilini Junior Secondary School.</li> <li>Every time the shortlisting was done, Mr EC-23 would out of the blue call it to be redone. It was further alleged that shortlisting was done three times.</li> </ul>	<p>Mr EC-23 took a management decision and instructed Mr EC-24 to redo the shortlisting in managing the complaints that were lodged.</p> <p>Short-listing was re-done the second time as a result of the complaints received, and again a third time because the second round had too many short-listed candidates.</p> <p>No evidence could be obtained to substantiate the allegations.</p>	None noted.
<b>Recommendations</b>			
We recommend no further action.			
<b>10</b>	<p><b>Allegations at Mkhululi Junior Secondary School:</b></p>	Mr EC-25 obtained supplementary results in Accounting	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p><b>Cofimvaba Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o The Principal of the school, <b>Mr EC-25</b>, is a SADTU Branch Exco chairperson in Cofimvaba and does not have teaching qualifications.</li> <li>o He was having supplementary examinations until the College was closed down during rationalisation having not attempted to write his supplementary examinations and it was questionable how he became the Principal of a school being an under qualified teacher.</li> </ul>	<p>from the University of Transkei in 1992. <b>Mr EC-25</b> was awarded a Secondary Teachers Diploma from the University of Transkei in 2000.</p> <p><b>Mr EC-25</b> attached a letter to his application directed to the District Director of Cofimvaba explaining the contradiction between his certificate and the date of his professional certificate.</p>	
<b>Recommendations</b>			
The qualifications of <b>Mr EC-25</b> should still be sent to SAQA for verification of authenticity			
<b>11</b>	<p><b>Mpotulo Junior Secondary School at Cofimvaba Education District</b></p> <p>The allegations were that:</p> <ul style="list-style-type: none"> <li>o After the shortlisting in 2014 for a Principal post, <b>Mr EC-26</b>, (SADTU member), heard that <b>Mr EC-27</b> is earmarked by the SGB.</li> <li>o <b>Mr EC-26</b> convened a meeting on the night prior to the interview at Mzomhle Village with <b>Ms EC-28</b> who was going to be a scorer and teachers</li> </ul>	<p><b>Ms EC-28</b> was a scorer during the interview process at Mpotulo Junior Secondary School. <b>Ms EC-28</b> denied the allegations that resulted in <b>Mr EC-27</b> not being appointed.</p> <p><b>Ms EC-30</b> was appointed after <b>Mr EC-29</b> rejected the offer at Mpotulo Junior Primary School.</p>	None noted.



	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>representative. It was also alleged that the aim of the meeting was to use <b>Ms EC-28</b> to influence the SGB to score in favour of <b>Mr EC-29</b> against <b>Mr EC-27</b>.</p> <ul style="list-style-type: none"> <li>o <b>Mr EC-27</b> emerged as number three (3) due to underscoring by <b>Ms EC-28</b>.</li> <li>o <b>Mr EC-29</b> was number one (1) and <b>Mr EC-27</b> was made number four (4), but <b>Mr EC-29</b> declined the offer in favour of Maduna Junior Secondary School</li> </ul>		
<b>Recommendations</b>			
We recommend no further action at this stage.			
<b>12</b>	<p><b>Allegations at Gcingca Junior Secondary School at Cofimvaba Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o In 2013 shortlisting was done and the Acting Principal (<b>Ms EC-31</b>) was earmarked by the SGB based on her performance during her acting period.</li> <li>o The evening prior to the interviews, a panelist had a meeting with one of the applicants (<b>Mr EC-32</b>), which was arranged by <b>Mr EC-33</b>.</li> <li>o It was also alleged that panelists were given R500 each so that they underscore <b>Ms EC-31</b> so that she</li> </ul>	<p><b>Mr EC-32</b> obtained the highest marks during the interviews and was recommended by the panel for appointment. Three members of the panel denied having received R500 each.</p> <p>No further evidence could be obtained to substantiate the allegation.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p>maybe either be position four (4) or five (5).</p> <ul style="list-style-type: none"> <li>o The information leaked and parents organised their meeting and sent their delegation to the Circuit Manager: <b>Mr EC-34</b> downplayed the protest. It was further alleged that <b>Mr EC-32</b> emerged as a winner though he was not budging.</li> </ul>		
<b>Recommendations</b>			
We recommend no further action at this stage.			
<b>13</b>	<p><b>Allegations at Mpeko Senior Secondary School at Mthatha Education District</b></p> <p>The allegations were that</p> <ul style="list-style-type: none"> <li>o The “misbehavior” of school teachers attracted the media and received coverage on “Cutting Edge” .</li> <li>o In 2014 the Principal of the school retired and the post was advertised and shortlisting was done.</li> <li>o The resource person, <b>Mr EC-35</b> was changed and a new official was given an instruction not to carry on with the interviews but to shortlist and include the cousin to the District Director: <b>Mr EC-36</b>.</li> <li>o <b>Mr EC-36</b> re-advertised the post without consulting the SGB and the school’s community consulted the Premier’s office and the shortlisting had been</li> </ul>	<p>The interview was postponed three times and only two candidates were interviewed as other three candidates were no longer interested.</p> <p>The District Director refused to sign the recommendations by the panel because only two candidates participated in the interview.</p> <p>The Director-General intervened and gave instructions to re-advertise the post and the training of the SGB members.</p> <p>The instructions of the Director-General were followed and the shortlisting was scheduled to take place on 14 October 2015.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	postponed twice.		
<b>Recommendations</b>			
We recommend no further action.			
14	<p><b>Allegations at Mqanduli Village Junior Secondary School at Mthatha Education District</b></p> <p>The allegations were that:</p> <ul style="list-style-type: none"> <li>o <b>Mr EC-37</b>, a post level one teacher in the school belonging to SADTU was called for an interview despite his name was not there in the master list and he was interviewed as the sixth candidate.</li> <li>o <b>Mr EC-37</b> emerged as a winner depriving <b>Ms EC-38</b>, (NAPTOSA member), a deputy Principal at school and she came position two (2).</li> <li>o A dispute was declared and the appointment was set aside and the department was instructed to re-advertise the post.</li> <li>o The post was re-advertised in 2015 according to the allegations and <b>Mr EC-37</b> became a level one teacher and after the award was issued out of the deputy Principal (<b>Ms EC-38</b>) was the one who was supposed to act as the Principal unless she declined.</li> <li>o It was further alleged that the District Director: <b>Mr</b></li> </ul>	<p><b>Mr EC-37</b> applied for a post of a Principalship advertised in the bulletin volume 3/2012. <b>Mr EC-37</b> went through the interview process and was recommended and appointed. <b>Mr EC-37</b> was appointed as the Principal of Mqanduli Village Junior Secondary School in either of the post advertised in bulletin volume 2/2011, volume 1/2012 and volume 2/2012. However, <b>Mr EC-37</b> did not apply in any of the above-mentioned post.</p> <p>The documents of the second interview were not obtained, but <b>Mr EC-37</b> was appointed again in 2015 on the same post.</p>	

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	<p><b>EC-36</b> instructed the late <b>Mr EC-39</b> to call an illegal meeting and cause those people to vote in favour of <b>Mr EC-37</b> to act as the Principal against the law.</p> <ul style="list-style-type: none"> <li>o It was further alleged that the Department manipulated the SGB to recommend <b>Mr EC-37</b> for appointment of the Principalship post being at post level one (1) teacher against the deputy Principals and the HODs.</li> </ul>		
<b>Recommendations</b>			
Recommendations cannot be made as some of the documents are still to be obtained.			
15	<p><b>Allegations at Ngcobo Village Senior Secondary School at Ngcobo Education District</b></p> <p>The allegations were that during the appointment process of a Principal post, the deputy Principal, <b>Mr EC-40</b> was not shortlisted in favour of <b>Mr EC-41</b>, a post level one teacher who was a SADTU Branch secretary in 2014.</p> <p>It was also alleged that <b>Mr EC-41</b> was appointed as per instructions of <b>Mr EC-42</b> who was vocal indicating whom they are targeting for the post.</p>	<p><b>Mr EC-42</b> refuted the allegations. At the time of writing the report the recruitment file was still outstanding and therefore <b>Mr EC-41's</b> qualifications and experience could not be verified.</p>	
<b>Recommendations</b>			
The matter should be investigated further.			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
16	<p><b>Allegations at Ngcobo Education District: DCES – GET Curriculum, (Office-Based Post)</b></p> <p>It was alleged that</p> <p>The allegations were that <b>Mr EC-42</b> who was the Acting District Director, met with SADTU Chairperson <b>Mr EC-43</b> asking him to offer the name of the person who they would like to be appointed. It was also alleged that a name of <b>Mr EC-44</b> was put forward and he is currently a SES curriculum and a former SADTU Ngcobo branch in the executive that was led by the lifetime Ngcobo branch chairperson <b>Mr EC-43</b>.</p> <p>It was also alleged that during the shortlisting criterion was that only SESs were to be shortlisted to accommodate the decision.</p> <p>It was further alleged that another Union raised concerns and the District organised the police and securities to man the interview venue</p>	<p><b>Mr EC-42</b> was involved in the recruitment process of the DCES curriculum GET. <b>Mr EC-42</b> stated that he came with a criterion to shortlist as there were many applications and the panel was satisfied during the shortlisting process.</p> <p>The interview process was interrupted twice and the third time they called the police for security reasons.</p> <p>Recruitment file was requested but unavailable at the time the report was written.</p>	None noted.
<b>Recommendations</b>			
We recommend no further action.			

	Summary of issues raised	Findings	Contraventions of policy/ legislation
17	<p><b>Allegations regarding appointment of Mr EC-45 at Cofimvaba Education District</b></p> <p>It was alleged that:</p> <ul style="list-style-type: none"> <li>• <b>Mr EC-45</b> was appointed as the Deputy Chief Education Specialist without going through the interviewing process as there was a fear that some of the applicants were heavyweights for him to contest with.</li> <li>• It was also alleged that there was a meeting that was chaired by <b>Mr EC-46</b> where it was decided that fictitious interview papers must be filled and <b>Mr EC-45</b> to be recommended as the winner.</li> </ul>	<p>Based on the investigation, we conclude that the post of Deputy Chief Education Specialist was advertised and <b>Mr EC-45</b> was shortlisted and went through the interview process.</p> <p><b>Mr EC-45</b> was recommended as the best candidates and was appointed for the post of DCEs.</p> <p>We could find no evidence to substantiate the allegations.</p>	None noted.
<b>Recommendations</b>			
We recommend no further action.			
18	<p><b>Allegations pertaining to the appointment of Mr EC-47 at Cofimvaba Education District</b></p> <p>It was alleged that <b>Mr EC-47</b> was a post level 1 educator in 2007 and he was an applicant to the Post of Deputy Chief Education Specialist – Agricultural Science. It was also alleged that as prior the interaction between <b>Mr EC-47</b> and <b>Mr EC-46</b>, the then Acting Director, it was</p>	<p>We found that that the post of Deputy Chief Education Specialist (Agricultural Science) was advertised and <b>Mr EC-47</b> was shortlisted and went through the interview process.</p> <p><b>Mr EC-47</b> was recommended as the best candidates and was appointed for the post of DCEs. <b>Mr EC-47</b> denied paying <b>Mr EC-46</b> any money to be appointed.</p> <p>We could find no evidence to substantiate the allegations.</p>	None noted.

	Summary of issues raised	Findings	Contraventions of policy/ legislation
	agreed that <b>Mr EC-47</b> was going to be appointed no matter what, but he was required to advance some cash as he was not an executive member in his union.		
Recommendations			
We recommend no further action.			
19	<p><b>Allegations pertaining to the appointment of Mr EC-46 as District Director at Queenstown District.</b></p> <p>The allegations were that:</p> <ul style="list-style-type: none"> <li>• During the appointment process of a District Director, the former Manager of Grahamstown: <b>Mr EC-48</b> application disappeared in transit and as such it was not there on the day of the shortlisting. It was also alleged that it was done deliberately as he was a potential candidate in that at the time <b>Mr EC-48</b> was a Chief Education Specialist (CES) in the office of a Cluster Chief Director.</li> <li>• <b>Mr EC-49</b> who was apparently going to chair the panel. <b>Mr EC-46</b> was appointed as a District Director without being an applicant to the post.</li> </ul>	Based on the investigation, we found that the appointment of <b>Mr EC-46</b> was irregular as he did not meet the requirement for the post and he was not amongst the shortlisted candidates.	Procedural irregularity.
Recommendations			
We recommend the Department to re-advertise the Post of District Director at Queenstown District.			

## **CHAPTER 4: THE GATHERING OF VOICES**

This chapter reflects the salient aspects of the interviews with various stakeholders held by the Ministerial Task Team 2014 to 2015.

### **4.1 Interviews with provincial education officials**

The Task Team usually spent an average of two days at each Provincial capital, interviewing MECs, HODs, District Managers, representatives of all Teacher Unions and those who applied to offer their concerns to the Task Team. In one case, two Chief Directors were instructed by their HOD to be interviewed.

The sequence was usually a meeting first with the MEC for Education, followed by detailed and extensive input by the HOD. Thereafter, District Managers, usually but not always in groups, described the state of affairs in relation to the Task Team's brief. It was not possible to meet the MECs of all nine Provinces.

Initially the focus of the interview was upon what officials knew about the practice in their area of responsibility of the buying and selling of posts, especially but not only in relation to reports in the media. In each case the discussion inevitably went on to other kinds of irregularities, tensions, conflicts and contentious matters in the local education system to do with posts, appointments and promotions.

Discussion almost always led to commentary on the relation between the Districts and the Teacher Unions, SADTU especially. And then, with greater specificity encouraged by the Task Team chair, the District Managers and the Unions offered comment on School Governing Bodies (SGBs). Matters of "functionality", the capabilities of parent representatives, the roles of education officials and specific "challenges" were outlined, including numbers of suggestions for the refinement and alteration of SGB powers and practices. All these and further matters are discussed later in the Report.



#### **4.1.1 MEMBERS OF THE EXECUTIVE COUNCIL FOR EDUCATION (MECs)**

All the MECs spoken to declared their support for the work of the Task Team and endorsed its composition. Not unexpectedly, the Task Team has found each Province and its concerns different in important ways from those of others.

One area of concern encountered by the Task Team is that since 1994, there have been more than 80 education leaders in South Africa, counting Ministers, MECs, and HODs.<sup>45</sup> Such an extensive turnover makes significant and important continuity impossible. Furthermore, this rate of turnover creates an idiosyncratic tone to the priorities and emphases of the Department at national and provincial levels. For example, new MECs tend to announce plans which will distinguish their term of office from others, plans which rarely build on what their predecessors have built up and achieved. This is a factor which must contribute to the instability and inconsistency in the entire education system.

The most specific and detailed comments by MECs were those from Gauteng and the Western Cape. Whereas the Gauteng MEC said that “the major Union is in charge of education” in his Province, the Western Cape does not have a “major union” because of exact parity between SADTU and NAPTOSA. This appears to be a key factor in the stability of that Province’s educational system. Furthermore the Western Cape Provincial Department inherited and has achieved firm managerial control of education and so there is little official space for Teacher Unions to occupy or to usurp the functions of the Department. On the other hand, the Gauteng MEC acknowledged that his Province still has the deep marks of racial differences in terms of performance and efficiency and that in his view the education system in his Province is not conducive to transformation at this stage. It is not clear how the ‘paperless classroom’ fits in with this view.

Though the Gauteng MEC described the buying and selling of posts in his Province as “endemic”, apparently this is not a feature worth remark in the Western Cape, though we were told that nepotism and cronyism do occur in the awarding of posts. The Western Cape MEC and her HOD are strongly committed to the implementation of clear, firm legal systems

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<sup>45</sup> This figure was given to the Task Team by Yusuf Gabru, past Education MEC in the Western Cape.

of management as their dominant style.<sup>46</sup> By contrast, Gauteng is run on a basis of “tension management” and innovation of a more spontaneous and reactive kind, but the Gauteng MEC actually yearns for the “professionalisation” of the system.

The Task Team did not meet the North West MEC for Education, but instead received from the HOD there a detailed account of the political and professional issues that affect the administration of this Province. Despite or because of education in the Province being wholly in the hands of SADTU, the 2014 matrics did exceptionally well. More than 85% of the senior staff in the Department have been deployed there by SADTU after having served as Union office-bearers. Here is an example of SADTU functioning as a “conveyer belt” for educators to be rewarded with well-paid government jobs in administration and elsewhere, including the Cabinet. According to the HOD, SADTU determines well ahead of time which candidates for appointment at office and school level are preferred, and uses its influence in many ways to increase its grip on educational processes in this Province.<sup>47</sup>

Despite the fact that MECs are essentially political appointments, each MEC seemed free to outline to the Task Team his and her individual views about the legal and illegal processes of awarding posts in education. An example of this is the emphasis placed by the Free State MEC for Education. He asserted that School Governing Bodies (SGBs) “open us up to serious problems” but, in effect, he has no difficulty in principle with the idea of SGBs despite the unreliable decisions they sometimes make. He regards the teacher component as the main SGB weakness and wants the interviewing panel to be professionalised. He clearly opposes the notion of junior staff appointing their seniors. This led him to observe that this country has moved “too fast in terms of democracy”.

The Free State MEC regards Teacher Unions as a major problem because they “lack discipline” and play a role in “devaluing education”. However, he attributes the stability and success of education in this Province to a clear understanding that Unions act to protect

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<sup>46</sup> For example, the Western Cape is vetting the criminal records and qualifications of every principal and deputy; applications for posts are online and first sorted by computers; written tests for applicants to senior posts are being “piloted”; the Department is taking over the appointment of principals from SGBs; they want to implement performance agreement but principals have rejected this. Unions have commented that managerial approaches do not always work for professionals.

<sup>47</sup> Early in May, the North West’s Deputy HOD was held hostage overnight by SADTU officials over the unresolved matter of temporary teachers.

their members and the Department manages the system. This is in stark contrast to the situations in the North West and the Eastern Cape.

This MEC's fourth area of focus was upon how important principals are to school performance and the quality of education there. He regards principals as the "glue" in the schools. Consequently, the Task Team has picked up in its deliberations the central importance of principals to the quality and nature of education offered in schools.<sup>48</sup> As will become evident in our discussions with HODs and teacher unions, the pivotal role of principals and their mode of selection requires careful attention.

The Western Cape MEC for Education stressed the central importance of vigorous management by the Department in all areas of schooling, leaving only strictly regulated space within which the Department and the Unions interact. The equality in numbers and hence representation by NAPTOSA and SADTU makes this easier than otherwise. However, the basic assumption behind the approach to education administration in the Western Cape is that "corruption and bribery thrive on systemic weakness".

No meetings between the Task Team and the Mpumalanga or Limpopo MECs for Education took place.

What becomes clear from these examples of how Provincial Departments of Education are functioning is the tension and interplay between provincial government and Teacher unions. Where a Union is overwhelmingly strong and the Department is weak, the Union is likely to occupy the space and be influential in matters beyond the primary functions of the Union. The fuller implications of this for both the Unions and the Department need to be explored but the Task Team's general impression is that the strong preponderance of a Union or Unions in a province is not good for educators, officials and learners. For example, factionalism has emerged in SADTU and the Task Team has gained the impression that the provincial sectors of SADTU and NAPTOSA have established differing degrees of independence from their national bodies. One clear example of the need for thought and

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<sup>48</sup> The research undertaken and completed in 2015 by Professor Brian Levy and his UCT team into four Western Cape schools is most instructive in its focus on micro-level governance and political economy determinants of performance by schools.

discussion is that the name “SADTU” is almost never mentioned by top officials, thus making that Union “the elephant in the room” which is so powerfully present that people try to avoid noticing or making direct reference to it.

It is apparent that the Northern Cape is free from the scourge of the buying and selling of posts, and that the Unions there are exonerated from involvement in such practices. The Northern Cape MEC indicated instead that levels of conflict occur with SGBs over not always appointing their first recommendations and the extent to which SGBs are said to insist on having “ultimate leadership” in running the schools despite the fact that it is the Department which is responsible for the quality of education. This MEC stressed the importance of stability in the SGB system, making use, for example, of experienced parents whose children may have left the school.

This MEC said that the education system in the Northern Cape works because she and the HOD have the requisite experience, that they understand the Unions and that the maturity of the Unions assists the Department to resolve problems. [It is noteworthy that this is the only comment from an MEC about a positive relationship with Teacher Unions.]

#### **4.1.2 PROVINCIAL HEADS OF EDUCATION**

As the information from the interviews with these HODs becomes increasingly specific, it is increasingly unproductive to generalise. Thus the specific concerns of each HOD have been summarised for later analysis.

##### *Gauteng HOD*

- All this Department’s investigations into reports of the buying and selling of posts have failed to establish a single concrete example of this practice.
- This Province is centralising the recruitment and appointment of principals so as to “control the pattern of behaviour”.
- The high degree of influence by Unions needs to be addressed.
- The selection process should include a competence test for principals so as to reduce subjectivity in the process of recommending and appointing.

- The current SGB model is “a relic of the sunset clause” and needs to be relooked at as currently there is “abuse across the system”.
- Relook at principals as office-bearers in Teacher Unions.
- Re-examine the processes of recruitment and appointment in relation to inclusion and exclusion e.g. race, language, gender and class.
- Recognise that schools are “economic hubs”.
- SADTU is the “elephant in the room” that nobody talks about.

#### *Eastern Cape HOD*

- The five-year stand-off between the Department and the Unions has had the ironic effect of reducing competition and conflict of all kinds over posts.
- No solid information or views about SGBs were offered.
- Appropriate Union membership of applicants is a distinct advantage in being appointed to posts.
- The major sources of undue influence in choosing candidates are preference for those who are a “son of the soil” and those for whom there has been extensive and intensive lobbying.
- However, the education system and the process of appointments are generally sound, said the HOD.

A further meeting with the Eastern Cape HOD scheduled for 29 or 30 October 2015 failed.

#### *Western Cape HOD and Senior Management*

##### *Head of Department*

- The Department must select the principals.
- Applicants have to produce written statements and evidence of capability.
- Applicants for principals’ posts will undergo competence testing (costing R10 000 per individual).
- Perhaps there ought to be different kinds of SGB, enabling access by the poor [?].
- There should be professionalism in the management style of officials and principals.

- Decision-making between the Department and Unions should be a joint enterprise and not a process of information-giving alone.
- Principals are resisting the introduction of performance agreements.
- The education system should contain means of improving, rewarding and punishing the performance of principals and schools.

#### *Senior Managers (3 + 1)*

- There have been no reports from anywhere of the buying and selling of posts in the Western Cape.
- The processes of candidate selection are carefully and thoroughly controlled i.e. applications are received on line.
- The WCED wants to withdraw SGB powers to appoint SMT members.
- An objective competency-based test is given to prospective principals.
- The Department meets regularly with Teacher unions.
- The balance in the Western Cape between SADTU and non-SADTU Unions is 50/50.
- The qualifications, identity and police record of every principal and the deputies are being vetted.
- They recommend that the powers of SGBs to select appointees be re-examined, beginning with principals.
- It is “improbable” that 80% of SGBs are dysfunctional.
- Functionality does not mean the equality of all voices.
- Training is given to new SGBs.
- Resources Persons’ reports are thoroughly scrutinised.
- It is reasonable to expect that there will always be “some kind of influence in SGBs”. That influence should be mitigated by the presence of properly trained Departmental Resources Persons.
- Leadership is essential to the well-being of schools.
- The Department of Education is the only one in government which seeks to understand how to appoint the best people to schools and offices.

### *KZN HOD and Senior Management*

- Support for the work of the Task Team was offered by the MEC and HOD.
- They had received reports that Resources Persons at selection panel sessions were biased.
- Corruption being an individual matter, the Task Team is unlikely to have anyone who has been bribed come forward. Only the aggrieved will speak.
- It is likely that those who are speaking about the practice of buying and selling posts are angry because the Department was slow to appoint a Task Team. The KZN Department of Education suspended its own investigation in favour of the Task Team's work, but some preliminary work had been done.
- Except for the Ntuli case there is no specific instance of a post having been sold.
- The Department investigated allegations made by NATU about SADTU's alignment to COSATU but there has never been a case of the selling of posts or bribery.

### *Free State HOD*

- He acknowledged that appointments in this province do rely upon Union 'support'.
- There are manifest vested interests in the ways that SGBs work but there has been no hard evidence in this Province of the alleged buying and selling of posts.
- Problems are encountered with the ways in which SGBs select candidates for appointment such as the ways in which scoring of applicants point to the targeting of particular individuals.
- This HOD feels secure in his post by virtue of his carrying out of the MEC's demands and the use of a management structure based on Chief Directors. Managers are not permitted to be members of a Teachers' Union. When challenges from Unions arise, he confronts them directly.
- This HOD also stressed the importance of principals in schools.
- The South African Schools' Act puts principals under stress because of the powers which it grants to SGBs.
- It is his view that responsibility for appointments should be taken away from SGBs. The Department should take responsibility for its employees. He is wholly opposed to outsourcing the selection of applicants.

### *North West HOD*

- The dominant Teacher Union (SADTU) in the Province controls, manages and influences the appointment at schools and in the Department.
- Every three years, when SADTU holds its elections, those who lose their positions are redeployed to senior posts in the Department irrespective of whether they are qualified or not or whether there is a vacancy or not.
- This HOD admitted that he has been “tainted by forms of coercion” and once authorised an irregular appointment.
- The HOD described techniques used by SADTU to gain its desired ends.
- He gave an account of why no action was taken in response to the NEXUS Report which highlighted numerous cases of serious and questionable actions by officials and Union members.
- Having centralised the appointment of principals, they have found that corruption went down to lower post levels.
- He recommended a ‘wider’ investigation into the Education System.
- A “professional team” should manage professional appointments.
- He said that his Department has so many cases of wrongdoing that if he asked the SAPS to follow them up, it would amount to closing down the Department.

### *Mpumalanga HOD*

- The Mpumalanga HOD pointed out that responsibility for the appointment of educators had been delegated to the Districts.
- The HOD said that if SGBs were “illiterate” then the chances of manipulation in the appointment processes was high.
- The buying and selling of posts is likely to occur at SGB level.
- It was evident that inappropriate appointments were deleterious to both schools and learners.
- During the process of selecting principals, a Circuit Manager joins the Resources Person to advise the selection panel.
- In this Province, SADTU holds marches to have officials removed from office.



Human Resources and Labour Relations managers in Mpumalanga had the following to add:

- There have been no reports or charges relating to the buying and selling of posts in Mpumalanga. There are only allegations.
- It is not possible to remove SGBs from the appointments process.
- The SADTU teacher members of the SGB will favour a SADTU principal.
- The Resources Person advises the school on the drawing up of an appropriate advertisement.
- Teachers should not be on the panel which selects the principal.
- Proposal: the appointment process be done by the HR Department.
- The Departmental representatives at the selection process should be persons of quality.
- There ought to be competency tests for principals, such as in the Western Cape.

#### *Limpopo HOD and Senior Management*

The HOD in this province has been Acting in this position since 2014.

- He has not personally come across any instance of the buying and selling of posts.
- SGBs are of two kinds: the highly competent urban variety, and those in rural, semi-urban and township locations which are comprised of “pensioners, old ladies and grandfathers”.
- Contestation occurs frequently in these latter SGBs between Circuit Managers, Unions and the SGBs, including complaints against Unions using their power to influence SGB preferences. For example, there has been SADTU’s dirty tricks campaign against non-SADTU principals.
- There are SGBs that need support from the Circuit and others have had to be removed from carrying out certain actions e.g. making recommendations for posts.
- SGBs tend to focus on finances rather than governance. If the power of SGBs to handle finances were removed, “most people will no longer be interested in being members”.
- SGBs in towns “do a great job”.
- There are no Departmental rules against senior managers being Union members. Being a manager and a Union member threatens objectivity.

- Senior managers sometimes transmit Departmental information to Unions.
- This HOD has made his position clear re Unions: he will not become involved in operational issues and will interact with them only when there are challenges.
- SADTU has tried to get preferential access to Departmental information since they are members of the Tripartite Alliance.
- SADTU has never offered to influence policy.
- This HOD is deeply concerned about the quality of recently qualified teachers.
- He supports the removal of powers of SGBs to make appointments.

#### Limpopo Senior Management

- Irregularities such as nepotism have been reported, but no formal investigations were instituted.
- There have been no reports of the buying and selling of posts and there have been no cases involving the exchange of money.
- These Managers are aware that SADTU is alleged to have given a list of six names to the Department, demanding that they be appointed to senior positions.
- It is a “good thing” that SGBs are the main drivers of the employment process.
- Challenges faced by SGBs are the scarcity of literate parents and the racism and sexism in the former Model C schools.
- During the interview process, SGBs are inclined to add “further criteria” for short listing so as to favour their preferred candidates.
- The selection of candidates for promotion posts is influenced by SGB members having formed associations with established teachers at their school.
- Functionality of SGBs is affected by circumstances such as poverty and access to electricity.
- Choosing and making full use of “best teachers and principals” is influenced by factors such as management, practical classroom competence and mistakes in the selection process.
- During the selection process, “observers” can change into “drivers of the process”.

- SADTU's exploitation of its influence and power as well as its political alignment have affected the work of the Department to the extent that the Union is now a threat that needs to be dealt with.
- Some SGBs manage to resist such pressure from SADTU.
- A way to tighten the system without removing SGB powers should be found.
- The HR section has never had to deal with a cadre deployment case.

#### *Northern Cape HOD*

- The HOD outlined the step-by-step procedure followed by his Department in working with SGBs in the appointments process.
- Whereas the SGB appoints the selection panel, the Department compiles the short list for schools. After the interviews, the SGBs make commendations, with reasons.
- A District team scrutinises recommendations for school HOD posts and if their recommendation is different from that of an SGB, they must provide reasons for doing so.
- There are no major problems with SGBs: they "tend to do the right job if properly trained".
- The Department has no problems in the appointments process with SADTU. Their role as observers is acknowledged, and no deals are cut with the Union. There is full agreement that all decisions should benefit learners.
- There have been few grievances related to appointments during the last three years.

#### *Northern Cape Senior Management*

- Though it is likely that there is corruption in the filling of posts, no allegations of this have been substantiated.
- Teacher unions do get involved in Human Resources matters despite being "observers" in the process, but this is a use of political power.
- When interviews are held for principals' posts, the Circuit Manager represents the Department to ensure that "the process is tight".

- In former Model C schools there is no Departmental representative present at SGB selection meetings.
- The Department has to deal with “a dominant Union” which can only be resolved internally and by a thorough checking of the system.
- Few grievances occur annually and are dealt with as unfair labour practices.
- There has been no instance of a person from “another Union” not appointed for that reason.
- Both rural and former Model C schools apply the principle of ‘a son of the soil’, which implies “anti-transformation”.
- SGBs are there to represent the community and to ensure that all decisions are in the interests of the learners. It is not in the interests of the country to take away powers of the SGBs at this moment.
- It is acknowledged that SADTU national has repudiated the unproved allegations that SATU influences the appointment of educators.

#### **4.1.3 INTERVIEWS WITH DISTRICT MANAGERS**

*The emphasis in this section of the Report falls upon what the Task team was told by District Managers in all Provinces about the buying and selling of posts, undue influence in appointments, and concerns about School Governing Bodies.<sup>49</sup>*

##### ***The buying and selling of posts – what District Managers told the Task Team***

District Managers from all Provinces said that only explicit instances of the buying and selling of posts had come to their attention despite the opinions of Unions, MECs and HODs that this practice is “widespread”. Managers acknowledged that this practice is possible, that there are suspicions, they knew that there were “irregularities” but, they averred, there are no hard facts concerning this and little evidence of overt corruption. The refrain was echoed by Teacher unions.

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<sup>49</sup> See Addendum 1 for greater details of what was offered to the Task Team by provincial District Managers.

The only conclusion possible here is either that there is little or no buying and selling of posts or that education officials are in implicit collusion with the Unions to maintain a conspiracy of silence about the practice of buying and selling posts.

***On the exercise of ‘undue influence’ in recruitment and appointments – opinion from District Managers***

District Managers were considerably more explicit in acknowledging how ‘undue influence’ persuades SGBs to recommend particular candidates for appointment.

The main kinds of undue influence mentioned by District Managers were:

- Parents and teachers demanding appointment of “a child of the soil’ i.e. a person who has come from and belongs to that community.
- Active interventions by Union members at selection panel meetings instead of being only impartial observers. This is confirmed by what the SADTU representatives at provincial level informed the Task Team.<sup>50</sup>
- Biased and skewed scoring of interviewees by selection panel members.
- SADTU presence at meetings “creates problems”.
- Officials who are also Union members.
- Threats, intimidation, and fear induced by SADTU.

District Managers did not mention any other of the ways of influencing the outcomes of appointments mentioned by many other people who were interviewed such as cadre deployment, bribery, patronage, nepotism and a variety of tricks and subterfuges. *It is quite likely, for example, that a number of District Managers are in their post because of cadre deployment.*<sup>51</sup>

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<sup>50</sup> If, they said, we see a selection process going awry, it would wrong for us with our better understanding not to intervene.

<sup>51</sup> It is known, for example, that all the Deputy Directors-General in the Department of Basic Education are SADTU members and attend meetings of that Union. That being the case, it is not improbable to say that schooling throughout South Africa is run by SADTU. The significance of cadre deployment in South Africa’s education system is discussed below in Chapter Four.

***It is puzzling to the Task Team that District Managers never mentioned that principals might exercise influence over decisions by the SGB. Accusations of this kind came from Union representatives.***

District Managers mentioned a range of solutions to the exercise of undue influence.

- The majority of District Managers recommended that the powers of SGBs to select and recommend candidates for appointment be removed.
- The responsibility of the entire appointments process should be given to Districts.
- Train officials in Departmental policies and urge Unions to follow them as well
- The Department needs to manage the calling of SADTU and NEHAWU meetings during school hours.
- No District Manager argued for retention of the current status of SGBs.
- It was suggested that the function and purpose of SGBs be revised.
- District Managers made repeated calls for more, further and more appropriate training of SGBs. **The irony is that the Districts are responsible for training SGBs.**
- The restructuring of the process of selecting and interviewing principals was called for
- District Managers made it clear that pressure by Teacher unions has to be resisted.
- The current “broad discussion” within the ANC and SADTU about the need to give priority to competence when appointing senior managers.
- Limpopo District Managers expressed the urgent need to strengthen the resolve of Circuit Managers to resist undue influence by Unions.

***It is highly significant that the District Managers never mentioned the presence of undue influence in office-based appointments or in the decisions taken by officials. The Task Team regards this as a disturbing silence.***

Despite their defensiveness, these observations by District Managers show distinct and encouraging signs of professional unease at the state of affairs in education. Though a proportion of them will conform to SADTU or NAPTOSA diktats, their position as Managers appears to provide them with a sense of how important professional priorities are, priorities

that serve broader purposes than Union demands. It is possible to say this even though there are question marks and doubts about the desire of District Managers to take control of appointments. Is it to make the bureaucratic working of their job easier? Does it guarantee that the process will be free of undue influence? Does locating the appointments process within the Department make it easier for deployed cadres to ensure more directly that their candidates are appointed? These doubts remain in part due to the failure of District Managers to demonstrate critical or analytical summations of their own positions and the workings of their District offices. Their intense and exclusive focus on problems with the Unions and SGBs leaves an impression that they want to deflect attention away from themselves.

It is here that the relationship between Teacher unions, SGBs and Districts/Circuits comes into play. Managers said that, for example, SADTU takes charge if Circuit Managers do not act. Unions are experienced as powerful and threatening but we were told that clear leadership by SGBs is the solution to that problem. These are the very SGBs that District Managers were so negative about.

***On School Governing Bodies (SGBs) and appointments – how District Managers regard them***

In Mpumalanga, SGBs are regarded as having been politicised and that, combined with pressures exerted by unemployment tend to make people behave unethically. Undue influence is also made possible by the incapacity of SGB and community levels of understanding of the appointment processes, the role played by the Resources People and “anomalies in the system”.

As will be evident in the comments which follow on SGBs themselves, much of what is not satisfactory about them is attributed to the lack of adequate training of SGB members. The limited formal education of parents, their inexperience and their restricted knowledge of what attributes the different posts most require puts them at a disadvantage and makes them vulnerable, it is said, to undue influence by teachers, Unions and others. For example,

to appoint a Deputy Principal to replace the Principal automatically at the same school can be regarded as a form of undue influence.

District Managers had strong and firm views about SGBs. The Task Team was informed, for example, by Managers from Gauteng that, at a national meeting of 81 District Managers recently, *not one argued for the retention of SGBs in their present form*. That general opinion was given a particular focus when a Free State Manager, arguing for a reduction in SGB powers, said that SGBs in particular schools in that Province are being used to resist transformation.

The parent component of SGBs received a significant number of negative comments, including those made about undue influence, their vulnerability to influence, the lack of adequate education among the parents elected to the SGB, their diminishing interest in serving on SGBs and their ulterior motives for wanting to be elected onto SGBs.

The Task Team received wildly fluctuating figures when Managers asked about the ‘functionality’ of SGBs in their Districts particularly in relation to the appointment of School Management Teams (SMTs) and principals. It was recommended that SMT appointments should be done by the Province. There is no doubt that District Managers regard the majority of SGBs as dysfunctional in numbers of ways, here with particular reference to the appointments process. Most of those which struggle to perform their roles are in the rural areas and poverty afflicted townships.<sup>52</sup>

It is as well to recall that SGBs carry major responsibilities for the school curriculum, its language, admissions and gender policies, financial and infrastructural concerns and with matters such as discipline and other management functions. So when the question of ‘functionality’ arises, the question must be, “In relation to what?” This is because SGBs will be adept in some areas and not all. What benchmark is being used to measure ‘functionality’? If it is those SGBs in middle-class suburbs, supported by professionals with

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<sup>52</sup> See the Report to the Minister of Education 2003 ‘School Governance in South African Public Schools’ Chapter 6 which defines functionality as determined by a number of factors, implying more than paperwork and the extent to which functionality in one context is different from that in another. This Report has not been made public by the Department.



high incomes, are the models to which all SGBs ought to aspire, then a particular form of reality is being presupposed.

If the existence of SGBs as a fourth democratic tier (national, provincial, local and educational) in South Africa is taken into account, and if SGBs represent the most direct means by which citizens and communities actually interact with the state, then thought has to give to what it is about SGBs that should be preserved and what might it be wise at this stage to change.

In the case of the Task Team's mandate, the focus must be upon the capacity and suitability of SGBs in their present form to manage the recruitment and selection of candidates for appointment in such a manner that the procedures are strictly followed, that no undue influence is brought to bear on decisions and that the candidates best suited to the needs of the school and community are recommended for appointment. Variations of this from suburb to suburb, suburb to township and from urban to rural areas will and should occur.

The question must be put: "To whom should SGBs account?"

District Managers made a series of suggestions for changes in the processes for the appointments of candidates. Among these were:

- Formalise the roles of the Departmental Resources Persons.
- Use outside panels when there is insufficient expertise within an SGB.
- Remove the appointment of principals from SGBs: this view is from across all Provinces.
- Change the composition of SGBs so that junior post levels do not interview seniors.
- Elect SGBs a year before they assume office so that they can be prepared adequately for their tasks.
- Use retired principals to assist SGBs.
- Develop a model whereby experts sift and short list candidates and then SGBs interview and recommend appointments.

- Improve the training of SGBs so as to understand their role instead of removing their power to recommend appointments.
- SGBs are a good thing in themselves but their levels of commitment and morality need uplifting.

This summary represents the views of District Managers.

