



## MEMORANDUM OF DEMANDS

**17 October 2017**

FROM SOUTH AFRICAN DEMOCRATIC TEACHERS UNION (SADTU)	TO: DEPARTMENT OF HIGHER EDUCATION AND TRAINING
PORTION 74 CNR DANN ROAD & LOAM STREET, GLEN MARAIS, KEMPTON PARK TEL: 011 971 2000 <a href="mailto:cindy@sadtu.org.za">cindy@sadtu.org.za</a>	123 FRANCIS BAARD STREET , PRETORIA TEL: 012 312 6349 <a href="mailto:callcentre@dhet.gov.za">callcentre@dhet.gov.za</a>

1. We, the members of SADTU representing more than 260,000 members, **having observed the state of education provisioning and governance in all the TVET and CET centers in provinces** and the number of challenges afflicting the Department of Higher Education and Training, wish to hereby submit this memorandum to your office as the Minister of Higher Education and Training.
2. We do this as a reminder of your constitutional and legal obligations including but not limited to your obligations to ensure that the right of children to education as enshrined in Section 29 of the Bill of Rights and the right of employees as enshrined in Section 23 of the Bill of Rights are promoted, protected and fulfilled as the Constitution requires you ensure that this happens.

3. We also do this to remind you that you are required in terms of the Public Service Act and the Public Finance Management Act to ensure the efficient and effective management and utilisation of the resources of government departments.
4. Section 195 of the Constitution requires you amongst others to ensure that peoples' needs are respondent to, that your departments are accountable and that you ensure good human resource practices.
5. We are therefore here to demand no less than your immediate and full compliance with your constitutional and legal obligations to the children, society and your employees.
6. We have repeatedly asserted that education is a societal issue. The Freedom Charter clearly requires that the doors of learning be opened. We now demand that these doors be opened. Nothing more nothing less.
7. As the union organising in the sector and society broadly, we are here to remind you of the importance of reasserting a "People's Education for People's Power" as a prerequisite to help lead us to a new, equitable society. We hold the view that the only path to realize a "People's Education for People's Power" is through the implementation of policy documents such as the Freedom Charter, National Development Plan in its entirety.
8. As SADTU, we hold a strong view that the ongoing challenges and problems faced by students and workers in further and higher education institutions in particular TVET and CET Colleges continue to present a risk of a societal catastrophe, the institutionalization and transfer of poverty and create a conducive environment to undermine the gains of

our National Democratic Revolution and the protection, promotion and fulfilment of human rights.

9. As SADTU, we hold a strong view that the ongoing challenges in our universities with regard to free education must be resolved and that the poor students must receive free education. In this regard we call upon the president to release the commission's report on free higher education.
10. We believe that it is now the time that urgent, decisive and sustainable action and concrete steps be taken to address these ongoing problems and the ongoing violation of human rights.
11. As the political head of this sector and in your capacity as a member of Cabinet we call upon you and demand that you take appropriate action and provide decisive leadership to address these issues.
12. We have no doubt that upon deeper reflection, proper analysis and based on the understanding of the primary objectives of our struggle, and subject to clear political will, this situation can be turned around.
13. We remind you of the urgent need to adopt an approach which focusses on the need to address the need of the poor and working class and to design interventions geared towards addressing the needs of the poor and working class. We do not need to remind you that poverty, inequality and unemployment affects the poor and working class more.
14. It is regrettable that eight years of raising our concerns have yielded very little if anything. We have exercised maximum restraint over the eight years that we engaged on these issues. We had the

belief and hope that engagement rather than confrontation would yield positive results and create a proper environment.

15. It is regrettable that we no longer believe and have hope that our approach is assisting in any way. We have now been forced to take this as a measure of last resort to highlight the plight of the poor and working class owing to the material conditions in our institutions and slow (if any) pace of change and transformation for the benefit of the poor and the working class.

16. We wish to state as matter of public record that we decided on this course of action with a heavy heart. We have had to make difficult choices whether to allow this untenable situation to persist or to confront it head-on. We must point it out that our patience and flexibility has now been tested to the extreme. We regard this ongoing state of affairs as an act of provocation against a disciplined work-force. We regard this as an affront to the poor and working class. We therefore say here and now that enough is enough. We want and demand change both in attitude and action now.

