



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

MARKING GUIDELINE

NATIONAL CERTIFICATE

LABOUR RELATIONS N6

14 June 2024

This marking guideline consists of 12 pages.

SECTION A

QUESTION 1

1.1	1.1.1	Substantive agreement	(10 × 2)	(20)
	1.1.2	Centralised bargaining		
	1.1.3	Wildcat strike		
	1.1.4	Procedure		
	1.1.5	Code		
	1.1.6	Termination of service		
	1.1.7	Conflict at work		
	1.1.8	Dispute of interest		
	1.1.9	Conciliation		
	1.1.10	Role of the mediator		
1.2	1.2.1	True	(10 × 2)	(20) [40]
	1.2.2	True		
	1.2.3	False		
	1.2.4	False		
	1.2.5	True		
	1.2.6	True		
	1.2.7	True		
	1.2.8	False		
	1.2.9	False		
	1.2.10	True		
TOTAL SECTION A:				40

SECTION B

QUESTION 2

- 2.1
- Is an effective method for individual employees to voice a grievance (i.e. it is a communication channel)
 - Ensure that complaints are effectively dealt with by management.
 - Prevents a grievance from developing into a more serious issue such as a strike, increasing absenteeism, high labour turnover, an increase in accidents, and a decrease in group spirit and teamwork
 - Develops a culture in which problems between management and employees can be resolved internally
 - Creates the opportunity for upward communication by employees (5 × 2) (10)
- 2.2
- Step 1 – the employee raises a complaint verbally with the immediate supervisor: The employee must be provided with a solution within two working days. The supervisor must provide the employee with a fair solution.
- Step 2 – if there is no solution in step 1, the employee visits the supervisor with a representative within two working days with a formal written grievance to the supervisor or the next level of management, such as the section head. The representative plays an important role and acts in a supportive and advisory capacity. He/she can persuade the supervisor to make a decision or persuade the employee to accept a solution.
- Step 3 – if there is no solution in step 2, the employee's written grievance together with the report of the supervisor or section head is forwarded to the next level of management/manager. The grievance form is completed and handed to the head of department. The head of department must investigate the grievance and hold discussions with all parties.
- Step 4 – if there is no solution in step 3, the employee may escalate the matter to a higher level of authority within four working days; a grievance committee can be informed to ensure fair decision. The HR manager or a senior member of HR department may be invited to sit in on the discussions.
- Step 5 – if there is no solution in step 4, the employee informs top management of the situation within five working days. If no proper solution is provided, the employee can then follow the internal route of declaring a dispute against management with the help of a trade union, or the external route can be followed. (5 × 2) (10)

- 2.3
- Sound human relations and communication are inseparable. Without good communication, there cannot be healthy labour relations.
 - Labour relations and the communication process are interwoven.
 - A lack of open communication channels results in distrust, grapevine communication and distortion of information.
 - Communication should be a two-way process in which the employer communicates with the employee and the employee is given the opportunity to communicate with the employer. (4 × 2) (8)
- 2.4
- Level 1: Supervisor unhappy with the employee. Minor transgression. This is equal to a formal verbal warning.
- Level 2: Supervisor can give the employee a formal written warning where the formal verbal warning did not have the desired effect.
- Level 3: Supervisor still not satisfied — a second written warning can be given. A final warning can follow. (Any relevant answers 3 × 1) (3)
- 2.5
- CCMA
 - An accredited bargaining council
 - The labour court
 - Labour appeal court
 - IMSSA (Independent Mediation Service of South Africa)
 - Private agencies (Any 3 × 1) (3)
- 2.6
- They do not lose their wages as easily as in a strike.
 - It is more difficult for managers to take action against them.
 - They cannot be replaced by temporary workers.
 - If production can be accurately measured, then wages may be decreased for below-average production. (Any 3 × 2) (6)

[40]

QUESTION 3

- 3.1
- Tries to resolve dispute through conciliation
 - Helps to form workplace forums
 - Publishes information on its activities and guidelines for dispute resolutions
 - Advises on getting legal advice
 - Determines dispute resolution fees, if applicable
 - Makes rules to regulate the meeting procedure of its committees
 - Publishes these rules in the *Government Gazette*. (Any 4 × 2) (8)