The Task Team meticulously interviewed representatives from all Teacher unions (except NATU which avoided meetings) at national and provincial levels.

#### **4.1.4 INTERVIEWS WITH THE TEACHER UNIONS**

All Teacher unions in South Africa were invited to respond to seven questions drawn up by the Task Team by means of interviews and discussion as well as in writing. The Task Team met with national and provincial bodies of NAPTOSA, PEU, SADTU and SAOU. A meeting with NATU took place only at the outset in KZN, despite their being offered other opportunities to meet the Task Team.

The seven questions were:

1. The Task Team has been established to investigate the alleged selling of posts to teachers and principals. As Union leaders, to what extent do you believe this to be a prevailing practice?
2. What position has your Union adopted regarding the allegations in the media reports?
  - (a) Have you made public statements to the media?
  - (b) Have you communicated with your constituency about the media reports?
3. Are you aware of allegations levelled against any member of your Union? If so, what action was taken? Please provide details.
4. Are you aware of any allegations against any members of any other teacher union?
  - (a) Is this allegation about the selling of posts?
  - (b) Have any of members of your Union been prejudiced or unable to secure appointments because of the action of the other Union members? Please provide details.
5. What policy and procedural changes could your Union recommend to strengthen the system of appointment of educators?

6. Are you aware of any international best practice that in your view could assist to strengthen the system of recruitment and appointment of educators?
7. What support to the work of the Task Team is your Union prepared to give?

The following is a synopsis of the Task Team's records [archived by the Task Team] from the interviews with the leadership of each Teacher Union, and with reference to the written material which they all were invited to submit.

In relation to the information asked for in Questions 1 and 2, each Union made it clear that they deplored the practice of the selling of posts where it exists, that they do not engage in this as Unions, and that in addition to the public statements that they have made, they have encouraged their members to bring instances of this to the notice of the Task Team. Any member of theirs who engaged in such activities would be disciplined.

No Union at national level was able to provide the Task Team with specific instances with corroborative evidence that any of their members were guilty. However, SADTU national did provide examples of interventions which it had made in two instances. Neither had been brought to finalisation.

All Unions acknowledged that the selling of posts exists – SADTU national called the exchange of money and other favours for posts “wide spread and under reported” – but they pointed out that this was but one, perhaps a minor one of the many forms of undue influence and corruption at school and Departmental levels. For example, NAPTOSA urged attention to the endemic practice of “cadre deployment”.

#### **4.2.1 INTERVIEWS WITH NATIONAL OFFICE-BEARERS FROM TEACHER UNIONS**

##### **4.2.1.1 National Association of Teachers of South Africa (NAPTOSA)**

The Executive Director deflected attention from his Union by:

- (a) objecting to the inclusion of all Unions in the Task Team's enquiry; and
- (b) urging the Task Team to investigate the role of SGBs in the selling of posts.

The Executive Director undertook to provide examples of malpractices in post allocation to the Task Team. [These have failed to arrive.]

The Executive Director alleged that:

- Governing bodies are not adequately trained to deal with the appointment processes
- In most rural areas there are no educated parents and thus the principal is the only one who guides and influences the SGB
- He is aware that malpractice occurs
- Principals and District officials need to be trained to conduct the process of interviews and recommendation and to provide support to schools.

#### **4.2.1.2 PROFESSIONAL EDUCATORS' UNION (PEU)**

This Union's Chair expressed concern over instances where non-members of particular Unions were prevented from being appointed and also where certain Unions recommended unqualified members for posts. The Chair offered to bring an instance of malpractice to the Task Team.

The PEU has no problems with current policies but it is in their implementation where problems occur. Departmental officials should play a bigger role in the selection process and be the ones who do the scoring during interviews.

PEU undertook to provide written responses to the seven questions.

#### **4.2.1.3 SOUTH AFRICAN DEMOCRATIC TEACHERS' UNION (SADTU)**

Initially SADTU was represented by their legal advisor but later the Union's General Secretary and his Deputy presented an eight-page response to the Task Team's questions.

In their opinion, "the practice of selling posts whether through the exchange of money or other favours such as sexual favours is wide spread though under reported. The under reporting can be attributed to the fact that the seller and the buyer of the post operate in high secrecy and in some instances with intimidation".

SADTU pointed out that it had been engaged in combating forms of malpractice since 2006. In response to media allegations, it has publicly distanced itself from such actions and called upon the ELRC and SACE to conduct enquiries into such practices.

SADTU has made clear at every opportunity and from every platform its condemnation of the buying and selling of posts. The Minister was assured of support for her initiative to investigate the matter.

Furthermore, SADTU called upon the North West Department of Education to make public the NEXUS Report about the selling of posts in its Districts. SADTU wants to act against those provincial leaders if they are proved to have been engaged in “this backward practice”. SADTU has already acted against one of its leaders in KZN but this could not be concluded because those who made the original allegations refused to “co-operate”. Much the same occurred in their investigation into allegations about members of their Soweto branch.

SADTU said that it has heard allegations not only about Union members but normally hears them about Departmental officials.

SADTU emphasised the absolute difference between a Union sanctioning or encouraging malpractices and its members acting as individuals, even those in senior positions in the Union.

SADTU offered eight practical rather than conceptual recommendations to strengthen the system of the appointment of educators. All change, it insisted, should occur via negotiation in the ELRC.

1. The Department should act against adverts designed to suit certain individuals.
2. Review the processes of sifting, short listing and interviewing. [No indication of how or why.]
3. Introduce Union observers during the sifting process.
4. No criteria should be added during the sifting process.

5. The Departmental Resources Person should be empowered to report any irregularity to the District Manager and the SGB.
6. The District and the Circuit, in addition to the Resources Person, should observe the panel's procedures i.e. Departments should play a bigger role in the appointment process.
7. The SGB should follow the process as outlined in "the resolution" [ELRC?] The SGB needs to endorse the success of the correct process, not the panel itself. The SGB panel must be trained to understand the curricular needs of the school and the specific requirements of the post so as to prevent manipulation "by any official whether from the teaching staff, principal SGB or the Department". [The absence of Unions from this list is remarkable.]
8. Observers should be prevented from putting undue pressure on the panels. SADTU further urged that:
  - The ELRC conduct research into international best practices for the recruitment and appointment of educators for attention when "amending the current recruitment resolution".
  - Changes to appointment procedures should be negotiated through the ELRC.
  - Appointments should be made on merit alone.
  - SGBs should be empowered and not limited.

SADTU asked for permission to submit "amplified submissions with supporting documents".

#### **4.2.1.4 SUID AFRIKAANSE ONDERWYS UNIE (SAOU)**

This Union was represented by its president, general secretary and their advocate. In their preamble, SAOU said that it sought a fair, objective and transparent process for the appointment of educators. The system should respect labour rights, the Constitution, administrative justice, the law and the ELRC collective agreements. SAOU has come across no instances of the selling of posts.

The following are problem areas in the system:

- The deployment of cadres by big unions with the result that their members are influential at all levels of the Department.
- Problems occur when the third nominee and not the SGBs first and second choice is appointed by the Department.
- Observers do not always behave objectively and dispassionately.

In their view, parents from all strata of society are capable of using the SGB system of appointments constructively. The weak area is not the poor or rudimentarily educated parents but the source of irregularities in this regard is located in the District Office.

The General Secretaries of SAOU, NAPTOSA and SADTU meet every few weeks. They have discussed alternative models for educator appointments but have found nothing more suitable than what he have in South Africa. It would be deleterious if the system were made even more cumbersome than it is. Districts are not coping well with the system as it is.

The General Secretary of SAOU warned that if powers to appoint were removed from SGBs a mass exodus from public schools by Afrikaners could take place.

#### 4.2.2 INTERVIEWS WITH THE LEADERS OF PROVINCIAL TEACHER UNIONS<sup>53</sup>

##### **NATU**

**More specific detail of what representatives from the provincial sectors of the Unions is listed in Addendum II**

From an analysis of the responses from all Teacher Unions in nine provinces to the seven questions and their follow-up comments, seven themes or areas of focus emerged. These are:

- a. The buying and selling of posts in education
- b. Other forms of influence in appointments
- c. Alleged influence of SADTU on the education system

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<sup>53</sup> See details in Addendum II of what each Union contributed to the interviews with the Task Team.

- d. Teacher unions and Cadre Deployment
- e. Unions and the Department of Education
- f. The Unions and School Governing Bodies
- g. Observers and Resources Persons.

a. The buying and selling of posts

All Unions were clear in their condemnation of this practice and they declared that they had taken care to inform their members about the illegal and corrupt implications of such actions. Unions are in no doubt that this practice does occur but no specific or substantial cases had come to their notice. Unions were keen to distance themselves from this practice and the Task Team was asked specifically to make an absolute distinction between the Union's policies and the possibly errant behaviour of individuals who are Union members. The Task Team was asked to make that distinction even in the case of senior Union office-bearers. In other words, the Task Team was called upon to absolve the Unions and blame the individuals.

Unions in three Provinces were doubtful about whether this practice was taking place in their Districts.

b. Other forms of influence in the appointment of educators

Every Union except SADTU stated that various forms of influence are brought to bear on SGBs and the Department in the application, selection and appointment processes. There is no doubt in the mind of the Task Team that many forces outside due process are at work during the selection and appointment of educators. Union preferences, community preferences ('son of the soil'), pre-selection pressures and so on are present throughout the entire sequence of steps.<sup>54</sup> Unions are convinced however that there are multiple forms of interference such as from observers, Resources Persons and bribery. Furthermore, they claimed that there have been examples of nepotism, favouritism, and exploitation of the

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<sup>54</sup> The 2011 NEXUS Report into allegations of post reservations in one North West District lists the following kinds of alleged influence: close relationships with SADTU, appointment on instruction from SADTU, reserving of posts for individuals, earmarking SADTU officials for promotion, the appointment of a wife, the sale of a post and so on. (page xv).



advantages of belonging to one Union rather than another. The major matter of cadre deployment is given individual attention below.

Unions revealed little or nothing of their techniques or the specific transgressions by others. In other words, this was all kept at the level of safe generality. Only representatives from PEU alleged unambiguously that Departmental staff, as SADTU members, influence the workings of SGBs.

Though most SADTU representatives declared that their behaviour as observers at selection panel meetings was that and that only, other SADTU interviewees made it clear that the SADTU observers and the Departmental Resources Persons play a much more active role than that especially in assisting SGBs follow the correct procedures, which SADTU admits doing when necessary.

c. The alleged influence of SADTU

SADTU is highly conscious of the negative public image it has achieved/has been given over the matter of the buying and selling of posts and perceives reports about its alleged misuse of power and influence, reports of its disruptive campaigning and its dominance of many educational areas as an orchestrated attack on itself as well as on the Labour Movement, the Tripartite Alliance and the ANC.

Owing to its massive majority in most provinces, SADTU disarmingly attributes the high frequency of the appointments of its members to desirable posts at schools and offices as the sheer effect of demographics and the superior quality of its members. Thus there is no abuse of its power or of manipulation of the system.<sup>55</sup>

Non-SADTU Unions, with perhaps the exception of PEU, are muted in their criticisms of the situation and are disinclined to be specifically critical, making comments which are tempered by generalities.

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<sup>55</sup> In the light of this, it is of interest to note SADTU's recent laying of charges over a "jobs-for-cash scam" against one of its KwaZulu-Natal leaders. 'SADTU suspends jobs-for-cash official'. *City Press* November 08 2015.

But what seems extraordinary is that no Union shows any awareness of the need to step back and survey the broader picture of what is happening. In other words, they are defensive of their own positions and avoid reflecting on strengths and weakness or challenges despite their position as an important sectors in the field of education. There has been little sign of the critical maturity one might expect from well-established organisations.

For example, a SADTU representative said to the Task Team: “In KZN, SADTU is education and education is SADTU”. This megalomaniacal assertion suggests that the exercise of specific forms of power and influence is “education”. Nowhere in such an attitude can one see concern for the learners, the parents or the communities. The Task Team has found that six and possibly more of the nine provinces are where SADTU is in *de facto* charge of the management, administration and priorities of education there. Therefore the Task Team cannot accept the bland and blameless version of itself that SADTU has offered. It should not be a Union’s function to be both referee and player.

#### d. Teacher unions and Cadre Deployment

What this appears to mean is that SADTU and other Unions are able to ramify their positions and influence as well as reward chosen individuals by means of locating them in offices and schools to the benefit of the recipient and the advantage of the Union. This practice displaces learners, parents and communities as the first priority because cadre deployment now has come to do with power, influence and material gain.

Early in the 1990s, the liberation movement needed to place its cadres in influential government positions in the process of dismantling apartheid. Twenty-five years later, in the case of SADTU and other agencies, this practice appears to have degenerated into the exploitation of power. This means in turn that the original vision of transforming education into a vehicle for political maturity, educational justice, economic viability and lifelong learning has been lost.

In the North West, 85% of senior positions have been “deployed” there by SADTU. These individuals have been rewarded for service to the Union with well-paid jobs in the

Department whether there is a vacancy or not and/or whether the individual has appropriate skills and qualifications or not. This is not to imply that SADTU people are not usually highly skilled individuals, but SADTU appears to have saturated schools staff, principals, SGBs, Circuit and District offices plus the Head Office with people whose loyalties to their Union are meant to supersede other considerations.

Add to this the more obvious of SADTU's techniques for dislodging officials and principals not to its liking. These methods are the holding of marches, demonstrations, office invasions and strikes. It is alleged that also character assassination, smear campaigns and forms of threat and intimidation, and even more serious methods are reputedly resorted to. The picture that then emerges of an organisation without a central vision of its role so as to prevent chaotic and disruptive activity. It appears that high value placed on militancy for one's Union is valued more highly than any other qualities which the teacher members have.

All questions from the Task Team about cadre deployment were rebuffed without discussion or debate. SADTU KZN remarked, for example, that cadre deployment does not occur as its officials achieve a variety of posts in and out of education, "like any other member". The same question to SADTU national was brushed off in a similar way.

Though there is no direct link between the buying and selling of posts and cadre deployment, the Task Team regards the evident practice of cadre deployment in a very serious light.<sup>56</sup> Its presence is indicative of enormous power and influence by a Union which seeks to entrench itself repeatedly and inexorably. As a form of 'undue influence' or corruption, it opens the door for the use of unorthodox and illegal means to gain advantage. The buying and selling of posts is one such means.

The implication of such a culture of patronage and advantage-seeking which is dependent upon Union support is that service to the Union is placed above loyalty to learners, colleagues, the community and their employer.

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<sup>56</sup> Information from MECs, HODs and others confirm its extensive reality.

The practice of cadre deployment is deeply resented by non-SADTU Unions because it can be used to disadvantage others. However, the Task Team does not believe that other Unions are above placing their supporters in strategically advantageous positions.

Concerns about the effects of cadre deployment were expressed mainly by NAPTOSA and PEU. NAPTOSA Limpopo went so far as to allege that SADTU “runs” education in that Province. It also accused SADTU of using power unduly. PEU in the same Province alleged that non-SADTU members are evicted from their posts to make “a vacancy for a member they [SADTU] want in”. PEU said that the advantage of SADTU membership are (a) access to higher posts regardless of qualifications and (b) that policies can be circumvented as Circuit Managers, being SADTU members, will not act. This Union added that there is undue influence by SADTU in SACE, where it has 90% of the Council.

However self-interested a proportion of allegations about cadre development might be, there is a rancorous and hostile tone to these accusations that goes well beyond competition or the exchange of differences. SADTU’s preponderant use of influence and its open practice of cadre deployment are resented for reasons which go beyond jostling for power. Cadre deployment is seen by researchers, educational activists, scholars and other thinkers about education as highly deleterious to all aspects and dimensions of education in South Africa.

It is important to record exceptions to the pattern of cadre deployment. In the Free State, the Northern Cape and the Western Cape (for differing but important reasons) there is little evidence of cadre deployment for its own sake.

e. Unions and the Department of Education

In more than 25 references to the Department by Unions, there is only a very few items from Unions of praise, an example of co-operation or collaboration, or recognition of support that has been received from the Department. In other words, the Unions are either aloof from or hostile to the Department in their thinking. A necessary exception appears to be SADTU in the Northern Cape.

If the deep aim of Unions is “transformation”, why is it necessary to adopt an adversarial and defensive stance towards a Department that is ostensibly seeking a similar goal?

It is acknowledged that the Task Team’s investigation has put the Unions under a harsh spotlight, but the interviews were neither hostile nor critical. Unions were given as much space as they needed to express their positions in detail. There was no cross-examination or interrogation. Why were aspects of the Task Team’s approach regarded as threatening?

There appears to be an attitude among SADTU representatives of a determination to triumph over, to defeat all others, to outwit, outsmart and cause discomfort to any opposition or critic. This strikes the Task Team as superficial and immature as well as a means of avoiding looking deeply into issues. There appears to be a lack of ethical responsibility and an entire absence of self-criticism.<sup>57</sup> However, one of the most encouraging observations came from SADTU in the Free State when a high-ranking official of the Union said: “The time for a change for the better has arrived”.

The Department was blamed by Unions as the source of most of the problems associated with the recruitment and appointment of educators. Instances mentioned were insufficient SGB training, the “hijacking” by the Department of recruitment and the Department as the major source of irregular appointments as well as for the inabilities of the Resources Persons to perform their roles in assisting SGBs with the interviews and rating of candidates for appointment. The Department was accused of holding back information from Unions and for the incapacity of the Resources Persons.

The Union is determined to keep office-based officials loyal to SADTU.

It should be observed that there appears to be a constructive working relationship between SADTU and the Northern Cape Department. There, SADTU said, they march only once ‘engagement’ fails to produce solutions to the problem. SADTU is also aware of the genuine

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<sup>57</sup> Teacher unions are not alone in this. Whereas HODs referred to strengths and shortcomings in their provinces, District Managers never acknowledged inadequacy or failure in any respect. Such defensiveness is disturbing.

efforts the Department is making to advance transformation in that Province and has positive relations with District Managers.

f. Teacher unions and School Governing Bodies

Every Teacher Union expressed concern about the adequacy of SGBs in general to manage the process of making appointments. Even though NAPTOSA, SADTU and SAOU spoke again and again about the need for SGBs to receive training, they want the power of SGBs to select, interview and recommend candidates to remain. However PEU and NAPTOSA support the idea of using independent selection panels, differing sharply with SADTU and SAOU on this matter.

SAOU argued consistently for the retention of SGBs as they are, whereas NAPTOSA in the Free State said that SGBs should either be adequately trained or else take away the power to make appointments from them. NAPTOSA Mpumalanga was uncertain, however, as to the ability of SGBs to be trained. NAPTOSA in Gauteng reiterated that it was opposed to any reduction in the role of SGBs in the appointments process. It is clear that Provincial differences are real.

There is reason to believe that Teacher unions are aware that the circumstances behind the establishment of SGBs have changed during the past decade. Though no specifics were offered, there were indications from all Unions, except for the vehement resistance to change by SAOU representatives, that they are open to discussion and negotiation over the roles of SGBs in the future. SADTU Free State summed it up when it said that “the time for a change for the better has arrived”.

Both PEU and SAOU would have difficulty accepting the transfer of SGB powers of recruitment and selection from SGBs to the Department. PEU Eastern Cape said that irregularities within the Department were increasing and PEU in Limpopo was sure that there are more problems over appointments inside the Department than at SGB level. SAOU would regard the transfer of powers to the Department as a “violation of democracy”.

However, SAOU in the Northern Cape said that the powers of SGBs should be reconsidered in relation to the appointment of principals.

The focus of discussions was primarily on how the SGBs, as part of the system of recruitment and appointment of staff to schools, can be strengthened so as to reduce if not eliminate undue influence and irregularities in the selection of candidates recommended to the Department for appointment.

The strongest proponents of SGBs as they are came from the SAOU and the SGB associations of FEDSAS and the NSGB. This is unsurprising as the powers of SGBs are the surest way in which Afrikaans-speaking white South Africans and their acolytes can determine the language policies, admissions, the types of teachers and the influence of community leaders (especially professionals) which can make public schooling prioritise their cultural and class interests. The SAOU representatives were emphatic that SGBs “must” do the selection of candidates for school posts. Other middle-class communities (whom the Task Team did not interview except through FEDSAS) have been using the powers devolved to SGBs as a means of resisting the transformation of pre-1994 hegemonic values.<sup>58</sup>

SAOU national representatives warned the Task Team that should the powers to select educators be removed from SGBs, there will be a mass defection of Afrikaans-speaking white people from public to private schooling as has already occurred, it was claimed, among the white English-speaking communities.

SADTU and PEU seem committed to the retention of the current SGB powers. This stance they combined with a call for the urgent need for the Department to build the capacity of SGBs. However, there is little confidence in the ability of the Department to do so. *In general terms, though, the Task Team sensed that SADTU was aware that over twenty years situations had changed and that perhaps it was time to reconsider the nature, role and function of SGBs.*

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<sup>58</sup> Senior officials in Gauteng and Limpopo were quite clear about this.

For the purposes of the Report, which looks at how the process of the recruitment and selection of candidates for posts can exclude corruption, the attitudes of Teacher Unions towards the present powers of SGBs are what were specifically solicited.

NAPTOSA as a whole is in favour of removing from SGBs the power to advertise, short list, interview and recommend those whom the Department could appoint. NAPTOSA supports the use of “independent” panels to short-list, interview and select candidates. At best, Teacher Unions and SGBs then would be permitted to be ‘observers’ during this process. If this were to happen, SGBs would be left with school governance and finance duties.

*A deeper question remains and that is whether this trend to remove powers from SGBs is the first step in the gradual centralisation of education in South Africa?*

A full study is necessary to examine the implications of moving the entire process of recruitment and appointment to the Department. However, the long-running SADTU campaign of cadre deployment will ensure that decisions taken in the Department will favour that Union’s interests. And if that occurs, then the deleterious process will recur of loyalty to a Union coming before the quality of the candidate to be the best available educator. One SADTU representative at provincial level told the Task Team that his Union had nothing to fear should independent selection panels be instituted as the majority of people on such panels will be SADTU members and supporters anyway. What this means is that the ‘undue influence’ which now bedevils SGBs will shift to the Department.<sup>59</sup>

The majority of Union opinion is that the participation of SGBs in the appointment process should be retained in some form, providing opportunity for parents and community members to have a voice in who is appointed to the school staff, and for the Unions to ensure that the process is carried out fairly and properly.

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<sup>59</sup> This can be prevented or contained if office-based educators are debarred from membership of a Teachers’ Union and enabled to found their own Union.



However, Union interest in the appointment process is not a passive one. They have developed a repertoire of influence on which decisions are made. Unions prepare their candidates to apply with correctly completed forms accompanied by a well-designed CV. This is admirable. But the extent of influence can and does go further to arrangements with SGB members, the briefing of the teacher representatives beforehand and the Unions' use of their presence at selection panel interviews. The advantages of cadre deployment can then come into effect when decisions are taken at Circuit, District and Head offices. In other words, the system is open to human ingenuity and corruption at every stage.

At present, Teacher unions have no representation or presence in the process of appointment to office-based posts. The Task Team did not investigate this sector even though it has been cited as open to abuse as the SGB-based system is. It has even been alleged by one Union that if the selection of school-based educators is shifted from SGBs to the Department, the level of corruption will increase.

It is instructive to look at the attitudes towards SGBs that were expressed by administrators and bureaucrats in contrast to the views expressed by Teacher unions.

About 50% of HODs would like the powers of appointments to be removed from SGBs. And there is near unanimity that the appointment of school principals should be the prerogative of the Department. The matter of principals is endorsed by District Managers.

An important sense gained by the Task Team is that District Managers find the existence of SGBs a complicating element in the tasks that they have to deal with. There is clear tension between the democratic ethos of SGBs and the bureaucratic focus of Districts and Circuits.

It is noteworthy that Districts have not given sufficient attention to the empowerment of SGBs. Though everyone acknowledges the 'weakness', the 'inadequacy', the 'vulnerability' of SGBs, District Managers do not take responsibility for having allowed SGBs to languish in neglect instead of nurturing and nourishing that unique form of democracy. In short, SGBs are regarded as a burden and are being wished away.

The Task Team recognises that it is onerous to have to train and support repeatedly many bodies that have little continuity and where elderly, poorly educated and linguistically limited people become SGB members. However, if the DBE were to realise its obligations to take part in the education of entire communities, and not focus only on the narrowest sectors of schooling, then empowerment of SGBs would be given more attention. At the moment it seems that SGBs are the neglected and disregarded members of the educational family.<sup>60</sup>

Nobody has proposed the complete abolition of SGBs as an entity. But almost everyone has said or implied that they cannot remain as they are.

If Districts and Circuits are too weak and loathe to empower SGBs it will be because of a combination of inappropriate appointments of office-based staff and the determination of Teacher unions to use them for their own ends. In other words, future SGBs will continue to be faced by two forces hostile to their flourishing. Those forces need to be persuaded to regard SGBs differently. A key factor in such a shift in attitude is the incorporation of the concerns of the learners, a renewed occupational identity by teachers and the interests of the community which the school serves. It is possible that the centre of the problem lies within the Department's notorious incapacity to implement policy and sustain routine monitoring and supporting tasks.

Finally, there appears to be a gathering consensus that, for many reasons, the system would be better off if the Department played a greater role in the selection and appointment of senior teaching staff and principals.

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<sup>60</sup> See Crain Soudien *Review of School Governance in South African Public Schools* (Report to the Minister of Education, Professor Kader Asmal, 2003). The Report contains numbers of pertinent suggestions for ways to develop and support SGBs. The Report was never released by the Minister.

g. Observers and Resources Persons<sup>61</sup>

Unions mentioned frequently their concerns about the roles that observers and Resources Persons play. Observers are supposed to be passive scrutineers whereas Resources Persons are expected to advise panels impartially in compiling the questions to be asked of interviewees, the scoring process, the requirements of the post(s) being applied for and the selection those who are recommended for appointment to the SGB.

Unions want the Resources Persons to be well-prepared for their role. It was argued that if the Resources Persons are unable to guide the panels, then they (as observers) are obliged to overstep their role and intervene since as Union activists they are well aware of how and what should be done.

SADTU Western Cape accused Resources Persons of interfering in SGB procedures and SAOU from the same Province wants Resources Persons “restrained” because of their inclination to intervene.

It is clear that all Unions take the position and role of the Resources Person seriously, more seriously perhaps than the Department always does. It is evident that the Resources Persons are not always equal to their task and have difficulty behaving impartially.

All the non-SADTU Unions regard SADTU’s access to the selection process as tendentious in seeking to influence particular outcomes which, if not successful, means are found to disrupt and/or nullify the results. With an air of innocence, SADTU in both Mpumalanga and Limpopo described themselves as “mere observers” who have no effect whatsoever on the work of SGBs in making appointments. The weight of opinion and information given to the Task Team suggests otherwise.

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<sup>61</sup> Observers are representatives of Teacher unions who attend the process of interviews and recommendations made by SGB panels. SADTU has one observer and the other Unions select a single person to represent them all. They are supposed to ensure that due process is followed and play no role in influencing the outcome. Resources Persons are Departmental representatives who are present at panel meetings to guide them in following due process. They too are supposed to play no role in influencing the decisions of the panel.

Non-SADTU Unions want individual representation as observers at such panel meetings and expressed doubts as to whether a Union such as SADTU does not use its presence to exert undue influence on the panel's decisions.

If SGBs are going to continue playing an influential role on appointments, then appropriate and continuous training, coupled with participation by knowledgeable Departmental representatives at selection panel meetings will be essential.

#### **4.3 INTERVIEWS WITH NATIONAL SCHOOL GOVERNING BODY ASSOCIATIONS<sup>62</sup>**

Interviews were held in Johannesburg with representatives of FEDSAS and then the National School Governing Body Association (NSGB). The task Team also received a 'Report on Interference in the Appointment Process of Principals and Others into Promotion Posts in Kwa-Zulu Natal' from The Governing Body Foundation, 2013.

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<sup>62</sup> There are 22 SGB associations in South Africa, most of which are intensely local.

## **CHAPTER FIVE: A DIAGNOSTIC ANALYSIS OF THE MAJOR ISSUES FROM INTERVIEWS CONDUCTED BY THE TASK TEAM**

Chapter Five of the Report into irregularities in the appointment of posts in education is a record, with commentary, of what the Task Team was told. Four and sometimes more layers of officials and authorities were listened to, and they and all Teacher unions in each Province<sup>63</sup> were given opportunity to express their concerns about the ways in which education appointments are being made. This has been captured with commentary in this previous Chapter.

The brief commentaries in that Chapter 4 reflect responses by the Task Team to what it heard. However, in seeking to reflect accurately and fairly what the Task team was told, the voices of our interlocutors have been presented without sufficient analysis to bring together perspectives on the major issues for consideration. Therefore Chapter 5 has selected four aspects related to the matter of the appointment of teachers for closer scrutiny.

The Task Team has understood its brief to be to determine whether there is substance in the original allegations about the buying and selling of posts and what should be done to reduce opportunity for such forms of corruption, and to make recommendations which could have implications for policy to the Minister.

The analysis which follows speaks to that brief.

The four major areas for analysis are:

1. The buying and selling of posts in education.
2. The relationship between the Department of Basic Education and Teacher unions.
3. School Governing Bodies and their future.
4. Some factors that have led to the loss of control by the Department of Education.

### **5.1 THE BUYING AND SELLING OF POSTS IN EDUCATION**

The Ministerial Task Team used media allegations about the buying and selling of posts as a focus for discussions with District Managers and Teacher unions in each Province, asking

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<sup>63</sup> Mention has been made in Chapter 3 of NATU's avoidance of meeting the Task Team.

them for their responses to general and specific instances which the *City Press* and other sources provided. Individual allegations were followed up, individuals interviewed, and follow-up meetings were held with informants. Then the forensic members of the Task Team, drawn from Deloitte & Touche as well as the Department of Justice, investigated those instances which are contained in this Report.

What is most striking is the extent to which most of the allegations of wrongdoing and irregularity reported to the Task Team have proved incapable of verification or confirmation. Similar difficulties appear to have faced, for example, by the investigators in the NEXUS Report from the North West Province, SADTU national's earlier investigations, those instances which the Gauteng Department of Education pursued and now, those that the Task Team sought to verify.

Based on submissions to the Task Team and the data from interviews, there is no reason to believe that any Teachers' Union as an organisation is involved in the buying and selling of posts in education. However this conclusion does not exonerate Union members either individually or in various formations from using undue influence of varying kinds to affect appointments to posts in education, a practice which is universally acknowledged to be endemic.

The Task Team is convinced that there is common knowledge of such malpractice in schools, offices and communities. Various superficial explanations for the difficulties in getting hard evidence were offered to the Task Team by the District Managers and Teacher Unions, but serious concern remains about the state of professions and societies where malpractice is tolerated and unchecked. We are faced by (a) a culture of silence about wrongdoing; (b) a situation where malpractice has become normal; and (c) people having to work and live in a climate of fear.

From its meetings with the South African Council of Educators, the Task Team was led to believe that the SACE investigation would yield hard and fast instances of malpractice in

Umlazi, KZN and in Mpumalanga. Inexplicably, SACE has produced nothing of use for the Task Team.

Since the Task Team has not been shown the final SACE Report, we suggest strongly that the Minister requires SACE to provide copies of this Report to her.

## **5.2 THE RELATIONSHIP BETWEEN THE DEPARTMENT OF BASIC EDUCATION AND TEACHER UNIONS**

The Department of Basic Education has retained semblances of managerial and administrative control in three of South Africa's nine Provinces. These are the Free State, the Western Cape and the Northern Cape. In all other Provinces, SADTU is in de facto control. According to the data given to and gathered by the Task Team, this domination by a Union has been achieved by using combinations of the following ways and means:

- through its history as a sector of the liberation movement;
- by being an industrial and adversarial trade union;
- by means of its incorporation of office-based educators as members;
- its use of a repertoire of strategies to coerce teachers, principals, officials and others to accede to its demands;
- by using teacher militancy to pressurise its members to be unionists first and professionals second;
- by practising cadre deployment to ensure that high percentages of managers, decision-makers and others with power and influence in education are placed in well-paid positions where they can prioritise the Union's interests;
- by using of undue influence at different stages of the appointments process to ensure that its candidates are appointed;
- by holding out the possibility for its prominent members to receive opportunity to achieve high office in the Department, Parliament and the Cabinet;
- by blocking Departmental activities and programmes; and

- using its membership of COSATU to influence the members of the Tripartite Alliance.<sup>64</sup>

Nowhere are these ways and means stated explicitly as SADTU policy. In fact, based on their submissions to the MTT and their public utterances, there is evidence that SADTU has publicly condemned the practice of selling of posts and therefore as an organisation is not directly involved in these practices. But that does not mean that on the ground, in actual practice, in specific Provinces and in specific areas of activity, members of this organisation do not exercise inappropriate forms of influence and control.

It should be noted that the list of means, a number of which have become ends, omits reference to SADTU's work in building increased professionalism among teachers, nor is there inclusion here of any of the work by SADTU to lift and improve the levels of South Africa's ineffectual and weak education in schools.<sup>65</sup> These dimensions of SADTU's role, what the Task Team regards as the proper actions of an occupational Union for educators, on the basis of the interviews the Task team conducted, have been overshadowed by its manifold uses of power and influence. The irony is that now SADTU and other Unions and not the Department actually hold the education system together in most Provinces.

A further question which has arisen for the Task Team is whether SADTU is now primarily an educational organisation or not? Is the excessive exercise of power and control over the education system compatible with its supposed function of servicing the profession and protecting the material interests of its members?

The NEEDU National Report 2012 Summary (p.24) says:

The Mangaung Policy Conference of the SANU noted that the government capacity in Basic Education, in large parts, shows signs of incompetence, corruption, ill-discipline and irregularities in employment and promotions. The Diagnostic Report of the National

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<sup>64</sup> This is not a history of Unions or of SADTU, but a collection of strategies which SADTU is known to employ. For a history of Teacher Unions, see Logan Govender. *Teacher unions, policy struggles and educational change, 1994-2004*. In Linda Chisholm. 2004. *Changing Class: Education and Social Change in Post-Apartheid South Africa*. Cape Town: HSRC Press, pp 267-291, and Logan Govender. 2015. *Teacher unions' participation in policy making: a South African case study. Compare* vol 45:2 pp. 184-205.

<sup>65</sup> SADTU's stance with other Unions on ANA is an example of its direct concerns with educational quality.



Planning Commission characterized these conditions as symptomatic of civilizations in decline.

This leads to a focus on the Department as a whole, where there are a number of concerns to which the Task Team's attention has been drawn.

Since 1994 there have been myriad changes of leadership of Ministers, MECs, HODs and the like. When all the names across 20 years are added up, the sum is more than 80. This figure immediately raises questions about stability and continuity.

The Task Team is aware that the process of dismantling apartheid in education has made tough demands on civil servants who have sought to build a new system that is designed for structural justice rather than inequality.

But the effect of such brief and varied terms of office has meant that no fresh or indigenous traditions of management and administration have been established. Each new MEC and HOD has his and her bright idea by means of which they hope to make their mark over a short period. This means that there is little opportunity or intention to build on what has gone before.

Little work appears to have been done over the period of 20 years to establish strong, efficient and effective District and Circuit Offices. The relative weakness of these vital parts of the educational system has allowed cadre deployment to populate its ranks with individuals who are tend to be Union loyalists first and administrators second. This situation has allowed the Unions to use undue influence to the extent that the Department of Basic Education has lost control of two-thirds of the country.

The absence of home-grown traditions in the Department as an entity is echoed by the way in which SADTU has adopted an industrial model based on serving workers in factories and

the mines. SADTU ought to be an occupational union such as that for nurses.<sup>66</sup> Furthermore, it must be asked why the relationship between the Department and the Unions has to be adversarial when their common cause is the transformation of the education of the young.

Conflict between Department and Union is rarely over policy, it is over power and control. This has significant implications. In this process, the educational heart of Unions has been lost, as is the case, to a lesser extent, with the Department itself. It is in this context that things are going wrong and creating crises. The Task Team accepts fully the differences between the interests of the Department as the employer and the roles that Unions should play on behalf of their members. But in South Africa there are bigger issues for us all to address. Instead, for example, of using 'transformation' as a pretext for gaining control of schools and offices, there should be joint and co-operative efforts to address the manifold challenges and developments that are desperately needed in our education system. The Task Team is appalled at the degree to which relations between the Department and the Unions are essentially conflictual, where the real interests of educators and learners are consequently unattended to.

If, for example, undue influence is now a dominant way of achieving one's goals, and that using this method as a teacher has become normal practice, then obtaining a desirable position through bribery and corruption is a naturalised and normalised procedure. After all, that is how things are done. The environment has become a corrupt one.<sup>67</sup>

The logical conclusion of the analysis in this section is that 'undue influence', a polite name for corruption, appears to be endemic to greater and lesser degrees in the entire educational system, in offices, in schools, Unions and everywhere else. Weak authorities, aggressive Unions, compliant principals and teachers eager to benefit from Union

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<sup>66</sup> This was suggested to the Task Team by Professor Eddie Webster of Wits University, an expert in union matters.

<sup>67</sup> Speaking at the 9<sup>th</sup> Bram Fischer Lecture at the University of Johannesburg on 4 September 2015, Beatrice Mtetwa, internationally recognised human rights lawyer from Zimbabwe, declared that "corruption has become the base of the entire [African] continent".

membership and advancement are a combination of factors that defeat the achievement of quality education by attacking the values of professionalism.

Owing to the pervasive implications of cadre deployment, the Task team has sought to think through what the impact of this is being on education in South Africa.

The more generic term for South Africa's practice of cadre deployment is 'patronage-based political appointments'. Teacher unions, especially SADTU, have developed the capacity to offer their members who display especial loyalty and activism in the Union's interests opportunities for appointment to well-paying and influential posts in public schools and Departmental offices.

The practice of cadre deployment has a history. South Africans are not alone or the first to use systems of patronage-based appointments. The practice in Britain was rife 150 years ago<sup>68</sup> and in the United States between 1800 and 1920 all government jobs were controlled by party bosses and public officials.<sup>69</sup>

Here in South Africa the ANC used patronage and deployment from 1994 to stabilise control in the civil service and to dismantle practices saturated with apartheid's purposes and functions.<sup>70</sup> And that has applied to education as much as to the other branches of the civil service. However, it has been asserted that after 1999 the ANC began placing its trusted and loyal members into powerful and financially rewarding positions, a practice which is said to have led to losses of competence in key areas of state enterprises when the appointments were not based on suitable experience and skills.<sup>71</sup>

As a member of COSATU and thus a member of the Tripartite Alliance, SADTU has achieved access through the ANC and the Communist Party to positions in Parliament and Cabinet.

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<sup>68</sup> Jonathan Hyslop. Political Corruption: Before and After Apartheid. *Journal of Southern African Studies*. 31 (4): p. 777.

<sup>69</sup> Terry Moe. 2011. *Special Interest: Teacher unions and America's Public Schools*. Washington, DC: Brookings Institution Press p. 33. Quoted in Patillo (2012) p. 23.

<sup>70</sup> Sylvia Neame 2015. *The Congress Movement*. Pretoria: HSRC Press, vol 1, p. xxx.

<sup>71</sup> Kathleen Patillo. 2012. *Quiet Corruption: Teacher Unions and Leadership in South African Township Schools*. Thesis, Wesleyan University, Connecticut, pp. 77-78. See too Neame *op. cit.* pixie.

