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NA DIE LAASTE KLOK LUI

“Tot watter mate kan ek verplig word om na amptelike skoolure werksaam te wees by die skool?”

Hierdie vraag is al telkemale geopper op 'n verskeidenheid van wyses ten opsigte van sportafrigting, kultuuraangeleenthede en naskoolse toesig om maar net 3 voorbeelde te noem. Om die vraag te beantwoord moet drie aspekte oorweeg word:

- Wat is die brondokument waarin die plig uiteengesit word?
- Wat kan ek verplig word om te doen; en
- Vir hoe lank?
- **Wat is die brondokument waarin die pligte en verantwoordelikhede van opvoeders uiteengesit word?**
Die inligting word vervat in Hoofstuk A, paragraaf 3 en 4 van die PAM (*Personeel Administrasiemaatreëls*) ([klik hier](#)).
- **Wat kan van my verwag word?**
Onder paragraaf 4, 'Duties and Responsibilities of Educators', vind ons deurgaans die sub-opskrif 'Extra and co-curricular'. Hierdie subopskrif beskryf wat van elke posvlak verwag word rakende buitemuurse en verwante aktiwiteite by die skool. By elke vlak word die bevordering van buitemuurse en ko-kurrikulêre aktiwiteite genoem.
- **Hoeveel 'ekstra' ure kan van my verwag word?**
Paragraaf 3.1 (e) spreek hierdie vraag direk aan. “Die verwagting is dat elke opvoeder verantwoording moet kan doen vir 1800 werklike werksure per jaar.” In paragraaf 3.2 word daar dan verder ook genoem dat alle opvoeders tydens die formele skooldag aanwesig moet wees, welke formele skool dag nie minder as 7 ure sal wees nie. (Met uitsonderings soos gelys). As ons dan die gemiddeld van 203 skooldae per jaar met die 7 ure van 'n skooldag vermenigvuldig kom dit neer op 1421 ure van die minimum 1800 wat tydens die formele skool dag opgeneem word. Hierdie addisionele 379 ure dien as genoegsame tyd vir ander aktiwiteite en verpligtinge wat skoolverwant is.

As ons dan kyk na die aantal skoolweke wat vir 2015 en 2016 afsonderlik op 42 bereken is, kom dit neer op 9 ure per week wat na die laaste klok verantwoord moet kan word. Reduseer dit verder, dan kom dit neer op 'n verdere ongeveer 2 ure per dag. Hierdie berekening neem nie Vrydae se moontlike vroeër sluiting van die skool dag in ag nie (wat

AFTER THE LAST BELL HAS RUNG ...

“To what extent can I be forced to stay and work at the school outside of official school hours?”

This question has been raised many times before in various ways with regard to sporting activities, cultural events and after-school care, to name only three examples. To answer the question three aspects must be considered:

- In what source document is the duty set out?
- What can I be forced (obliged) to do; and
- For what length of time?
- **What is the source document that contains the duties and responsibilities of educators?**
The information is contained in Chapter A, paragraph 3 and 4, of the PAM (Personnel Administration Measures) ([click here](#)).
- **What can be expected of me?**
The sub-heading 'Extra and co-curricular' appears throughout Paragraph 4 entitled, 'Duties and Responsibilities of Educators.' This sub-heading describes what is expected of every post level regarding extra-mural and related activities at the school. Extra-mural and co-curricular activities are promoted at every level.
- **How many 'extra' hours can be expected of me?**
Paragraph 3.1 (e) addresses this question directly: “It is expected that every educator will be able to account for 1800 actual work hours per year.” Paragraph 3.2 states further, that all educators must be present during the formal school day, and that the formal school day will be no fewer than 7 hours in duration. (With exceptions as listed). If we take the average of 203 school days per year and multiply them by the 7 hours of the formal school day we reach a total of 1421 hours out of the expected minimum of 1800 hours. The additional 379 hours are sufficient for the other obligatory, school-related activities.