- 3.2
- To avoid the escalation of conflict that can become disruptive
 - To resolve issues in dispute at the earliest possible time before third-party intervention
 - To collect information about the issue and explore different options for handling it
 - To arrive at a solution which both parties can accept
 - To avoid an outcome that results in a win-lose situation (Any 4 × 2) (8)
- 3.3
- 3.3.1 The party is not yet entitled to something. Interests are subject to a process of collective bargaining or negotiations. (2)
- 3.3.2 Certain wage rate, improved conditions of employment, higher wage, recognition agreement and changes in shift patterns (2)
- 3.3.3 Conciliation, mediation, arbitration (2)
- 3.4
- An unresolved conflict may end in industrial action.
 - When conflict exists in the workplace, productivity is hindered.
 - The atmosphere may be tense.
 - An unpleasant environment is created.
 - Customer satisfaction is compromised. (Any 4 × 1) (4)
- 3.5
- A continuous disagreement between an employer and employee or their union(s)
 - Regarding a matter of common interest
 - Or any work-related factor affecting their relationship (3 × 2) (6)
- 3.6
- To correct unacceptable behaviour
 - To adjust unacceptable behaviour
 - To assist the employee in understanding the nature of acceptable and desirable behaviour
 - To adjust training
 - To make employees aware of the rules and consequences of transgressing (breaching these rules) (4 × 2) (8)
- [40]**

QUESTION 4

4.1

- A voluntary process
- Initiated by trade union
- Dynamic in nature
- Involves a two-way process of pressure and counter-pressure (employer and employee)
- A method of reconciling conflicting interest
- A tool that is used with the objective of reaching an agreement
- A mechanism to improve wages and working conditions
- A basic interdependency and commonality of interest through which management representatives and trade union representatives make collective agreements

(Any TWO)

(2)

4.2

Decentralised bargaining can be formal or informal.

- Can be shop floor bargaining
- Can be bargaining with smaller groups
- Individual bargaining can also take place.
- Trade union negotiates directly with the employer.
- Trade unions must first be recognised by the employer by means of a recognition agreement.
- Decentralised bargaining takes place at the workplace.
- A collective agreement reached binds only the employer of that specific business and not the whole industry.
- A dispute that may happen during collective bargaining is referred to the CCMA.
- Trade unions prefer to bargain on this level.
- The aim is to bargain for an agreement on issues, e.g. terms and conditions of employment.
- The agreement sets minimum standards for a specific employer.
- Smaller businesses and trade unions have a say about what happens in their own workplace.
- Detailed specific issues are the subject of negotiations.
- Union members have more input and are more personally involved.
- Aim is to bargain for an agreement on procedural issues.

(Any TWO)

Centralised bargaining:

- Is also known as indirect/formal bargaining.
- A group of employers in the same industry forms a bargaining council.
- Only registered employers and trade unions may form a bargaining council.
- A bargaining council consists of an equal number of employers and trade unions.
- They normally negotiate on aspects that influence the whole industry, for example, wages and working conditions, in other words, substantive issues.
- All employers that belong to the bargaining council are bound by an agreement reached.
- Centralised bargaining takes place at a central point.
- A dispute that may happen during collective bargaining is referred to the bargaining council which has jurisdiction in the specific area.
- A recognition agreement must be in place.
- Trade unions will bargain on behalf of groups of individuals.
- Agreements are reached on general issues.
- It means that everyone is subject to the same rules when they are employed in the same industry.
- It takes place at sector/industry level.