The commitment of a Teacher Union to one single political Party is both dangerous and inappropriate. This means that those educators who join that Union are bound to that Party. And the fortunes of the educational system become dependent on the fortunes of a political process.<sup>72</sup> While the Party is in power, the Union has a kind of political sanctity i.e. to challenge the Union is to challenge the Party. It is not difficult to see how that can lead to corrupt forms of influence.

At Provincial levels however, SADTU uses its influence to deploy its preferences as principals at schools and as senior officials in the Department. The criteria for selecting those for such appointment are not necessarily about competence and professional suitability but about militancy.<sup>73</sup>

When questioned, officials and senior educators claim that they are able to distinguish between their obligations to the general public and their loyalty to their Union or political Party. This cannot but be problematic when they occupy high positions in the Union and/or the Party. Evidence received by the Task Team calls into question such glib distinctions.

Cadre deployment in the South African education system is a salient factor in the creation of an environment which accommodates corruption. Cadre deployment appears also to have weakened the education system because people without the requisite skills, abilities and commitment now serve in key areas of the system or else give more attention to organisational matters than their jobs as office-based educators. The likely impact upon those not so chosen is (a) to increase their disruptive Union activism and militancy so as to qualify for deployment; (b) to be demoralised classroom practitioners and professional administrators; and (c) to be encouraged to adopt values of material greed, personal advancement and aggressive competitiveness.

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<sup>72</sup> Relation between the largest teacher union and a political party in Mexico is a frightening example of teachers being swallowed by corrupt political agendas. See Govender (2004) and Patillo (2012).

<sup>73</sup> The Task Team was informed that 85% of senior posts in the North West head office are SADTU members. Research (2011) has stated that 65% of school leaders in Umlazi are SADTU cadres. All Ekurhuleni District Managers are SADTU members. One hundred percent of Deputy Director-Generals in the DBE consists of active SADTU members. These are merely indicative figures.

Arrogation of the right by Unions to appoint and disappoint educators is a form of corruption and which generates chaos. In such a context high degrees of irregularity are bound to occur, in which the buying and selling of posts is a minor but reprehensible practice.

Some commentators pose the dualism of 'militant unionism' against 'professionalism'. This is a gross simplification as most binaric propositions are. But this matter urgently requires clarity about what is meant and intended by 'professionalism', without which the discussion about alternatives to rampant Union domination in education will not have a sufficient basis for useful thought and decision-making i.e. policy.

This Report has already asserted that domination by Unions has been made possible by the feeble and dilatory condition of Districts and Circuits. There is no doubt that this has permitted Unions to move into areas in which they have no business. But now, through the inexorable creeping of cadre deployment, these sectors of government are as subject to undue influence as every other sector.

The question has to be asked why has SADTU, for example, adopted a form of union which is based on an adversarial and industrial model. Why, it must be asked, does the Department of Basic Education have to be regarded as a capitalist exploiter of labour with employees who are regarded for the purposes of action as members of the working class? Teachers are not members of the working class. How can Departmental Managers (Union members deployed there) be the enemy? Are the apparent differences between union members and managers real or illusory? There is a distinct element of the absurd in this sorry situation in which the quality of South African schooling is demonstratively abysmal.<sup>74</sup>

In its attempts to reach into the heart of these matters, the Task Team was confronted by what must be described as SADTU's defensiveness.

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<sup>74</sup> This is to say that the academic performance of South African learners is very poor in itself and in comparison with what is being achieved by schools in Botswana, Lesotho and Swaziland.

In reporting the alleged incidents of the buying and selling of posts in education, the media in general and the *City Press* in particular have been blunt in blaming SADTU as an organisation for being involved in such practices. It is no surprise therefore that the SADTU representatives at provincial level would be defensive in describing their attitude to such allegations.

For example, SADTU in KZN declared that its dominance in the Province is now being used “to dislodge us”, whereas the reason for the frequency of SADTU appointees to posts is that these applicants are “stronger” than the others. Allegations against SADTU are designed, they said, to inhibit SADTU’s contribution to education. The Task Team was also reminded by this delegation that SADTU regards itself as sharing responsibility for the quality of teaching and learning in the schools as well as for ensuring quality in the Districts.

These are very large claims, putting SADTU on a par if not above the Department in the Province. Such assertions speak to SADTU’s excessive view of its own importance and to the weakness if not feebleness of the Department. As a guardian of the Province’s ‘quality’, SADTU cannot be corrupt, so this implies. We know this to be neither logical nor true.

In the North West, SADTU representatives echoed the KZN rationale for the super-abundance of its members in appointments by arguing that (a) it is logical for the biggest Union to fill most posts, and (b) that the SADTU applicants are trained and empowered for their posts by the Union and thus are most likely to be appointed. If this is the case, then it should be asked why cadre deployment is so necessary a tactic.

SADTU Limpopo argued that if the country’s rulers i.e. their compatriots in the Tripartite Alliance, felt that SADTU misuses its powers, they would ‘clip its wings’. Instead, SADTU advanced the position that it uses its power to advance the best interests of its members in a wholly responsible manner only.

SADTU Limpopo suspects that the media campaign, the views of certain academics and the Task Team’s investigations are ultimately intended to weaken the ruling party. And, finally,

it is the view of SADTU Limpopo that the cadres who fought and achieved SADTU's ascendancy and who advance it as a political entity should be those who have priority for appointment. The Task Team finds such rationalisations unpersuasive.

The impressions created by the interviews held by the Task Team point directly to a major question. This is about the desirability and appropriateness of the adherence of Teacher Unions to a political party. All educators will and should have their convictions about politics and the parties which articulate best their priorities and concerns. But what has to be brought into question is the overt and emphatic support by a Union such as SADTU of a single political party.<sup>75</sup> It is obvious to all observers and commentators that such adherence has a major influence on the Union's priorities and strategies. The effects that have become apparent are not good for education, the retention of the confidence of communities or the professionalisation of educators. And the irony is that such militant adherence seems to have contributed to an environment in which improper actions are possible if not sanctioned because of particular forms of political loyalty.<sup>76</sup>

### **5.3 SCHOOL GOVERNING BODIES AND THEIR FUTURE**

In concluding the commentary in Chapter Four on the voices of the Unions, comprehensive examples were offered of attitudes towards and concerns about School Governing Bodies (SGBs). (Pages 114 to 134.)

It was notable to the Task Team how, instead of analysing themselves and/or each other as part of the problem of the shortcomings in the system of educator appointments, District Managers and Teacher unions were inclined to deflect attention from themselves to the weaknesses and inadequacies of SGBs.

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<sup>75</sup> See Logan Govender. 2015. Teacher Unions' Participation in Policy Making: a South African Case Study. *Compare* 45.2, pp. 184-205 in which examples of teacher-state relations are drawn from Mexico, Uganda, Malawi and Benin. The example of what has happened in Mexico is particularly relevant to the South African situation.

<sup>76</sup> The emergence of the SA Liberated Public Sector Workers' Union is likely to complicate this aspect of education further. 'New public servants' union aims for 100 000 members'. *The Star* November 06 2015.

It is true that District Managers and Union representatives were mildly critical of each other at times, but this was never deep or comprehensive enough to provide any analytical basis. Both were more than eager, however, to offer suggestions for ways in which SGBs could be improved, strengthened and given greater capacity so as to carry out successfully the tasks of selecting candidates for appointment.

There are at least three accounts as to how and why we in South Africa have unique, democratic bodies in a system of education that otherwise is hierarchical and riddled with rank.

One version is that in the 1980s, the (white) Transvaal government was faced by a financial shortfall. To avoid having to retrench 3 000 (white) teachers, it was proposed that the state create different models of school – A, B, C – with differing degrees of independence and financial arrangement.<sup>77</sup> Model C schools, for example, would have their staff complement paid by the state but all other funds would have to be raised by the school itself. In return, such schools would be allowed to open their doors to learners and teachers of all ‘races’ provided that the current (white) parent body agreed. Most urban English-medium middle class schools opted for Model C. They became fee-paying institutions, thus saving the state significant amounts of money.<sup>78</sup> To replace the old-fashioned governance structures of these schools, School Governing Bodies were established by the South African Schools’ Act which delineated their powers, which are extensive.

The second version of the genesis of SGBs is rooted in the People’s Education for People’s Power movement of the 1980s which established Parent-Teacher-Student –Associations (PTSAs) at ‘liberated’ and mainly black schools. These PTSAs and later SGBs became a way of moving away from the notoriously compliant School Boards of Bantu Education.<sup>79</sup>

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<sup>77</sup> Model A would have made state schools completely private; Model B would have remained state schools with the right to admit up to 50% of Black students; Model C created state-aided schools which received 75% of their funding. Salim Vally & Carol Anne Spreen. The School-Community Nexus in South Africa. *The School as Community Hub: Our Schools/Our Selves*. Special Issue, Summer 2010, pp. 125-144.

<sup>78</sup> Clive Roos interview, Cape Town. 08 July 2015.

<sup>79</sup> See. Peter Kallaway. 2002. *The History of Education Under Apartheid 1948-1994*. Cape Town: Pearson Education South Africa, pp. 174-190.



The third version is that SGBs were supported by the liberation movement as part of the “sunset clause” of the early 1990s to ensure that whites remained in the education system by giving ‘their’ schools powers to select the medium of instruction (of great importance to white Afrikaners), to appoint staff and to manage their own finances.<sup>80</sup>

This intertwined historical account of SGBs opens up the question of what their future ought to and might be.

There was very little recognition of the historical nature of SGBs by both District Managers and Teacher unions. They wanted to deal with the urgent issues of the present.

The bureaucrats, including HODs and MECs, want to reduce the powers of SGBs whereas the Unions want SGBs to continue to play a major role in the appointment process. The difference here is one over access to control of influence over promotion, senior and principals’ posts. Is this in fact a disguised power struggle? If so, any attempt by the Department to reduce the powers of SGBs will result in major conflict. Different Unions will have their different agendas for opposing the reduction of SGB controls, but the resistance will be acute. For example, at the interviews with the Task Team, the SAOU threatened that should powers be removed from SGBs, there will be a mass movement by (white) Afrikaners into private schooling. SADTU on the other hand, has a powerful tradition of democratisation and one reason why it is likely to resist the reduction of SGB powers is the reduction of important democratic rights. The Task Team is aware that the Department has been withdrawing certain powers, such as the appointment of principals in certain Provinces. Whether this is based on decisions taken at Head Office is unlikely as individual MECs and HODs gave the Task Team the impression that was a local decision and therefore did not have to be negotiated through the ELRC.

The Task Team cannot offer an opinion on whether the Department (as Districts or Provincial headquarters) will do a better job of managing appointments than the SGBs do. But given the neglect by or inability of Provinces to capacitate SGBs and given the ravages of

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<sup>80</sup> These and other powers are enshrined in the South African Schools’ Act.

cadre deployment there is little to encourage one about the Department's sense of responsibility or capacity in this matter. However, if independent selection panels are constituted to make recommendations for appointment, especially of principals, then there is a greater likelihood of appointments being made on professional and no other grounds.

But it must be pointed out that shifting the responsibility for recommending promotion posts from SGBs to the delegated structures of the Department is not enough to counter the rampant corruption at all levels in the education system. In investigating the implications of the buying and selling of posts in education, the Task Team has been exposed to the extent and depth of difficulty in purging the system of corrupt practices. Neither the Unions nor the Department is able to address this adequately alone.

The Task Team became aware that in some Unions there is an interest in discussions over changes to SGBs. That thoughtful attitude arises from their awareness that circumstances today are not the same as those twenty years ago. This line of thought needs to be followed up.

The Task Team's analysis of the situation of SGBs cannot be completed without comment on how shamefully SGBs and their potential as mediators between schools and communities have been neglected and overlooked. Yes, a quasi-democratic system which is accountable only to the school community is an awkward entity for bureaucracies to live with. But the opportunities for SGBs to play a fully supportive role for communities and in schools have not been taken advantage of. It is recommended strongly that as a start to remedy this situation, the Minister looks into the 2003 Crane Soudien Report into school governance which Minister Kader Asmal commissioned but never released.

#### **5.4 SOME FACTORS WHICH HAVE LED TO LOSS OF CONTROL BY THE DEPARTMENT OF EDUCATION**

At one stage in the Task Team's thinking about conditions in the educational environment that appear to create opportunities for malpractice in the filling of posts, its members wondered whether the pervasive corruption and malpractice in the country as a whole

might encourage forms of undue influence in the recommendation and selection of candidates for appointment and promotion.

For example, could the relative weakness of the Department both nationally and provincially and the strength of the Unions create conditions that make it seem acceptable for individuals and groups to buy and sell posts? But whereas the answer to this question is “Yes”, this level of enquiry does not go far enough in the analysis of the situation.

Such thought produced two questions:

- What factors have led the Department to lose control of education? and
- Why is the education system failing to provide adequate or even rudimentary schooling for all of South Africa’s children?

Whereas the Task Team by definition cannot attempt adequately to answer such questions, its responses to them open up lines of thinking. These questions have led, for example, the view that the Department of Basic Education has never had a real chance or opportunity to succeed in its endeavours to control and manage the educational system and provide the education needed by South Africa’s learners.

It should be noticed that this diagnostic analysis does not seek to accord blame for the state of education. The Task Team’s purpose is not the indictment of anything or person. Nor is the Task Team seeking to expose failings or shortcomings as the purpose of its work. Indictment does not provide a way forward. Individuals and organisations which have acted in a corrupt manner are being and will be made to answer for their deeds. However, instances of corruption of various kinds are only one aspect of the education system’s deficiencies.

Instead of making moral judgements, the Task Team has come to the conclusion that since 1994, the Department has never had a real chance to succeed in transforming education in South Africa. Therefore there is a need for the state to undertake a complete overhaul review (no matter how long it takes) of the entire system of schooling in South Africa.

Education places an enormous burden on the South African population and the economy. The current system is not producing people with abilities that will allow them to flourish in the 21<sup>st</sup> century. The country cannot afford to go on in this way. New and fresh thinking is required, thinking that proceeds from an understanding of the inadequacies and possibilities inherent in the present situation so as to move on to shape and express a different educational paradigm. Indicative factors which have it impossible for the Department to create and control a fully productive and equitable system of education are:

- There is no commonly-agreed philosophy of education which has replaced the apartheid-oriented 'Christian National Education'. Teacher education institutions, office and school based educators, schools, provinces and others all work from their own notions of knowledge, of the development of the young, of education and society and of the nature of a society that would be appropriate. Those 'notions' are rarely articulated or debated. What is needed is a general, comprehensive and simple vision of education in this country. That vision should be the foundation of which instruction are based.
- Instability caused by frequent changes of personnel at the highest levels.
- The imposition of outcomes-based education on all public schools had a profoundly disorienting effect on everyone, robbing teachers in particular of their previously acquired skills. Teachers lost confidence in themselves and, significantly, in the Department. However, it must be recognised that the Department has made strenuous efforts to stabilise the approaches to teaching and learning so as to restore the confidence and capacity of teachers.
- Handing over the education and training of primary school teachers to universities has led to very serious problems in the education of the very young. For our purposes here, it must be noted that one effect of this change has been that primary school teachers do not 'belong' to the Department, but are products of institutions which have autonomy. So these teachers have no reason to be loyal to an entity that does not even appoint them, since the SGBs do that. These teachers develop a loyalty to their schools and to the Unions which they join, not to the Department.

- Disproportionate focus on the matriculation examination, leading, for example, to (a) insufficient attention to Early Childhood Development; (b) neglect of infrastructure such as toilets, libraries and classrooms; (c) failure until recently to check the drop-out rates in the senior grades.
- The deployment of officials to the Department from Unions weakens the Department because those so deployed are not there because they have professional intentions or even abilities but are placed there as reward.
- The present education system, with powers that are delegated from the national office all the way to School Governing Bodies makes this a difficult system to manage and control. What means are there for establishing and maintaining a flexible coherence which gives South African education a distinctive and particular quality?
- Finally, the “elephant in the room”. Owing to the factors listed above and other causes, Teacher unions have captured significant areas of the education system. This ranges from the most senior levels to new teachers in public schools. Six of the nine provinces are under control by the Unions. The effect of this is to contribute to the Department’s inability to control and develop an effective educational system.

There also needs to be an acknowledgement of factors beyond the Department’s control, such as unemployment, poverty and the manifold and destructive historical legacies.

## **5.5 SOME SUGGESTIONS FOR A WAY FORWARD**

So as to provide a practical beginning to the process of the revision of education, the Task Team offers the following for consideration and debate:

- Find ways on convincing the Department and the Unions that they have a common cause which does not require an essentially adversarial relationship.
- Act vigorously against those who transgress professional codes, who are corrupt and who employ undue influence through cadre deployment as well as the failure to carry out policies and regulations.
- Re-open colleges of education for the education and training of primary school teachers as a dimension of the *Integrated Strategic Planning Framework for Teacher Education and Development in South Africa (ISPFTED) 2011-2025*.

- Centralise key aspects of the education system.
- Curtail the practice of cadre deployment.
- Develop an appropriate philosophy of education for all in the system, including the SGBs.
- Capacitate SGBs as agents which link schools and communities.
- Work towards changing Teacher unions from being industrially-oriented entities to becoming occupational unions that are not adherents of political parties.

It must be recognised that the evident problems and challenges in our present system of Basic Education cannot be resolved through piecemeal actions alone. Current thinking about these matters points to the need for a parallel process by which the entire system is revised, thoroughly and over time.

## CHAPTER SIX: RECOMMENDATIONS

### 6.1 ACTIONS AGAINST WRONGDOERS AND PROTECTION FOR WHISTLE BLOWERS

*The following three Recommendations are self-evident:*

**Recommendation 1:** *That the illegal actions by educators identified by the Task Team be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.*

**Recommendation 2:** *That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.*

**Recommendation 3:** *That aaction be taken quickly to protect whistle-blowers. We recommend a dedicated project across competent authorities to investigate and act on all cases for a defined period.*

### 6.2 MANAGEMENT OF THE DEPARTMENT OF BASIC EDUCATION

*In consequence of statements by MECs, HoDs and senior managers in the Department, the Ministerial Task team (MTT) has been led to understand that control in two-thirds of the Provinces has been captured by the South African Democratic Teachers' Union (SADTU). The MTT has two recommendations for this aspect of the Department's responsibility.*

**Recommendation 4:** *That the Department of Basic Education regain control of administering and managing the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teachers' Unions.*

*Provinces such as the Free State, Northern Cape and the Western Cape, appear to have retained Departmental control. In two cases, inherited management systems were strengthened. In one case, there is no single dominant Union. And in another, relations*

*between the Department and the dominant Union are not adversarial. The MTT believes that valuable lessons are to be gained from these examples AND that Recommendation 5 should be implemented.*

**Recommendation 5:** *That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjusts the Education sector legislation accordingly.*

### **6.3 SELECTION AND APPOINTMENT OF EDUCATORS**

*There are many different views within the educational community over an appropriate future for School Governing Bodies (SGBs). These views are reflected in Chapter 4 of this Report. The preponderant view is that the power to make appointments to promotion posts should be taken away from SGBs and be located in the Department. At the same time, the fourth tier of democracy in South Africa must be protected. Suggestions from the Report to the DoE, 'School Governance in South African Public Schools' in 2003 should be examined for ways in which SGBs can be supported and strengthened. However, in the light of the 2015 Basic Education Laws Amendment Bill and other forms of pressure, the MTT has framed Recommendation 6.*

**Recommendation 6:** *That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.*

*Interviews with Unions and managers in the Department have persuaded the MTT of the central importance in South African schooling of principals in the provision and management of quality education. This is why the MTT makes the following strong Recommendation about the process of appointing principals.*

**Recommendation 7:** *That principals be selected by panels which have the resources to evaluate the competence and suitability of the candidates for their leadership and*



*management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.*

*This next Recommendation follows logically from Recommendation 7.*

**Recommendation 8:** *It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.*

*Despite vehement disclaimers by Teacher Unions that their representatives at selection panels are mere observers, it has been made clear to the MTT that they frequently play active and interventionist roles. This is not acceptable practice. The MTT supports Union presence at all selection panel meetings but under strict conditions.*

**Recommendation 9:** *That the observer status of Unions be renegotiated with respect to the recruitment process.*

*To counter the pernicious effects of political appointments and the deployment of inappropriate appointees, rigorous processes of selection need to be applied to all candidates for office-based positions in education. Furthermore, Recommendation 2 implies that all staff should be accountable and have regular performance assessments. The aim is to establish a civil service culture.*

**Recommendation 10:** *That those who are appointed to Districts and provincial offices should be required prior to appointment to demonstrate their capacity to carry out the job for which they have applied. There should be neither political appointments nor cadre deployments.<sup>81</sup> People in these posts should be accountable to their employer and be assessed regularly.*

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<sup>81</sup> This does not mean that appointees should not have their own political affiliations.

## 6.4 EDUCATORS AND AFFILIATIONS

*The MTT recognises the right of educators to do as they choose in their private time. However, involvement in leadership positions in Unions and political parties sets up inevitable conflicts of interest. Civil servants are committed to serving the public at large without bias or partiality. In addition, managers in education should not be Union activists, for they represent the Department and its concerns which are different from the interests of the Unions.*

**Recommendation 11:** *That both school- and office-based educators cease to be office-bearers of political parties and, to avoid the undesirability of conflict of interest, educators in management posts (including school principals) should not occupy leadership positions in Teachers' Unions.*

*The MTT encourages the formation of occupational Unions for office-based educators. These Unions should address the interests and concerns of those who are no longer practising teachers. Models of unions from universities and civil service sectors might be investigated so as to inform the kind of professional union which the MTT has in mind.*

**Recommendation 12:** *That it seems desirable that separate and distinct Unions be established for office-based educators.*

*Given the evidence provided, it is the impression of the Task Team that the exercise of undue influence (a polite word for corruption) is endemic to greater and lesser degrees in the entire education system and that as a first move to cleanse the system, cadre deployment should not be permitted.*

It is therefore recommended that:

**RECOMMENDATION 13:** *That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.*

## 6.5 DEVELOPMENT OF A VISION FOR SOUTH AFRICAN EDUCATION

*The absence of a cohering vision for education has been cited in this Report (Chapter 5) as one reason why the DoE/DBE has never had an adequate opportunity to succeed as many have wanted it to. There is now opportunity for ongoing discussions by all stakeholders about what vision and/or philosophy should underpin all forms of public education in South Africa.*

**Recommendation 14:** *That the DBE and the DHET, with universities and other stakeholders, including unions, lead ongoing discussions aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in public schools throughout South Africa.*

## 6.6 SOUTH AFRICAN COUNCIL OF EDUCATORS (SACE)

*The MTT is of the view that SACE has become sectarian by virtue of the domination of a single Teacher Union and its allegiance to one political party. SACE is a public entity that should use its broad mandate to serve the educational interests of all stakeholders. Reflection on the future of SACE should be driven by the DBE and its associates.*

**Recommendation 15:** *That the roles South African Council of Educators (SACE) be reconceptualised and that SACE be freed from Union and political domination.*

*From its meetings with the SACE, the MTT was led to believe that the SACE investigation would yield hard and fast instances of malpractice in Umlazi, KZN and in Mpumalanga. Inexplicably, SACE has produced nothing of use for the Task Team other than an incomplete synopsis of some of the cases investigated. Since the Task Team has not been shown the final SACE Report, we suggest strongly that the Minister requires SACE to provide copies of the narrative Report to her once completed. It is therefore recommended:*

**RECOMMENDATION 16:** *That SACE releases to the Minister its full Report on the buying and selling of posts when completed.*

## **6.9 CONCLUSION**

This Report has given its attention to two main matters:

1. The perceived impact upon the educational environment of the relationship between the Department of Basic Education and Teachers' Unions, and
2. The presence of irregularities in the selection and appointment of educators within the context of that environment.

The Report's conclusion is that the present environment is not conducive to the provision of quality education, and that there are significant problems in the current system of appointments to posts in education and its recommendations are intended to assist the Department of Basic Education and the educational community in general to address these challenges.

The Report also provides sufficient evidence that Teacher Unions have a significant impact on the delivery of education in South Africa. If Teacher Unions are to play a genuine role in enhancing teaching and learning, they will need to reposition themselves in order to focus on the task of becoming professional/occupational unions, rather than an industrial union with an adversarial relationship with its employer.

Furthermore, these Unions appear to have lost their links with communities. Instead Teacher Unions at present carry the burden of supporting political movements, of holding the education system together at some provincial and local levels and functioning in support and defence of their members. They are rendered almost incapable of thinking and acting educationally as a result.

Finally the MTT wishes to express its gratitude for the free-hand provided to it by the Minister to conduct its investigative work and the space to decide on the methodological

approach followed and the conclusions arrived at. The MTT is also thankful for the level of cooperation given to it by the Teacher Unions. At no point did the members of the MTT feel constrained from pursuing issues vigorously and openly, or feel pressurised to arrive at a pre-determined conclusion. The data collected through the various interviews conducted were collated and find voice in this Report. Where more than one view is expressed on a matter we have endeavoured to allow the data to speak.

The basic attitude adopted by the MTT members in performing their task was to ascertain facts and other information towards understanding the circumstances in which the recruitment and appointment of educators is taking place and to make recommendations to the Minister based on those findings. It has not been the purpose of the MTT to apportion blame or to indict any persons or organisations. However, clear indications of wrongdoing have been established and pursued.

The Report provides critique of the role by all stakeholders in the process of selection and recruitment of educators. It is hoped that the findings in this Report will serve as a metric that can be used to establish the extent to which the process of appointment of educators have been tarnished and to provide an opportunity for the education system to cleanse itself from such blemishes.

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## **ADDENDUM I: OBSERVATIONS MADE BY PROVINCIAL DISTRICT MANAGERS**

**Eastern Cape:** 6 District Managers interviewed.

- Powers of appointment have been delegated to the Chief Director: Human Resources Management at Head Office.
- They are unaware of specific instances of the buying and selling of posts but this occurrence is possible especially among educators desperate to relocate from rural to urban sites.
- Selection preferences among SGBs tend to be for a “son of the soil”.
- Rural SGBs lack the skills to conduct interviews for posts – they need ongoing training.
- The parent component on selection panels is vulnerable to influence by educators.
- Educators on selection panels are open to influence by Teacher unions.
- Only rare problems are experienced with Departmental Resources Persons.
- The role of the EDO in recruitment and selections should be formalised.

**Gauteng:** 11 District Managers and one Chief Director interviewed.

- The process of appointments is vulnerable to pressures and influence: parents are inadequately educated, teachers tend to lose interest in SGB work whereas District Managers “cannot be vulnerable”.
- They are not aware of any instances of the buying and selling of posts.
- Complaints of irregularities lack provable substance.
- The system is vulnerable to undue influence but SGBs and Unions are reluctant to make use of outside selection panels.
- Parents eventually lose interest in SGBs.
- SGBs are afraid of Teacher unions but clear leadership by officials and SGBs usually solves the problems.
- There are varying degrees of ‘functionality’ of SGBs within and between Districts.



- They are not happy with the present SGB powers: a means to combine Districts and SGBs in appointments should be found e.g. a “hybrid model” where trained officials sift and short list, then SGBs recommend.
- At a meeting of 81 District Managers no one argued for the retention of the present form of SGBs: there are no criteria for the election of parents, the current training of SGBs does not meet real needs, and there are major problems with the short listing process.
- The Chief Director pointed out that SGBs are not the only problem and they should be supported rather than changed.
- SGBs in urban areas usually have sufficient expertise to do their work.
- Little is invested by Provinces in SGB training.
- Interviews are a poor method of selecting candidates.
- Remove the appointment of principals from SGBs.
- Unions are powerful and threatening in the process of appointments.
- The role of NEHAWU should be checked.

**North West:** 4 District Managers interviewed.

- They have no hard facts about the buying and selling of posts.
- Other kinds of irregularities do occur.
- Most SGBs are not subject to undue influence.
- Increased SGB capacity will deal with the SADTU influence.
- It is Districts that hold the education system in this Province together.
- There is a need for District Managers to establish working relations with Unions.
- There is good reason to believe that irregular appointments occur throughout the Province.
- A special team is needed to deal with promotion posts.
- SADTU takes charge if Circuit Managers do not act.
- The allegations of irregularity are made by dissatisfied applicants.
- Congenial meetings occur between Districts and Unions.

**Western Cape:** No District managers interviewed but senior personnel at Head Office were met by the Task Team: see the Interview with the HOD above.

**Free State:** 4 District Managers interviewed.

- Anomalous, improper and strange appointments are made by SGBs but there is no evidence of corruption.
- 40% of SGBs have the functional capacity to recruit and appoint.
- The present SGB powers are used to resist transformation.
- Recognise the importance of the principals.
- Unions tend to be more than 'observers' and must be resisted.
- Districts are quite capable of managing the process of appointments.
- There is at present no programme for grooming future principals and deputies.
- The influence of teachers on SGBs needs to be restrained.
- It is unacceptable for junior staff to interview their seniors.
- Elect SGBs one year before they assume office.
- Why are people keen to serve on SGBs?
- Remove SGB powers for now and restore them later.
- Use a phased interview approach for principals.

**KwaZulu-Natal:** 4 District Managers were interviewed.

- They had never heard of or come across the selling of posts.
- The department should appoint principals.
- SGBs scoring can indicate that they have particular candidates in mind.
- Observers can and do play a role in determining the outcome of the selection process.
- Post selection should be removed from the SGBs and they should be responsible only for the governance of the school. Powers to select and amend should return to the Department.

**Mpumalanga:** 5 District Managers were interviewed.

- The functionality of SGBs is a challenge, especially in regard to SMT recruitment.
- The education levels of parents are not equal to their tasks.
- SGBs are politicised.
- In this Province, SGBs do Post Level 1 recommendations.
- Unemployment makes people who serve on SGBs behave unethically.
- SGBs are a good thing but their levels of commitment and morality need uplifting.
- The training of SGBs should be improved rather than taking away their powers to make post recommendations.
- The biggest SGB challenge is the appointment of principals.
- SGB attitudes vary according to whether an SGB “belongs” to a Union or not.
- Undue influence by Unions on SGB decisions is caused by: incapacity of SGBs, parent understanding of the appointments process, the role played by the Resources Person, anomalies in the process.
- Unions can come across as intimidating to panel members.
- Therefore appointments should take place at District level, the powers of SGBs to make recommendations should be removed and SGBs should be capacitated in other areas of their function.

**Limpopo:** 4 District Managers were interviewed.

- There have been no allegations about the buying and selling of posts in these four Districts.
- The process of SGB recommendations and appointment by the HOD makes interference “very unusual”.
- Difficulties occur over the incapacity of SGBs to manage selection procedures rather than from undue influence by SADTU.
- A “fair number” of SGBs are functional. This has improved over time and now functionality is “very high”.
- These Managers are content with the Department doing the appointments to promotion posts. They suggest a “debate” which leads to taking away the powers

of appointment from SGBs and this will make things easier for District Managers, lessening disruptions to schooling over tensions between SGBs and the Districts.

- Circuit Managers are afraid of confronting principals because of SADTU.
- Some principals are appointed by the Department on the basis of the Union that they belong to.
- Recommend that (a) officials cease to be “unionists”; (b) Circuit Managers should take control; (c) the Department should support insecure Circuit Managers; (d) Unions should be treated equally by the Department.
- SADTU uses its size to “monopolise” education and controls its members by using threats.

**Northern Cape:** 4 District Managers were interviewed.

- In Namaqua District, 80-85% of SGBs are functional but not perfect, in Pixley ka Seme the figure is 50%.
- HR officials train SGBs in the appointment process and, with the appointment of principals, the Circuit Manager represents the Department whereas Unions are mere observers.
- The Department should manage promotion posts.
- No instances of Unions influencing appointments and no instances of posts being bought or sold.
- Scoring by SGBs is checked.
- The Human Resources team, Circuit Manager and Labour Relations check SGB recommendations for “gender equity, race and other compliances”. If compliance is lacking, the recommendations are sent back to SGB for reasons for such a recommendation.
- If there are grounds for the Department to recommend another candidate, they do so.
- Circuit Managers should provide greater support to SGBs.
- Former Model C schools advertise in such a way that only white applicants apply
- It is not a good idea for officials to be Union members.
- It is not good for the country that SADTU has so much power in education.

- Promotional and principals' posts "must be left in the hands of professionals who have expertise in education" – amend SASA.
- Schools have begun electing younger people to SGBs.
- Transport would increase parent participation in SGBs.
- Classifying people as "dysfunctional" means that they will behave "as if dysfunctional".
- Rural and former Model C schools make 'son of the soil appointments'.
- Though 80% of District Managers are SADTU members, they exercise no influence over appointments.
- There have been no advertisements for posts for 3 years owing to a lack of funds.

## **ADDENDUM II: INTERVIEWS WITH TEACHER UNIONS IN NINE PROVINCES**

### **Teacher Unions in KwaZulu-Natal:**

#### **NAPTOSA**

- NAPTOSA would have preferred a Judicial Commission of Enquiry to the Ministerial Task Team.
- Its main interest is in internal organisational and educational matters.
- The Task Team should focus on the cadre deployment phenomenon.
- It is aware that posts are sold and that membership of a particular Union favours promotion.
- Observers of SGB selection panels have critical influence on the eventual recommendations.
- SGBs play many vital roles for schools – they should be capacitated.
- An ‘independent interim committee’ should be responsible for conducting interviews
- Resource Persons and Union alignment influence SGBs.

#### **No representation in KZN by the PEU**

#### **SADTU**

- There are sparse incidents of the buying and selling of posts by Union members. Unions have never resolved to sell posts.
- SADTU called on SACE to investigate this practice and encouraged the DBE to take the matter seriously.
- Allegations of irregularities are designed to inhibit SADTU’s contribution to and involvement in education.
- SADTU feels that sometimes its members are ‘prejudiced’ when seeking appointments.
- SADTU’s dominance (70%) in KZN is being used now “to dislodge us”. In fact SADTU applicants are stronger than the others.

- Cadre deployment does not occur as its officials achieve posts like “any other member”.
- Problems occur in Districts [Ilembe, Ugu and Umlazi, presumably] because of the corruption there. Events that occurred there were caused by “SADTU’s advancement on corruption”.
- SADTU “shares responsibility for quality teaching and learning in schools”, and “we have a common responsibility to ensure quality in the District”.
- “In KZN, SADTU is education and education is SADTU”.
- Build SGB capacity for the application/interview process.
- Clarify the role of Resources Persons.
- When the interviewing and selection process goes awry, “SADTU cannot keep quiet” and intervenes despite being only an observer.
- This Union rejects independent interviewing panels.

#### **No representation in KZN by SAOU**

#### **Teacher Unions in the Eastern Cape:**

##### **NAPTOSA**

- This Union has received no reports of the buying and selling of posts.
- As far as influence is concerned, during the selection process it is necessary to know “who is holding the pen”.
- Numbers of appointments are predetermined.
- NAPTOSA supports independent selection panels.

##### **PEU**

- The majority of District staff are SADTU members or supporters – they do influence SGBs.
- The transfer of powers from SGBs to Districts is likely to increase irregularities in appointments.

## SADTU

[The SADTU representative is secretary of his Union's Task Team owing to the (temporary) disbandment of the Eastern Cape SADTU.]

- SADTU Eastern Cape will continue to regard reports of the buying and selling of posts as “some form of myth” until empirical evidence is produced for them to adjudicate.
- Since they have no hard evidence of such practices they find the statement by SADTU national sufficient.
- Since the SADTU Task team has been unable to follow up allegations about the buying and selling of posts, these remain a “myth”.
- On being asked whether any individual SADTU members might have been involved in practices of this kind, the answer was that without facts the question is offensive, tarnishing the Union without valid reasons.
- SADTU national's claim that the buying and selling of posts is “widespread” was news to the Eastern Cape.
- SADTU members' principal function in selection of candidates for posts is entirely limited to that of being observers of the process.
- There is no knowledge of members of other Unions being involved in the buying and selling of posts.
- This representative was unable to offer any suggestions for changes to policy of procedures which might strengthen the system since his organisation has not begun to consider this matter.
- The current role of SGBs causes discomfort because in certain circumstances their powers are abused and because they lack capacity. He was unable to comment on the option to remove powers from SGBs because much depends on how the proposal is made and whether his organisation has had an opportunity to consider it. If he were to offer an individual opinion “he will be taken for a hiding”.
- The relationship between the Department and SADTU are “not a walk in the park” and “sometimes they can be very rough” though not every day.



- SADTU decided in 2014 that it is “a trade union of professionals who are change agents”. Because SADTU is “politically oriented”, it cannot be only a professional Union but instead is an Industrial Union.
- In response to a reference that it has been asserted in the media that SADTU does not care about children, the representative said that he finds such a statement offensive and provocative. A SADTU slogan says, “We can teach and fight at the same time”, and the view that SADTU does not care about children is merely an unsubstantiated allegation.

### **SAOU**

- This Union was unaware of the buying and selling of post prior to news reports.
- It is content with the current system of appointments.
- Vulnerable SGBs should be given training.
- Further intervention into appointments by the District would be a “violation of democracy”.
- SGBs **must** do the selection of candidates.

### **Teacher Unions in the North West:**

#### **NAPTOSA**

- Concerned about protection for whistle-blowers.
- Concerned about broader issues than the buying and selling of posts.
- Unions are not invited to observe the ‘sifting’ process and receive information only after short listing.
- Grievance committees act inappropriately.
- Applicants should undergo examination of their suitability.
- Interviews should be conducted by an “independent recruiting firm”.
- Unease about cadre deployment from schools into the Department.
- SADTU members receive preferential treatment from the Department.

- Each member of the Combined Trade Union (CTU) should have individual observer status at post selections.
- Scoring of candidates at interviews is open to abuse.
- The Department connives with SADTU to unsettle other Unions.

#### **PEU**

- Unaware of its members being involved in the buying and selling of posts.
- Minority Unions are not always represented in appointment processes: make possible the attendance of individual Union representatives.
- Worried about the cadre deployment of SADTU officials.

#### **SADTU**

- SADTU condemns the practice of the buying and selling of posts.
- It has received no reports of this practice.
- 'Undue influence' is perceived because in every case SADTU members form the majority of candidates.
- SADTU does not undermine the Department.
- SADTU applicants are trained and empowered for their posts and hence are the most likely to be appointed.

#### **No representation in the North West by SAOU**

#### **Teacher Unions in Mpumalanga:**

##### **NAPTOSA**

- There is no concrete evidence of the buying and selling of posts and no member has submitted information about this or been accused of this.
- NAPTOSA not taken this matter seriously because (a) no evidence, and (b) the formation of the Task Team.
- Have received an anonymous call to say the buying and selling of posts in Bushbuckridge is "very bad".
- Whistle-blowers and informers have been given no assurance of protection.

- Post level 1 appointments are managed by Circuits and principals.
- No instance of a failure to secure appointment because of Union membership.
- Influence of “son of the soil” is problematic.
- Inadequate training of SGBs: some are trainable, others are not.
- Certain process by SGBs (e.g. scoring) not always reliable.
- SGB power is greater than their capacity.
- Even training could not prepare SGBs for appointing principals.
- The language medium of interviews creates problems for SGB members.
- Many SGB decisions are decided beforehand.
- Senior posts should be appointed by those in higher authority than the candidate.
- Cadre deployment and membership of a particular Union are seen as prerequisites for appointment.

### **No PEU representatives in Mpumalanga**

#### **SADTU**

- SADTU is aware of the practice of the buying and selling of posts.
- It is also aware of various irregularities in relation to appointments.
- SADTU representatives act as observers only at SGB panel meetings, not as ‘influencers’.
- Irregularities occur with Circuit and District appointments.
- SADTU has taken no resolution to use kidnapping of officials.
- This UNION had difficulty getting answers to questions and information about events affecting staff appointments.
- SGBs are a product of the struggle and their role is transformative.
- Should changes be made to the constitution of SGB panels or in relation to SGB performance in governance?
- Some SGBs are easily controlled and manipulated by principals.