If we then look at the number of school weeks per year calculated at 42 per year for 2015 and 2016 respectively, it adds up to 9 hours per week that must be accounted for after the bell has rung for the day. A further reduction of the numbers brings us to an approximate 2 hours per day. This

nog 'n ekstra uur 'n week sou beteken.) Boonop moet ook in ag geneem word dat die 1800 aanwysing nie slegs skoolaktiwiteite impliseer nie en dat departementele opleidingsgeleenthede hul eie tydallokasie van 80 ure se professionele opleiding per jaar het. Opleiding vind ook gewoonlik tydens vakansies plaas. (Paragraaf 3.2 (d)). Dit dien egter vermeld te word dat die 80 ure deel vorm van die 1800 werksure per jaar.

- **Is die toesighouding oor leerders wat naskools nie by skoolverwante aktiwiteite betrokke is nie, deel van buitemuurse en ko-kurrikulêre aktiwiteite?**

Ter inleiding kan gestel word dat naskoolse toesighouding nie deel vorm van die skool se amptelike buitemuurse en ko-kurrikulêre program nie, maar gewis deel is van die skool se plig in terme van die *in loco parentis* beginsel.

Wat hoofstuk A van die PAM nie aanspreek nie is die toesighouding van leerders wat naskools nie by skoolverwante aktiwiteite betrokke is nie. Hierdie is 'n moeilike aangeleentheid aangesien elke skool sy eie unieke omstandighede het. Vir party skole sal dit buitengewoon wees dat leerders na 15:00 nog vir hul ouers wag, en ander kan die tydperk maklik strek tot na 16:00. Die beskikbaarheid van naskoolsorgsentrusse en publieke vervoer is maar twee van die talle faktore wat hier ter sprake kom.

Dus ontstaan die vraag vir elke skool op sy beurt: Wanneer begin en eindig die onderwyser se plig tot sorg vir die leerder (*in loco parentis*)? In die algemeen word die vraag beantwoord deur twee beginsels. Die eerste is dat die onderwyser nooit meer verpligtinge sal hê as die ouer nie. Dus kan daar nie van die onderwyser verwag word om die ouer van sy verantwoordelikhede te verlos nie. Dit bly die ouer se verpligting om te verseker dat die leerder na skool veilig by die huis of alternatiewe bestemming kom. Dit gesê, word laasgenoemde deur ons tweede beginsel, die van redelikheid, getemper. Waar ouers deur onverwagte voorvalle verhinder word kan mens tog nie net jou hande was en die leerder aan sy lot oorlaat nie. Die oplossing is om 'n goeie balans te kry tussen die beginsels. Soos bo genoem sal hierdie balanspunt verskil van skool na skool.

Die SAOU voorstel is dus dat u konsulteer met u ouers om 'n geheelbeeld van die situasie by u skool te kry en sodoende 'n beleid op te stel wat aan die begin van die jaar aan alle ouers duidelik gemaak word. Hierdie beleid kan insluit tydgrepe waartydens leerders onder toesig nog op die skool terrein vir hul ouers kan wag, asook maatreëls vir wanneer die tydgrepe oorskry word. 'n Voorbeeld van so 'n maatreël is waar die leerder dan na 'n plek van veiligheid geneem word, bv na 'n SAPS kantoor of soortgelyke instansie in die area. Sodoende dra die ouers dan kennis en kan hul ander maatreëls tref indien dit hulle nie pas nie, bv naskoolsentrusse ens.

Alhoewel toesighouding naskool dalk nie direk onder die onderwyser se pligte val nie, kan hy of sy nogtans verplig word om dit te doen binne die raamwerk van redelikheid en regverdigheid en veral met betrekking tot die verspreiding van verantwoordelikhede onder die personeel.

calculation does not take a possible early closing time on a Friday into account which would mean an extra hour per week. Furthermore, it should be noted that the designated 1800 work hours is not only school activities and that departmental training initiatives have their own time allocation of 80 hours for professional training per year. Also, training usually takes place during the holidays. (Paragraph 3.2 (d)). It must, however, be pointed out that the 80 hours forms part of the 1800 work hours per year.

- **Is the supervision of learners who are not involved in school-related activities after school, part of extra-mural and co-curricular activities?**

By way of introduction, it can be said that after-school supervision does not form part of the school's formal extra-mural and co-curricular programme but it is indeed part of the school's duty in terms of the *in loco parentis* principle.