(Any TWO) (2 × 2)

(4)

4.3

- Sufficient representation — a sufficiently representative trade union is hard to define and “sufficiently representative” will vary from employer to employer. When a trade union is a threat to the operations of an employer, it has enough strength to harm the employer and is therefore sufficiently representative of a specific group of employees (degree of representation).
- Trade unions with bigger numbers are usually more powerful, but this is not always the case. Majority trade union means that 50% + 1 of the employees have joined a specific union.
- Influence — the leaders of the trade union must be able to activate/motivate/mobilise their members in order to create solidarity among members (sufficient power and influence).
- Organisation — the trade union must be able to organise itself by way of well-managed meetings.
- Registration — an unregistered trade union is only protected by common law. A registered trade union should adhere to the requirements of the LRA in order to obtain registration. This indicates that the trade union is well organised.
- Number — the number of employees joining the trade union. The union must have enough members and their membership must be fully paid up.
- The type of employees will play an important role. #

(Any 5 × 2)

(10)

- 4.4
- It strengthens the position of the manager/supervisor as management's decisions are communicated to workers.
 - It enables the manager/supervisor to be perceived positively by his or her subordinates.
 - It reduces the negative effects of grapevine communication.
 - It reduces misunderstandings.
 - The system allows for feedback.
 - It maintains a balanced, objective perspective on communication.
 - It increases cooperation and employee commitment. (Any 4 × 2) (8)
- 4.5
- 4.5.1 Distributive bargaining
- Parties adopt opposing positions.
 - Items are seen as issues.
 - Issues are usually economic in nature, e.g. wages, and annual leave.
 - This is a win-win situation.
 - Parties make use of power tactics.
 - Each party strives towards an outcome favourable to itself.
- 4.5.2 Integrative bargaining
- Parties have the same problem. They are willing to cooperate.
 - Problems include aspects like job security, procedures, housing, and education, better training programmes and better job evaluation methods.
 - Items are seen as problems.
 - This is a win-win situation.
 - Parties search for alternative solutions.
 - Bargaining takes place in a climate of trust and support.
- 4.5.3 Attitudinal structuring
- This is a strategy to facilitate bargaining rather than a method of bargaining.
 - It sometimes takes place before the actual bargaining.
 - It comprises efforts by one party to change the direction or course of negotiations by changing the relationship between the parties.
 - It attempts, for instance, to replace hostility with friendliness. The aim is to create a climate of integrative bargaining.

4.5.4 Intra-organisational

- This is undertaken by members of the same organisation in order to achieve a unified approach. For instance, the trade union members bargain with one another to form a united front against the employer.
- Consensus needs to be reached regarding targets, resistance points, and areas of concession.
- This is a process of continual adjustment and readjustment which takes place within the ranks of a particular party both before and during the conducting of negotiations.
- The aim is to resolve internal conflict.

(Any 4 × 2)

(8)

4.6

- Economic strikes – Can only occur in connection with contract negotiations, working conditions and demanding better wages.
- Wildcat strikes – Conducted by groups of workers without the authority and consent of the union. It is triggered by an incident on a shop floor.
- Sympathy strike/Secondary strike – Refusal by one union to work for its employer to pressure another (or the same) employer in its dealings with a second union. Other unions strike in support of initiating trade unions, customers, suppliers or close associates of the primary party.
- Recognition strike – is used to force the employer to recognise and deal with the union.
- Sit-in strike – occurs when a group of workers sit-in at their work location, refusing to work and demanding to discuss their grievances.
- Rotating strike – occurs in a certain section at a given time and then moves on to another section.
- Expected strike – is an expected and not a surprise. It may be protected (legal) or unprotected (illegal).
- Strategic strike – only a few employees in key positions or strategic sections strike.
- Solidarity strike – Workers stop work out of sympathy for one or more colleagues who was/were treated unfairly.
- General strike – This is a general protest by employees against certain working conditions that can bring all economic activities to a standstill.

(Any 4 × 2)

(8)

[40]