17. We have over many years used the bargaining forums to raise our concerns and difficulties. Many obstacles have in the process been put in our way. Most pronounced has been the attitude of the Department to disregard and disrespect collective bargaining forums and systems. This we believe is done deliberately to frustrate our efforts to raise the genuine concerns of our members in particular and to undermine our efforts to influence the so much need transformation.

18. We do not, as progressive trade union want to be forced to choose between the students we teach and our interests. The two are

mutual and are part of the same liberation project. Our struggles are the struggles of our students and our communities.

19. We have therefore taken this difficult decision to take to the streets and highlight the plight of the workers, the students and the communities we serve. We are not just here to advance worker rights. We are here to advance a broader societal interest of which our rights are an inherent part of. The plight of the students of this country and of the workers who continue to be expected to deliver in the face of persistent and unending obstacles created by this lethargic administration, must now be addressed. We make no apologies for that.
20. We remind you that very recently the Constitutional Court has reminded your sister department, the Department of Home Affairs that **Collective Bargaining is a right regardless of whether matters are matters of interest or right.** This must be a reminder to government that you cannot arrogate to yourself the right to decide what should be the subject of collective bargaining or not.
21. We must also remind you that the Constitutional Court has made it clear that the exercise of public power is subject to the constitution and law and that public power cannot be exercised in total disregard of the rights of those affected. The Court has also made it clear that government officials in particular are obliged to exercise their power with respect to our rights. We are here to demand no less than that.
22. We also remind you that section 13 of the LRA is a fundamental organizational right under the principle of freedom of association. **The deliberate bureaucratic inefficiency where your officials without consulting the union changed how subscriptions are remitted**

**based on provincial membership was a direct attack on the union's hard earned organizational right to receive subscriptions.**

23. We call upon you Minister, in the face of this persistent violation of our rights to tell South Africans and the world what you want us to do in the light of this persistent abuse and provocation.

## **COLLECTIVE BARGAINING.**

24. Let us remind you that **collective bargaining is a right and not a privilege.** We therefore **demand** as a starting point the **promotion, protection and fulfilment of this right.** We are therefore not here to plead for our right to bargain but to remind you of your obligation to bargain.

25. Let us also remind you that **you requested the establishment of a bargaining unit which was granted.** It comes to us as a shock that it is **now your department which either disputes the existence of his sub-bargaining unit or refuses to participate herein.**

26. It is regrettable that we have had to have a dispute resolution process regarding collective bargaining because the Department appears to believe that it is not subject to the labour laws of this country and therefore not obliged to engage in collective bargaining.

27. Despite this dispute resolution process and **despite the DHET having concluded a settlement agreement that it was obliged to**

**collective bargaining, the department ignored its own agreement** and went as far as disputing the existence of a collective bargaining unit.

28. **The unilateral change in the date of payment of salaries of TVET College lecturers** which is currently the subject of litigation between the DHET and SADTU amply demonstrates the extent to which this department seeks to provoke and frustrate workers. Instead of engaging in collective bargaining processes, this department is happy and willing to waste taxpayers money to defend its own failure to comply with a settlement agreement it reached with SADTU regarding collective bargaining.

29. It is regrettable that a democratic government can go out of its way to undermine a fundamental right of workers of collective bargaining and take **unilateral totalitarian decisions in total disregard of the rights of workers.**

30. **We therefore demand that:**

30.1. Immediate steps be taken to **ensure effective collective bargaining is restored as agreed** and that the department return to the bargaining forum and engage in good faith on all issues of interest and right.

30.2. The Minister takes **decisive and urgent action against any official of the department responsible for undermining the collective bargaining** process agreed to in the bargaining forums.

30.3. The Minister provides an unequivocal commitment and undertaking to ensure that the department fully respects the agreed and/or statutory collective bargaining structures and processes.