### **No SAOU representatives in Mpumalanga**

## Teacher Unions in Gauteng

### NAPTOSA

- It is aware of allegations without any concrete examples.
- Trains its members to be observers of fair practice.
- Strongly supports SGBs in making appointments.
- Parents should not be removed from the appointment process.
- Opposed to reducing the SGB role in the appointment process.

### PEU

- The practice of the buying and selling of posts is well known.
- Grievances of non-SADTU members are not attended to.
- Principals are “parachuted” into schools.
- The NSGB destabilises schools.
- Membership of certain Unions guarantees promotion.
- Every District Manager in Ekurhuleni is a SADTU member.
- Opposed to reducing SGB power to make appointments.

### SADTU

- The buying and selling of posts is a product of talk, rumour and the media.
- None of the allegations have been confirmed by SADTU members. Individuals might prefer to speak to the Task Team.
- SADTU has issued statements and called for investigations.
- Transgressions reported to the Gauteng Department of Education have not been responded to – there is no “movement”.
- Union members are mere observers during the selection processes.
- All appointments are made solely on merit.
- SADTU’s power stems from its numbers and the insecurity of non-SADTU members.
- SGBs have an important role and there should be a focus on their capacity to fulfil their functions.

- SADTU would be happy to enter into negotiations over the role of SGBs in the recruitment process e.g. SGBs ought to co-opt necessary expertise.

### **SAOU**

- Not aware of the buying and selling of posts as a prevailing practice.
- The recruitment process has been “hijacked by the Department”.
- Strong support for SGBs in the appointments process.
- No support for the reduction of SGB powers to make recommendations for appointment.
- SGBs should be empowered with new guidelines and budgets.

### **Teacher Unions in the Western Cape:**

#### **NAPTOSA**

- There is no systematic buying and selling of posts in the Western Cape.
- This Union is aware of the practice of cadre deployment.
- Recommendations by SGBs of candidates for appointment are usually accepted by the Department. However, office-based educators are selected by the District.
- The online application system has made the process more “open” than before.
- Resources Persons are essential to the SGB selection process but they are not always available, causing delays.
- Each school should draft its advertisements for posts.
- SGBs are coping generally but there are major differences between fee-paying and non-fee-paying schools.
- Beware of over-managing professionals.

### **No PEU representatives in the Western Cape**

#### **SADTU**

- This Union is unaware of instances of the buying and selling of posts.
- There no allegations about other Unions.
- Observers on selection panels need to give specific criteria.

- Office-based educators should remain loyal Union members.
- Public Service post selection processes should include Union observers.
- Those who feel oppressed by SADTU are “victims of themselves”.
- SGBs are neither sufficiently empowered nor trained.
- SGBs and Departmental officials ought to understand the philosophy of community involvement in education.
- Interference in the post selection process has come from the Resources Persons.
- Officials are guilty of preventing SGBs from making their own choices.

### **SAOU**

- No system of buying and selling posts exists in the Western Cape.
- Nepotism and favouritism occur in certain cases.
- This Union favours the Grievance Committee route in the case of irregularities.
- Online applications have increased the open nature of the process.
- Resources Persons need to be restrained in how to use their presence and influence
- Each school should draw up its own advertisements.
- SGBs have multiple roles – even if they struggle in one area it does not mean that they are dysfunctional.
- Be careful of “managing” professionals.

### **Teacher Unions in the Northern Cape:**

#### **NAPTOSA**

- Multiple irregularities occur with regard to appointments but no concrete evidence has been obtained. Observers report on malpractice but are reluctant to commit this to writing.
- There is some likelihood of the buying and selling of posts but NAPTOSA members do not only serve the Union, unlike members of other Unions.
- NAPTOSA’s member is 10% of the teaching corps and they have little say or influence.
- All Unions favour the appointment of their own members.

- No allegations have been levelled against their members.

## **SADTU**

- Allegations in the media are being made to tarnish SADTU's image. This Union aims to provide quality education, to clear the record and move on.
- None of the allegations about the buying and selling of posts have mentioned the Northern Cape, and no allegations have been made about SADTU members.
- SADTU believes in fairness and that the best qualified person should get the post
- Only a few SGBs are not functional.
- Interference by political parties in education, about school tenders, is a new challenge.
- SADTU wants SASA amended so that powers concerning appointments should "be given to the Department".
- SADTU supports its members when they apply but does not promise people posts. Union delegates are trained to be observers and not to influence SGB decision-making.
- SADTU in the Northern Cape is patient and believes in engagement first but when there is no evident solution, they march e.g. a programme to remove the HOD in 2006.
- The Department is assisting with the transformation process e.g. SGB membership is no longer dominated by whites.
- Grievances are handled procedurally.
- SADTU has positive working relationships with District Managers.
- SADTU will submit written proposals to the Task Team.

## **SAOU**

- Buying and selling of posts is occurring, but there are no facts. No allegations against their members.
- Grievances are about "racial issues" rather than influence through Union membership.
- SAOU is the second-biggest Teachers' Union in the Northern Cape.

- There has been no Gazette for Post level 1 posts since 2012.
- Many SGBs are not functional and the Department does little to strengthen them.
- Reconsider the SGB power to appoint principals.
- The current selection process is transparent until the Department changes SGB recommendations from 1 to 3.
- Need for applicants to provide reference letters and not only telephone numbers of referees.
- 'Son of the soil' choice of principals occurs in rural areas. [Vague and evasive in answer to whether this happens at former Model C schools.]
- SAOU has good working relations with the Department.
- It is difficult to transform the teaching staff.
- Former Model C schools are not resisting transformation.

#### **PEU has no presence in the Northern Cape**

#### **Teacher Unions in Limpopo:**

##### **NAPTOSA**

- NAPTOSA Limpopo has made no public statement about the buying and selling of posts as the matter has consisted of rumours without concrete evidence.
- The dominant faction in this Province "creates an environment that ensures that corruption will take place", not necessarily involving money but by means of influencing the decision-makers.
- All appeals against malpractice and dispute resolution are blocked to NAPTOSA members by means of the "undue use of power" against those who are not part of the Tripartite Alliance.
- Difficulties in relation to appointments arise over the ways in which the short listing process is manipulated. The short list is shown to "interested parties" prior to the selection process and certain names are "discussed and discredited" and not recommended by the SGB.
- The educator appointment process is good on paper but it lacks monitoring to ensure that people act "according to the system".



- About 25% of SGBs are functional, and the others “rely on what the principal says”. SGBs at ex-Model C schools cannot be manipulated by principals.
- A solution to problems over short listing might be to create a “common committee” that is not part of the teaching fraternity” and which manages the short listing and interviewing processes for promotional posts “under supervision of Union reps”.
- Another solution is to give the powers of SGBs to appoint educators to the Circuits.
- Strict adherence to policies will strengthen the system. The policies are good “but they are not adhered to, so nobody is implementing them”.
- It is important that all Provinces follow the same policy e.g. re-entry into the profession after resignation.
- There are so many educators who are ‘acting’ that the joke is that Hollywood has opened in Limpopo.
- People in continuously acting positions do not follow policy but wait “to see which way the water will flow”. This makes for instability, unpredictability and forms of protectionism including the “frog jumping” of unwanted officials out of their positions. Even MECs are impermanent and the HOD position has been an acting one for nine years!
- Many of the better teachers have moved to Gauteng where the education system is better managed there e.g. the majority of the Maths teachers in Limpopo are foreigners.
- “Maybe the sister union is running the Department”.
- “Our education system is going down the drain”.

## **PEU**

- This Union has strong suspicions that posts are being bought and sold.
- The entire Provincial Education Department has been converted “into a recruitment agency of SADTU”.
- Complaints and grievances over irregular appointments are rebuffed by SADTU-dominated agencies and by officials in defence of SADTU members.

- PEU has not spoken publicly about the buying and selling of posts but they have engaged with the Provincial Department. They have also conscientised their members over this practice.
- Practices such as these occur in a context where non-SADTU members are evicted from their positions, including “employers, managers and principals” who are ousted to create a “vacancy for a member they want in”.
- PEU members are not involved in the buying and selling of posts.
- Irregular appointments happen “very often” e.g., SGBs are persuaded to change recommendations, usually in favour of a SADTU member, or else the Grievance Procedure is used to nullify decisions which SADTU does not approve of.
- Most problems in recruitment, selection and appointment of educators “are created by officials in the Department”.
- There is a need for a permanent HOD who is in control of the Department and who acts in the interests of all.
- “The employer should be the one who appoints educators”.
- 99.9% of SGBs are not competent to conduct appointments and they are persistently influenced by outside influences in the decisions that they make.
- Circuits are under the influence of SADTU which controls who gets appointed.
- Perhaps external experts should have the power to make appointments. The other powers should remain with the SGBs.
- SADTU’s initial intention was to fight for the rights of disadvantaged educators but now it members abandon learners “to push for their own things e.g. SADTU teachers attend memorial services every Thursday, leaving learner unattended.
- 98.9% of the children of SADTU leaders are not in public schools.
- There is a desperate need “to get back to basics”.
- SADTU is well aware of proper procedures but “they create their own scenario ... outside the law”.
- The advantages of SADTU membership are: (1) access to higher posts regardless of qualifications, and (2) policies can be easily violated as Circuit Managers, as SADTU members, will not act.

- Whereas PEU members are essentially concerned with the dignity of educators, this is not a feature of SADTU members.
- SACE is wholly dominated by SADTU (90%) including the CEO.
- PEU “members will not accept posts they don’t deserve to hold”.
- What is distinctive about PEU is its concern about the interests of learners.

## **SADTU**

- 80% of educators in Limpopo are members of SADTU.
- Allegations of the buying and selling of posts are widespread.
- SADTU has not come across any such case.
- SADTU’s role in appointments is “limited to being an observer” of the process.
- Over two years there has never been a case at the ELRC where the claim was that a person had been deprived of a post because SADTU sold it.
- The weaknesses of SGBs are common knowledge. They need capacity building, but the Department does not do so.
- Under 50% of SGBs have the ability to make appointments and they should be capacitated and not have their powers taken away.
- Since education is a “societal issue”, it cannot be successful without the inclusion of important stakeholders [parents, communities]. If you take powers away from the SGBs this will “totally demobilise them from participating in the well-being and welfare of the education of their children”.
- Usually SGBs confirm the selections made by the interviewing panel but when, for example, a highly-regarded person in the community is not recommended, than a variety of tricks can be used by the SGB to nullify the decision such as not submitting documents to the Department.
- SADTU’s power is governed by its code of conduct and the presence of other Unions at the interviewing panel.
- SADTU’s overwhelming majority ensures that its members are frequently appointed. SADTU uses its power “to advance the best interests of our members – we are an entity that looks after its members”.

- If the rulers of this country felt that SADTU misuses its power they would “clip its wings”.
- SADTU is able to get rid of a DG but will only do so when that person becomes a “stumbling block” or is generally ineffectual.
- SADTU has no problem with outsourcing expertise since the majority of the people brought in will be SADTU members.
- There is a suspicion that the aim of the media campaign by the liberal press, supported by “certain academics”, as well the bringing in of the Task Team may well be to destabilise an organisation of civil society but is ultimately intended to weaken the ruling party.
- If a person has used funds to provide or acquire a post, then he/she should be charged criminally and SADTU will support such a charge in its determination to “clean ourselves”.
- Ascendency and domination in all spheres are a hallmark of normal political life. The cadres who fought for and gained SADTU’s ascendency and who advance it as a political entity should be those who are appointed for advancing that determination
- Do not imply when speaking of the “best teachers” that they are not SADTU teachers. Furthermore, the present system “does not disadvantage any person with the best [qualifications, ability?] to occupy whatever position”, as the situation in Limpopo can now attest.
- SADTU welcomes debate on all aspects of education in the relevant bargaining chamber where “we have the right to regulate the workplace”.
- There is a disjunction between policy and implementation and SADTU welcomes debate on ways of closing those gaps. Attempts to infuse such debates with ideology from liberals and outsiders will be met with resistance since “who is driving this policy, for instance, it’s a matter of politics”.

**SAOU has no representation in Limpopo**

## **Teacher Unions in the Free State:**

### **NAPTOSA**

- Some appointments to posts seem to be predetermined.
- No evidence of favour for material gratification.
- Members know NAPTOSA's stand on the matter of the buying and selling of posts and have been encouraged to report such incidents.
- Allegations in the media are confined to SADTU: no NAPTOSA members have been accused.
- Not all Departmental officials are able to act as Resources Persons – there is a need for training and selection.
- The role of SGBs is important.
- SGBs should either be trained to select candidates or not do so.
- "Son of the soil" appointments should be resisted.
- Principals tend to dominate SGBs.

### **PEU has no representation in the Free State**

### **SADTU**

- The media allegations lack substance. Those members who have knowledge of such practices have been encouraged to contact the Task Team.
- SADTU members are repeatedly cautioned about engaging in such practices.
- There is a particular media campaign against SADTU.
- 70% of Free State educators are members of SADTU and this influences demographics.
- No disputes arising from selection processes have involved the exchange of cash.
- Some SGBs are unfamiliar with legislation, especially shortly after election.
- The Departmental 'micro-wave' form of training is inadequate.
- Resources Persons are not always conversant with procedures.
- When the selection process goes awry, Union representatives and the Resources Person take the initiative.
- SGB panels are "often" manipulated by principals and Resources Persons.
- Advertisements are directed at individuals.

- SGBs fail to provide reasons for ranking recommended candidates.
- SGB weakness leads to intervention by Unions and Resources Persons.
- If Resources Persons were to be well prepared, then SGBs would be equal to the tasks of selecting candidates for appointment.
- Independent selection panels are not a viable alternative to SGBs because of incapacity at Departmental level.
- The time for a change for the better has arrived.

### **SAOU**

- This Union has no sense of the buying and selling of posts as a problem.
- No person from SAOU has been guilty of this.
- There have been instances linked to other Unions.
- It is essential to retain the community in schooling.
- SGBs are of mixed ability and quality.
- SAOU wants to retain the present system – it is the only one in which Unions are observers.
- Community-driven schools are important.
- Principals should be appointed solely on merit.

## ADDENDUM III: EXCERPTS FROM MEDIA REPORTS INVOLVING THE PROVINCES

### APRIL 2014

*City Press* can reveal that plum posts, including those of principal and deputy principal, are routinely sold for upwards of R30 000 each in KwaZulu-Natal. **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". *City Press* 27 April 2014.)**

In at least two cases in KwaZulu-Natal, sitting principals were violently forced out of their posts and threatened with death.

They were then replaced with candidates who they claim paid off union officials to take their jobs.

One principal, who was too afraid for his name to be published, said: "When this thing started in the late 1990s, they were demanding around R11 000 for a promotion post. Now it starts at R30 000."

**(Paddy Harper, Siphon Masondo." how SADTU sells its posts". *City Press* 27 April 2014.)**

On Tuesday, Mfundu Sibiya (54) the KwaZulu-Natal education department's Ugu (lower South Coast) district director, two principals and an ANC ward councillor were granted bail in the Umlazi Magistrates' Court.

They were arrested for allegedly ordering the murder of Nyon'ehlophe Primary School principal Nkosinathi Zondi (46). **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". *City Press* 27 April 2014.)**

A Durban principal, whose identity and school name is being withheld as he fears for his life, told *City Press* he was confronted at his school gate in 2010 by an armed man who told him he would be killed if he returned to work.

The principal, who retired last year, said he had been told by his fellow teachers his deputy "paid" for his job, which she wanted. ). **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". *City Press* 27 April 2014.)**

Also in 2012, members of the National Teachers' Union (Natu) protested in Durban against SADTU provincial secretary Mbuyiseni Mathonsi's alleged sale of a director position in the provincial education department for R100 000. **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". *City Press* 27 April 2014.)**

### How the scam works

### Why it matters

- . A teacher who wants to land a promotion identifies the position they want.
- . Typically, this is a job that they know the incumbent will soon be leaving, either because they are retiring or because they are resigning from the department.
- . That teacher then approaches a local SADTU official who they know to be involved in selling positions for cash, and hands over a minimum of R30 000.
- . The SADTU official then meets with members of the school governing body and department officials to rig the process.
- . If the post is filled, the school governing body is used to agitate against the incumbent if necessary to force them out of the post.
- . The school governing body then recommends the teacher who paid for that job to the selection panel.
- . The selection panel, which contains paid-off officials from the department, then ratifies the governing body's recommendation;
- . The teacher gets the job. **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". City Press 27 April 2014.)**

South African Democratic Teachers Union (SADTU) has called on anyone with evidence that its members are involved in reported cash-for-jobs scandal to come forward calling the practice "sickening".

The *City Press* has revealed that SADTU officials are said to be selling positions for a minimum of R30 000 to teachers in KwaZulu-Natal, the North West and in Limpopo.

SADTU's general secretary Mugwena Maluleke says if any member is found to be involved, the union will take strong action.

"We can't allow any officials in our union to be involved in crime because it's sickening to make a teacher or member of the public to pay for a post, what kind of people are we in this country to allow such things?"

Furthermore, SADTU says anyone who sells jobs for cash is acting as an individual and must not bring the union into disrepute by using its name.

Maluleke added: "We must make sure we root out corruption in the Department of Education and SADTU is leading in that area." **(Mia Lindeque."SADTU slam cash-for-jobs claims". Eye Witness News 28 April 2014)**

SADTU teachers confirmed a report that the union's officials were selling senior education posts.(SABC)



Calls are mounting for the Basic Education Department to hold an independent investigation into the alleged South African Democratic Teachers Union (SADTU) cash-for-posts scandal. This comes after past and current members of the teacher union confirmed a report that SADTU officials were selling senior education positions to teachers in KwaZulu-Natal, North West and Limpopo.

The minimum fee is said to be R30 000. The department has promised strong action against the culprits, but apparently intends to hold an internal investigation. **(Lucas Mothibedi . "SABC NEWS". Teacher union wants probe into SADTU cash for post scandal 29 April 2014)**

Meanwhile, the Limpopo education department said it has launched a preliminary investigation into allegations that principal, and circuit and district manager positions were being sold.

Department spokesperson Pitsi Maloba said: "We have heard those allegations and there is an informal investigation. What comes out of there will inform us if we should probe further."

Maloba said the SADTU chairman in the province, Ronald Moroatshehla, forwarded a list of six names to education MEC Dikeledi Magadzi demanding they be appointed to senior positions in circuit and district offices.

City Press is in possession of the list, which includes one of Moroatshehla's relatives. But it is not known whether any money changed hands for those jobs. **(Paddy Harper, Siphon Masondo." how SADTU sells its posts". City Press 27 April 2014.)**

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In North West, the education department appointed Nexus forensic services two years ago to investigate allegations SADTU had irregularly influenced the appointment of officials to senior positions in the department's Bojanala district.

Provincial education spokesperson Brian Setswambung said the report found "SADTU had influenced the appointment of senior officials".

The department, he said, is now conducting disciplinary hearings against its officials who were involved in what Setswambung labelled a "jobs scam".

He could not provide any further details.

The acting director-general of the national basic education department, Panyaza Lesufi, said he was unaware of any racket.

"Anyone with evidence that jobs are being sold, or that SADTU was influencing recruitment processes, should approach the department," he said, adding: "It is illegal and undesirable. We won't tolerate it."

But Lesufi said the department was proposing it should exclusively handle the recruitment of principals and their deputies instead of school governing bodies.

"What currently happens is that the governing bodies choose the principal and the deputy and then recommend to the department. We are saying the whole process should be done by the department. It will go a long way towards preventing such things."

### **Fraudulent behavior**

#### **How the scam works**

#### **Why it matters**

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- Typically, this is a job that they know the incumbent will soon be leaving, either because they are retiring or because they are resigning from the department.
- That teacher then approaches a local SADTU official who they know to be involved in selling positions for cash, and hands over a minimum of R30 000.
- The SADTU official then meets with members of the school governing body and department officials to rig the process.
- If the post is filled, the school governing body is used to agitate against the incumbent if necessary to force them out of the post.
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The minimum fee is said to be R30 000. The department has promised strong action against the culprits, but apparently intends to hold an internal investigation. **(Lucas Mothibedi. "SABC NEWS". Teacher union wants probe into SADTU cash for post scandal 29 April 2014)**

## **MAY 2014**

### **Moshesh High School**

The Minister has also noted with concern the on-going challenges facing learners and the community around Moshesh High School in the Eastern Cape.

The Minister has since instructed the MEC to immediately resolve the issues plaguing the school, and directed the acting Director General Panyaza Lesufi to follow up on the matter.

According to media reports, the school in 2012 was challenged with teachers coming to school drunk and an absent principal, among others. **(“Dept to probe principal posts for sale”. *SAnews.gov.za* 02 May 2014)**

This appears to be the case in at least one Eastern Cape school.

Documents in City Press’ possession show that a principal and SADTU founder member was appointed in 2006 ahead of 95 better-qualified applicants. He had no certificates to prove his qualifications and, nine years later, has still not given any to the department.

Teachers at his school were told he would be appointed principal 14 months before the post was advertised. The principal is now believed to be eyeing the Uitenhage district director’s post when the incumbent retires next year. **(Paddy Harper, Sipho Masondo“MORE JOBS FOR SALE IN SADTU RACKET”. *City Press* 04 MAY 2014)**

The City Press investigation was sparked by the arrest last month of former SADTU provincial secretary Mfundu Sibiyi and a group of SADTU principals for the murder of whistle-blower and KwaZulu-Natal south coast school principal, Nkosinathi Zondi.

However, this racket is only the tip of SADTU’s alleged racket.

After our exposé, City Press received a flood of tipoffs from teachers across the country – in provinces including Gauteng, Mpumalanga and Free State – revealing that the scam was far more widespread than the racketeering we reported taking place in KwaZulu-Natal, North West and Limpopo.

Concerned teachers, officials and school governing body members painted a chilling picture of how teachers were appointed based on what they could pay, not their ability to teach.

City Press can reveal that:

>> To make back the money they paid for their posts, some KwaZulu-Natal principals are selling entry-level teaching jobs at their schools for R6 500 to R7 000 and upwards;

>> Lateral transfers within and between provinces are being sold for upwards of R10 000. The more popular the school, particularly in the big cities, the more expensive the transfer;

>> Deputy principal and head of department posts at schools are being sold for R15 000 and R10 000 respectively; and

>> Teachers are opting for early retirement so that they can use their pensions to settle their debts. By law, they cannot be re-employed for at least a year.

However, they return illegally after three months in return for bribes to SADTU officials of between R30 000 and R50 000. **(Paddy Harper, Siphon Masondo "MORE JOBS FOR SALE IN SADTU RACKET". *City Press* 4 MAY 2014)**

An investigation commissioned by Motshekga's office and headed by Professor John Volmink has found that not only is education in KwaZulu-Natal being run by rogue union members, but SADTU members have been found to have violated the system in the provincial education departments of Gauteng, North West, the Eastern Cape, Mpumalanga and Limpopo.

#### **What investigators found**

Other allegations Volmink's team of 10 investigators uncovered around the country include: A SADTU official in Limpopo's Mopani district committed suicide after failing to secure two principal posts for teachers who had paid him R25 000 each. He killed himself after they demanded their money back. **(Siphon Masondo "SADTU SELLING PRINCIPALS' POSTS IN EXCHANGE FOR COWS, SHEEP AND GOATS" *City Press* 17 May 2015)**

Motshekga was also concerned about problems at Moshesh Senior Secondary School in the Eastern Cape. According to advocacy group Equal Education, there have been persistent problems at the school due to teacher shortages and absenteeism.

This was despite a November 2013 Bisho High Court order prescribing proper curriculum planning and provision of teachers, which Equal Education said the district and provincial departments had failed to honour. Motshekga said it was unacceptable that pupils at the school still faced such problems, and an urgent solution needed to be found.

"The Minister has since instructed the MEC to immediately resolve the issues plaguing the school, and directed the acting director general Mr Panyaza Lesufi to follow up on the matter," Mhlanga said.

#### **(MOTSHEKGA TO PROBE 'POSTS FOR SALE' .MAIL & GUARDIAN 5 MAY 2014)**

*City Press* reports that crooked SADTU officials are selling not only school principal posts, as it reported last Sunday, but are manipulating the education system across provinces to control teachers' appointments, retirement packages and transfers in return for bribes of as little as R6,500. Last Sunday the newspaper exposed corruption practiced by senior SADTU (SA Democratic Teachers' Union) members in KwaZulu-Natal (KZN), Limpopo and North West, whereby school principals were placed in posts in return for bribes of R30, 000 upwards per post. *City Press* now reports that it has received a flood of tipoffs from teachers across the country, including Gauteng, Mpumalanga and Free State, revealing that the scam is much widespread Also, senior education department and SADTU sources in

KZN have revealed entry level posts being sold for upwards of R6, 500 by principals to make back money they paid for their own posts and deputy principal and head of department posts being 'sold' for R15, 000 and R10, 000 respectively. Other scams relate to lateral transfers within and between provinces for upwards of R10,000 and teachers opting for early retirement to settle their debts, but getting their jobs back in return for payments starting at R30,000, even though they are not allowed to be re-employed for at least a year. An (unnamed) KZN education official commented: "This is killing the education system" and "There is manipulation at every level of appointment."**("SADTU 'selling' of school principal jobs widespread; scam includes other posts, transfers and early retirement manipulation". SA LABOUR NEWS 4 May 2014)**

Thulani Majola, deputy principal at Motheo Primary School, claimed union officials expelled him in 2010 from the Ennerdale branch for blowing the whistle at SADTU's provincial meeting.

Dr Nhlanhla Sebele said he was told in 2012 to "put something on the table" when applying for the post of principal at Matshediso Secondary School in Meadowlands, Soweto. Sebele said a union official told him R5 000 was too little.

"I complained to the Gauteng Department of Education but they just referred me to the Labour Relations Council," said Sebele.

A teacher at Raymond Mhlaba Secondary School, Thiru Naidu, said an official threatened her last year after she applied for the post of principal at Tshepiso Primary School, west of Joburg. "He told me I was an Indian applying for a post in township school and I must wait and see what would happen," said Naidu (**"More SADTU officials named for selling jobs!". DAILY SUN 13 MAY 2014**)

Mokiti, the 53-year-old principal of Margaret Gwele Primary School in Dobsonville, Soweto, has been at the centre of several emails and calls that City Press has received from teachers in Soweto. They follow our investigation into a jobs-for-cash racket that is being run by SADTU members. The stories were first published a month ago.

When Mokiti was approached for a comment on Friday, he initially invited City Press to a one-on-one interview in his school office.

But, a short while later, he called to cancel the interview and threatened to assault the reporter.

"If you ever publish my name, I will beat you up very badly and cause too much trouble for you," he said. When he was contacted again, he refused to comment and said: "I am consulting my lawyers."

### **Job for sex**

From her home in western Joburg, the female teacher– who spoke on condition of anonymity for fear of victimisation–told of her application for a principal's position at a primary school southwest of the city.

The woman, who was also a SADTU member but has since resigned, applied for the job in June last year.

“Within an hour he [Mokiti] called to tell me that he knew I had submitted my application. He reprimanded me and asked why I had not informed him first that I would be applying for the position,” she said.

The teacher, who is very active in the community, was endorsed for the job by ANC and SA National Civic Organisation (Sanco) local branches.

“But he said that would count for nothing because if he doesn’t want me to get the job, I won’t,” she said.

A few days later, she claims, he called her again and told her that she would only be appointed if she had sex with him.

“He told me that I would never get the job if, you know?...?I will not do that for a position,” she said.

“I told him: ‘No, I am a woman of integrity. I am married and I have a husband and children. What will they think of me?’

“I was not short-listed.” The teacher, who has 20 years’ experience, said the job was given to a junior teacher.

City Press has spoken to two senior teachers in the area, one of whom is a principal at a nearby primary school. They confirmed that Mokiti had asked for sex from the woman in exchange for the job. The teachers asked not to be named because speaking out against senior SADTU leaders was “suicidal”.

On Friday, the woman told her story to lawyers from the office of Basic Education Minister Angie Motshekga. “I told them everything,” she said.

### **Not the only one**

The woman is not the only one to have had an encounter with Mokiti when applying for a promotion.

Another teacher, who also asked not to be named for fear of reprisals, told City Press he paid Mokiti a R750 “deposit” to help him secure a deputy principal’s position.

“The SGB [school governing body] recommended me, but Mokiti said he would help me get the job. I met him at the Southgate Mall and gave him the R750. He had demanded R3 000 for the position.”

But the teacher said he later learnt Mokiti had earmarked someone else for the job.

### **Mokiti not alone**

Mokiti is not the only one from SADTU’s Soweto North branch who is facing allegations in the jobs-for-cash scam.

Free State University education lecturer Dr Nhlanhla Sebele said that two years ago, a senior member of the branch tried to solicit a bribe from him in exchange for a principal’s job in Soweto.

"I approached him as a friend and asked him how to go about applying because I had applied for a principal's position more than seven times and never had a response," Sebele said. "He said I should choose a school and bring an application to him. I did that and on the day I submitted it, he said he needed money.

"I asked him if I could give him R5 000. He said it was too little as the money had to be shared by many other people."

Sebele, who has a doctorate in school leadership and management from Wits, said he left with his application and his friendship with the branch member became "frosty".

"Here I was with a doctorate in education and I was asked to pay for a principal's position," he said.

The branch member, a principal of a school in Braamfischerville, Soweto, refused to comment.

**(Paddy Harper, Siphon Masondo "SADTU man demands sex for job". *City Press* 18 May 2014)**

However, they return illegally after three months in return for bribes to SADTU officials of between R30 000 and R50 000.

Their vacant posts are filled by temporary teachers so they can then return to their jobs or be placed at another school. The practice is so common that it has a name in KwaZulu-Natal – Is'dudla (The fat one).

A KwaZulu-Natal education official, who asked not to be named, said: "This is killing the education system.

"People who have applied for transfers from rural to urban schools 10 years ago are still waiting, but those who are paying SADTU members who work for the department's human resources are getting placed in months.

"There is manipulation at every level of appointment.

"Regulations state that when teachers retire, they cannot come back for 12 months. In KwaZulu-Natal if you agree to pay the R30 000 to R50 000 required, the post is filled by a temporary teacher who is removed and replaced by you after three months.

"This is so common that it even has a code name – Is'dudla," said the official.

A principal forced out of his post in favour of a paying SADTU member said he believed the racket was at least partly responsible for the country's education crisis.

"You have people who are not qualified being placed in key posts they have paid for while those with the experience, skills and qualifications are not getting jobs.

"How can a person who doesn't qualify to run a school be given these kind of powers? Obviously, they are going to fail and it is the kids in the schools who will suffer," he said.

**(Paddy Harper, Siphon Masondo "MORE JOBS FOR SALE IN SADTU RACKET". *City Press* 4 MAY 2014)**



Kaise Ngcobo, acting principal of Waterloo Primary in Verulam, Durban, was kidnapped at the school gates by three men on Friday morning and warned not to return to her post, the school's governing body said in a statement.

"Within three weeks and two days after the election [for head of the school], the acting principal was abducted and threatened not to return to her post as acting principal of the school," the governing body said. (**"Principal Kidnapped and Threatened". *The Citizen* 11 May 2014**)

In a separate case, Bajabulile Mtshali, an acting principal at the WCCM Primary School in Ogies, Mpumalanga told the newspaper she was kidnapped last year, the night before she was to attend an interview for the principal position at her school.

Mtshali said the kidnapper tied her up with her jersey, drugged her, and left her in a forest.

"He told me that he had been paid to kill me so that I didn't get to become the principal... He said SADTU officials had paid him R10,000.

"I didn't have the money, so he demanded my bank card, pin number and my phone," she told the newspaper.

Police spokesman Brigadier Selvy Mohlala confirmed an arrest was made and a case opened.

"The docket was misplaced at some point, but it was reinstated at the Witbank Regional Court."(**"Principal Kidnapped and Threatened". *The Citizen* 11 May 2014**)

## **JUNE 2014**

### **Questionable appointments**

» Eastern Cape: A founder-member of SADTU was appointed principal of a Port Elizabeth primary school. He was not appropriately qualified for the position but still beat 98 other properly qualified candidates for the job. (**Paddy Harper, Siphon Masondo "BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION". *City Press* 5 June 2014**)

### **Two kidnapped principals**

» Mpumalanga: An acting principal in Ogies, Mpumalanga, was tied up, drugged and left for dead in a forest to stop her from attending an interview for the principal's job at her school late last year.

Bajabulile Mtshali, acting principal at the WCCM Primary School, said: "He [her kidnapper] told me that he had been paid to kill me so that I didn't get to become the principal. He said he had been looking for me for a few days. He said SA Democratic Teachers' Union [SADTU] officials had paid him R10 000, but he didn't tell me any names. He said if I give him R5 000, he wouldn't kill me. I didn't have the money, so he demanded my bank card, PIN number and my phone," she said. (**Paddy Harper, Siphon Masondo "BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION". *City Press* 5 June 2014**)

» Mpumalanga: After SADTU protested against Bushbuckridge regional education director Shamba Mtembu, he was removed from his post by the KZN education MEC and HOD. In the six months after his removal, there were a number of dodgy appointments of underqualified individuals. These included:

» A school HOD who was parachuted into the position of chief education specialist by jumping three post levels;

» A junior teacher who became a deputy director of labour in the department;

» Another HOD who was parachuted into the post of deputy curriculum education specialist, skipping five levels;

» Four junior teachers, who were appointed as principals in the Bushbuckridge area; and

» Another teacher, who allegedly failed an assessment and was appointed director of labour in place of a candidate who had done well in the assessment and during interviews.

**(Paddy Harper, Siphon Masondo "BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION". *City Press* 5 June 2014)**

#### **Bribe asked**

» Gauteng: Free State University education lecturer Nhlanhla Sebele told City Press that two years ago, a senior member of the Soweto North branch of SADTU tried to solicit a bribe from him in exchange for a principal's job in the township. The man said he needed money when Sebele gave him his application form. "I asked him if I could give him R5 000. He said it was too little as the money had to be shared by many other people." Sebele said: "Here I was with a doctorate in education and I was asked to pay for a principal's position."

#### **Job for sex**

» Gauteng: Peace Mokiti, the SADTU Soweto North secretary, allegedly asked for sex from a Gauteng teacher in exchange for a principal's post. Another teacher is also accusing him of demanding a "deposit" bribe to help him land the job of deputy principal at a primary school, which he did not get.

Mokiti also threatened to assault City Press reporter Siphon Masondo, saying: "If you ever publish my name, I will beat you up very badly and cause too much trouble for you." When he was contacted again, he refused to comment and said: "I am consulting my lawyers." Mokiti is suing City Press for defamation for the amount of R1.5 million. We are defending the action and stand by our story.

**(Paddy Harper, Siphon Masondo "BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION". *City Press* 5 June 2014)**

» KwaZulu-Natal: Kaise Ngcobo, acting principal of Waterloo Primary in Verulam, arrived for work on Friday morning two weeks ago and was kidnapped at the school gates by three armed men in a white BMW.

She got the job of principal at her school last year, but SADTU opposed her appointment and the hiring process was reopened. She was left on a roadside in nearby Phoenix and her kidnappers told her she would be killed if she came back to work.

She still hasn't returned because she is traumatised by what had happened. Her governing body thinks she is the right candidate for the job and is very worried about the safety of staff and pupils at the school.

### **One dead principal**

» KwaZulu-Natal: Nyon'enhlophe Primary School principal Nkosinathi Zondi (46) was murdered last May allegedly for blowing the whistle on corruption in which SADTU members were involved, including the cash-for-jobs racket.

In court for his murder are Mfundu Sibiyi, a member of the SADTU PEC and the KwaZulu-Natal education department's Ugu (lower South Coast) district director.

Sibiyi is charged with murder with two school principals who are also SADTU members, a former principal and ANC ward councillor, and two hitmen.

**(Paddy Harper, Siphon Masondo "BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION". *City Press* 5 June 2014)**

Mathonsi made the comments after The KwaZulu-Natal leadership of SADTU has slammed the exposé by City Press of an alleged union jobs-for-cash racket, saying the reports were based on "lies" and were racially motivated.

The union's provincial secretary, Mbuyiseni Mathonsi, told a press briefing today that SADTU was considering a mass action campaign or boycotting the newspaper over the stories which, he said, were "a figment of its own imagination".

a special SADTU provincial executive committee meeting to address the allegations and to discuss the union's campaign to force the provincial education department to pay Grade R educators who had not received salaries since last year.

"It is our view that City Press is seriously misled or is deliberately used to carry forward a particular political agenda against SADTU in particular and SADTU generally. The City Press, in its desperation for sale (sic), like all profit-dependent imperialist projects, has taken to portraying our organisation as dirty, the department of education as lackeys or tail-wagged by SADTU and the entire black education system as corrupt and therefore unreliable," Mathonsi said. **(Paddy Harper, Siphon Masondo "City Press jobs-for-cash exposé 'racist lies' – SADTU". *City Press* 4 June 2014)**

Two SADTU leaders allegedly bribed a matric pupil and a local ANC Youth League leader with cheap vodka, food and "whatever you want" to disrupt one of Durban's best township schools and oust its principal.

City Press is in possession of sworn statements by Mthokozisi Msweli (18), a matric pupil at Vukuzakhe High School and the chairperson of the Umlazi branch of the Congress of SA

Students (COSAS), and Nkosinathi Mbokazi (25), former COSAS leader and branch chairperson of the ANC Youth League in Ward 83.

The two approached City Press because they opposed the removal of a “hard-working principal”. They said they were asked to help oust the principal of Vukuzakhe because SADTU leaders wanted her replaced with another teacher at the school.

Vukuzakhe High School obtained a 94% pass rate last year. The boarding school accommodates pupils from as far as Limpopo and the Eastern Cape. Since principal Domony Fulela arrived in 2009, the matric pass rate has improved from a dismal 44%.

But members of the local SADTU branch want her, and others in the area, ousted as part of a plan dubbed Operation Phuma Singene (move over, it’s our time).

Cast of characters

»Mthokozisi Msweli (18): Chairperson of the Umlazi branch of COSAS. He is also a matric pupil at Vukuzakhe High School

»Nkosinathi Mbokazi (25): Chairperson of the ANC Youth League in Ward 83, Umlazi. He is also a former leader of COSAS in eThekweni

»Ayanda Panda: Secretary of SADTU’s Umlazi branch and the deputy principal at Tholiso Junior Primary

»Nkosi Mhlongo: Deputy chairperson of SADTU’s Umlazi branch and a teacher at Isidingo Primary School

»?Domony Fulela: Vukuzakhe High School principal

»Mbuyiseni Mathonsi: SADTU’s KwaZulu-Natal secretary

»Nkosinathi Sishi: KwaZulu-Natal’s provincial education department head

»Muzi Mahlambi: Provincial education spokesperson

**(Paddy Harper, Siphon Masondo “Pap and meat to oust school principal”. *City Press* 8 June 2014)**

» North West: A principal from Vryburg is begging her bosses for a transfer because she says SADTU members are threatening to kill her if she does not leave. The principal wrote to North West education department superintendent-general Itumeleng Molale saying SADTU wanted to replace her with her deputy principal who is the union’s local branch secretary.