QUESTION 5

- 5.1
- To ensure productivity
 - To avoid negative emotions
 - To avoid a hostile work environment
 - To avoid people looking for another job (avoid low morale)
 - To avoid disruption of sales
 - To avoid losing business
 - To keep communication channels open
 - To avoid the grapevine or rumours
 - To enhance group performance
 - To ensure a high morale
 - It builds cooperation among people.
 - It helps people develop understanding and skills.
 - It helps people to learn how to recognise and benefit from their differences.
 - It helps to raise and solve problems. (Any 5 × 1) (5)
- 5.2
- Different methods of pursuing the objectives: people may differ in the ways they pursue their own or organisation's objectives. For example, some employees may confront management, others might negotiate, yet others may strike.
 - Lack of commitment: conflict will arise where groups are not aiming at one goal, and this will result in chaos.
 - Difference in attitudes/personal values, goals and ideologies: wherever there is a difference in attitudes among group members, conflict will arise.
 - Information differences/misunderstanding/poor understanding: the way in which information is interpreted may cause conflict.
 - Semantic differences: these result in misinterpretation. They can be mainly due to cultural differences and not errors in translation as such.
 - Blocked communication channels: if employees do not have a channel by means of which to raise their grievances, or insufficient feedback is given, this can lead to conflict.
 - Divergent value structures: these are moral and ethical values and are directly linked to the background of the individual, such as culture, education and religion. (Any 5 × 2) (10)
- 5.3
- A state of disagreement or disharmony between persons or ideas.
 - It is an interaction between two or more persons or groups.
 - It is dynamic.
 - It has a competitive, negative element since the available means and resources cannot be divided equally.
 - It reflects negative emotional characteristics.
 - It comprises interaction that can be either verbal or non-verbal or both. (Any 5 × 1) (5)

- 5.4 5.4.1 Compromising: lose-lose situation. One seeks partial satisfaction for both parties (i.e. look for the middle ground position). Result in mutual sacrifice.
- 5.4.2 Collaborating: win-win situation. Both parties win. Assertive, cooperative. An attempt is made to fully address concerns of both parties.
- (2 × 4) (8)
- 5.5
 - Allow the employee to state his case.
 - Ask open-ended questions.
 - Concentrate on facts.
 - Be calm, realistic and avoid an outburst.
 - Ask the employee for suggestions for possible solutions.
 - Discuss pros and cons of all possible solutions or alternatives.
 - Try to reach an agreement with a specific solution.
 - Set a date for a future follow-up interview.
 - Further the self-image of the employee.
 - Evaluate the solution agreed upon.
- (Any 6 × 1) (6)
- 5.6 An appeal hearing is an in-house procedure which gives a guilty party who is dissatisfied with the outcome of the hearing another chance for his/her case to be evaluated.
- (2)
- 5.7
 - What went wrong: is a rule broken or a standard not achieved?
 - Who is involved?
 - Is there enough evidence to prove guilty?
 - Is it possible to lay a charge?
 - What is a charge?
 - How will the charge read?
- (Any 4 × 1) (4)
- [40]**

QUESTION 6

- 6.1
 - Refusal to work
 - Failure to continue working
 - Failure to resume work
 - Refusal to comply with the terms of the contract of employment
 - Temporary, collective withholding of labour
 - To stop or delay the continuation of business
 - To force the employer to take note of the demands of the employee
- (Any 4 × 1) (4)

- 6.2
- If there is no agreed dispute resolution procedure, the procedures of the LRA must be followed, which include the following:
 - The issue in dispute must be referred in writing to the CCMA or to a bargaining or statutory council.
 - The CCMA or statutory council must try to settle the dispute by conciliation within 30 days.
 - If this fails, the CCMA or the council must issue a certificate stating that the dispute has not been resolved.
 - At least 48 hours' notice in writing of the proposed strike must be given to the employer, or seven days if the State is the employer. (Any 4 × 2) (8)
- 6.3
- To persuade other workers not to cross the picket line
 - To persuade suppliers and customers not to enter the premises (to discourage them to deal with the employer)
 - To inform the public and other unions that a labour dispute is in progress
 - To block the facility so that the plant cannot operate during dispute (4 × 2) (8)
- 6.4
- Reaching substantive agreements
 - Reaching procedural agreements
 - Providing a structure for bargaining
 - Serves as guidelines for both parties
 - May lead to a breakdown in relationship where bargaining is unsuccessful
 - Collective agreement reached will provide structures and will serve as guidelines for both parties.
 - The parties involved are expected to abide by the terms of such agreements. (Any 6 × 2) (12)
- 6.5
- Economic forces
 - Political influences
 - The legal environment
 - Social influences
 - Technological influences (5)
- 6.6
- Third-party intervention
 - The arbitrator makes a decision/provides a solution and thus terminates the dispute between the parties.
 - The intervention can be voluntary. (3)
- [40]

TOTAL SECTION B: 160
GRAND TOTAL: 200