What chapter A of the PAM does not address is the supervision of learners who are not involved in after-school, school-related activities. This is a difficult situation given that each school has its own, unique circumstances. For some schools it would be highly unusual to have learners still waiting to be fetched from school after 15:00 while at others 16:00 would be considered fairly early. The availability of after-school care centres and public transport are only two of the myriad factors that form part of the debate on this topic.

Thus, the question arises for each school individually: When does the responsibility of the educator to care for the learner begin and end (*in loco parentis*)? In general, the answer to the question is based on two principles. The first is that the educator will never have more obligations than the parents. It can, therefore, never be expected of the educator to relieve the parents of their responsibilities. It remains the responsibility of the parent to ensure that the learner reaches home or an alternative destination, safely. That being said, the last point is tempered by the second principle – reasonableness. Where parents have been hindered from seeing to their child by unforeseen circumstances one cannot simply wash one's hands of the situation and leave the learner to his/her lot. The solution is to strike a balance between the two principles. As mentioned above this balance will differ from school to school.

The SAOU's suggestion is that the school, in consultation with the parents, should get an overall picture of the situation at the beginning of the year. Based on that general view, a policy can then be written and made available to parents from the start. Such a policy can include details of periods when learners can still be on the school terrain under supervision while they wait for their parents as well as the arrangements that obtain if or when, learners have to be accommodated for a longer time. An example of such an arrangement is where a learner is taken to a place of safety at a local police station or similar instance in the area. In that way parents can take note of the arrangements and make alternative plans should the existing arrangements not suit them, for example after-school centres etc.

Ter ondersteuning hiervan het die Arbeidshof onlangs 'n baie relevante uitlating gemaak rakende instruksies aan werknemers wat buite hul pligtestaat val:

Exxaro Coal Mpumalanga Ltd v CCMA & Others (unreported case JR269/11): "...Should it be shown that the instruction was unlawful, it would be the end of the inquiry. If it is found that the instruction was lawful, the expectation is that the employee to whom such instruction was issued should have complied. It will have little, if any, to do with whether the instruction related to the employee's job description because it will never be a justification for an employee to refuse lawful instructions merely because the instructions are not his or her direct functions."

Ter opsomming: Volgens die streng definisie van buitemurse en ko-kurrikulêre aktiwiteite sal die toesighouding oor leerders nie daarbinne val nie, maar ongetwyfeld het skole en opvoeders 'n plig in die verband en sodanige pligpleging moet binne die raamwerk van billikheid as integrale deel van die 1800 werksure per jaar geag word as personeel verantwoordelik is vir die uitvoering daarvan.

- **Vorm die toesighouding oor leerders na die formele skooldag deel van die 1800 werksure per jaar?**

Opsomming kan opvoeders dus verplig word om naskoolure werksaam te wees met buitemurse en ko-kurrikulêre aktiwiteite vir 'n tydperk soos hierbo verwys. Die groot verskil kom in die billik en gelyke allokasie van verpligtinge onder die opvoeders van 'n skool. Hierdie allokasie is die bevoegdheid van die skoolhoof soos per paragraaf 3.2 (c): "All other duties are specified and allocated by the Principal after consultation with the educator staff. Educators will be expected to perform the core duties, as outlined in paragraph 3.1(b), both within and outside the formal school day, and with the understanding that none of these may diminish the overall amount of scheduled teaching time or negatively impact upon the curriculum."

Dit sal egter onbillik wees as dit nie as integrale deel van die formele werkspligte buite die formele skooldag geag word nie, en moet skoolbesture hierdie ure teen die 1800 werksure verreken. Die verdeling van werkspligte sal verder die toets van billikheid slaag as dit aan die hand van 'n deursigtige konsultasieproses geskied en eienaarskap onder die personeel gevestig kan word.

- **Moet voorsiening gemaak word vir die administratiewe pligte, voorbereiding en nasienwerk van opvoeders? Wat word as billik geag?**

Dit sal ongetwyfeld as onbillik geag word indien skoolbestuur verwag dat administratiewe pligte, voorbereiding en nasienwerk as bykomend tot die 1800 werksure per jaar geag word. Ingevolge die PAM word administratiewe pligte pertinent uitgelig ten opsigte van elke posvlak. Uiteraard sal dit van posvlak tot wissel, maar dit word as onontbeerlik geag dat elke skoolpersoneel in konsultasie met mekaar tree en 'n billike tydstoedeling as integrale deel van die 1800 werksure per jaar bepaal. 'n Soortgelyke konsultasieproses ten opsigte van die bepaling van 'n billike toewysing vir voorbereiding en nasienwerk moet ook gevestig word.