**(Paddy Harper, Siphon Masondo “BEHIND THE CITY PRESS SADTU JOBS-FOR-CASH INVESTIGATION”. *City Press* 5 June 2014)**

## **JULY 2014**

**The South African Democratic Teachers Union (SADTU) in KwaZulu-Natal, which is embroiled in a “jobs for sale” scandal, yesterday called on Basic Education Minister Angie Motshekga to fast-track a judicial commission of inquiry into the matter.**

The union says it is making this call so that it can clear its name.

Provincial SADTU secretary Mbuyiseni Mathonsi said in Durban yesterday that the allegations that union members were getting people jobs in schools in return for cash were distracting the union's focus on key issues.

"We want this commission of inquiry to be launched as soon as possible" Mathonsi said.

City Press newspaper has recently published a series of articles alleging that SADTU members were taking bribes to place principals and teachers in posts.

Mathonsi denied these reports, saying they originated from disgruntled individuals whose job applications had been turned down.

"SADTU has been observing the City Press propaganda playing itself out against our organisation.

"It is our view that either City Press has been seriously misled or it is deliberately [carrying] forward a particular political agenda against SADTU in KZN," he said.

"Interestingly, this so-called investigative journalist has never in his entire life investigated the plight in schools of his colour – white schools – [to give] an account of why all white schools are dominated by white principals," he said. (**"SPEED UP JOB FOR SALE INQUIRY, SAYS UNION". *The Citizen* 5 July 2014**)

'Anyone who has planned that they are going to fight SADTU must know we will fight back.' That was the stark warning from SA Democratic Teachers' Union (SADTU) general secretary Mugwena Maluleke – and it came just hours after Basic Education Minister Angie Motshekga named the panel that will investigate allegations of "posts for cash" in the powerful union.

Speaking at the union's KwaZulu-Natal congress on Wednesday, Maluleke said: "Whether you are HOD [head of department] or the general manager, if you are going to declare war on SADTU, know that you will be gone."

Motshekga set up the panel in response to a series of City Press exposés in which teachers and principals claimed that strategically placed SADTU members in provincial education departments were selling posts for R20 000 upwards. (**Paddy Harper And Sipho Masondo "SADTU DECLARES WAR". *City Press* 27 July 2014**)

## **NOVEMBER 2014**

A teacher at Fons Luminis Secondary School in Diepkloof was allegedly denied a promotion last month because she was not an SA Democratic Teachers' Union (SADTU) member.

Documents in City Press' possession reveal that Thandi Ntsoele, a member of the National Professional Teachers' Organisation of SA (Naptosa), scored top marks in her application to become the head of the school's English department.

Ntsoele scored 108 marks while a SADTU member came in third with 97 marks.

A teacher at the school petitioned Gauteng education MEC Panyaza Lesufi to intervene and he sent Esther Ndlebe, a human resources manager in his department, to investigate.

In minutes taken at the school during a meeting convened by Ndlebe, and which City Press has seen, principal Livhuwani Sundani was accused by teachers of saying the candidates' scores should be altered to avoid "chaos".

"Sundani called the panellists and explained to them that if the top three recommended by the panel were to be submitted in that order, there would be chaos at the school and that their lives and those of their families would be in danger," the minutes read.

Those quoted in the minutes went on to claim that Sundani said the results should be altered "because number one [Ntsoele] is not a SADTU member but a Naptosa affiliate".

The minutes reveal Sundani refused to submit the original scores. ."(Paddy Harper, Siphon Masondo" SADTU STILL GIVING JOBS TO PALS". *City Press* 2 November 2014)

The Limpopo Department of Education said it was deeply concerned about the reported cash-for-jobs scandal which allegedly involved members of the South African Democratic Teacher's Union (SADTU).

A weekend newspaper (City Press) reported that SADTU officials were selling senior education positions to teachers in KwaZulu-Natal, North West and Limpopo for a minimum of R30 000. The report says that alleged promotions for cash racket has led to scores of illegal appointments across the country.

Speaking to Steelburger/Lydenburg News the teacher's union secretary in Limpopo, Mr Matome Raphasha denied any involvement in the scandal. He called on anyone with evidence that its members were involved in the scandal to come forward.

"We never issued any list or sold jobs, there is no proof, these are just allegations," he said.

Mr Pitsi Maloba, spokesman for the department of education in Limpopo, confirmed to the paper that his department received a list with names supplied by the chairman of SADTU (Mr Ronald Moroatshehla) for positions including that of principals, circuit and district managers.

"We don't have any proof about the allegations that the union is selling jobs but what I can tell you is that we received a list of people who SADTU wants us to hire for top posts; among them are relatives of chairman of SADTU, Moroatshehla. We are still investigating the matter and strong action will be taken against the culprits," he said.

Maloba added the department ran its processes free and fair. It is not the first time the union had been accused of selling top positions, in 2006 a few of SADTU's members were apprehended for selling jobs.

According to City Press, the fraudulent scams work as follows

- A teacher who wants a promotion identifies the position he/she wants
- Typically, this is a job that they know the incumbent will soon be leaving, either because they are retiring or because they are resigning from the department.
- That teacher then approaches a local SADTU official who they know to be involved in selling positions for cash, and hands over a minimum of R30 000.

- The SADTU official then meets with members of the school governing body and department officials to rig the process.
- If the post is filled, the school governing body is used to agitate the incumbent if necessary to force him/her out of the post.
- The school governing body then recommends the teacher who paid for that job to the selection panel.
- The selection panel, which comprises paid-off officials from the department, then ratifies the governing body's recommendation
- The teacher gets the job. **(Gilbert Motseo "Allegations of bribes for jobs" *Steelburger/Lydenburg News* 6 MAY 2014)**

The school governing body at Sefahone Primary in Bolobedu, Limpopo, recommended the appointment of Hlupheka Malema as its principal in 2011. The education department's district office supported this and sent documents on to head office in Polokwane for approval.

Officials there prepared a memo confirming the appointment – but when the documents returned, Malema's name had been scratched out and replaced with a junior teacher's from Sefahone.

A source with knowledge of the case said a senior manager at the department in Polokwane allegedly scratched out Malema's name after lower-ranking officials refused to type a memorandum containing the junior teacher's name.

"He was pressured by SADTU bosses to make sure [the junior teacher] got the position," the source said.

Malema is not a SADTU member; the junior teacher is. Malema said he was consulting lawyers and considering taking the department to court.

"I sent the matter to arbitration and the department was willing to fix the mistake. But the person representing the department at the arbitration was changed, and the new one failed to implement decisions taken. I'm now left with no choice but to consider going to court."**(Paddy Harper, Siphon Masondo " SADTU STILL GIVING JOBS TO PALS". *City Press* 2 November 2014)**

Johannesburg - A task team has begun investigating the alleged selling of teacher posts, the basic education department said on Sunday. "The team has started to do its work and several interviews have been held with unions,"

Department spokesperson Elijah Mhlanga said in a statement.

"The chairperson will soon announce how the process of submitting information will be done."

Basic Education Minister [Angie Motshekga](#) set up the team after a number of news reports alleging that officials, including from trade unions, were selling jobs.

The team's terms of reference were finalised in June. "All the teacher unions and SGBs have committed themselves to co-operating with the investigation," Mhlanga said on Sunday.

He said the team would investigate if there were gaps in the policy governing procedures for teacher appointments. The duration of the investigation would be decided upon once the extent of the problem had been determined. A report would then be submitted to the Minister.

The task team is headed by Prof John Volmink and includes a representative from the justice and public service and administration departments, a legal expert, human resource specialists, and an auditing firm.

Previously, the department said if wrongdoing was uncovered, it would be reported to the police. Earlier this year, reports emerged that SA Democratic Teachers' Union (SADTU) members were selling principal and deputy principal positions at schools for upwards of R30 000 each.

According to a [City Press report](#) a Johannesburg teacher claimed a union secretary had asked her for sex in exchange for ensuring she would be given a school principal post.

It reported that two school principals, one from Durban and the other from Mpumalanga, were kidnapped and told they would be killed if they returned to their jobs.

The principals told City Press at the time they had been informed their positions had been earmarked for SADTU-controlled appointments.

SADTU has consistently denied involvement in the matter. The union's general secretary Mugwena Maluleke previously said the scams were being run by individuals misusing SADTU's name. In May, the National Congress of School Governing Bodies said it believed numerous unions could be. <http://www.news24.com/SouthAfrica/Politics/Probe-into-teacher-jobs-for-money-scam-20141102>

## **MAY 2015**

An investigation commissioned by Motshekga's office and headed by Professor John Volmink has found that not only is education in KwaZulu-Natal being run by rogue union members, but SADTU members have been found to have violated the system in the provincial education departments of Gauteng, North West, the Eastern Cape, Mpumalanga and Limpopo.



What investigators found

Other allegations Volmink's team of 10 investigators uncovered around the country include:  
. Evidence that a number of senior SADTU members in the Eastern Cape have received cows, sheep and goats as payment for several principals' positions throughout the province;  
**(Sipho Masondo "SADTU SELLING PRINCIPALS' POSTS IN EXCHANGE FOR COWS, SHEEP AND GOATS". *City Press* 17 May 2015)**

"An investigation into SADTU's jobs-for-cash scandal has revealed the extent to which the union puts the interest of its members above the needs of our children," the Democratic Alliance's shadow basic education Minister, Annette Lovemore, said.

This was echoed by the Congress of the People's (Cope) Dennis Bloem, who said: "Government must lead from the front, not follow cravenly from behind.

"The people of our country vote for a government. They do not vote for a teacher union. The authority of the state is for the state to exercise. Its failure to do so has brought education to a sorry pass."

Among the findings of the report — instituted by Minister of basic education Angie Motshekga and headed by Professor John Volmink — are, according to a report in Sunday's City Press:

- Union officials in KwaZulu-Natal insisted that the department reduce the educational requirements for the posts of educational specialists from degrees to diplomas;
- A candidate for a principal post in Gauteng was contacted by SADTU officials who tried to extort R25000 in return for the post; and
- SADTU essentially runs the KwaZulu-Natal department of education, dictating who gets what jobs. **(“PARTIES WANT ACTION ON SADTU’S JOBS-FOR-CASH SCHEME”. *TIMES LIVE* 18 MAY 2015)**

### **Trouble brews over big jobs**

Motshekga's team's visit comes as trouble brews over 37 chief education specialist posts.

Three senior officials close to the matter told City Press several provincial SADTU leaders had publicly stated in meetings they had already allocated the positions to some of their members.

A senior official, who did not want to be named, said: "SADTU wants the positions, saying they met with head of department Nkosinathi Sishi and persuaded him to advertise the positions.

"They said they would decide who was appointed. They have a list across the province."

Three senior officials told City Press that when the positions were advertised in August last year, the prerequisite for candidates was a university degree.

But because most of SADTU's favoured candidates did not have degrees, the advertisement was withdrawn and the requirements were amended to a diploma.

The posts were re-advertised in March. Caluza denied the union had objected to district directors chairing interviewing panels of the 37 chief education specialist positions.

“We have not objected to directors chairing interviewing panels. We don’t decide who chairs panels, we only observe. Our role is to observe.”

KwaZulu-Natal education department spokesperson Muzi Mahlambi said the department was concerned about the disruption of classes at Ilembe and Ugu.

“We are engaging the leadership of SADTU. We have already held three meetings with them. The engagements are so that the right of the child to learn can be protected. We have issued a circular that empowers principals to deal with teachers who are not at school.”

He said the province was confident that things would improve this week. (**Sipho Masondo “SADTU SELLING PRINCIPALS’ POSTS IN EXCHANGE FOR COWS, SHEEP AND GOATS”. *City Press* 17 May 2015**)

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- SADTU essentially runs the KwaZulu-Natal department of education, dictating who gets what jobs.

**(“PARTIES WANT ACTION ON SADTU’S JOBS-FOR-CASH SCHEME”. *TIMES LIVE* 18 MAY 2015)**

The South African Democratic Teachers Union in KwaZulu-Natal wants to call a boycott of City Press over the newspaper’s allegations of jobs for cash, sex and cows scam involving the union in several provinces.

SADTU provincial secretary Nomarashiya Caluza today said the union was considering calling “a boycott of all progressive forces to boycott the paper” over the most recent allegations, which included claims that the union had influenced appointments to promotion posts for cash and even livestock. (**Paddy Harper “Cows for jobs scandal: SADTU wants City Press boycott after exposé”. *CITY PRESS* 19 May 2015**)

Education is held hostage by the SADTU Mafia

2015 05 24 Sipho Masondo, City Press

I have diverted many projectiles aimed at Basic Education Minister Angie Motshekga at numerous dinner conversations and gatherings. I have leapt to her defence and shielded her from enraged citizens who accuse her and her department of fiddling while Rome burns. It is not an easy task.

How do you come to her defence when people point out that: South Africa's maths and science education ranks as the worst in the world, according to research by the World Economic Forum;

Some Grade 6 maths pupils perform better than their teachers, as found by the Centre for Enterprise Development. South African pupils are rated just one place above the lowest-ranked country, Zambia, in the latest Southern and Eastern African Consortium for Monitoring Educational Quality, which measures literacy and numeracy skills of pupils in 15 countries;. Many pupils in Grade 9 are barely able to construct a sentence in English, as revealed by the Annual National Assessments' pupil reading and numeracy skills;

Thousands of pupils are forced to learn in mud schools and under trees because of the lack of infrastructure. In response to these points, I wish to highlight that Motshekga, through the Accelerated Schools Infrastructure Delivery Initiative, has delivered many brand-new and state of the art schools to poor communities. In fact, if this project had started in 1994, there would not be a single mud school in South Africa today.

I raise attention to the fact that Motshekga devised the national assessments to address pupils' poor maths and literacy skills. The jury is still out on whether the costly and tedious programme can adequately diagnose and address the poor levels of literacy and numeracy. I wish to make critics aware that it is Motshekga who came up with the idea of introducing biometric Clocking systems at schools to monitor teacher movements. She also wants to introduce competency tests for matric examiners and declare education an essential service to prevent teachers from striking.

Unfortunately, teacher union SADTU has rejected all these progressive initiatives. The Minister has shown her willingness to tackle these serious problems. But who is in charge of South Africa's education system, Motshekga or SADTU?

If Motshekga is in charge, why has she allowed SADTU to capture and run provincial departments of education through a complex patronage system, where only the union's members or people who are willing to pay get senior posts.

Mugwena Maluleke, general secretary of teachers' union SADTU, has always known the identity of union leaders who tried to force a District Director to give them jobs and tenders. This is despite him denying knowledge of their names during an interview on Metro FM on Monday.

In the interview, Maluleke said he received a letter of complaint from Thembelihle Vilakazi, the director of the Ilembe district in KwaZulu-Natal, in which several “general accusations” had been made about the selling of posts by SADTU members, but no names had been provided.

Maluleke added that he had followed up with her on the letter and had asked her to provide names, but she had failed to do so. But confronted with the letter by City Press, Maluleke changed his story, admitting the names had been there, but Vilakazi had not accused the three SADTU eThekweni North leaders of selling positions. **(Sipho Masondo And Paddy Harper “JOBS AND TENDERS: HOW SADTU BOSS LIED ABOUT NOT KNOWING UNION LEADERS’ NAMES”. CITY PRESS 24 MAY 2015)**

#### **OUR VIEWPOINT: The damage SADTU is doing to education News 24 18 May 2015**

FIVE months after it was reported that SA Democratic Teachers’ Union (SADTU) members were actively involved in influencing the appointment of teachers and principals, with allegations of money changing hands in the filling of posts, it appears little or nothing was done by the Education Department.

Only after further revelations of jobs being sold for cows and goats is Minister Angie Motshekga taking action. What was she doing in the past months? Did she think the problem would solve itself in the interim?

Of course the Minister is in a difficult position, which presumably explains the dithering: the ANC is in an alliance with the unions, including SADTU, and has to be seen to be championing the cause of workers. And, of course, SADTU with its 200 000 members forms a powerful voting bloc to be therefore appeased — even at the cost of the quality of education being given to those touted as the future of the country.

Even allowing for the closeness of the relationship necessitated by the alliance, how did these SADTU members work themselves into the position of deciding which teachers get employment? How did they become so involved in what must be the Education Department’s responsibility? Where is the oversight and governance?

SADTU exists to protect the interests of teachers — to ensure they earn a decent salary while working under acceptable conditions — not to determine the appointment of teachers and principals. Like nursing, teaching is a noble calling, which these SADTU members are perverting in favour of people who just want a job and have no interest in the profession other than having a job that pays at the end of each month. And this at the expense of qualified, experienced people who understand what it means to be a teacher.

The vicious circle is completed when SADTU then has to defend the non-deserving appointees from justified accusations of incompetence, with the union simultaneously fighting tooth and nail against all attempts for teachers’ competencies to be tested, and in the process, the disadvantaged child is further disadvantaged.

It is surely time for SADTU to do some soul-searching about the effect of its actions on the future of the child. At the same time, there should be a debate about the damage the union has wrought on education in the country. Surely it must be possible to ensure workers' rights while acting for the betterment of our country?

## **JULY 2015**

An investigation by the SA Council for Educators (SACE) has found no evidence that teaching and administrative positions in the department of basic education were ever bought or sold. But a highly placed source at the council said executives at the SA Democratic Teachers' Union (SADTU) demanded that the investigation be stopped after hearing that names of senior union leaders in branches, regions and provinces were coming up in connection with the alleged jobs-for-cash scam.

**(Sipho Masondo "SACE 'told to drop jobs-for-cash investigation". CITY PRESS 12 JULY 2015)**

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### **Union's new provincial secretary, Nomarashiya Caluza, has a team of bodyguards looking after her around the clock**

Tensions within the SA Democratic Teachers' Union (SADTU) in KwaZulu-Natal have apparently become so bad that its provincial secretary, Nomarashiya Caluza, has been assigned a three-man team of bodyguards.

Four senior union officials told City Press that so far, Caluza's security bill, which has been paid by the union, has amounted to R249 000.

Her security detail looks after her around the clock in shifts, and consists of a driver and two close protectors. It was assigned to her last year, shortly after she took over the post at a special congress called to replace sitting secretary Mbuyiseni Mathonsi. **(Paddy Harper "SADTU: BODYGUARDS AND THREATS AS TENSIONS RISE". CITY PRESS 12 JULY 2015)**

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**(Sipho Masondo "SACE 'told to drop jobs-for-cash investigation". CITY PRESS 12 JULY 2015)**

## **AUGUST 2015**

Durban - The professional body for teachers has been blasted by the National Professional Teachers' Organisation of South Africa (Naptosa) for not finding any evidence of the jobs-for-cash allegations which have rocked the basic education sector.

The union's president, Basil Manuel, told teachers at Naptosa's KwaZulu-Natal conference at the weekend that according to the South African Council of Educators (Sace), the sale-of-posts saga was a figment of their imagination.

"According to Sace no evidence can be found that anyone is in a post without deserving it. Sace has discovered that we have a wonderfully honest system free from bribery, corruption or nepotism," Manuel said sarcastically.

"Why have they not asked the Naptosa members of KZN about inappropriate, underqualified and inexperienced promotions? This has brought shame on Sace."

Manuel said he hoped a second investigation of the jobs for cash allegations, by the Ministerial committee appointed by Basic Education Minister Angie Motshekga, would

produce “a more credible” finding. (**“ANGER OVER TEACHERS’ JOBS PROBE”. IOL NEWS 24 AUGUST 2015**)

Pietermaritzburg - Police are trying to piece together the mystery surrounding the murder of a principal who was found hacked to death in her car on the Table Mountain Road on Wednesday afternoon.

It is suspected that Villa Maria Primary School principal Nokuthula Magwanyana was killed by a group who had been trying to intimidate her into resigning. She was found dead by a police detective in her car on the side of the winding road which leads from her school in the Maqongqo area.

The signs and marks show Magwanyana was killed with a panga after she came to a stop on the way to her Hammarsdale home at about 15:00. She was alone in her car.

#### **Motive**

Rumours about the motive for her death circulated among community members gathered around the crime scene, with talk surrounding tensions that apparently accompanied her appointment as principal.

When The Witness arrived at the scene, Magwanyana’s body was still in the car, hanging out the driver’s door and prevented from falling out only by her seat belt, which was still secured.( **Amil Umraw , Chelsea Pieterse“ Principal hacked to death”. The Witness 27 AUGUST 2015**)

Kind principal slaughtered following threats

KILLERS struck after Nokuthula Magwanyana got threatening messages to quit as school principal.

Pupils and staff of Villa Maria Primary School near Maqongqo outside Pietermaritzburg were shocked to learn she was hacked to death in her car on Wednesday afternoon.

She was driving to her home in Hammarsdale home when unidentified men ambushed her.

A school source said Magwanyana’s problem began with her appointment in 2012 as principal.

“She was school head of department. It seemed fair to give her the position,” she said. “But others were also eyeing the position.

“I heard a message was spray-painted on her house wall recently, saying she should resign. She reported it to the cops.

“We suspect someone hired hit men to kill her after realising the threats weren’t working.

“She was a hard worker and will be dearly missed.” (**S'mangele Zuma “Hacked by hitmen!”. DAILYSUN 28 AUGUST 2015**)

#### **SEPTEMBER 2015**

It appears that post-fixing in the Eastern Cape education department has reached epic proportions, with more than 2 400 staff appointed despite not being qualified for their posts.

And more than 2 800 vacant promotion posts in its various districts and at head office cannot be filled.

DA education spokesperson Edmund van Vuuren, who was conducting oversight visits to schools in Queenstown and other districts last week, said a recent audit of appointments the department had made since 2000 revealed that it was impossible to fill 2 800 vacancies, and 2 400 people had been appointed who were not properly qualified.

The inappropriate appointments were preventing posts from being filled by qualified candidates and had sparked a flurry of appeals from skilled teachers who were bypassed in favour of preselected applicants. **(Paddy Harper “Jobs-for-pals: More than 2400 appointed without being qualified”. CITY PRESS 8 SEPTEMBER 2015)**

Pietermaritzburg - The murders of two KwaZulu-Natal school principals – allegedly over their jobs – has sparked fears that the upcoming interviews for more than 1 000 promotion posts in the province could lead to further violence and manipulation.

Teacher unions now want the process of appointments more closely monitored and have asked police to set up a special unit to investigate the killing of the principals and other teachers in the province.

Last month, Nokuthula Magwanyana, principal of Villa Maria Primary School in Pietermaritzburg, was hacked to death with pangas in her car in an apparent ambush. The 46-year-old had been receiving death threats – which were also spray-painted on her school wall – after a lengthy dispute about her post.

She told police about threatening phone calls she received from anonymous callers, one of whom told her: “If you don’t resign, you die, bitch.” She also reported being threatened by staff at her school.

While police remain tight-lipped about their investigation – three men arrested with her cellphones will appear in the Pietermaritzburg Magistrates’ Court on Tuesday – her family and colleagues are adamant she was killed because of her job.

A week after Magwanyana’s murder, the principal of the Imbilane High School in Ulundi, Bongani Zulu, was shot dead in his home. His cellphone and wallet were found in the same room as his body and nothing appeared to have been taken from his house.

Police are yet to arrest any suspects in connection with the murder, and a police source in Ulundi, who asked not to be named, said several motives were being investigated. However, Allen Thompson, deputy president of the National Teachers’ Union (Natu), said the union believed the murder was related to competition over the coveted principal post at Imbilane



High because of the size of the school – which has 50 teachers. Principal and deputy principal salaries are based on the size of the school they manage.

Thompson, who heads the union to which Magwanyana belonged, said Natu asked provincial police commissioner Lieutenant General Mmamonye Ngobeni to establish a specialised task team for teacher killings.

Thompson said posts were being “sold like stolen cars to buyers” who were “willing to do anything” to secure promotions.

“We want the police to prioritise murder cases pertaining to principals, teachers or any person who holds a high position in the department of education. Principals are not safe; they are threatened every day by people who coerce them to say when they are retiring or planning to leave their positions,” he said. **(PADDY HARPER “PRINCIPAL POST SALES GET DEADLY”. CITY PRESS 13 SEPTEMBER 2015)**

## ADDENDUM IV: SUMMARY OF VARIOUS MEDIA REPORTS

YEAR	MONTH	DAY	SOURCE	TITLE OF ARTICLE	PROVINCES AFFECTED
2014	APRIL	27	CITY PRESS	How SADTU Sells Its Posts	KZN,LIMPOPO AND NORTH WEST
		28	EYE WITNESS NEWS	SADTU Slam Cash-For-Jobs Claims	NATIONAL
		29	SABC	Teacher Union Wants Probe Into SADTU Cash For Post Scandal	KZN,LIMPOPO AND NORTH WEST
	MAY	02	SA news.gov.za	Dept To Probe Principal Posts For Sale	EASTERN CAPE
		04	SA LABOUR NEWS	SADTU 'selling' Of School Principal Jobs Widespread; Scam Includes Other Posts; Transfers And Early Retirement Manipulation	KZN,LIMPOPO,NORTH WEST,GAUTENG,MPUMALANGA AND FREE STATE
		04	CITY PRESS	Zuma 'Taken Back' By SADTU Racketeering Claims	NATIONAL
		04	CITY PRESS	More Jobs For Sale In SADTU Racket	KZN,LIMPOPO,NORTH WEST, GAUTENG, MPUMALANGA, EASTERN CAPE AND FREE STATE
		05	MAIL & GUARDIAN	Motshelga To Probe 'Posts For Sale'	EASTERN CAPE
		06	STEELBURGER/LYDENBURG NEWS	Allegations Of Bribes For Jobs	LIMPOPO
		06	SABC	Natu Welcomes Probe Into Cash For Job Scandal	NATIONAL
		11	THE CITIZEN	Principals Kidnapped, Threatened	KZN AND MPUMALANGA
		13	DAILY SUN	More SADTU Officials Named For Selling Jobs!	GAUTENG
		14	THE CITIZEN	SADTU Not Involved In Posts Scam-Congress	NATIONAL
		18	CITY PRESS	SADTU Man's demands Sex For Job'	GAUTENG

				19	SA news.gov.za	Minister, Unions Condemn Selling Of Posts	NATIONAL
				21	SA news.gov.za	SGBS Join Into Sale Of Posts	NATIONAL
	JUNE			04	CITY PRESS	City Press Jobs-For-Cash Expose' racist Lies'- SADTU	KZN
				05	CITY PRESS	Behind The City Press SADTU Jobs-For-Cash Investigation	KZN, MPUMALANGA,NORTH WEST, EASTERN CAPE AND GAUTENG
				06	CITY PRESS	Angie Motshekga Ready To Appoint Jobs-For-Cash Task Team	NATIONAL
				08	CITY PRESS	Newsmaker-SADTU Man Goes To War	KZN
				22	CITY PRESS	Pap And Meat To Outst School Principal	KZN
	JULY			05	THE CITIZEN	Speed Up Job For Sale Inquiry, Says Union	KZN
				23	BUSINESS DAY	Team Will Address Posts For Sale Allegations, Says Motshekga	NATIONAL
				27	CITY PRESS	SADTU Declares War	NATIONAL
	NOVEMBER			02	CITY PRESS	Probe Into Teacher Jobs-For-Money Scam	NATIONAL
				02	CITY PRESS	SADTU Still Giving Jobs To Pals	LIMPOPO AND GAUTENG
				03	SOWETAN	Probe Into Teacher Appointments Underway	NATIONAL
2015	MAY			17	CITY PRESS	SADTU Selling Principals' Posts For Cows, Sheep And Goats	KZN,EASTERN CAPE,GAUTENG AND LIMPOPO
				17	CITY PRESS	With SADTU Still Selling School Posts, it's Brought KZN Education Dept To 'Verge Of Collapse'	KZN
				18	TIMES LIVE	Opposition Parties Want Action On SADTU's Job-For-Cash Scheme	NATIONAL
				19	SOWETAN LIVE	SADTU To Answer 'goat For Posts' Allegations	KZN
				19	CITY PRESS	Cows For Jobs Scandal: SADTU Wants City Press Boycott After Expose	KZN

	19	NEWS 24	Teacher's Union To Respond To Jobs-For-Sale Report	KZN
	24	CITY PRESS	Jobs And Tenders: How SADTU Boss Lied About Not Knowing Union Leaders' Names	NATIONAL
JUNE	10	SABC	SADTU Jobs For Pals Investigation Concluded	NATIONAL
JULY	11	SOUTH AFRICAN LABOUR NEWS	City Press On War Path To Demonise SADTU	NATIONAL
	12	CITY PRESS	Sace 'told To Drop Jobs-For-Cash Investigation'	NATIONAL
	12	CITY PRESS	SADTU: Bodyguards And Threats As Tensions Rise	KZN
	13	SOUTH AFRICAN LABOUR NEWS	SADTU Allegedly Told Council For Educators To Drop Jobs-For-Cash Probe	NATIONAL
	13	IOL NEWS	SADTU KZN Secretary Gets Security Team	KZN
AUGUST	24	IOL NEWS	Anger Over Teachers' Jobs Probe	KZN
	27	THE WITNESS	Principal Hacked To Death	KZN
	28	DAILY SUN	Hacked By Hitmen!	KZN
	28	THE CITIZEN	Murdered Principal Was Threatened At School	KZN
SEPTEMBER	13	NEWS 24	Principal Post Sales Get Deadly	KZN
	14	SOUTH AFRICAN LABOUR NEWS	'Sales' Of KZN School Principal Posts Get Deadly	KZN

## ADDENDUM V: FINDINGS AND RECOMMENDATIONS FROM FORENSIC INVESTIGATIONS

### Findings and Recommendations from the Forensic Investigations

The recommendations made by the MTT in this Addendum are categorized into the various provincial investigations and cover other investigations done as required by the Terms of Reference of the task team.

	NO OF SCHOOLS IN PROVINCE AS % OF NATIONAL	FINALISED	FURTHER INVESTIGATION	WRONGDOING	TOTAL	% OF ALL CASES INVESTIGATED
Eastern Cape	23	11	3	1	15	18.5
Gauteng	8.5	1	2	1	4	4.9
KwaZulu-Natal	24.6	7	8	4	19	23.5
Limpopo	16.3	19	1	0	20	24.7
Mpumalanga	7.3	4	0	1	5	6.1
North West	6.4	7	4	7	18	19.8
<b>TOTAL</b>	<b>86,1</b>	<b>43</b>	<b>22</b>	<b>16</b>	<b>81</b>	<b>100</b>

A total of 81 cases were investigated, 38 of which provided grounds for reasonable suspicion or wrongdoing. In order to make these decisions the MTT was guided by The Prevention and Combating of Corrupt Activities Act 12 of 2004.

The general offence of corruption is defined in section 3 of the Act as: *the giving or accepting of any gratification, in order to act in an improper exercise or performance of a power or a duty.*

‘Gratification’ is further defined by the Act (section 1) to include any valuable consideration or benefit of any kind, including: money, property, office or honour, employment, service or favour, vote or abstention from voting, forbearance, release from obligation, etc.

**NB: THE REST OF ANNEXURE 5 (WHICH IS LINKED TO CHAPTER 3 OF THIS REPORT) HAS BEEN EMBARGOED AS A FORENSIC INVESTIGATIONS ON ALLEGED POSTS FOR SALE, ARE STILL ONGOING. IT IS IMPERATIVES TO ADHERE TO THE PRINCIPLES OF THE “PRESUMPTION OF INNOCENCE” AS WELL AS THE “AUDI ALTEREM PARTEM”.**



## **MINISTERIAL TASK TEAM REPORT**

# **INVESTIGATION ON ALLEGATIONS INTO THE SELLING OF EDUCATOR POSTS BY MEMBERS OF TEACHERS UNIONS AND DEPARTMENTAL OFFICIALS IN PROVINCIAL EDUCATION DEPARTMENTS**

# **ADDITIONAL ANNEXURES**

**20 May 2016**

## **ADDITIONAL ANNEXURE 1: COMMENTS BY THE MINISTERIAL TASK TEAM ON RESPONSES FROM TEACHER UNIONS TO THE MTT REPORT**

### **1. BACKGROUND**

- 1.1 The Ministerial Task Team (MTT) established to investigate the allegations about the buying and selling of posts of educators, handed its completed Report to the Minister of Basic Education, Mrs Angie Motshekga on 1 March 2016. After studying the Report, the Minister decided not to release it until all Teacher Unions had been given an opportunity to make representations to the MTT on the Report. To this end, a confidential and individually coded copy of the MTT Report was sent by courier to each Teacher Union on 1<sup>st</sup> April 2016, calling for written responses by 15<sup>th</sup> April 2016. The MTT received written responses from four Unions (only SADTU sent written responses by the deadline, 15<sup>th</sup> April 2016 although it was hand-delivered to the DBE in hardcopy form followed by a soft copy on 22<sup>nd</sup> April 2016).
- 1.2 The Ministerial Task Team (MTT) has considered with care these written responses from Teacher Unions to its Report, and sincerely thank those Unions which responded. The MTT hopes that this **Annexure** to the Report will provide further constructive bases for public, Parliamentary and Departmental consideration of the information it has gathered, analysed and from which Recommendations to the Minister of Basic Education have proceeded.
- 1.3 It is important for the MTT to state at the outset that it undertook its task with an open and enquiring state of mind. The Report's diagnostic analysis (Chapter 5) and its Recommendations (Chapter 6) are based wholly on interviews with officials, organisations and selected commentators on educational matters. ***References to publications and position papers were made for the sake of clarity and exposition; and not as shapers of thought or conclusions. In other words, the MTT Report is not a conventional research document but reflects the opinions, views and concerns of the many people who were given ample time and opportunity to assist the MTT in carrying out its mandate.***
- 1.4 A proper reading of the Report shows that the Report's focus on irregularities in the appointments of school- and office-based educators necessitated attention to the current environment in which schooling and its management are conducted.
- 1.5 Consistent with its necessity to be both open-minded and enquiring, the MTT has refrained explicitly from apportioning blame; it has not sought to indict anybody or organisation outside of the forensic findings; and it has not sought to moralise. In other words the MTT does not comment on the innocence or guilt of any person, but merely report on the facts at its disposal. The MTT's task has been to reflect on what it was told, weigh the veracity, credibility and authority of those statements; and then draw tentative conclusions so as to give shape to firm Recommendations to the

Minister. It is the prerogative of a properly constituted tribunal to pronounce on the guilt or innocence of an individual.

- 1.6 The MTT denies that at any stage that it acted irrationally or without an objective mind-set; and declares that its focus was wholly on the MTT's mandate. The MTT's work was done in the public interest, and was precipitated by the ongoing speculation regarding irregularities in the appointment of educators.
- 1.6 Since the written submissions by the Teacher Unions are markedly different from each other, the MTT offers brief responses to each in turn. Salient portions of submissions from Unions are included in this **Annexure**.
- 1.7 There are however two common features in the Union submissions:

(a) **A view that the MTT had gone beyond its mandate**

- (i) The brief of the MTT as set out in its Terms of Reference, did not only include an investigation into all facets of the allegations reported in the media in regard to the alleged irregular appointments of educators at schools, but specifically requested that the MTT to **report to and advise the Minister on:**
  - (aa) *the challenges pertaining to the advertising and the filling of posts and on any possible legislative changes that may be required to improve the existing legislative provisions relating to the advertising and the filling of posts; and*
  - (bb) *the appointment and placement policies, applicable to educators and other members of staff at school, in existence in the national Department of Basic Education and in provincial education departments, the implementation of such policies and whether such policies require review and/or amendment.*
- (ii) The MTT therefore, denies that it acted outside of its brief in any way.

(b) **The lack of knowledge of Unions of wrongdoing or of shortcomings of their members or organisations**

- (i) The MTT was conscious of the increasingly widespread concerns over corruption in all dimensions of public life in South Africa. It therefore could address only an aspect of the greater whole. Its task in so doing was complicated by the apparent ignorance of major Teacher Unions in the Provinces as well as by District Managers of wrongdoing in their areas. Furthermore they offered no observations on the shortcomings of their members, staff or organisations. This feature points disturbingly to an absence of civic responsibility.
- (ii) In summary we need to state the following:
  - (aa) Readers should be aware of the true nature of this Report. In arguing for the strengthening of the Department of Basic Education's structures – i.e., regaining control of its Provincial and local administration and



management – the Report is asserting a fundamentally conservative position. The Report does so because there is the primary need for the authority of the Department to be re-established so that the transformation of schooling can be put on track.

- (bb) This Report’s basic argument is that the Department and the Unions together are essential to addressing the needs of the schooling system. The right and duty of Unions to act in the interests of their members is of cardinal importance, but educational progress cannot be made when the situation between the Department and the Unions is persistently adversarial and conflictual. Then it is all about power and not education.
- (cc) It should be stated as clearly as possible that the Recommendations of the Report are not yet policy. These Recommendations are offered to the Minister for consideration, discussion, public debate and thought as a contribution towards how best the South African schooling system might be improved. This Report has had to focus on corruption in the making of appointments in education: its mandate directed that to be examined as fully as possible. The 16 Recommendations are offered so as to direct attention to those related issues before policy decisions are taken.

## **2. ANALYSIS OF THE COMMENTS FROM TEACHER UNIONS**

### **2.1 NATIONAL PROFESSIONAL TEACHERS’ ORGANISATION OF SOUTH AFRICA (NAPTOSA) – (for further details, see *Annexure 1A*)**

- (a) While **NAPTOSA** appreciates the Report as an “*honest attempt to address a vexing problem*”, it also raises several concerns. These include:
  - (i) that the Report appears to take a negative view of unionism and unions and can be accused of “*union bashing*”;
  - (ii) the recommendation that SGBs should not be involved in the appointment process for promotion posts is problematic for several reasons;
  - (iii) that, while they support the recommendation for the observer status of Unions be renegotiated with respect to the recruitment process, they will not support any attempt to remove from Unions the rights to observe;
  - (iv) that the Report appears to generalise its findings pertaining to unions, thereby tarnishing every union with the same brush; and
  - (v) the fact that individuals are named may expose them to dangers and complications.
- (b) **NAPTOSA** offers the following responses (given verbatim below) to the MTT Recommendations:

- (b.1) **RECOMMENDATION 1:** *That the illegal actions by educators identified by the MTT should be reported to SAPS for further action; and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.*

**Response:** The recommendation is supported, however, NAPTOSA suggests that SAPS be involved and that lifestyle audits be done especially where strong anecdotal evidence exists; but fear and intimidation restricts people from providing evidence. Also the DBE [*Employment of Educators Act 76 of 1998 as amended*] and SACE Code of Conduct should be implemented to bring disciplinary actions against those who have been implicated.

- (b.2) **RECOMMENDATION 2:** *That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.*

**Response:** Suggest that before such action, an investigation be done to determine why officials did not act as required by legislation, and then follow the recommendation.

- (b.3) **RECOMMENDATION 3:** *That action be taken quickly to protect whistle-blowers.*

**Response:** NAPTOSA recommends a dedicated project across competent authorities to investigate and act on all cases for a defined period. Whistle-blowers are crucial in the fight against corrupt practices in the public service, and must receive the necessary protection. Unfortunately, the Report has named individuals, thus exposing them to the wrath of the very miscreants that should be brought to book. The recommendation is therefore supported.

- (b.4) **RECOMMENDATION 4:** *That the Department of Basic Education regain control of administering and managing the education system in all Provinces, so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.*

**Response:** NAPTOSA supports the recommendation. It is vital for the success of education in South Africa that the DBE reclaims control over the education system. This does not mean that NAPTOSA will not disagree with the Department on matters, but as always, this will be done in a spirit of constructive participation and debate. NAPTOSA is committed to an education system in which its members will be able to compete fairly within laws, provisions and procedures over which the DBE has full control and that prevent the influence of external parties.