## **CONDITIONS OF SERVICE OF TVET COLLEGE LECTURES AND SUPPORT STAFF.**

31. We reiterate that we are not here to ask for favours regarding the conditions of service of TVET and CET Staff. **We are here to demand full compliance with all the applicable laws governing the conditions of service.**

32. We further reiterate that we are not here to bargain on whether the anomalies and outstanding issues regarding the **conditions of service of TVET and CET staff** must be addressed or not. **We are here to demand answers and reasons for the ongoing failure to give effect to the rights of this category of workers.**

33. We therefore **demand** that:

- 33.1. The Minister ensures that the Department should resolve the **0.5% disparity** in the pay progression between the Lecturers and the rest of the Public Service with immediate effect;
- 33.2. The Minister ensures the payment of Lecturers on correct notches on PERSAL and that **all Lecturers on promotional posts be put on the correct salary notches on PERSAL without the Employer apportioning the pension liability to them.**
- 33.3. The Minister ensure that the principle of equal pay for equal work is applied uniformly. To this end we demand that the **Minister investigate how certain individuals were paid the “top-up” salary, and whether those who received it, received it deservedly so.**
- 33.4. The Minister ensure that the **members be properly allocated per College and Province as per workstations as required by the law** to restore subscriptions deductions.
- 33.5. Further that the **Minister takes action against the officials who undermine the organizational right of the union on matters of stop order facilities.**
- 33.6. The Minister ensure **the full implementation of the arbitration award on the pay progression** and cause those who undermine the dispute resolution process to account.

## **CONDITIONS IN CET COLLEGES AND CONDITIONS OF SERVICE FOR CET STAFF**

34. We reiterate that we are not here to ask or bargain whether the conditions in CET Colleges must be improved and/or whether the conditions of service of CET Lecturers and others staff must be addressed or not. We have repeatedly raised these issues over a period of time. We are here to get the answers which appear elusive and to remind the Minister that the time is now that the issues we raised must now be addressed.

35. We therefore demand, as a starting point **progress report and feedback on the issues we raised on numerous occasions** and progress report on steps taken by the Minister against those who failed to do their work in this regard.

36. We further demand as a starting point that **the Minister provides cogent reasons why CET Lecturers do not enjoy the full protection of all the laws including the Labour Relations Act, the Basic Conditions of Employment and Public Service Act** which apply to and protect all other government employees and **why CET Lecturers are treated unequally and differently from other government employees.**

37. We further reiterate our demand that the Minister as a matter of extreme urgency ensure that:

37.1. **All actions and decisions taken by his department in contravention of applicable laws are reversed** and the affected employees are put in a position they would have been had the laws been adhered to. In particular the Minister must:

37.1.1. **Take urgent steps to ensure that the salaries and conditions of service of all CET Lectures which have been unilaterally changed and made less favourable in contravention of the Basic Conditions of Employment Act are corrected.** This to include the unlawful reduction of the salaries of such lecturers and the downward change in their conditions of service to make them less favourable.

37.1.2. Take urgent steps to **ensure uniformity in the salaries and other conditions of service of all CET Lecturers across all provinces** and ensure that all CET Lecturers receive equal pay for equal work.

37.2. Steps are taken to ensure that the **migration process and the permanent appointment of all CET Lecturers is concluded within 30 days** hereof and that **all Lecturers are permanently appointed** and enjoy the same terms and conditions of employment as other government employees.

38. We further demand that the **Minister take urgent steps in consultation with organized labour to finalise the policy on norms and standards for CET College funding** and to develop an implementation plan thereof.

39. **Investigation at Motheo TVET and Buffalo City Colleges**

The Minister must **release the final report to the investigation conducted at Motheo College** in 2016; In respect of that

We further call for the **immediate suspension of the Principal of Motheo College** as she was immensely implicated during the investigation and hampered on the smooth process thereof;

The Minister needs to note that her continued presence at the college will do more damage to the delivery of quality education at the college;

We call on the Minister to **conclude and release the report of the investigation conducted at the Buffalo City TVET College in 2016 regarding the disparities in salaries of Lecturers at the College;**

NB. The Minister needs to note that after twenty-one (21) days of no positive action on the 0,5% parity, the union shall be continuing to ballot members to vote on the strike action.

**Issued by SADTU:**

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Received on behalf of the office of the Minister of DHET**

Name: \_\_\_\_\_

Date:

\_\_\_\_\_

Signature: \_\_\_\_\_