- **Sal dit as onbillik geag word as personeel op 'n eweredige verdeling van werkspligte aandring?**

While after-school supervision may not strictly fall under the educator's formally designated duties he/she can, nevertheless be obliged to undertake such supervision given the principles of reasonableness and fairness, especially with a view to spreading responsibilities amongst the staff.

In support of the above, the Labour Court recently handed down a very relevant ruling regarding instructions to employees that fall outside their job descriptions:

Exxaro Coal Mpumalanga Ltd v CCMA & Others (unreported case JR269/11): "...Should it be shown that the instruction was unlawful, it would be the end of the inquiry. If it is found that the instruction was lawful, the expectation is that the employee to whom such instruction was issued should have complied. It will have little, if any, to do with whether the instruction related to the employee's job description because it will never be a justification for an employee to refuse lawful instructions merely because the instructions are not his or her direct functions."

To summarise: In terms of the strict definition of extra-mural and co-curricular activities, the supervision of learners will not fall within the definition but schools and educators undoubtedly have a responsibility in this regard and the exercise of that duty should take place, within a framework of reasonableness, as an integral part of the 1800 work hours per year.

- **Does the supervision of learners after the closure of the formal school day form part of the 1800 work hours per year?**

In short, educators can be compelled to occupy their after-school hours with extra-mural and co-curricular activities within a time frame as referred to above. The big difference happens in the reasonable and fair allocation of obligations among the educators in the school. These allocations lie within the competencies of the school principal as per paragraph 3.2(c): "All other duties are specified and allocated by the Principal after consultation with the educator staff. Educators will be expected to perform the core duties, as outlined in paragraph 3.1(b), both within and outside the formal school day, and with the understanding that none of these may diminish the overall amount of scheduled teaching time or negatively impact upon the curriculum."

It would be unreasonable if these formal duties, performed outside of the formal school day were not taken as an integral part of the formal day's duties and calculated by school management against the 1800 work hours per year. The allocation of work duties will further stand the test of reasonableness if the process is transparent and done in consultation with personnel. In that way, a sense of ownership in regard to allocations will be established amongst the staff.

- **Must provision be made for administrative duties, preparation and marking by educators? What is regarded as reasonable?**

It would most certainly be considered unreasonable if school management were to regard administrative duties, preparation and marking as additional to the 1800 work

Billikheid in die arbeidsreg rus op twee beginsels, nl. proseduriële- en substantiewe billikheid. As personeel versoek dat daar 'n deursigtige en objektiewe proses (bv konsultasies met personeel) gevolg word en daar is binne die perke van redelikheid tevredenheid met die uitkoms en uiteindelijke verdeling van werkspligte, kan dit as billik geag word.

- **Wat kan 'n SAOU-lid doen as daar ooglopende onbillikheid en 'n onverdedigbare verdeling van werkspligte is?**

Die SAOU se Inbelsentrum (086 072 6843) of die relevante Provinsiale Sekretaris kan geskakel word vir objektiewe advies en die moontlike implementering van toepaslike intervensies.

hours per year. The PAM specifically prescribes the administrative duties for each post level. By their very nature, such duties will differ from post level to post level but it is regarded as indispensable that the personnel of each school will consult with each other and do a reasonable time allocation that forms an integral part of the 1800 work hours per year. A similar consultation process in regard to establishing reasonable time allocations for preparation and marking must also be followed.

- **Would it be considered unreasonable if personnel insist on an equal distribution of work duties?**

Reasonableness in labour law rests on two principles, namely, procedural and substantive reasonableness. If personnel request that a transparent and objective process is followed (for example, consultation with personnel), and, within the bounds of reason, there is satisfaction in regard to the allocation of work duties, the allocation can be deemed to be reasonable.

- **What can a member of the SAOU do if a clearly unreasonable and indefensible allocation of work duties is made?**

The SAOU's Call Centre number is 086 072 6843 or the relevant Provincial Secretary can be contacted for objective advice and possible implementation of appropriate interventions.

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