- (b.5) **RECOMMENDATION 5:** *That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the 'Principles of Public Administration and Financial Management Delegation approved Cabinet on 07 August 2013; and that the Minister should amend applicable basic education legislation accordingly.*

**Response:** Recommendation is supported.

- (b.6) **RECOMMENDATION 6:** *That the powers of School Government Bodies to make recommendations for the appointment of post level 2 and above are removed, and that the South African Schools Act, 1996 and the Employment of Educators Act, 1998 should be amended to reflect this.*

**Response:** NAPTOSA agrees with the findings but NOT with the above recommendation of the Task Team. Whilst there are many SGBs that are dysfunctional or have been hijacked by certain interest groups (unions), there are as many, if not more, who function perfectly well.

If the recommendation is understood correctly, it means that it will be acceptable for the very same dysfunctional / hijacked SGBs to be involved in the appointment of PL1 educators, but not the filling of PL2 positions and above. This makes no sense.

NAPTOSA believes that if there is a genuine will to deal with this scourge that is impacting on appointments and promotions, then it MUST be ensured that existing policies and collective agreements are adhered to, where one organisation no longer dominates the system; and the neutrality of decision-makers is guaranteed.

NAPTOSA is aware that sufficient legislation, policies and grievance procedures in respect of the role of Unions in appointments and promotions exist for aggrieved parties to report non-compliance and deviations. The collective agreements in the ELRC speak to these issues. All stakeholder parties to these processes need to be educated on these issues instead, and be held accountable for non-compliance.

NAPTOSA reaffirms that SGBs do have a role to play in the governance of schools and that they should not be discarded; instead, their role in appointments and promotions should be strengthened with regular meaningful training, monitoring and evaluation.

- (b.7) **RECOMMENDATION 7:** *That the interviewing panels for the appointment of principals should, in the main, comprise educators of suitable rank and experience, departmental officials who are suitable prepared as resource persons, and should be convened by the District Managers. The pre-interviewing of candidates for principals' posts should occur prior to the*

*interviews; and that the results should be available to the interviewing panel members. Incumbent principals should be selected by panels with capacities to evaluate the competence and suitability of the candidates for leadership, management, as well as academic, experiential and professional abilities.*

**Response:** This is largely in line with NAPTOSA's response to Recommendation 6. Furthermore, the MTT is NOT in favour of peer review panels and provincial (PED) panels as this will just make the process extremely cumbersome.

If, in terms of the MTT findings, provincial departments are in many cases saturated with deployments from certain unions, the appointment / promotion processes will continue to be undermined, if departmental officials were to have a final say in these matters. The suggestion that many of the departmental appointees, who themselves have achieved their promotion through the same rotten process of cadre deployment and promotion of friends and associates, ***should now be in charge*** is preposterous. It will be a true case of appointing the wolf as shepherd.

This recommendation is therefore NOT supported by NAPTOSA.

- (b.8) **RECOMMENDATION 8:** *It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.*

**Response:** NAPTOSA gives qualified support and recognition to the recommendation that a principal is first and foremost a manager, and for that purpose, needs the requisite knowledge and experience that can only be gained by serving in lower managerial positions in schools. However, this is a process that must be undertaken by the Education Labour Relations Council (ELRC), after due recognition is given to the fact that all historical inequalities in accessing senior posts have been removed.

- (b.9) **RECOMMENDATION 9:** *That the observer status of Unions be renegotiated with respect to the recruitment process.*

**Response:** As a (politically) non-aligned union, NAPTOSA does not participate in a system of cadre deployment. If the findings of the MTT, that cadre deployment results in people without the requisite skills, abilities and commitment serving in key areas of the system or else giving more attention to (party political/union) organisational matters than their jobs as office-based educators are correct, NAPTOSA fully endorses the recommendation of the Commission in this regard.

NAPTOSA believes that sufficient legislation, policies and grievance procedures in respect of the role of Unions in appointments and

promotions exists for governing body members to report non-compliance and deviations. The collective agreements in the ELRC speak to these issues. SGBs need to be educated on these issues instead.

As for the right of unions to observe shortlisting and interview processes are concerned, NAPTOSA has always regarded the right to be limited to ensuring that these processes are conducted fairly. If, however, this right has been abused by some unions to formally and informally influence outcomes of these processes (including the altering of scores inside or outside meetings), NAPTOSA is in full support of the tightening of the relevant collective agreements. We will, however, not support the removal of the right to observe.

- (b.10) **RECOMMENDATION 10:** *That both school and office-based educators should cease to be office-bearers of political parties and that educators in management posts (including school principals) should be prohibited from occupying leadership positions in teacher unions.*

**Response:** For obvious reasons it cannot be expected of NAPTOSA to support this recommendation. NAPTOSA's members, who are office-bearers, play a vital role in the union. If it is found, however, that their membership of NAPTOSA interferes with their objectivity, so that they act improperly in the execution of their departmental functions, the DBE or provincial department should take appropriate action against such office-based educators. This has obviously not been true with regard to the membership of all unions, hence the recommendation by the MTT.

A union for office-based educators will not solve the problem identified by the MTT. The number of office-based educators is too small for the establishment of a viable union that will qualify for admission to the ELRC. This will require the union to seek a working together arrangement with another union or unions and, depending on which union(s) this is, one could find a perpetuation of the current situation.

If appointments and promotions are to be dealt with by independent external organisations as proposed by NAPTOSA (until a situation is reached where there is sufficient proof that office-based educators are able to operate in an unbiased manner), the identified problem would be taken care of.

- (b.11) **RECOMMENDATION 11:** *That it seems desirable that separate and distinct Unions be established for office based educators.*

**Response:** NAPTOSA questions whether such recommendations are warranted and it was part of the brief.

- (b.12) **RECOMMENDATION 12:** *That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.*

**Response:** As a (politically) non-aligned union, NAPTOSA does not participate in a system of cadre deployment. If the findings of the MTT, that cadre deployment results in people without the requisite skills, abilities and commitment serving in key areas of the system or else giving more attention to (party political / union) organisational matters than their jobs as office-based educators, are correct, NAPTOSA fully endorses the recommendation of the MTT in this regard.

- (b.13) **RECOMMENDATION 13:** *Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the jobs for which they have applied. There should neither be political appointments nor cadre deployments. People in these posts should be accountable to their employer, and be assessed regularly.*

**Response:** NAPTOSA supports the recommendation. If provincial offices and districts are staffed by skilled and competent officials, the education system as a whole will benefit and quality education can be achieved.

- (b.14) **RECOMMENDATION 14:** *That the DBE and the DHET, with universities and other stakeholders including Unions, lead discussions aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators, and shape the practice of education in schools throughout South Africa.*

**Response:** NAPTOSA supports the recommendation, although it is believed that unions in education should also be invited to participate in the debate.

- (b.15) **RECOMMENDATION 15:** *That the roles South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.*

**Response:** None

- (b.16) **RECOMMENDATION 16:** *That the SACE should release to the Minister its full Report on the buying and selling of posts when completed.*

**Response:** If there is a SACE report that will strengthen the findings of the MTT to eventually lead to an overhaul of the recruitment and promotion regimes in education, it is important that the report be released. It is,

however, equally important that all relevant parties be given an opportunity to respond to the report before its release.

- (c) ***Nothing that NAPTOSA has said in its response persuades the Task Team of the need to make changes to the Report.***

## **2.2 NATIONAL TEACHERS' UNION (NATU) – (for further details, see *Annexure 1B*)**

- (a) NATU raises the following issues in their response:
- (i) The MTT does not acknowledge the contribution that NATU has made to the investigation;
  - (ii) The MTT mistakenly refers to NATU as the “National Association of Teachers Union”;
  - (iii) Despite NATU’s suggestions regarding process and methodological issues offered to the MTT on 4<sup>th</sup> November 2014, the MTT chose to ignore these suggestions;
  - (iv) The composition of the MTT has been raised by NATU as constituting a possible conflict of interest, since some members of the MTT may have been involved in the teacher union movements before their appointment to the DBE, and subsequently to the MTT;
  - (v) NATU had suggested ways that would have allowed “maximum participation”, and these were not followed by the MTT;
  - (vi) NATU believes that “the fear of reprisals acted as a deterrent in preventing many potential witnesses from coming forward to testify.”
  - (vii) The MTT drifted from its mandate to investigate corrupt practices, and spent a “disproportionate amount of time advising the Minister on how to improve the existing legislative provisions and policies related to the appointment and placement of teachers”.
- (b) ***The MTT has already covered some of these issues in the general background section above.*** However it wishes to place the following on record that:
- (i) While it is correct that the NATU Executive Director and its President met with the MTT on the 4<sup>th</sup> November 2014, the meeting ended with an agreement that, in order to ensure the further participation from NATU, the MTT should provide NATU with a detailed account of its methodology and timescale, and should indicate what measures it would take to ensure the protection of witnesses. The MTT responded accordingly, and although NATU was provided with such a document, the MTT, despite

numerous attempts by emails and telephone calls, never heard from NATU again. NATU was the only Union that did not provide written input or provincial participation.

- (ii) The MTT apologises to NATU for giving it an incorrect name in the Report. The error will be rectified before publication.

### **2.3 THE PROFESSIONAL EDUCATORS' UNION (PEU) – (for further details, see *Annexure 1C*)**

- (a) PEU expressed their appreciation for the work done by the MTT despite the challenges faced by the MTT in gathering the requisite evidence. PEU feels that the release of the MTT Report is timeous given the low morale currently existing in the teaching profession.
- (b) PEU, however, has expressed a number of issues about the MTT Report:
  - (i) The forensics investigation could have gone further to uncover and gather the evidence needed for a more conclusive finding in several cases that were investigated;
  - (ii) The attention drawn to cadre deployment is welcomed by PEU because in their view PEU has been a victim of this practice;
  - (iii) There is huge responsibility placed on the SGBs and cognisance should be taken about the demands and need for support;
  - (iv) While PEU gives general support to the MTT's recommendations, it believes that there is not a recommendation addressing the "ineptitude" of departmental officials; and
  - (v) PEU believes that the challenges identified in the MTT Report are not insurmountable, and that it could serve as a rallying point to give new hope for a better quality of education.
- (c) PEU has also provided a list of typographical which will be incorporated in the MTT Report. However, based on the PEU responses the ***MTT will not make any substantive changes to its Report.***

### **2.4 SOUTH AFRICAN DEMOCRATIC TEACHERS' UNION (SADTU) – (for further details, see *Annexure 1D*)**

- (a) SADTU chose to focus on what it regards as five main inadequacies of the MTT's Report. These are:



- (i) The MTT failed to sustain an open and enquiring state of mind: paragraphs 13, 34, 35, 41, 43 (*numbers refer to the paragraphs in the SADTU document*) including its political agenda: 55, 68, 73; the unfair targeting of SADTU: 23, 29; and because of a reference to the Tripartite Alliance: 64;
  - (ii) Enquiries made by the MTT have gone beyond media reports: 25 and it has made observations outside of its terms of reference: 26, 47, 51, and 54;
  - (iii) The absence of evidence and specificity in the Report: 33, 38, 49, 52, 56, 71;
  - (iv) Making 'defamatory' statements about SADTU: 63, 68; and
  - (v) Comments on the South African Council of Educators (SACE).
- (b) The MTT has set out in the background section above its position about its approach, methodology and its interpretation of its brief and mandate. These have a bearing on points 1, 2, 4 and 5 above. Below, the MTT sets out responses as and where there is reference to the forensic section Chapter 3) of the Report:
- (i) **AD Paragraph 35 to 36:** The matter under discussion in these paragraphs follows from an Article published in the City Press on 2<sup>nd</sup> May 2014. The MTT found that the Gauteng Department of Education commissioned an investigation into these allegations. The MTT in its report merely states the factual situation as to the outcome of that investigation as far as it is relevant to its mandate. By no means did the MTT make a finding that the conclusions from that investigation are true and correct. Having an open mind, the MTT endeavored to engage with the relevant witnesses to confirm or refute the averments as reported in the Nchupetsang report, without success. The only finding of the MTT was therefore that due to an apparent lack of cooperation from relevant witnesses, these findings could not be confirmed or refuted. Due to the nature of the allegations and having cognisance of the provisions of Section 34 of the Prevention and Combatting of Corrupt Activities Act, the MTT recommends that the matter be reported to the SAPS.
  - (ii) **Ad Paragraph 37:** The MTT finding was that based on the available evidence there may be substance to the allegation that Mr XXXX (name blocked) union affiliation, may have influenced his appointment. Hence the MTT recommends a detailed investigation to confirm or refute this allegation.
  - (iii) **Ad Paragraph 43:** The averments contained in this paragraph are denied. Of significance is what SADTU's submission *chose* not to refer to. These are, among many others:

- (aa) References to the MTT Recommendations (except Recommendation 11);
  - (bb) The uses of cadre deployment;
  - (cc) The capture of Departmental structures;
  - (dd) The widespread use of multiple forms of “undue influence” in the schooling system;
  - (ee) The deleterious effects upon the quality of education of patronage, militancy and other disruptive practices;
  - (ff) The responsibility of Teacher Unions to improve the quality of teaching and learning;
  - (gg) The presence of corruption in the Provincial Departments of Basic Education; and
  - (hh) The adverse effects of the adversarial relationship between the DBE and Teacher Unions upon teaching and learning.
- (c) SADTU was invited to comment on the Report’s Recommendations, but it declined to do so on the grounds that it disapproved of the manner in which the recommendations were arrived at.
  - (d) The MTT was obliged to acknowledge that the environment, in which South African schooling takes place, is conducive to corruption. The tension between the DBE and Unions is a dimension of that hostile environment. The MTT is of the view that this situation has led to a grave loss of professionalism in school- and office-based educators, and that it therefore a main cause of the appallingly low standards of learning in South Africa’s schools, especially at Primary levels.
  - (e) The MTT has decided that in the light of SADTU’s submission to it, there is no need to alter its Report other than to point out that no Teacher Union as an organisation is involved in the buying and selling of posts in education.

## **2.5 SUID-AFRIKAANSE ONDERWYS UNIE (SAOU) – (for further details, see *Annexure 1E*)**

- (a) The SAOU after it made a thorough study of the Report have raised several issues:
  - (i) Its appreciation that an investigation into the selling of posts has been conducted and support for follow-up actions emanating from the Report;

- (ii) It view that a large part of the report deals with matters outside the actual brief of the MTT “instead of adhering to the brief, i.e., the identification of perpetrators and appropriate actions against them”; and that therefore, in its view the MTT has gone beyond its brief;
- (iii) It takes issue that the recommendation contained in the Report regarding the overhaul of the appointment process and the powers and competencies of school governing bodies is based on a “small number of actual perpetrators”;
- (iv) In its view the recommendations contained in the Report are meant to promote “the large scale centralisation of the education system” and that it will “reinstate a schooling system that will be at the behest of the ruling political party of the day and reminds one of the 1976 model of schooling”;
- (v) SAOU is offended that the “conclusions reached from the SAOU’s input was either badly understood or deliberately misrepresented”. It is particularly offended by references in the Report that SAOU’s input as seen to be that of “people resisting the transformation of pre-1994 hegemonic values”. This, and other statements in the Report regarding SAOU, SAOU regards as malevolent and insulting;
- (vi) It is also of the view that there is “an uncanny correlation with the Basic Education Laws Amendment Bill (dated 18 August 2015) that was provided to unions on 20 September 2015 by the Deputy Minister for Basic Education” and that the impression is that the MTT’s report was drafted to support the Bill;
- (vii) SAOU provides the following responses to the various Recommendations in the MTT Report:
  - (aa) Recommendation 1: Supported;
  - (bb) Recommendation 2: Supported;
  - (cc) Recommendation 3: Supported;
  - (dd) Recommendation 4: The SAOU agrees with the recommendation, i.e., that clear roles for the various provincial departments of education and unions be delineated. However, SAOU wishes to add that the role of school governing bodies needs to be added to this particular process as they are an indispensable role-player;
  - (ee) Recommendation 5: Supported;

(ff) Recommendation 6: The SAOU does not support this recommendation. A community should have the power to make recommendations with regard to teachers that fit the various communities' requirements for teachers. The provincial department of education has no responsibility towards a particular community, and is not au fait with such community's requirements, as well as the relevant school's curriculum and extra-curricular needs and requirements;

(gg) Recommendation 7:

- The SAOU supports the principle that principals must comply with minimum requirements with regard to suitability, academic acumen, experience and professional competencies;
- The possibility of pre-interview testing can be supported provided that the assessment model is agreed to and will be applied in such a manner that it will comply with the principles of equity and fairness. Furthermore, although the results of such testing may be made available to the envisaged selection panels, the information must be regarded as personal and confidential, i.e., that it may only be used for purposes of the interviewing process;
- The principle of selection panels can also be supported provided that the final recommendation will be made by the SGB;
- The caveat to the above is to note that ELRC collective agreements currently determine the processes that underpin the appointment procedures of educators on all post levels. Any amendment of such processes can only be effected by a collective agreement by the parties to the ELRC; and
- The organised teaching profession has held discussions among the various constituting members and in a pro-active manner have requested the ELRC that all processes that underpin the appointment procedures of educators as contemplated in the relevant collective agreements, be reviewed, refined and where necessary amended in order to address the problem areas as identified by the MTT;

(hh) Recommendation 8: Supported, provided that it must be borne in mind that principals of small schools are appointed on post level 2; and therefore the logical pool of possible candidates will in the majority of cases be post level 1 educators.

- (ii) Recommendation 9: Supported.
  - (jj) Recommendation 10:
    - A school should at all times be regarded as politically neutral, and therefore the principal of such a school should not be an office-bearer of a particular political party; and
    - The proposal that educators in management posts may not occupy leadership positions in teacher unions cannot be supported. It is vitally important that a teachers' union should at all times be able to portray a balanced view on all educational matters. Therefore, it is of the utmost importance that all post levels should be represented by the leadership of a teachers' union. SAOU has obtained legal advice that the proposal will not pass constitutional compliance with regard to freedom of association.
  - (kk) Recommendation 11: Not supported – in conflict with the constitutional principle of freedom of association.
  - (ll) Recommendation 12: Supported.
  - (mm) Recommendation 13: Supported.
  - (nn) Recommendation 14: Supported, provided that cognisance be taken that the biggest problem with the training of teachers is that the subject knowledge of such teachers is not on par with the minimum requirements for teaching such subjects effectively.
  - (oo) Recommendation 15: Not supported. Any professional council is the responsibility of the profession itself, i.e., that it governs itself with regard to moral and ethical codes of conduct and minimum requirements for entering such a profession. The SAOU finds it difficult to accept that the teaching profession should be degraded in comparison to other professions.
  - (pp) Recommendation 16: Supported.
- (b) ***Nothing that SAOU has said in its response persuades the Task Team of the need to make changes to the Report.***



## **NAPTOSA**

**National Professional Teachers' Organisation of South Africa**

*Celebrating 10 years of service excellence to education in 2016*

### **ADDITIONAL ANNEXURE 1A: NAPTOSA RESPONSE TO FINAL REPORT BY TASK TEAM ON THE INVESTIGATION OF ALLEGATIONS INTO THE SELLING OF POSTS OF EDUCATORS BY SOME MEMBERS OF TEACHERS UNIONS AND DEPARTMENTAL OFFICIALS IN THE VARIOUS PROVINCIAL EDUCATION DEPARTMENTS**

#### **1. ACKNOWLEDGEMENTS AND GENERAL COMMENTS**

NAPTOSA wishes to record its acknowledgement to the MTT for the effort put into investigating this vexing problem of posts for sale, inappropriate appointments and corruption within the DBE/PED with undue influence on processes by parties.

Whilst one acknowledges the importance of the investigation one can hardly help but feel deflated at the outcome. NAPTOSA members have felt the brunt of these appointment shenanigans. Whilst painfully aware that most corrupt activities do not have a paper trail and that most evidence would be anecdotal in nature it is not automatic that this negates the nature, extent, the reality and the impact of these nefarious activities. The full impact of the undue influence of certain parties, whilst widely assumed cannot be easily proven to be undue.

NAPTOSA further wishes to express its discomfort at the report appearing to take a very negative view of unionism and unions to the point where it appears that a fair amount of 'union bashing' has crept in instead of clinical investigation and analysis of facts.

The MTT further, whilst acknowledging that the investigation was limited, recommends far reaching action such as the removal of SGB's from the promotions and appointment process. This ignores the fact that there are probably more exceptionally well performing SGB's than there are corrupt ones. It ignores the fact that many of the departmental appointees it suggests should now be in charge have achieved their promotion through the same rotten process of cadre deployment and promotion of friends and associates. A true case of appointing the wolf as shepherd.

NAPTOSA has always prided itself on the manner of our engagement and the professional activist role played by our observers to processes such as promotion and appointments. We have always seen our role as akin to a watchdog to prevent the DBE/PED and others from tainting the process with personal agendas. We reject the recommendation to the limit our role as observers.

An element of the report that NAPTOSA takes strong exception to, is the generalisations about education unions. As NAPTOSA, we would have no qualms if we or our members are specifically named, provided there is proof that we are guilty of improper conduct, but in the absence of such evidence, the Task Team should have refrained from generalizations. The following are examples from the report:

- “...domination by Unions has been made possible by the feeble and dilatory condition of Districts and Circuits.”
- “The deployment of officials to the Department from Unions weakens the Department...”
- “...aggressive unions...”
- “Teacher Unions at present carry the burden of supporting political movements...”
- “The **Free State MEC** regards Teacher Unions as a major problem because they “lack discipline” and play a role in “devaluing education”.”
- ..”The Task Team does not believe that other Unions are above placing their supporters in strategically advantageous positions.”
- “...education officials are in implicit collusion with the Unions to maintain a conspiracy of silence about the practice of buying and selling posts.”
- “This situation has allowed the Unions to use undue influence to the extent that the Department of Basic Education has lost control of two-thirds of the country.”

Also, the unfortunate manner in which the proceedings have been captured has probably exposed a number of complainants and witnesses to untold dangers. The fact that names are recorded in a public document and then no action is to be taken to the complaint is simply unacceptable and illogical.

Whilst accepting the report as an honest attempt to address a vexing problem, we do lament the tone and tenor of the report, the carte blanche approach taken with recommendations and opinions. It unfortunately sullies the report.

NAPTOSA wishes to respond as follows to the various recommendations of the Task Team:

## 2. RESPONSE TO RECOMMENDATIONS OF TASK TEAM

**RECOMMENDATION 1:** That the illegal actions by educators identified by the Task Team be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.

**Response:** The recommendation is supported, however, NAPTOSA suggests that SARS be involved and that lifestyle audits be done especially where strong anecdotal evidence exists but fear and intimidation restricts people from providing evidence.

Also that the DBE [*Employment of Educators Act 76 of 1998 as amended*] and SACE Code of Conduct be implemented to bring disciplinary actions against those who have been implicated.

**RECOMMENDATION 2:** That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.

**Response:** Suggest that before such action an investigation be done to determine why officials did not act as required by legislation and then follow the recommendation.

**RECOMMENDATION 3:** That action be taken quickly to protect whistle-blowers. We recommend a dedicated project across competent authorities to investigate and act on all cases for a defined period.

**Response:** Whistle-blowers are crucial in the fight against corrupt practices in the public service and must receive the necessary protection. Unfortunately the report has named individuals thus exposing them to the wrath of the very miscreants we want to bring to book. The recommendation is therefore supported.

**RECOMMENDATION 4:** That the Department of Basic Education regain control of administering and managing the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teachers' Unions.

**Response:** NAPTOSA supports the recommendation. It is vital for the success of education in South Africa that the DBE reclaims control over the education system. This does not mean that NAPTOSA will not disagree with the Department on matters, but as always this will be done in a spirit of constructive participation and



debate. NAPTOSA is committed to an education system in which its members will be able to compete fairly within laws, provisions and procedures over which the DBE has full control and that prevents the influence of external parties.

**RECOMMENDATION 5: That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations frameworks and that the Minister adjust the Education sector legislation accordingly.**

**Response:** Recommendation is supported

**RECOMMENDATION 6: That the powers of School Government Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.**

**Response:**

NAPTOSA agrees with the findings but NOT with the above recommendation of the Task Team. Whilst there are many SGBs that are dysfunctional or have been hijacked by certain interest groups (unions), there are as many, if not more, who function perfectly well.

If the recommendation is understood correctly it means that it will be acceptable for the very same dysfunctional/hi-jacked SGBs to be involved in the appointment of PL1 educators, but not the filling of PL2 positions and above. This makes no sense.

NAPTOSA believes that if there is a genuine will to deal with this scourge that is impacting on appointments and promotions then we MUST ensure that existing policies and collective agreements are adhered to, where one organization no longer dominates the system and the neutrality of decision makers are guaranteed.

NAPTOSA is aware that sufficient legislation, policies and grievance procedures in respect of the role of Unions in appointments and promotions exists for aggrieved parties to report non-compliance and deviations. The collective agreements in the ELRC speak to these issues. All stakeholder parties to these processes need to be educated on these issues instead and be held accountable for non-compliance.

NAPTOSA reaffirms that SGBs do have a role to play in the governance of schools and that they should not be discarded, instead, their role in appointments and promotions should be strengthened with regular meaningful training, monitoring and evaluation.

**RECOMMENDATION 7: That principals be selected by panels which have the resources to evaluate the competence and suitability of the candidates for their leadership and management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having for example, full details of the schools for which the interviews are being held.**

**Response:**

This response is largely in line with NAPTOSA's response to Recommendation 6. Furthermore we are NOT in favour of peer review panels and provincial (PED) panels as this will just make the process extremely cumbersome.

If, in terms of your findings, provincial departments are in many cases saturated with deployments from certain unions, the appointment/promotion processes will continue to be undermined if departmental officials were to have a final say in these matters. The suggestion that many of the departmental appointees who themselves have achieved their promotion through the same rotten process of cadre deployment and promotion of friends and associates ***should now be in charge*** is preposterous. It will be a true case of appointing the wolf as shepherd.

This recommendation is therefore NOT supported by NAPTOSA.

**RECOMMENDATION 8: It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.**

**Response:** NAPTOSA gives qualified support and recognition to the task team recommendation that a principal is first and foremost a manager and for that purpose needs the requisite knowledge and experience that can only be gained by serving in lower managerial positions in schools. However, this is a process that must be undertaken by the Education Labour Relations Council (ELRC), after due recognition is given to the fact that all historical inequalities in accessing senior posts have been removed.

**RECOMMENDATION 9: That the observer status of Unions be renegotiated with respect to the recruitment process.**

**Response:**

As a (politically) non-aligned union NAPTOSA does not participate in a system of cadre deployment. If the findings of the Commission, that cadre deployment results in people without the requisite skills, abilities and commitment serving in key areas of the system or else giving more attention to (party political/union) organizational matters than their jobs as office-based educators, are correct, NAPTOSA fully endorses the recommendation of the Commission in this regard.

NAPTOSA believes that sufficient legislation, policies and grievance procedures in respect of the role of Unions in appointments and promotions exists for governing body members to report non-compliance and deviations. The collective agreements in the ELRC speak to these issues. SGBs need to be educated on these issues instead.

As for the right of unions to observe shortlisting and interview processes are concerned, NAPTOSA has always regarded the right to be limited to ensuring that these processes are conducted fairly. If, however, this right has been abused by some unions to formally and informally influence outcomes of these processes (including the altering of scores inside or outside meetings), NAPTOSA is in full support of the tightening of the relevant collective agreements. We will, however, not support the removal of the right to observe.

**RECOMMENDATION 10: That those whose are appointed to Districts and provincial offices should be required prior to appointment to demonstrate their capacity to carry out the job for which they have applied. There should be neither political appointments nor cadre deployments. People in these posts should be accountable to their employer and be assessed regularly.**

**Response:** NAPTOSA supports the recommendation. If provincial offices and districts are staffed by skilled and competent officials the education system as a whole will benefit and quality education can be achieved.

**RECOMMENDATION 11: That both school and office based educators cease to be office bearers of political parties and to avoid the undesirability of conflict of interest educators in management posts (including school principals) should not occupy leadership positions in Teachers' Unions.**

**Response:**

For obvious reasons it cannot be expected of NAPTOSA to support this recommendation. Our members who are office-bearers play a vital role in the union. If it is found, however, that their membership of NAPTOSA interferes with their objectivity so that they act improperly in the execution of their departmental

functions, the DBE or provincial department should take appropriate action against them. This has obviously not been true with regard to the membership of all unions, hence the recommendation by the Commission.

A union for office-based educators will not solve the problem identified by the Commission. The number of office-based educators is too small for the establishment of a viable union that will qualify for admission to the ELRC. This will require the union to seek a working together arrangement with another union or unions and, depending on which union(s) this is, one could find a perpetuation of the current situation.

If appointments and promotions are to be dealt with by independent external organizations as proposed by NAPTOSA (until a situation is reached where there is sufficient proof that office-based educators are able to operate in an unbiased manner), the identified problem would be taken care of.

**RECOMMENDATION 12: That it seems desirable that separate and distinct Unions be established for office based educators.**

**Response:** NAPTOSA questions whether such recommendations are warranted and it was part of the brief

**RECOMMENDATION 13: That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely**

**Response:** As a (politically) non-aligned union NAPTOSA does not participate in a system of cadre deployment. If the findings of the Commission, that cadre deployment results in people without the requisite skills, abilities and commitment serving in key areas of the system or else giving more attention to (party political/union) organizational matters than their jobs as office-based educators, are correct, NAPTOSA fully endorses the recommendation of the Commission in this regard.

**RECOMMENDATION 14: That the DBE and the DHET, with universities and other stakeholders, lead ongoing discussions aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in public schools throughout South Africa.**

**Response:** NAPTOSA supports the recommendation although it is believed that unions in education should also be invited to participate in the debate.

**RECOMMENDATION 15: That the roles South African Council of Educators (SACE) be ...**

**Response:** None

**RECOMMENDATION 16: That SACE releases to the Minister its full Report on the buying and selling of posts when completed.**

**Response:**

If there is a SACE report that will strengthen the findings of the Commission to eventually lead to an overhaul of the recruitment and promotion regimes in education, it is important that the report be released. It is, however, equally important that all relevant parties be given an opportunity to respond to the report before its release

**\*\*\*\*\*END OF NAPTOSA RESPONSE\*\*\*\*\***



# **NATIONAL TEACHERS' UNION**

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## **ADDITIONAL ANNEXURE 1B: NATU'S VIEWS ON THE MINISTERIAL TASK TEAM'S REPORT ON THE SELLING OF EDUCATOR POSTS BY SOME TEACHER UNIONS AND DEPARTMENTAL OFFICIALS IN THE VARIOUS PROVINCIAL EDUCATION DEPARTMENTS**

### **PREAMBLE**

The National Teachers Union (NATU) appreciates the courtesy afforded her leadership to preview the final draft of the Ministerial Task Team (MTT) on the very serious allegations of selling educator posts. We have studied the report and have a number of serious reservations about the methodology and process followed – and, hence, its contents. Nonetheless, we shall, hereunder, confine ourselves to only a few of these.

### **TERMS OF REFERENCE**

Typically, a report of this nature starts by setting out its terms of reference as mandated by the appointing body. We find it unusual that this has not been done in respect of this task team report.

### **ACKNOWLEDGEMENT OF NATU IN THE REPORT**

We have noted that the MTT report does not acknowledge NATU as one of the organisations that participated and contributed to its work when, in fact, we had generously given of our time to meet with the task team on the 4<sup>th</sup> November 2014, at Coastland Hotel, Umhlanga. It is, therefore, misleading to members of the general public and other stakeholders in Education to have stated that we neither participated nor supported the work of the task team. Furthermore, it is a contradiction in both terms and essence to report, as has been reported at 2.16 of

the MTT report, that the “National Association of Teachers Union (NATU) met with MTT but refused to participate in the investigation.” The impression given by this statement is that we just popped up in the venue where the business of the task team was taking place, informed the task team members that we were boycotting them, and then left. As will be seen below, there is nothing further from the truth. In any case, how would we have refused to participate, and then hold a meeting with the same body that we had decided not to cooperate with? The MTT’s statement is therefore simply ludicrous.

For NATU, it was an honour and privilege to have interacted with the MTT members under the leadership of Professor John Volmink, for the sole purpose of making vital inputs into the work of the task team. It was for this reason that NATU was duly represented at the meeting by none other than its President, Mr. S.L. Ngcobo, and the NATU Executive Director, Mr. S.A. Thompson. It is, therefore, unfortunate that the MTT decided not to acknowledge the contributions that we made at that meeting and, instead, conveniently chose to paint an appalling image of the Union as one that did not want to participate or support the work of the MTT in any way. It is sad and very mischievous of the MTT to simply brush aside all the critical issues that NATU raised during our engagements with them. We therefore want to place it on record that at no stage did NATU refuse to participate in the investigation. We wonder what the motive of the MTT was for this deliberate act of misinformation. Is it possible that this was deliberately done so as to hide the whole range of critical **process** and **methodological issues** which we raised in that meeting – including the credibility of some members of the MTT, whom we saw as being potentially conflicted as a result of their many years of association and patronage with one of the teacher unions? Anyhow, we shall come back to some of these issues later in this submission.

### **THE NAME OF THE UNION**

By referring us, at 2.16 of the MTT report, as the “National Association of Teachers Union (NATU)”, the report has involved itself in name-calling. As a teacher union that has been on the Education landscape in this country for a very long time, the

MTT ought to have known our correct name. For the record, the acronym NATU stands for the “National Teachers’ Union”.

## **METHODOLOGY AND PROCESS ISSUES**

It is sad to note that the only thing that the MTT reported about NATU was our so-called refusal to participate in the investigation. As already pointed out, the fact of the matter was that NATU was more than prepared and willing to participate in the work of the MTT. It was for this reason that we attended the meeting of November 4, 2014 and put across a number of very important **process** and **methodological issues** for the consideration of the task team. These issues were of such importance that the credibility and integrity of the work of the task team would have been greatly enhanced had they been accepted and taken on board. Indeed, in such matters as these, the processes and methodological issues are much more important than the outcomes. Appropriate processes and methodologies validate the outcomes of any investigation. When processes and methodologies are found to be wanting, inappropriate or inadequate the outcomes are doubted and cannot be relied upon. As things stand now, it is very difficult for NATU to find much trustworthiness, credibility and sincerely in the findings contained in the MTT report. Certainly, in our view, this report does not carry the comprehensiveness, depth and scope that were anticipated. Some of the reasons for this are presented below.

### **Conflict of Interest**

With regard to the composition of the MTT, NATU raised the issue of a possible conflict of interest in respect of some of its members. Clearly, some members of the task team were seriously conflicted by the roles they played in the teacher union movements, for a very long time, before their appointment to the National Department of Basic Education – and, subsequently, to the MTT. For this reason, NATU was further worried about the location of the secretariat that was to serve and service the MTT being based in the Department of Education, which was part of the entities to be investigated.



## **Maximising Participation**

One of the issues NATU raised with the MTT related to ways to maximise the participation of the affected people whom the investigation sought to reach, or ought to have targeted. In this regard, NATU requested the MTT to put certain systems in place to ensure maximum participation. At our afore-referenced meeting with the MTT, we offered them some advice on how to widen participation in their investigation. We pointed out that the methods the MTT was using to investigate the very serious allegations of selling of posts were both grossly inadequate and ineffective. In particular, we observed that the task team was operating silently and under such a veil of secrecy (and at such breakneck speed) that some people who could have contributed to the investigation were not even aware that the investigation had started. Accordingly, we advised the MTT to afford teachers and the general public at large a reasonable opportunity to provide input into the process, particularly in view of the broad range of vested interests in the matter under investigation. In this regard, NATU indicated that there was a clear need for individual teachers and members of civil society to give evidence and participate in the process as a whole to ensure that diverse opinions were heard and that the public interest was sufficiently harnessed and properly managed. We warned the MTT that failure to provide such time and space to the public would contribute to the climate of impunity on the part of the perpetrators of these evil practices. NATU further stressed the point that the ultimate ability to investigate and subsequently prosecute the perpetrators of the alleged malpractices would be severely jeopardised if there was limited participation. Thus, NATU advised the MTT that there should be an effort to inform all the schools about the investigation – and that one effective way to do this was for the task team to issue circulars to schools inviting all with the relevant information about the allegations to come forward and avail it to the task team. Further, we advised that, in the same circulars, the MTT should explain where, when and how the task team could be reached in the specific province or district of the Education department. It was our very strong view that if schools were not informed directly about the work of the task team by way of issuing a circular, the task team would have serious challenges reaching its target population and securing the cooperation of victims and witnesses. As such, this

would lead to a paucity of the necessary important information and evidence about the criminal matters under investigation.

Reading the MTT report, it is very clear that only a handful of teachers or people lodged official complaints regarding criminal activities committed against them or their colleagues. NATU attributes this poor response rate to the lack of information and transparency about the operations of the task team and perhaps a lack of confidence in it as well – either due to its composition or its closed and secretive *modus operandi*. Of the few cases reported where complaints were lodged, very few or no witnesses or evidence came forth and this was well anticipated by NATU, as borne out by the advice we gave to the MTT; advice which appears to have been dismissed off hand by the task team.

Overall, the report shows that there was no plan to invite individual teachers, save for a fortunate and well-connected few individuals who were able to find their way to the venues where the MTT held their hearings. Thus, the challenge of locating the task team for the purpose of giving evidence remained largely an elusive undertaking throughout the work-time of the task team. Some teachers continually enquired with our office about where the MTT interviewed were being held and, for the most part, we too were in the dark. In the end, the majority of teachers never had the necessary information about the investigation.

On the other hand, the MTT had enough time and presence of mind to consciously invite people who were suspected to have been involved in the allegations of selling posts, and even went out of its way by writing them letters. In as far as NATU is concerned, the suspects are the trade unions and officials of the department, so inviting them and not inviting teachers and other associated individuals to be part of the investigation was an act in futility and a good recipe for disaster. Circulars to trade unions were crafted and received by them but no invitation whatsoever was directly directed to the victims of these crimes, namely the teachers in all schools.

The report further states that selected professors were also formally invited to influence the process, but the task team never saw the need to mobilize teachers by

writing to them directly, either by way of circulars or any other means. Such invitations would have encouraged wider participation in the investigation. Certainly, this lack of participation must have severely limited and compromised the breadth and depth of this investigation.

### **Protection of Witnesses**

One of the important process issues we raised with the MTT related to the protection and support which was needed to be offered to witnesses. We strongly felt that such protection and support would have enhanced the credibility and trustworthiness of the findings – both during the course of the investigation and afterwards. It was with this in mind that NATU pointed out to the task team that it would be extremely important to inform all the teachers that it had the ability to provide security to all the witnesses. We felt that if the task team said nothing about the protection of witnesses the scale and scope of participation – and hence, the task team’s ability to obtain the information it sought to gather would be severely curtailed and compromised.

Indeed, in matter of this kind, the graver the misdeeds committed by the perpetrators, the greater the risks for the witnesses and victims to come forward publically and ‘spill the beans’. Thus, it was very clear to NATU that the protection of witnesses was the cornerstone of successful investigation by the MTT. However, as everyone knows, none of this advice was taken on board, as the MTT chose to discredit NATU by misleading the public that we boycotted their work. We want to reiterate the point that members of NATU remain ready to give evidence to a credible body investigating the said allegations and truly committed to the maintenance of the rule of law in our country’s education. NATU believes that one of the most powerful vehicles to link a perpetrator to a crime is the testimony of a reliable and credible witness, such as past insider within an organization or a friend. However, we equally remain convinced that without the necessary protection and support given to witnesses, the chances of this exercise yielding credible results are infinitesimal.

Admittedly, the MTT concedes in its report at page 16 about this as follows:

Furthermore in a variety of the cases the pervasive culture of fear and concerns about safety negatively impacted on the co-operation of the potential witnesses, resulting in them being reluctant or unwilling to commit themselves to statements/affidavits to assist the Task Team in its investigation.

Certainly, what the MTT terms “the pervasive culture of fear and concerns about safety” was a real problem which the MTT should have anticipated and, accordingly, taken steps to contain the situation. As it is, the MTT’s inability to render protection and security to potential witnesses definitely and seriously undermined the work of the task team. This has led to the MTT’s Recommendation 3, which would have been unnecessary had the task team handled things differently.

This realisation is further aggravated by the task team’s report at page 16 as follows:

The MTT soon became aware that there are many forms of irregular appointments. In many ways the cases reported here constitute only an indicative sample of irregularities but they nevertheless point to widespread practices of improper and unfair influence affecting the outcomes of the appointment of educators. In only a minority of cases are there numerous claims of money being paid to influence the outcome but there are claims and findings of improper influence of many different kinds.

Thus, the MTT admits that they only so much as just scratched the surface of the problem they were meant to have fully investigated.

## **USE OF FORENSIC AUDITORS**

NATU has noted from the MTT report that the process made use of forensic auditors in order to fully investigate the matters that the task team came across. Commendable as this effort may have been, its usefulness, relevance and effectiveness were dealt a fatal blow by the limited scale of participation of potential witnesses and the absence of clearly defined safeguards regarding the protection of witnesses. Thus, because many of the irregularities still remain unreported, we

believe that these forensic auditors did not even begin to scratch the surface of this iceberg.

### **A SHIFT FROM THE MAIN MANDATE**

We note from the report that the MTT placed a disproportionately huge emphasis on advising the Minister on how to improve the existing legislative provisions and policies related to appointment and placement of teachers. This appears to have clouded the main purpose of the establishment of the MTT – thereby suggesting that the MTT was never well vested with investigative or prosecutorial powers. Rather, their main interest became fixated on policy development and formulation, and not investigating the alleged corrupt practices that bedevilled the provincial education departments around the country. Furthermore, the mandate shift manifested itself in the evident strong emphasis of the investigation on some stakeholders' views about the current school-based recruitment and appointment procedures for filling vacant posts, as opposed to the real mandate given to the task team – that is, that of investigating the broad spectre of selling of public posts in the Department of Basic Education. Briefly stated, the mandate of the task team was “to inquire into and to report to the Minister on allegations reported in the media regarding the alleged irregular appointment of educators at schools and the role played by any union and by officials of provincial education departments in these alleged irregular appointments” (Department of Basic Education, 2014: 4). We believe that the MTT shifted substantially from this mandate.

### **OUR RECOMMENDATIONS GOING FORWARD**

It is a matter of grave concern that the MTT has found the Department of Basic Education (DBE) not to have full control of its mandate in all provinces (Recommendations 4 and 5), suggesting that there has been a dereliction of duty and responsibility on its part. Furthermore, owing to the MTT report's inconclusiveness, mainly due to a weak methodology in its discharge of its mandate, NATU proffers as follows:

## 1. URGENT NEED FOR THE ESTABLISHMENT OF THE JUDICIAL COMMISSION OF ENQUIRY

That the Minister of Basic Education must request the President of the Republic of South Africa to appoint a commission of Enquiry for the purpose of making an enquiry into this definite matter of public interest.

That a proper investigation of the allegations of malpractices in the appointments and recruitment of teachers be conducted by a properly constituted Judicial Commission of Enquiry in terms of the Commission Act and section 84 of the South African Constitution.

The Judicial Commission of Enquiry is the only feasible manner to investigate a selling of posts and the public confidence is undeniably high when such a commission is established as opposed to an ordinary Ministerial Task Team. The Judicial Commission has certain powers not often available to other investigators such powers to compel witnesses to testify while ensuring their protection from possible harassment or intimidation.

## 2. URGENT NEED FOR A POLICY SHIFT

That the government's policy of **cadre-deployment** be retracted in order to ensure that all citizens of the Republic of South Africa are afforded an equal and fair chance of securing employment in the country of their birth. In this regard, NATU notes the MTT's remark at page 17 of its report that DBE lacks appointment and recruitment practices that "acknowledge the critical nature of acquiring competent professionals" through the application and use of special tools and processes "to give credibility and validity to the process." A big part of the absence of proper recruitment modalities which follow standard recruitment principles is attributable to the government policy of cadre deployment.

Certainly, to the extent that many of the personnel that are appointed through this policy lack the critical and necessary skills and competencies for the posts to which they are deployed means that this policy is inconsistent with standard recruitment principles. As such, it really has no place in the recruitment and

appointment of professionals. Thus, NATU calls for the immediate scrapping of this policy in-so-far as the recruitment of teachers and other educators is concerned.

This means that what is needed is **systemic transformation**, and not a mere scrapping at the surface of the problem, like the MTT did in attempting to investigate the reported irregularities in the recruitment and appointment of teachers within the DBE.

### 3. **INTERIM ALTERNATIVE APPOINTMENT AND RECRUITMENT PROCEDURES AND PROCESSES,**

In view of the MTT's observation that some School Governing Bodies (SGBs) are "dysfunctional" – thereby casting doubt on "the validity of staff selection" (p. 17 of report), therefore that provision be made for **interim alternative appointment and recruitment procedures and processes**, while the current legislation (i.e. School's Act) is reviewed to provide for alternative mechanisms / frameworks for the appointment and recruitment function of teachers by SGBs. Certainly, there is a dire need for alternative appointment and recruitment procedures and processes in cases where SGB dysfunctionality obtains, and where SGBs lack the necessary levels of competence to discharge their duties diligently and in line with standard recruitment principles.

Neutral or independent bodies with 50% members of the SGB may be used to achieve this, while trade unions serve as observers on such structures.

### 4. **WITHHOLD NAMES OF PERSONS FROM THE MTT REPORT BEFORE IT IS RELEASED**

Given that the MTT failed to offer protection to witnesses, that the names of witnesses be deleted from the MTT report before it is released. This will result in the reduction of deaths among the brave and selfless witnesses who heeded the task team's call to assist it in its investigations.

## **CONCLUSION**

The reality is that, despite the magnitude of the allegations that the MTT set out to investigate, methodologically and the cagey process that the task team followed seriously compromised its work. No doubt that the selling of posts as alleged, and the scale of it, amounted to a very serious public sector crisis, and had an immense negative impact on public confidence vis-à-vis our country's education system. In view of this that NATU believes that delivering such a hotchpotch investigation, as the MTT has done, has amounted to nothing but a denial of access to justice for many victims of this scam. Certainly, had the task team developed clear safeguards to ensure the protection of both whistle blowers and potential witnesses from possible harassment, intimidation or even death, many more people (teachers and others, alike) would have participated in the process. In turn this would have validated and legitimised the outcomes of this investigation and given it the much needed credibility and trustworthiness. It is unfortunate that all the above mentioned information that was shared during NATU's interaction with the MTT was simply and easily dismissed in one phrase – that is, that “NATU refused to participate.” The obvious question is, why did the task team decide to hide these important contributions that were made by NATU on behalf of so many teachers whom the union represents? To us, this shows bad faith, ill will and hostility towards NATU by the MTT.

Overall, NATU is still convinced that the fear of reprisals acted as a very powerful deterrent in preventing many potential witnesses from coming forward to testify. It was for this reason that NATU unequivocally emphasized to the MTT that if potential witnesses were not offered any protection and the necessary support, it was unlikely that they would put their lives or well-being at risk by incriminating criminal suspects who had everything to lose if found guilty.

**From The NATU Executive Director: S.A Thompson**

## **REFERENCE**

Department of Basic Education (2014). *Government Gazette*, Vol. 592 Pretoria, No. 38144. Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001



## **ANNEXURE 1C: PEU RESPONSE TO THE MINISTERIAL TASK TEAM (MTT) REPORT ON THE SELLING OF PROMOTIONAL POSTS**

### **1. Editorial typo errors in the report**

- 1.1 Pg 80 bullet 2: disputed should read **dispute**.
- 1.2 Pg 89: MP or LP MECs should be changed to **MP and LP MECs**.
- 1.3 Pg 103: Paragraph 3, last but one sentence: Thought has to **be** given.
- 1.4 Pg 113: First paragraph, line 3: **positions and** MethODs should be changed to **Methods**, last paragraph.
- 1.5 Arrangements of pages: 60 – 115, then pages 61 - 70 and then pg 117.
- 1.6 Pg 117 NSGB should be **NASGB**. Paragraph 4, line 2, Nor should read **not**.
- 1.7 Pg 128, paragraph 2 line 2, methODs to read **Methods**.
- 1.8 Pg 146, paragraph 3, line 1, rhe should read **the**.

### **2. POINT FOR CLARRIFICATION**

- 2.1 That PEU undertook to provide written response to the seven questions. Page 107, paragraph 2. As it stands, our understanding is that the process only ended up on undertaking by the Union and there no submission received by the MTT.
- 2.2 The content of 4.2.2 should exclude NACTU and the bolded sentence below it.
- 2.3 Four districts in Limpopo, as it stands, it means one of the districts was not brought into the picture, because the province has five districts. If so, which one and why so.
- 2.4 Pg 153, bullet (4) .can we be clarified as to who makes recommendations for promotional posts.
- 2.5 In the findings, SGBs, Teacher Unions and Departmental Officials are pointed out active players in the process of selling of posts, but there is no recommendation as to what must be done with Department Resource persons, as most of them have been found wanting in the execution of duties.

- 2.6 Many a times in the report, when a suspect is asked whether he/she is aware of the allegations of payments done towards the posts, the answer is always pre-empted as a NO which is normally this is expected and then the matter become finalized with no further investigation. Did the Team not thought of deeper investigations, like checking on bank transactions, because as it stands, the culprits will remain buoyed, as in their thinking, no one can beat them in their game.
- 2.7 Pg 322, the matter is sketchy and the interviews does not address the allegations but the matter is finalized
- 2.8 We note the recommendation that SGBs be stripped off the powers to recruit and recommend for appointment on promotional posts. We further find this to be symptomatic of the bigger challenge faced by this fourth layer of democracy on their functionality because, for they are generally neglected as pointed out in the report as they are not empowered so that they are not found wanting in the their line of operation. We will urge the Minister to take the plight of SGBs and put that as one of priorities of the Department, so that we must not, five years down the line, receive other report that other functions must also be taken away from them.



15 APRIL 2016

**ANNEXURE 1 Da: REPORT OF THE MINISTERIAL TASK TEAM APPOINTED BY MINISTER ANGIE MOTSHEKGA TO INVESTIGATE ALLEGATIONS INTO THE SELLING OF POSTS OF EDUCATORS BY MEMBERS OF TEACHER UNIONS AND DEPARTMENTAL OFFICIALS IN PROVINCIAL EDUCATION DEPARTMENTS**

**WRITTEN SUBMISSIONS ON BEHALF OF SADTU**

**Introduction**

1. SADTU received a letter dated 1 April 2016 from the Honourable Minister AM Motshekga, MP (“**the Minister**”). Attached to the letter is a report of the Ministerial Task Team (“**MTT**”) appointed by the Minister to investigate allegations into the selling of posts of educators by members of teacher unions and departmental officials in provincial education departments. The letter states *inter alia* that the report of the MTT has been made available to SADTU, in order to enable it “*to make written responses by 15 April 2016*”.
2. It is understood by SADTU that the purpose of the invitation to make written responses is to enable the MTT to consider such responses so that, where justifiable, it could change its views, opinions and findings expressed in the report. Otherwise, the invitation to submit written responses would serve no purpose.
3. In line with SADTU’s understanding above, the letter goes on to state the following:

*“The MTT will consider your submissions and respond to them as part of an Annexure to the Report. There will also be an opportunity to make further representations to the MTT before 29 April 2016.”*

4. SADTU understands from the above statement that the MTT will consider SADTU’s written responses and respond to them in an annexure prepared by the MTT to be part of its report. Such an annexure would then be presented to SADTU so that it could make further representations to the MTT before 29 April 2016.
5. Surprisingly, the letter goes on to state that *“the report plus the Annexure will be released to the public on 6 May 2016”*. The following are of concern to SADTU flowing from this statement:

5.1 There is no mention or undertaking that the report, when released publicly on 6 May 2016, would include the further representations by SADTU to be made before 29 April 2016 or the MTT’s responses to such further representations. SADTU requests that the final report to be released to the public on 6 May 2016 must incorporate SADTU’s responses that are set out below; the MTT’s responses to such (SADTU’s) responses; as well as SADTU’s further representations that it is afforded an opportunity to make before 29 April 2016 and the MTT’s responses to such further representations if made at all. Otherwise, SADTU’s rights would be adversely affected if this process is not followed and reserves its rights in this regard.

5.2 It is unclear whether the “Annexure” referred to would comprise only of the MTT’s responses to SADTU’s responses that are set out below, or both SADTU’s responses and the MTT’s responses to them. For a balanced picture to be conveyed to the public, SADTU requests that the Annexure referred to should comprise of both SADTU’s responses set out below and the MTT’s own responses thereto.

6. The letter goes on to invite SADTU to bring to the attention of the MTT *“any member who is implicated in this Report, but was not given an opportunity to state his/her case.”* This invitation is surprising and of concern to SADTU; and SADTU does not accept the responsibility that the invitation places upon it. The MTT conducted the

alleged investigation. It made findings, drew conclusions and made recommendations. It is aware of which individual its findings, conclusions and recommendations implicate. The individuals concerned are employed by the Department of Basic Education (“**the Department**”), hence they are members of SADTU. It is the responsibility of the Department, and the MTT acting on its behalf, to ensure that all individuals that are adversely affected by its far-reaching findings and conclusions are treated procedurally fairly. If they are not, such individuals may have recourse against the Department or the MTT.

7. Notwithstanding the concerns expressed above, and with a clear reservation of all its rights, SADTU sets out its responses to the MTT report below. We are instructed to act on its behalf in setting out those responses.

8. We structure SADTU’s responses below in the following manner:

8.1 First, we address the relevant legal framework in which the MTT conducted its investigations, and the implications that flow from such a framework.

8.2 Secondly, we deal with the background in brief.

8.3 Thirdly, we give a brief background to the investigation;

8.4 Fourthly, we give specific responses to certain findings in the report. These responses show that the investigation, such as it was, and the findings made, fall far short of the standards set by the legal framework as discussed; and if persisted with may be susceptible to correction in proceedings for judicial review, or give rise to actions for defamation.

8.5 Fifthly, we conclude.

9. The relevant legal framework

10. The Minister is the member of Cabinet responsible for basic education. In that capacity she is the executive authority of the Department. By law she exercises only those powers that are conferred on her by the Constitution and the law, particularly the South African Schools Act and the Employment of Educators Act.<sup>82</sup>

11. It follows that when the Minister performs her functions under the Constitution and the relevant law, she exercises public powers. All exercises of public powers must comply with the principle of legality under the Constitution. This requires that such exercises of public powers must be authorised by law and rational. Rationality is a minimum requirement for the exercise of all public powers by members of the Executive.<sup>83</sup> If not, they are susceptible to challenge by way of proceedings for judicial review.

12. Where the Minister appoints a body such as the MTT to exercise public powers of investigation on her behalf, the MTT is also bound to comply with the principle of legality under the Constitution. In other words, because the MTT exercises powers on behalf of the Minister, and powers conferred to it by the Minister, it too must comply with the principle of legality under the Constitution when exercising such powers, failing which the same consequences would follow, as if the Minister had personally exercised the powers of investigation. This flows from the fact that the MTT performs a public function, i.e. the investigation.<sup>84</sup>

13. The direct implications of the above is the following in respect of the MTT:

13.1 Its purported investigation, findings and recommendations had to stay within the four corners of its terms of reference and mandate. It is not entitled to exceed its powers and mandate as conferred by its terms of reference.

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<sup>82</sup> MTT report p 36.

<sup>83</sup> *Pharmaceutical Manufacturers of SA: in re Ex Parte President of the RSA* 2000 (2) SA 674 (CC) para 90.

<sup>84</sup> *AllPay Consolidated Investment Holdings (Pty) Ltd and others v Chief Executive Officer of the South African Social Security Agency and others (Corruption Watch and another as amici curiae)* (No 2) 2014 (6) BCLR 641 (CC) para 52.

13.2 Its findings must bear a rational link to its terms of reference. It has no right in law to make findings that bear no rational relation to its terms of reference because only the terms of reference set out the purpose of the investigation that it was authorised to conduct.

13.3 Its findings must bear a rational link to the evidence actually presented to it in relation to the matters that fall within its terms of reference. Such evidence must provide support for the findings made. It has no right to make findings where there are no evidential basis and damage reputations and infringe rights in the process.

13.4 Its findings must not breach the common law, including the common law rules of defamation.

14. Furthermore, to be lawful and rational, an investigation must meet certain minimum standards. The SCA set out the minimum standards in the case of *The Public Protector v Mail and Guardian Ltd and Others 2011 (4) SA 420 SCA*, where it held that:

*“But I think there is nonetheless a least one feature of an investigation that must always exist – because it is one that is universal and indispensable to an investigation of any kind – which is that the investigation must have been conducted with an open and inquiring mind. An investigation that is not conducted with an open and inquiring mind is no investigation at all. That is the benchmark against which I have assessed the investigation in this case”.*

*“That state of mind is one that is open to all possibilities and reflects upon whether the truth has been told. It is not one that is unduly suspicious but it is also not one that is unduly believing. ... It is also not a state of mind that remains static. ...But whatever the state of mind that is finally reached, it must always start out as one that is open and inquiring”<sup>85</sup>. (Emphasis added)*

15. An investigation that is manifestly actuated by an appearance of bias from the outset or at the end would not comply with the benchmark set out in the ***Mail & Guardian*** case above. As we submit below, this is precisely the nature – start and end – of the investigation in this case.

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<sup>85</sup> *The Public Protector v Mail and Guardian Ltd and Others 2011 (4) SA 420 SCA*, page 9, para 21-22.

16. SADTU's responses set out below demonstrate that the investigation purportedly conducted in this case, and the findings and conclusions reached, fall far below the legal requirements set out above. If not changed, as SADTU submit, the report, in its findings and conclusions, would be susceptible to correction by way of proceedings for judicial review; and may give rise to action for defamation.

## **Background**

17. The MTT was established after an allegation of selling of posts was published in the Media. SADTU was requested to submit representation or respond to specific questions in writing by the MTT.

18. SADTU responded to 7 questions posed by the MTT. SADTU further indicated that it would submit further representations as the 7 questions did not cover everything that it wished to raise.

19. SADTU submitted supplementary submissions with annexures.

20. Although the MTT report states that "*SADTU asked for permission to submit amplified submissions with supporting documents,*<sup>86</sup> no further mention is made of the contents of the supplementary submissions in the report. There is no doubt that the contents of these supplementary submissions were ignored and not taken into account in the preparation of the report. For the sake of completeness, and in light of the fact that the supplementary submissions were not considered, we attach them to this document as annexure "**S1**". The supplementary submissions must be read as part of SADTU's responses set out below.

21. in the supplementary submissions SADTU states in summary that<sup>87</sup>:

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<sup>86</sup> See MTT Report page 109

<sup>87</sup> See Supplementary Submission of SADTU



21.1 The practice of selling posts whether through the exchange of money or other favours such as sexual favours is wide spread though under reported. The under reporting can be attributed to the fact that the sellers and buyers of posts operate in high secrecy and, in certain instances, accompanied by intimidation or threats of intimidation.

21.2 It has never been SADTU's position to condone or encourage this behaviour of selling posts.

21.3 Whenever information came to SADTU's attention regarding such practices, it took steps to deal with matters raised, for example, the allegation relating to Kalfontein Primary School in 2006, in which SADTU reported the matter to the Gauteng Department of Education for investigation and appropriate action.

21.4 When City Press made the allegation that SADTU is selling posts, the union challenged the statement because it does not support or condone this conduct.

21.5 The National Executive Committee of SADTU on 12 May 2014 in the secretarial report made its position clear that SADTU distances itself from such conduct, i.e. the posts for cash scam, and further that the union has never received a cent from the proceeds of this conduct.

21.6 The union further wrote a letter to the Education Labour Relations Council ("ELRC") and the South African Council of Educators requesting them to conduct investigations collectively or individually to establish facts regarding the conduct so that appropriate action could be taken.

21.6 SADTU made several media statements in which it stated to its members inter that all those who might have information about the posts for cash scam should approach the Department so that the matter could be dealt with, i.e. an investigation conducted and appropriate action taken.

21.7 All Provincial structures of SADTU issued media statements after their respective provincial congresses encouraging members to report any information relating to the posts for cash scam.

21.8 SADTU as an organisation is not involved in the posts for cash scam, nor does it support or condone it. It would, in the circumstances, be grossly unfair to attribute blame to SADTU for the actions of individuals, whether they are ordinary members or officials of the union. Such actions are contrary to the position of the union and it has publicly condemned them.

21.9 The annexures to the supplementary submissions provided proof of actions taken by SADTU to condemn the conduct of posts for cash and related conduct.

### **Specific responses to certain of the contents of the MTT report**

#### Terms of reference

22. The Report starts by quoting the terms of reference for the MTT appointment and investigation<sup>88</sup>. We do not repeat the contents of the terms of reference here.

23. The MTT makes a point that:

*“Most of the initial media allegations focused on the dominant union, however given its brief, the MTT had to investigate the role of all parties in the appointment process and not only the one union<sup>89</sup>.”*

24. This cannot be correct as no other union was investigated by the MTT. There is no mention in the report of any individual’s affiliation except SADTU. It is clear that the MTT had a biased focus on SADTU.

25. The MTT states “that it has not been the purpose of the MTT to apportion blame or to indict any person or organisations<sup>90</sup>”. It states further that “the MTT used media

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<sup>88</sup> MTT Report page 10

<sup>89</sup> MTT Report page 11

<sup>90</sup> MTT Report page 14

allegations of the buying and selling of posts as a focus for discussions with District Managers and Teacher Unions in each Province<sup>91</sup>”.

26. The statement quoted immediately above is not entirely correct because the MTT did not only investigate allegations in the Media but went further to investigate other allegations outside those mentioned in the Media, for example, it appears or claims to have investigated and made damning findings on *inter alia*:

26.1 the relationship between SADTU, the SACP and the ANC and its purported impact on education or the delivery of education in the country;

26.2 an issue the MTT describes as cadre deployment;

26.3 alleged SADTU tactics to influence decisions in the Department at different levels;

26.4 SADTU’s choice of political alliance with the ANC and its purported impact on education or the delivery of education in the country.

27. All of the above matters, which the MTT purportedly investigated and made findings on fall outside its terms of reference.

28. The overview in the report of findings from the forensic investigation into specific cases states in clear terms that “individuals saw an opportunity to use the investigation to voice their grievances not always on factual grounds. Of approximately 120 matters that were brought to the MTT’s attention it was found that several of the allegations were unfounded, based on rumour, malice or hearsay”<sup>92</sup>. (Emphasis added)

29. The MTT clearly went ahead to entertain such grievances even though they fell outside its terms of reference. The MTT went further to apportion blame on SATDU based on

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<sup>91</sup> MTT Report page 15

<sup>92</sup> See MTT Report page 16

the grievances that it admits were “not always on factual grounds”. This conduct, of investigating and making findings adverse to SADTU based on such admittedly baseless allegations that also fall outside the terms of reference for the MTT, exceeds the terms of reference of the MTT and is irrational.

#### 30. Profiling of SADTU members

31. The MTT indicates in its report that it had investigated the role of all parties in the appointment process and not only the one union. This statement is not correct as no other union has been investigated. It is clear from the report that there has been adverse profiling of SADTU members where allegations are made. The same does not apply to individuals that may be members of other unions. For example, one of the allegations that has been allegedly investigated is in relation to Mr Els<sup>93</sup>, a Principal, who is alleged to have appointed his son as a technology teacher and his wife also, without proper procedures and overpaying his wife in the process.

32. The finding of the MTT is that Mr Els acted improperly and recommended that disciplinary steps be taken against him for nepotism and corruption as he used his position as a Principal to favour his wife and his son. But what is surprising to SADTU is that the MTT did not attempt to establish Mr Els’ union affiliation, nor the affiliation of his wife and son. Had any of them been a member of SADTU, as is clear from the attitude of the MTT displayed in the report, Mr Els and his family would have been profiled and their union membership indicated as SADTU so that blame could be placed on SADTU as a union. This shows clearly that the MTT was hell bent to condemning SADTU in its investigation and findings.

33. The above shows a lack of an open and enquiring mind in respect of the investigation allegedly conducted. It is also an irrational conduct on the part of the MTT.

#### 34. Ad Recommendation 11

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<sup>93</sup> See Report page 55-56

35. The MTT makes the following finding:

*“Data submitted to the task team suggests that cadre deployment by unions have weakened the education system. It is alleged for example that SADTU determines who and for how long HOD’s in the many provinces stay in office, and that it deploys cadres into levels of provincial departments regardless of their qualifications. However, SADTU is not alone in exercising cadre deployment”<sup>94</sup>.*

36. The MTT makes this finding without any evidence. There is no witness recorded to have given evidence in support of the damning finding, except for unsubstantiated statements attributed to NATU and NAPTOSA. Furthermore, such allegations or statements were never put to SADTU to either rebut or admit them. The above finding is baseless in that:

- It said that it is based on the “database submitted” to the MTT, but the MTT does not indicate or show what data was submitted to it to support this conclusion.
- Secondly, according to the alleged data submitted, the involvement of SADTU has weakened the education system. The MTT report does not indicate how the education system has been weakened, and in respect of which provinces. Significantly, it directly contradicts a finding by the MTT that *“Despite or because of education in the province [North West province] being wholly in the hands of SADTU, the 2014 matrics did exceptionally well”*,<sup>95</sup> which suggests a positive impact or contribution by SADTU to education.
- The MTT does not even indicate how SADTU determined which HOD’s position; for how long an HOD in a province would stay as a result of SADTU’s actions; and which HOD’s by name are affected or involved.
- The MTT does not even give an example of any official who is a SADTU cadre deployed in a province without qualifications.
- Lastly, it is found that SADTU is not alone in this exercise of cadre deployment. However, the MTT does not indicate which other union is involved in this exercise of cadre deployment if it is not only SADTU, again reflecting manifest bias and irrationality.

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<sup>94</sup> See MTT Report, page 25

<sup>95</sup> MTT Report p 88.

37. The above is once again an instance of an investigation not conducted with an open and inquiring mind. It is clear that the MTT simply accepted the negative statements by NATU, NAPTOSA and the single HOD in the North West province as facts. It is logical that NATU and NAPTOSA, as SADTU's competitors would have nothing positive to say about SADTU. A single HOD's claims ought to have properly probed and this did not happen.

### Chapter 3 – Summary from the Forensic Investigation

38. The MTT conducted this investigation with the assistance of an audit firm, which was to conduct a forensic investigation into the allegations made. In some case, no investigation was done but reliance was placed on the departmental investigations and the outcome of those investigations were taken as fact and incorporated into the MTT report as findings.

39. For example, one case relates to the Gauteng Department of Education which had appointed a firm of attorneys called Nchupetsang Attorneys in 2014 to investigate allegations of the sale of posts in the Gauteng Province. The forensic investigators took the findings of the attorney's investigation as the findings of the MTT without conducting any investigations of its own into the allegations. This is woefully below the benchmark for investigations and reflects irrational conduct.

40. Some of the findings of the investigation by the firm of attorneys are that:

- *The allegations of posts being sold for cash were found to be true;*
- *The parties involved operate like a network involving SGB members, union officials, and Principals;*
- *SADTU takes advantage of SGB members who are poor and uneducated by influencing them to recommend their own preferred comrades into promotional positions;*
- *In most cases, there is no proof or evidence to confirm this corruption allegations and this makes it difficult for most teachers who wants to report activities;*

- *Most teachers (SADTU members) with minimum qualifications are placed into positions which they do not qualify for*<sup>96</sup>.

41. The MTT, in an attempt to investigate the allegations or findings that are contained in the report of the attorneys, endeavoured to obtain written statements from the witnesses concerned, but failed to do so. It is difficult then to comprehend how the MTT made findings of fact from the report of another investigation without having verified or conducted an independent investigation. This is further so because SADTU was not involved during the investigation of Nchupetsang Attorneys. The finding is made that SADTU takes advantage of SGB members who are poor and uneducated by influencing them to recommend their own preferred comrades into promotional positions. However, the MTT does indicate any specific instances in which the alleged conduct took places, or give names of those involved, or explain how SADTU as an organisation took advantage of SGB members.

42. The MTT, by its own admission, could not obtain written statements from witnesses and further that witnesses failed to cooperate. How then could it make a finding adverse to SADTU when witnesses fail to cooperate; and further take the Nchupetsang Attorney's investigation report as fact and incorporate that report's findings in its findings without even having put the report (of Nchupetsang) to SADTU for comment?

43. One allegation allegedly investigated by the MTT is in relation to the appointment of Mr Motang who did not have the qualification and experience for the relevant post<sup>97</sup>. The MTT found that Mr Motang did not meet the requirements for the position from the onset. His short-listing and subsequent appointment was irrational and indefensible. This is one of the cases where it clearly shows that blame is attributed to SADTU as an organisation unfairly because in this instance the MTT does not indicate how Mr Motang's affiliation to SADTU influenced his appointment without the requisite qualifications. It could have been any other person who is not a member of

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<sup>96</sup> MTT Report page 54-55

<sup>97</sup> MTT Report page 59

SADTU and there is no evidence of SADTU's involvement in influencing his appointment without the required qualifications.

44. The other allegations are in relation to the appointment of several Principals in Limpopo<sup>98</sup> where it was alleged that all the Principals were appointed because of their affiliation to SADTU. However, the investigation found that all the five Principals were appointed because they were the best candidates for the positions. The allegation was that their appointments were as a result of SADTU affiliation and SADTU's influence. However, the MTT in its findings does not make any finding that allegations of SADTU's involvement or influence were unfounded or baseless.

45. A similar omission by the MTT is in relation to the allegation allegedly investigated that a certain Mr Gosanie was appointed a Principal because he was a preferred candidate for SADTU and his appointment was due to the SADTU's influence. The MTT could not find any evidence to support the allegation, particularly in relation to the influence of SADTU. However, in its findings the MTT does not indicate that allegations that SADTU was involved or influenced the interview and outcome were baseless or unfounded<sup>99</sup>.

46. An investigator with an open and inquiring mind would record that allegations that suggested SADTU's involvement in wrongdoing were baseless and rejected if no evidence was produced to support them. The MTT does not do this because it has a closed mind when it comes to SADTU, and displays a commitment to find against SADTU at all costs, even in the absence of proper evidence.

Unfair comments by MTT directed at SADTU

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<sup>98</sup> MTT Report page 64-67

<sup>99</sup> See MTT Report page 68



47. One of the points to be made to show that the MTT was unfairly targeting SADTU and not any other organisation is the unfounded comments that are made against SADTU. One of such is a comment by the MTT<sup>100</sup> that:

*“The task team’s general impression is that the strong preponderance of a union or unions in a Province is not good for educators, officials and learners. For example, functionalism has emerged in SADTU and the task team has gained the impression that the provincial sector of SADTU and NAPTOSA has established different degree of independence from their National bodies. One clear example of the need for thought for discussion is that the name SADTU is almost never mentioned by top officials, thus making the union “the elephant in the room” which is so powerfully present that people try to avoid noticing or making direct reference to it”.*

48. It is not clear what the basis is, or the relevance is, of this comment by the MTT other than to tarnish SADTU. This further demonstrates a lack of an open and inquiring mind, and undue suspicion against SADTU.

#### Chapter 5 – A diagnostic analysis of the major issues from interviews conducted by the task team

49. The MTT has on several instances reiterated its mandate which is “the task team has understood its brief to determine whether is substance in the original allegations about the buying and selling of posts and what should be done to reduce opportunity for such forms of corruption and to make recommendations which could have implications policy to the Minister”. Despite, it’s understanding of its mandate to investigate the selling of posts, the MTT went further to include three other mandates that they have self-created. In the analysis, they have included the investigation of:

- The relationship between the Department of Basic Education and Teacher Union;
- School Governing Bodies and their future;
- Some factors that have led to the loss of control by the Department of Education<sup>101</sup>.

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<sup>100</sup> See MTT Report page 90

<sup>101</sup> See MTT Report page 123

50. This is a clear example of the MTT investigating matters that were outside its terms of reference. It is not clear how the selling and buying of posts has to do with the relationship between the union and the Department or the future of the School Governing Bodies (“SGB”). As far as the mandate to investigate the selling of posts is concerned, the MTT makes a finding that:

*“What is most striking is the extent to which most of the allegations of wrongdoing and irregularity are reported to the task team have proved incapable of verification or confirmation”<sup>102</sup>. (Emphasis added)*

51. The MTT further notes that other investigations have been conducted in the North West and also by the South African Council of Educators, but the reports from such investigations have not been made available.

52. Despite the finding quoted above, the MTT is inexplicably adamant that the selling of posts is prevalent in the Department. It does not provide examples of cases where such allegations were proved.

#### The relationship between the Department of Basic Education and Teacher Unions

53. “The MTT makes a finding the Department of Education has retained semblances of managerial and administrative control in three of South Africa’s nine provinces”. Those provinces are: Free State, Western Cape and the Northern Cape. A finding is made that<sup>103</sup>:

- *“In all other provinces, SADTU is de facto control. According to the data given to and gathered by the task team this domination by a union has been achieved by using combination of the following ways and means:*
- *It’s use of a repertoire of strategies to coerce teachers, principals, officials and others to exceed to its demands.*
- *By using teacher militancy to pressurise its members to be unionists, first and professional second;*

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<sup>102</sup> See MTT Report page 124

<sup>103</sup> See MTT Report page 125

- *By practicing cadre deployment to ensure the high percentage of managers, decision makers and others with power influence in education are placed in well paid positions where they can prioritise the union's interest;*
- *By using undue influence at different stages of appointment process to ensure its candidates are appointed;*
- *By blocking departmental activities and programmes; and*
- *Using its membership with COSATU to influence the members or the tripartite alliance."*

54. Firstly, as indicated above, the investigation regarding the relationship between the Department and SADTU is outside the mandate or terms of reference of the MTT. Secondly, the MTT makes these findings without any evidential basis. The MTT does not indicate how SADTU coerced teachers, principals or officials to accede to its demands. It does not give examples of instances where SADTU employed such tactics to achieve its demands.

55. Furthermore, the MTT does not provide evidence of teacher militancy, the practice of cadre deployment, or undue influence on the part of SADTU, to come to this conclusion.

56. The last finding made by the task team regards the alleged tactics of SADTU using its membership of COSATU to influence the members of the tripartite alliance. As far as this finding is concerned, it is clear that the MTT relied on the research document referred to in at footnote 64. This is a research done by Logan Govender and also by Linda Chisholm.

57. The research document(s) relied on, were never put to SADTU for comment. The MTT simply accepted the research document(s) as fact and attributed blame to SADTU without any investigation been conducted. The context of the researches and the reasons thereof are not explained at all. Nor is the relevance of the researches to the matters that the MTT was mandated to investigate.

58. It is a failure of investigation and irrational for the MTT to simply take a research report prepared in a specific context and in a different time as fact and use it as a basis to make damning findings against SADTU and the alliance partners. The alliance partners are not even trade unions in education and fall outside the terms of reference of the MTT. It is plain here that the MTT chose to pursue a political agenda for an undisclosed and ulterior end. This is unlawful and should be rectified.

59. In any event, the finding is made without any evidential basis in that all the cases investigated by the MTT there is no single credible piece of evidence to show SADTU is employed the strategies and tactics for which it is blamed. The MTT does not even provide examples of proven cases where SADTU coerced teachers, principals, etc., in the pursuit of its illicit ends.

60. Surprisingly, in the same report the MTT finds that:

*“No way are these ways and means stated explicitly as SADTU policy. But that does not mean that on the ground, in actual practice, in specific provinces and specific areas or activity members of this organisation do not exercise inappropriate forms of influence or control.”<sup>104</sup>*

61. The MTT concedes that there exists no SADTU policy to this effect. Therefore, the only logical conclusion is that individuals use the name of the union to further their own interests. It is then difficult to comprehend how the MTT imputes blame on SADTU as an organisation. This once again indicates the unfair profiling of SADTU as the “elephant in the room”.

62. The MTT further makes further comments, findings or raise questions as follows:

62.1 “a further question which has arisen for the task team is whether SADTU is now primarily an educational organisational or not? In the excessive exercise of power and

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<sup>104</sup> See MTT Report page 125

control over the education system compatible with its supposed function of serving the professions and protecting the material interest of it's of members?"<sup>105</sup>

62.2 "the absence of home grown traditions in the department as an entity is echoed by the way SADTU has adopted an industrial model based on serving workers in factories and the mines. SADTU ought to be an occupational union such as that of nurses. Furthermore, it must be asked why the relationship between the department and the union has to be adversarial when there are common causes for at the transformation of the education of the young."<sup>106</sup>

62.3 "conflict between department and union is rarely over policy, it is over power and control"<sup>107</sup>.

62.4 "the logical conclusion of the analysis in the section is that undue influence, a polite name for corruption, appears to be endemic to greater and lesser degree in the entire educational system, in offices, in schools, unions and everywhere else. Weak authorities, aggressive unions, compliant principals and teachers eager to benefit from union membership and advancement are a combination of factors that defeat the achievement of quality education by attacking the values of professionalism<sup>108</sup>".

63. The above comments or findings by the MTT in relation to SADTU are once again a demonstration of a SADTU targeted investigation, which was aimed at discrediting the union at all costs. All of the above comments are either baseless in that they are not underpinned by any credible evidence. They also fall outside the terms of reference of the MTT. The MTT was not mandated to investigate the relationship between SADTU and the Department.

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<sup>105</sup> See MTT Report page 126

<sup>106</sup> See MTT Report page 127

<sup>107</sup> See MTT Report page 127

<sup>27</sup> See MTT Report page 128

64. The MTT makes a finding in relation to cadre deployment by SADTU. It found that “teacher unions, especially SADTU, have developed the capacity to offer their members who display as especially loyalty and activism in the union interests, opportunist for appointment to well-paying influential posts in public schools and departmental offices<sup>109</sup>”.

65. Once again the MTT makes a baseless finding without evidence. The MTT does not even indicate by means of an example, at least one name out of the approximately two hundred thousand (200 000) members of SADTU who has been given a position for displaying loyalty to the union. There is not even one single case in this report that was investigated by the MTT that can form the basis for such a finding.

#### SADTU, SACP, COSATU and ANC

66. Once again the MTT has investigated or made findings on matters that were not part of its terms of reference. The MTT has ventured into giving opinions and making findings about the relationship amongst the SACP, COSATU, the ANC and SADTU, which fall outside its terms of reference, and did so without first giving any of these organisations the opportunity to respond or comment. The findings are far-reaching and defamatory of the organisations concerned.

67. The MTT is now plainly attacking the tripartite alliance unfairly by making findings like:

*“Here in South Africa the ANC used patronage and deployment from 1994 to stabilise control in the civil service and to dismantle practices saturated with apartheid purposes and function”.*

68. Once again the MTT relies, by reference to footnote 70, on a research report or article by one Sylvia Neame,<sup>110</sup> without investigating the veracity of the underlying information on which the research report or article was based. This is yet a failure to investigate and is irrational.

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<sup>109</sup> See MTT Report page 128

<sup>110</sup> See MTT Report page 129

69. The finding about the tripartite alliance relationship is also outside the mandate of the MTT.
70. The MTT further makes a finding that “as a member of COSATU and thus a member of the tripartite alliance, SADTU has achieved access through the ANC and the Communist Party to positions in Parliament and Cabinet.” “The commitment of a teacher union to a one single political party is both dangerous and inappropriate. This means that those educators who joined a union are bound to that party. In the fortunes of the educational system becomes depend on the fortunes of a political process<sup>111</sup>.”
71. Once again the MTT comes to the conclusion of a political nature, falling outside its mandate. It is defamatory as it suggests a corrupt relationship.
72. The MTT again relies for its findings on a research or article by Govender and Patillo. Neither SADTU, COSATU nor the ANC were given an opportunity to respond to the allegations before a finding was made in this regard. The facts underlying the research or article, or its assumptions, were also not investigated by the MTT. The MTT does not even demonstrate by way of example as to who from SADTU received a position in Parliament and in Cabinet for being loyal to the ANC.
73. The MTT makes a finding that “at provincial level SADTU uses its influence to deploy its preferences as principal of schools and senior officials in the Department. The criteria for selecting those persons for such appointments are not necessarily about competitiveness and professionalism or stability, but militancy”<sup>112</sup>.
74. In coming to this finding once again, the MTT relies on the single interview with the HOD of the North West province where he indicated that eighty five percent (85%) of senior posts in the North West head office are occupied SADTU members; and further

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<sup>111</sup> See MTT Report page 129

<sup>112</sup> See MTT Report page 129-130

relies on the research allegedly conducted in 2011 where it was indicated that sixty five percent (65%) of school leaders in Umlazi are SADTU members. The finding about deploying SADTU members as principals or senior officials is broad and unsubstantiated. The MTT does not indicate a single principal who was deployed by SADTU without qualifications or any other person who was deployed by SADTU to fill a senior position in Government without qualifications.

75. There is no basis to blame a union for having high representation and being strong. That is the purpose of a union and this is recognised in all legislation dealing with workplace industrial relations, including the Labour Relations Act. A fact of South Africa's history is also that the education system in certain provinces is predominantly black. Most members of SADTU are black. It makes absolute sense that the appeal of SADTU in the predominantly black provinces is high, because other unions have over the years been seen as apologists of apartheid. This explains the preponderance of SADTU members in positions in the education system in predominantly black provinces and not in provinces such as the Western Cape. This is a historical fact for which the MTT is irrational to blame SADTU.

76. The MTT makes a finding relating to SADTU's choice of the ANC as its single political party. The MTT criticises SADTU for such a decision and makes a finding that such adherence has a major influence on the union's priorities and strategies, which have in fact become apparent, and is not good for education. No other union is given this unfair treatment, which plainly falls beyond the MTT's terms of reference and is irrational. All members of society have a choice as to which political ideology and party to support. There is absolutely no reason to deprive this of SADTU as an organisations and its members as citizens of this country. To do this by the MTT is contrary to the guarantees of freedom, including freedom of association and political choice in the Constitution, which is the supreme law of the land. Any conduct, including that by the MTT, which conflicts with the Constitution is invalid and falls to be set aside and condemned.



## South African Council of Educators

77. The MTT makes a finding in relation to the structure of the South African Council of Educators (“SACE”) that “The MTT is of the view that SACE has become sectarian by virtue of the domination of a single Teacher Union and its allegiance to one political party. SACE is a public entity that should use its broad mandate to serve the educational interests of all stakeholders. Reflection on the future of SACE should be driven by the DBE and its associates.”<sup>113</sup>
78. The Council of SACE is appointed by the Minister in terms of section 6 of the South African Council of Educators Act 31 of 2000. The Council is, constituted by 25 members, fourteen (14) nominated by the profession on a proportional representation basis. Each organisation nominates and is represented proportionally based on its number of members it represents. These representations are then appointed by the Minister.
79. The MTT suggest that dominance of SADTU in SACE is due to its allegiance to one political party. This finding is without basis and irrational.
80. The SACE represents and reflects the true representation of all stakeholders in line with the South African Council of Educators Act 31 of 2000.
81. The above finding is one example of instances where the MTT demonstrated its closed mined approach to this investigation.

## Conclusion

82. For all the reasons set out above, SADTU submits that the MTT should change its findings that have been identified above, or drop them altogether.

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<sup>113</sup> See MTT Report Page 145

83. SADTU requests an opportunity to make oral representations to the MTT in support of what is stated above. If such an opportunity is not granted to it, SADTU wishes to confirm that it looks forward to receipt of the “Annexure”, which would comprise the MTT’s written response to the responses in this document, and will make further written submissions on or before 29 April 2016 as promised by the MTT.

84. All of SADTU’s legal rights are reserved.



17 MAY 2016

**ANNEXURE 1 Db: REPORT OF THE MINISTERIAL TASK TEAM APPOINTED BY MINISTER ANGIE MOTSHEKGA TO INVESTIGATE ALLEGATIONS INTO THE SELLING OF POSTS OF EDUCATORS BY MEMBERS OF TEACHER UNIONS AND DEPARTMENTAL OFFICIALS IN PROVINCIAL EDUCATION DEPARTMENTS**

**FURTHER WRITTEN SUBMISSIONS ON BEHALF OF SADTU**

1. These submissions are prepared and presented on behalf of the South African Democratic Teachers Union as requested by the Ministerial Task Team after the oral representation on 16 May 2016.
2. The submissions will focus on SADTU's stance and action taken to deal with the allegations of "post for cash" made against the union by persons through the media. Secondly we will share our view on the recommendations made by the task team as they relate to School Governing Bodies.
3. As alluded during the oral representation, SADTU as an organization condemns the selling of post and view that as corruption.
4. As previously indicated, as the SADTU we welcome the establishment of the task team by the Minister to investigate the alleged selling of posts to teachers and principals.

**Union position adopted on the allegations found in the media reports**

5. It should be stated in the outset that it is not or has never been the union position to condone or encourage this behavior of selling posts. To expand on this, it is important to give historical background in order to provide proper context on all the steps the Union has adopted in dealing with this matter:

5.1 Historically the Union had reported the allegations that were brought to the attention of the leadership around the Kaalfontein Primary School in 2006 to the **Gauteng Department of Education.**

5.2 In this case, the Principal was apprehended by the police, however the Gauteng Department of Education did not proceed with disciplinary action against the Principal. It is our submission that the only reasons for the delay or failure to take disciplinary action are obvious, where there is corruption involving senior departmental officials at the district level there will be reluctance and deliberate attempts not to proceed with disciplinary actions as it would expose senior departmental officials.

5.3 The principal was suspended in 2006, however continued to receive a salary until 2014 if not 2015. This matter should be investigated and reasons provided as to why a person can be suspended for more than eight (8) years without disciplinary action taken against her.

5.4 When City Press made the allegations that SADTU is selling posts the Union challenged the statement because the Union had no resolution to sell posts nor did the Union have access to control posts at any level of the system. In this case we refer to the Secretariat Report to the National Executive Committee of 12 May 2014, in which the Union is distancing itself from this practice. In the Secretariat Report the Union's position was clear in that:

"We must make it clear that there has never been a resolution taken at any level of the organisation sanctioning such an act. The Union has never received a cent from the proceeds of this "post for cash" scheme. It is however humanely impossible to micromanage what every one of the 257 000 members of the Union does in our name"....

"We are calling upon all those members and non-members who might have been exposed to such activities to come forward and report such to the relevant authorities; we have already referred to the matter to the ELRC and SACE to investigate". Extract from the secretarial report of May 2014 is attached as annexure "A"

5.5. The Union issued statements distancing itself from such practices. The Union did not end there, but wrote to the ELRC and SACE to conduct enquiries collectively or individually

to establish facts around the practice. On 30 April 2014 as part of the steps taken by the Union to encourage members to report such activities and to put the Union's position straight. A media statement was issued titled "*SADTU says the post for cash scheme is a deliberate attempt to mislead the public in the run up to the elections*". In this press statement it should be noted that the Union called upon "*all members who have information about the posts for cash to approach the Department of Education so that we can once and for all vote out corruption in the education system*". Media Statement of 30 April 2014 is attached as annexure "B".

5.6. On 30 April 2014, the Union wrote letters to both the Education Labour Relations Council ("ELRC") and the South African Council for Educators ("SACE") requesting both institutions to conduct an inquiry into the allegations with regard to the selling of posts in the education system. It is important to note that once again in those letters SADTU "*commits itself to a corruption-free education system and reaffirming its confidence in SACE as the custodian of the teaching profession and the ELRC which is responsible for the conditions of employment and for the promotion of labour peace*". Copies of the letters to ELRC and SACE dated 30 April 2014 are attached as annexures "C" and "D" respectively.

5.7 Furthermore on 18 May 2014, SADTU issued a further media statement recording the resolutions of the NEC meeting of 15 -16 May 2014. One of the resolutions of the NEC meeting was in relation to the posts for cash scam in which the Union reiterated its stance towards the matter. The resolution of NEC meeting is attached as annexure "E".

5.8 Furthermore, when the Minister made an announcement the Union immediately issued a statement supporting the investigation which resulted in the process we are fully participating in today.

5.9 Thirdly, the Union embarked on a media awareness to call upon the teachers and everyone in the education sector to cooperate with the investigations whether at the departmental level or the two institutions mentioned above. In addition, the

Union met with the Minister to express its support on the process as outlined by her ministry.

5.10 As part of the media awareness calling upon all teachers and as well the public to report any act of corruption, the Union through its publication, The Educators' Voice published an article titled "*Don't sell posts in our name!*" The union publication, the educator's voice is attached as annexure "F".

5.11 Fourthly, as part of the report on the outcomes of all provincial conferences the awareness on corruption relating to the selling of posts was further published in the Union's newsletter, SADTU Update in which members were encouraged to cooperate with the Department of Basic Education, SACE and the ELRC in the investigation of the allegations. The copy of the newsletter is attached as annexure "G".

5.12 Furthermore the Union further called upon its members to submit information about the practice. This was communicated through speakers notes developed for every leaders to condemn the practice at every level where an opportunity to address members was availed. The Union accepted radio and TV interviews to state its position on the subject. The speakers note is attached as annexure "H".

5.13 In all the platforms of communication available to the Union, the political posture taken by City Press on the matter was challenged in order to clear its name directed by its constitution and political philosophy.

5.14 During all nine elective Provincial Conferences where every branch was in attendance, the union used these platforms to condemn the practice and also used the recent National Congress where all the branches and all leaders of the Union are represented were in attendance to condemn the practice. The Northwest Provincial Executive Committee issued a media statement on 29 April 2014, in which the

practice was condemned and appealed to anyone who has information to report the matter in order that action can be taken to cleanse the Union from such malice. The SADTU North West media statement is attached as annexure “I”.

5.15 On 4 June 2014, the SADTU Provincial Executive Committee of KZN issued a media statement in which the allegations on posts for sale published by City Press were dealt with. The media statement of SADTU KZN is attached as annexure “J”.

5.16 The Union also requested the North West Department of Education to share or make public the contents of its investigations on the allegations of selling of posts. We can report that we have not received any cooperation in this regard. We have since made an application in terms of access to information as we were made to believe that some of the persons alleged to be involved were Union leaders and we wanted to act against such leaders if indeed they were involved in this backward practice. We urge the Task Team to request the above mentioned investigation report and consider it in your investigations.

6. When SADTU received one direct allegation against a union member (leader) in Kwazulu Natal, the NEC immediately instructed the Provincial Executive Committee (“PEC”) to investigate the matter. The PEC further requested the KZN DOE to conduct an investigation.

7. The investigation could not yield any results as there was no cooperation by those who made the allegations. The KZN DOE also concluded its investigations on the same matter and once more there was no cooperation from those who made allegations as they failed to bring forward evidence and the matter was closed. This reluctance to cooperate with investigations was similarly experienced by the current task team where people are happy to make allegations but unwilling to cooperate with investigations.

8. Secondly, we read in the newspapers about similar allegations against the union leadership of the Soweto branch. We took a decision to investigate the allegations

and once again when we requested information no one came forward despite assurances that informants will be protected. The Union seeing that nothing was coming forth encouraged those members to then submit information to the institutions that were investigating.

9. As SADTU it is our view that those involved in this corrupt activity are not mandated by the Union. We acknowledge that some members are involved in this corrupt activity and are using the name of the union for personal interests.
10. As the union, we do not have any policy or resolution that encourages members to sell post for cash. We strongly believe that as the union we have done everything expected from an organization to discourage the corruption.
11. We submit that it would be grossly unfair to attribute blame on the union as an organization for the actions (which are outside the union mandate) of a particular member or official who happens to be a union member or leader as such behaviors do not benefit the organization in anyway.

## Conclusion

12. It is therefore our respectful submission that it will be grossly unfair to attribute the behaviour of individuals to the Union. We have demonstrated that as the Union we have not supported nor benefited from the alleged scam.
13. In the circumstances we submit that the task team should record in the report as conceded during the oral representations that SADTU as an organization was not involved in the selling of posts. Some members of SADTU uses or are using the name of the union to further their own interests.



5 April 2016

Professor John Volmink  
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0001

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Dear Professor Volmink

**REPORT OF MINISTERIAL TASK TEAM: INVESTIGATION INTO THE SELLING OF EDUCATOR POSTS**

The advance copy of the final report of the Task Team, dated 20 February 2016, refers.

The SAOU wishes to confirm that we have made a thorough study of the report, submitted it to our Management Committee, as well as to our National Executive Committee for thorough perusal and the preparation of a considered response. We wish to submit as follows in this regard:

1. We are grateful that an investigation into the selling of educator posts has taken place as we have heard rumours in this regard for quite some time and were understandably concerned. We are convinced that such actions are tantamount to fraud and similar criminal actions. Such actions have no place whatsoever in education and must be addressed.
2. We are equally heartened to note that the approach of the Ministerial Task Team (MTT) is that the law must be applied and must run its full course. Such actions will be supported by the SAOU.
3. We are however concerned that a large part of the report deals with matters outside the actual brief of the MTT. Instead of adhering to the brief, i.e. the identification of perpetrators and appropriate actions against them, the report in large part is a *vade mecum* for the conception of an ideal process of appointment of educators. It is our contention that in its eagerness to address the ill doings that have been identified, the MTT has gone beyond its brief.

4. To base the complete overhaul of the process of appointments and the erosion of the powers and competencies of school governing bodies on the small number of actual perpetrators is not acceptable. The current system of public schools (note not state schools) is based on sound and universal principles of democracy.
5. The overarching theme of the recommendations is to advocate the large scale centralisation of the education system. We can come to no other conclusion that it is an initiative that will reinstate a schooling system that will be at the behest of the ruling political party of the day and reminds one of the 1976 model of schooling.
6. What all concerned role players in the public education system need to do, is to address the negative perceptions regarding public education and foster ownership among all members of communities for their schools. If this cannot be attained, the perception that order and quality can only be found in the independent school system will be given more weight. The best possible mechanism to strengthen public schools is through parents and their active participation in school governing bodies. The vast majority of school governing bodies comply with their fiduciary duties towards their schools, learners and parents. There are numerous examples of such well-functioning school governing bodies.
7. If school governing bodies do not have the necessary skills and competencies, the blame must be laid at the door of the education authorities. The SAOU, and we are certain so will other unions, take hands with school governing body organisations to address such shortcomings to ensure that each and every role player is aware of the respective roles that need to be played.
8. We are equally concerned that the conclusions reached from the SAOU's input was either badly understood or deliberately misrepresented. To regard our input as "*people resisting the transformation of pre-1994 hegemonic values*" is to say the least, extremely malevolent. Amongst others, the SAOU's input is recorded as "vehement resistance" – this is overstated and totally misunderstood. This stereotype belies the actual value members of the SAOU add in the real world of education. We regard it as a gross insult.
9. It also needs to be recorded that there is an uncanny correlation with the Basic Education Laws Amendment Bill (dated 18 August 2015) that was provided to unions on 20 September 2015 by the Deputy Minister for Basic Education. The impression is that the MTT's report was drafted to support the Bill.
10. We now turn our attention to the various recommendations:
  - a. **Recommendation 1:** Supported.
  - b. **Recommendation 2:** Supported.
  - c. **Recommendation 3:** Supported.
  - d. **Recommendation 4:** The SAOU agrees with the recommendation, i.e. that clear roles for the various provincial departments of education and unions be delineated. However, we wish to add that the role of school governing bodies needs to be added to this particular process as they are an indispensable role player.
  - e. **Recommendation 5:** Supported.
  - f. **Recommendation 6:** The SAOU does not support this recommendation. A community should have the power to make recommendations with regard to teachers that fit the various communities'

requirements for teachers. The provincial department of education has no responsibility towards a particular community and is not *au fait* with such community's requirements, as well as the relevant school's curriculum and extra-curricular needs and requirements.

g. **Recommendation 7:**

- i. The SAOU supports the principle that principals must comply with minimum requirements with regard to suitability, academic acumen, experience and professional competencies.
- ii. The possibility of pre-interview testing can be supported provided that the assessment model is agreed to and will be applied in such a manner that it will comply with the principles of equity and fairness. Furthermore, although the results of such testing may be made available to the envisaged selection panels, the information must be regarded as personal and confidential, i.e. that it may only be used for purposes of the interviewing process.
- iii. The principle of selection panels can also be supported provided that the final recommendation will be made by the SGB.
- iv. The caveat to the above is to note that ELRC collective agreements currently determine the processes that underpin the appointment procedures of educators on all post levels. Any amendment of such processes can only be effected by a collective agreement by the parties to the ELRC.
- v. The organised teaching profession has held discussions among the various constituting members and in a pro-active manner have requested the ELRC that all processes that underpin the appointment procedures of educators as contemplated in the relevant collective agreements, be reviewed, refined and where necessary amended in order to address the problem areas as identified by the MTT.

h. **Recommendation 8:** Supported, provided that it must be borne in mind that principals of small schools are appointed on post level 2, and therefore the logical pool of possible candidates will in the majority of cases be post level 1 educators.

i. **Recommendation 9:** Supported.

j. **Recommendation 10:**

- i. A school should at all times be regarded as politically neutral, and therefore the principal of such a school should not be an office bearer of a particular political party.
- ii. The proposal that educators in management posts may not occupy leadership positions in teacher unions cannot be supported. It is vitally important that a teachers' union should at all times be able to portray a balanced view on all educational matters. Therefore, it is of the utmost importance that all post levels should be represented by the leadership of a teachers' union. We have obtained legal advice that the proposal will not pass constitutional compliance with regard to freedom of association.

k. **Recommendation 11:** Not supported – in conflict with the constitutional principle of freedom of association.

l. **Recommendation 12:** Supported.

m. **Recommendation 13:** Supported.

- n. **Recommendation 14:** Supported, provided that cognisance be taken that the biggest problem with the training of teachers is that the subject knowledge of such teachers is not on par with the minimum requirements for teaching such subjects effectively.
- o. **Recommendation 15:** Not supported. Any professional council is the responsibility of the profession itself, i.e. that it governs itself with regard to moral and ethical codes of conduct and minimum requirements for entering such a profession. The SAOU finds it difficult to accept that the teaching profession should be degraded in comparison to other professions.
- p. **Recommendation 16:** Supported.

The SAOU wishes to reiterate its gratefulness to the MTT, the Minister of Basic Education and the DBE for the opportunity to comment on the report. We trust that the organised teaching profession will be afforded the opportunity to discuss the report as part of a consultation process and where necessary, collective negotiations. Furthermore, we trust that the educational authorities will not abuse the legislative process to circumvent its duty to bargain on those issues that are regarded as matters of mutual interest.

In the event that the MTT requires further information regarding our response, they are welcome to contact the SAOU.

Yours faithfully



**JC KLOPPER**  
**CHIEF EXECUTIVE OFFICER**



## **ADDITIONAL ANNEXURE 2: DBE Response to the Ministerial Task Team Report on alleged posts for sale**

*25 April 2016*

### **1. GENERAL EMPLOYMENT CONTEXT**

- 1.1 Appointments into all posts is important, but current trends around the number of new school principals appointed (and appointment of middle managers in schools) point to very specific risks and opportunities for the schooling system. The schooling system is currently experiencing a surge in the retirement of school principals because of an increase in the number of principals reaching retirement age. Whilst in 2008 approximately 400 school principals were retiring, the figure for 2017 is expected to be 1 500, implying a fourfold growth in appointments.
- 1.2 If one adds to this the fact that school principals have in the past tended to stay longer in one school, on average ten (10) years, it becomes clear that currently the schooling system is at a critical juncture. If the administration ensures that good people enter principal posts, this can put schools on a 'winning trajectory'. However, if the administration allows the wrong people to fill principal posts, because nepotistic or corrupt practices are not stopped, or because appointment processes fail to identify who would make a good principal, educational transformation will be tragically delayed.
- 1.3 Similar things can be said about other management posts in schools, specifically those of deputy principals and heads of department.

### **2. THE IMPORTANCE OF SHORT-TERM MEASURES**

- 2.1 There is a need to strengthen accountability in education, with a special emphasis on short-term measures, by ensuring that –
- (a) we take control as an employer of appointing the most suitable teachers in terms of qualifications, skills, attributes, and ability. We do this, by establishing interviewing and appointment panels that are independent, that would be vetted regularly, and that would undergo training on appointment procedures and requirements for posts in education;
  - (b) the changes to appointment procedures, require large-scale advocacy of parent and school communities, so that everyone is informed of the changes; and

- (c) we protect the integrity of the appointment procedures by setting up a dedicated call centre, where any irregular activities can be reported with a short-term turnaround response.

### **3. STANDARDS AND ACCOUNTABILITY**

#### **3.1 *Standards for Principals***

- (a) A national policy on standards for principals has been developed (Government Notice 323 of 2016). The policy provides for a framework of processes and programmes for developing the leadership and management skills of principals by acknowledging the need for principals to be professional, prudent, innovative and resourceful in managing their schools. These are based upon an agreed understanding of the core purposes of a principal's leadership role, the key areas of such a role, the values which underpin them, and the personal and professional qualities required to fulfil their roles. The key areas referred to in the standards document are in line with the core purpose and responsibilities of the principal as set out in sections 16 and 16A of the South African Schools Act, (No 84 of 1996), paragraph 4.2 of Chapter A of the Personnel Administrative Measures, and the relevant appraisal system.
- (b) The standards provide a clear role description for school leaders and set out what is required of the principal. Principals – working with school management teams (SMTs), school governing bodies (SGBs), representative councils of learners (RCLs), and wider communities – must effectively manage, support and promote the best quality teaching and learning, the purpose of which is to enable learners to attain the highest levels of achievement for their own good, the good of their community, and the good of the country as a whole.
- (c) The Department of Basic Education (DBE), with the Provincial Education Departments (PEDs), has identified differentiated developmental needs for professionalising principals and for the development of their role. These are:
  - (i) enhancement of the skills and proficiency levels of principals;
  - (ii) improvement of the procedures for recruiting and selecting principals;
  - (iii) induction and mentoring of principals; and
  - (iv) professional preparation of principals.

#### **3.2 *Performance Management***

- (a) The NDP says:

- (i) *“introduce performance contracts for principals and deputy principals, in line with Department of Basic Education policy. Use these contracts to help principals find ways to improve their performance every year, including identifying their training needs. Over time performance contracts should also be introduced for other members of school senior management teams (SMTs);*
  - (ii) *replace principals who repeatedly fail to meet performance targets, based on monitoring information and interviews with school stakeholders, and*
  - (iii) *use data from the performance management systems to identify areas where principals need more training.”*
- (b) In order to enhance accountability of educators, the Quality Management System (QMS) for assessing the performance of school-based educators was adopted at the Education Labour Relations Council (ELRC) in November 2014.
  - (c) The agreement requires the Principal, Deputy Principal and Heads of Departments to complete and sign work-plan agreements with clear deliverables and targets with their supervisors at the beginning of each evaluation cycle.
  - (d) The work plan will serve as a performance agreement that will be signed by both the principal and his/her immediate supervisor, i.e., the Circuit Manager.
  - (e) Underperformance by principals as per the performance agreement should result in progressive discipline being instituted by Circuit Managers.
  - (d) Data emanating from the performance measurement of principals, should be utilised to update the curriculum for principal development programmes.

#### **4. FOCUS OF THE MINISTERIAL TASK TEAM**

##### **4.1 The findings and recommendations of the MTT are twofold:**

- (a) Firstly, there are general recommendations regarding the conduct of unions and officials in relation to their lack of adherence to their roles and responsibilities as prescribed in the applicable laws and procedures. The Report of the Ministerial Task Team on the selling of posts highlights a lack of consistency and understanding of School Governing Body members regarding appointment systems and procedures. These challenges require the Department to reform laws and regulations regarding appointments in the basic education sector.

- (b) Secondly, there are allegations and specific recommendations about a number of identified individuals, who it is alleged, participated in one or other form of corruption or selling of posts. Investigations into most of these have not been concluded and an extension of the forensic part of this report has been granted. The forensic part of the whole investigation will be completed in August 2016, after which, the necessary remedial action will be instituted.

## 5. PROPOSED LEGISLATIVE AMENDMENTS AND REFORMS

- 5.1 A proposed legislative amendment, which is still in the process of being finalised, deals with a number of issues emanating from the Report of the Ministerial Task Team to review education legislation. *Inter alia*, the amendment will contain a proposal that any appointment, promotion or transfer will be the responsibility of the Heads of Provincial Education Departments, with an initial focus on promotional posts on post levels 2 to 4.
- 5.2 The amendment will furthermore propose that the Minister be empowered to make regulations to prescribe the manner in which this and employment practices in general will be carried out. This may include the composition of interviewing panels, vetting of panel members, and a number of other matters which could prevent the practices of selling of posts.

## 6. CONSULTATIONS ON THE MTT REPORT

- 6.1 The Minister of Basic Education heeded the call for rebuttals and representations to the MTT report, and declared the following strict timeframes, which were to be adhered to by all concerned –
  - (a) **01 April 2016** – the Minister favoured teacher unions with the MTT final report, with an advice for teacher unions to submit their written rebuttals to the Chairperson of the MTT on but not later than the end of business on **15 April 2016**. Teacher unions were further requested to favour the Chairperson of the MTT with details of any teacher union member, who might be implicated in the MTT report, but may have inadvertently been deprived of the benefits of the *audi alterem partem* rule. This should have been done on or not later than **15 April 2016**.
  - (b) **15-29 April 2016** – the MTT would consider the written submissions, and consider any appropriate action, when a need arises. Any teacher union, and/or school governing body association, and/or individual wishing to make representations *viva voce* to the MTT, must have done so by midday, 29 April 2016.
  - (c) **29 April - 04 May 2016** – the MTT will consider all inputs (written submissions and representations *viva voce*) and amend the MTT report to the extent necessary. In doing so, all imperatives related to administrative justice and principles of fairness will be observed.



- (d) **03 May 2016** – the Minister would meet with teacher unions that requested such meeting individually.
  - (e) **05 May 2016** – the Minister has convened a consultative meeting with teacher unions and national school governing body associations on the MTT processes and the MTT report.
  - (f) **06 May 2016** – the Minister would officially release the MTT report to the public.
- 6.2 During the consultations with education stakeholders, a request was made for the Minister to consider postponing the release of the MTT Report. Allow stakeholder, particularly teacher unions to refine their written submission and those unions that deem it fit to make verbal (viva voce) representations to the MTT, have adequate time to do so. Having consulted with the MTT, the Minister postponed the release of the MTT by twenty (20) days.

## DEPARTMENT RESPONSE TO THE RECOMMENDATIONS OF THE MTT

	Findings	Recommendations	Actions	Responsibility	National Department
1.	<p>SADTU officials or representatives exerted improper influence.</p> <p>A Senior District official acted improperly in support of the promotion of a friend</p>	<p>The Illegal action by educators identified by the MTT be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.</p>	<p>Disciplinary Action be taken against those officials who had the responsibility to check acts of corruption but failed to do so</p>	<p>NWDoE</p>	<p>Monitor the implementation of the remedial action by the NWDoE</p> <p>Ensure that Section 34 of the Prevention and Combating of Corrupt Activities Act is not violated</p>
2.	<p>Posts are being sold for cash, that the parties operate in networks, and that there is a climate of fear that keeps people from exposing these practices.</p>	<p>That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.</p>	<p>Action should be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about the selling of posts and to direct such reports to competent authorities and follow up those reports</p>	<p>PED</p>	<p>Monitor the handling of disciplinary cases and ensure further investigations conducted by the MTT. The Minister has extended the forensic investigation part of the MTT to finalise the complaints that were received from individual late into the investigation by the MTT.</p> <p>Where there are finding of guilt after a disciplinary hearing, the PED's must ensure that the educator cases are reported to SACE for further processing.</p>
3.	<p>Union influence often exceeds the regulatory bounds, especially where administrative action is weak.</p>	<p>That action should be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about</p>	<p>That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established</p>	<p>DBE</p>	<p>Administrative processes should be rigorously and timeously followed.</p> <p>Ensure mechanisms for the creation of selection panels which have authority</p>

	<b>Findings</b>	<b>Recommendations</b>	<b>Actions</b>	<b>Responsibility</b>	<b>National Department</b>
		<p>the selling of posts and to direct such reports to competent authorities and follow up those reports</p>	<p>between the roles and functions of the DBE and the concerns of Teacher Unions.</p> <p>The Minister require all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjust the Education sector legislation accordingly</p>		<p>and which are accountable as a measure to eliminate corruption in the recruitment process.</p> <p>The provincial departments will establish a Review Committees to ratify the recommendation of the SGB selection panels. The Committees would be chaired by a Directors or higher ranking officials. Members of the committee may be drawn from various sections of the department who are at Deputy Director or Chief Education Specialist level.</p>
4.	<p>The administration and education system in all Provinces are not well established</p>	<p>That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.</p>	<p>The Minister should require all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjust the Education sector legislation accordingly</p>	DBE	<p>Regain control of administering the education system in all Provinces so that clear distinctions are established.</p> <p>In the interim, the DBE will develop guidelines on how to create review panels consisting of officials that would review the recommendations of the SGB's before a decision approve is taken. The purpose of these review panels will be to assist SGB's to select the best candidate that meet the competency requirements of the post. (See also 12 below)</p>
5.	<p>There are flaws in the process of the</p>	<p>That the Minister require all Provinces to complete and</p>	<p>The powers of School Governing Bodies to make</p>	DBE	<p>Guidelines to assist SGB's to select competent interviewing panels will be</p>

Findings	Recommendations	Actions	Responsibility	National Department
recruitment of educators.	implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjust the Education sector legislation accordingly	recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.		developed. These guidelines will call on SGB's to select not only among themselves but in the community; individuals who are capable and knowledgeable of performing selection and interview functions.  Positions of school management teams should be subjected to selection processes which ensure that competent and qualified candidates are appointed.
6. The Governing Body should not play any role in the appointment process other than an advisory role.	That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.	Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably	DBE	Section 20 (1)(i) and (j)directs that the SGB must recommend to the Head of Department the appointment of educators and non-educators at a school, subject to the Employment of Educators Act, 1998 (Act No. 76 of 1998), and the Labour Relations Act, 1995 (Act No. 66 of 1995).  This is a fundament power of the SGB which creates an enabling environment for public participation in the education system.  SGB's must be capacitated to perform their duties and where possible be encouraged to request assistance from the PED to conduct the selection

Findings	Recommendations	Actions	Responsibility	National Department
		<p>prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.</p>		<p>processes.</p> <p>The proposed Review Committees of a PED must assess the recommendations of the SGB and where applicable advise the SGB to reconstitute the selection panel with competent members or request the Department to conduct the selection process for it. (see also 12 below)</p>
<p>7. School principals are key to shaping and strengthening the culture and ethos of our schools</p>	<p>Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of</p>	<p>It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.</p>	<p>DBE/PED</p>	<p>The National Development Plan calls for a change in the appointment process to ensure that competent individuals are attracted to become school principals. As in other senior management positions, candidates should undergo a competency assessment to determine their suitability and identify the areas in which they would need development and support. These measures will be designed to give effect to the provisions of the National Development Plan and to improve the recruitment of competent school managers. School deputy principals and principals will be selected from candidates who possess appropriate managerial competences.</p>

Findings	Recommendations	Actions	Responsibility	National Department
	<p>the schools for which the interviews are being held.</p>			<p>These procedures are drawn from the basis that strong and competent School Management Teams are essential in improving our public schooling system.</p> <p>For this reason, it is imperative that public school managers be selected from those candidates who have been evaluated and certified as possessing the competencies and proficiencies deemed necessary for success in the field. For effective appointment to take place, the department will play a more central and influential role.</p> <p>Measures to introduce competency assessment will be introduced soon.</p> <p>Each Provincial Education Department will be assisted to establish an assessment centre and appoint assessors where competency diagnostic tools are developed and assessments conducted.</p> <p>Alternatively, the PED must appoint a credible service provider to manage the assessment process. The role of the assessment centre or service provider will be to:</p>

	Findings	Recommendations	Actions	Responsibility	National Department
8.	Teacher Unions representatives at selection panels are mere observers	It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.	That the observer status of Unions be renegotiated with respect to the recruitment process.	DBE/PED	<ul style="list-style-type: none"> <li>• Design the competency assessment tool;</li> <li>• Conduct the assessment;</li> <li>• Analyse the tests results;</li> <li>• Generate the assessment report;</li> <li>• Develop a data base for all tested candidates; and</li> <li>• Identify and recommend focus areas for the training of school managers based on the diagnostic report of the assessments.</li> </ul> <p>Make recommendations as to the most suitable candidate or otherwise. (see also 12 below)</p>
					<p>The teacher unions also have a stake in the fair and just transfer or appointment of everyone in the education system.</p> <p>The collective agreement dealing with the roles of unions will be reviewed to clarify the roles of unions during the selection processes</p> <p>Unions admitted to the PELRC must be invited to observe the entire selection process from shortlisting to the finalisation of the recommendation.</p>

	<b>Findings</b>	<b>Recommendations</b>	<b>Actions</b>	<b>Responsibility</b>	<b>National Department</b>
					<p>The role of the teacher unions is not to interfere with the appointment process by influencing any of the decisions during the shortlisting, interviewing or recommendation phases.</p> <p>Observers are there to observe that substantive and procedural fairness are adhered.</p> <p>Union observers may bring any substantive unfairness or procedural irregularities to the attention of the interview panel for a speedy resolution.</p>
9.	<p>Senior Management (SMS) interferes with the objectivity when it comes to their recommending candidates for appointment</p> <p>The deployment of officials to the Department from Unions weakens the Department</p>	<p>That the observer status of Unions be renegotiated with respect to the recruitment process.</p>	<p>That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals), be prohibited from occupying leadership positions in Teacher unions.</p>	DBE	<p>It is the responsibility of the DBE to ensure that the rights conferred by section 23 of the Constitution are protected and no one is prevented from exercising these rights. No rights of any worker will be curtailed.</p> <p>The role of the teacher unions is not to interfere with the appointment process by influencing any of the decisions during the shortlisting, interviewing or recommendation phases.</p> <p>Observers are there to observe that</p>



	<b>Findings</b>	<b>Recommendations</b>	<b>Actions</b>	<b>Responsibility</b>	<b>National Department</b>
					<p>substantive and procedural fairness are adhered</p> <p>Union observers may bring any substantive unfairness or procedural irregularities to the attention of the interview panel for a speedy resolution.</p>
10.	<p>The formation of occupational Unions for office-based educators must be done.</p>	<p>That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions.</p>	<p>That it seems desirable that separate and distinct Unions be established for office-based educators.</p>	DBE	<p>It is the responsibility of the DBE to ensure that the rights conferred by section 23 of the Constitution are protected and no one is prevented from exercising these rights. All rights conferred by the Constitution and the Labour Relations Act are protected and no one will be prevented from joining a union of his/her choice.</p>
11.	<p>Cadre deployment by Unions has weakened the education system.</p>	<p>That it seems desirable that separate and distinct Unions be established for office-based educators.</p>	<p>Measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.</p>	DBE/PED	<p>The teacher unions also have a stake in the fair and just transfer or appointment of everyone in the system.</p> <p>The collective agreement dealing with the roles of unions will be reviewed to clarify the roles of unions during the selection processes</p> <p>Unions admitted to the PELRC must be invited to observe the entire selection process from shortlisting to the finalisation of the recommendation.</p>

Findings	Recommendations	Actions	Responsibility	National Department
12. Concern in the supply value chain in the appointment of educators	That measures, be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.	Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should no political appointments, nor cadre deployments. People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment	DBE/PED	<p>The role of the teacher unions is not to interfere with the appointment process by influencing any of the decisions during the shortlisting, interviewing or recommendation phases.</p> <p>Observers are there to observe that substantive and procedural fairness are adhered.</p> <p>Union observers may bring any substantive unfairness or procedural irregularities to the attention of the panel for a speedy resolution.</p> <p>The provincial department will be required to establish a <u>Review Committee to ratify the recommendation of the selection panel.</u></p> <p>Each Committee must be chaired by a <u>Director or higher ranking official.</u> Members of the committee may be drawn from various sections of the department who are at Deputy Director or Chief Education Specialist level.</p> <p>It is the duty of the Review Committees</p>

Findings	Recommendations	Actions	Responsibility	National Department
13. No philosophy or overall vision for the post 1994 Departments of Basic and Higher Education and Training has developed.	Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should be no political appointments, nor cadre deployments. People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment relations closer to institutions/schools.	relations closer to institutions/schools.		<p>to:</p> <ul style="list-style-type: none"> <li>ratify the work of the selection panel ascertain fitness of each candidate and the likelihood of the candidate's pursuing a productive career; and</li> <li>In judging the fitness of the candidate, it is appropriate to consider professional integrity and competency and proficiency as evidenced by performance of duties.</li> </ul>
		That the DBE and the DHET, with universities and other stakeholders including the unions lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in schools throughout South Africa	DBE, DHET	The vision or philosophy for education should be co-ordinated and funded by the DBE and the DHET with the participation of all teacher education institutions as well as a wide range of stakeholders including the Unions.

	<b>Findings</b>	<b>Recommendations</b>	<b>Actions</b>	<b>Responsibility</b>	<b>National Department</b>
14.	SACE close links with and allegiance to a single Teacher Union, SADTU, has raised questions about its independence	That the DBE and the DHET, with universities and other stakeholders including the unions lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in schools throughout South Africa	That the South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.	SACE	<p>SACE is the South African Council for Educators, a body established by law to uphold the education profession.</p> <p>The Department is working with the South African Council for Educators (SACE), the Department of Higher Education and Training (DHET), the Education Deans Forum and other stakeholders in the Basic Education Sector, towards the development of a professional standards framework for teachers.</p> <p>A SACE Advisory group on professional standards has been established. The Professional Standards Framework for teachers will consider introducing professional certification for newly qualified teachers, as stated in the National Development Plan (NDP).</p>
15.	Inexplicably, SACE has produced nothing of use for the Task Team other than an incomplete synopsis of some of the cases investigated.	That the South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.	That SACE releases to the Minister its full Report on the buying and selling of posts when completed.	SACE	The Department will investigate whether or not SACE had conducted an investigation on the alleged selling of post and if so, request the report.
16.	SACE has conducted investigations in	That SACE releases to the Minister its full Report on the buying and	To urge SACE to provide the minister with the Report	SACE	To ensure that SACE provides the Minister with the Report

	<b>Findings</b>	<b>Recommendations</b>	<b>Actions</b>	<b>Responsibility</b>	<b>National Department</b>
	different provinces on the buying and selling of posts	selling of posts when completed.			