

# The Legal Status of Teachers in the Netherlands

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The aim of this contribution is to give an overview of the legal status of teachers in The Netherlands. In the subsequent paragraphs, we will discuss topics such as the status, working conditions and responsibilities of teachers. Teachers in primary and secondary education have a somewhat different position than lecturers in higher education. Improving the professional and moral status of the teacher has been a cornerstone in the education policy for the successive governments; the economic crisis however has halted the process.

## I. Dutch education system and categories of teachers

Before we outline the position of teachers, it is necessary to briefly outline the Dutch Education system.

One of the key features of the Dutch education system, guaranteed under article 23 of the Constitution, is freedom of education, i.e. the freedom to found schools (freedom of establishment), to organise the teaching in schools (freedom of organisation of teaching) and to determine the principles on which they are based (freedom of conviction). Citizens have the right to found schools that are eligible for state funding and to provide teaching based on religious, ideological or educational beliefs. The Constitution therefore assumes a dual structure of state funded schools: public vs private (mostly denominational) education. As a result there are both governmentally run and not governmentally run schools in the Netherlands. Governmentally run schools are generally subject to public law and are in most cases governed by a foundation, under the supervision of the municipal authorities; they provide education on behalf of the state. Not governmentally run schools are subject to private law and are state-funded although not set up and/or supervised by the state; they are governed by the board of the association or foundation that set them up.

The Dutch education system is divided into different levels. Accordingly, there are different categories of teachers. First there is Pre-school and early childhood education focusing on children aged 2.5 to 5 who are in risk of developing an educational disadvantage. Although the age of compulsory education starts at 5, most Dutch children enter primary school in the year they turn 4. Primary education lasts eight years. Pupils who require specialized care and support are accommodated at special schools. On average, children are 12 years of age when they enter secondary education. This sector offers three levels: pre-vocational secondary education (VMBO), general secondary education (HAVO) and pre-university education (VWO). In addition, specific groups of pupils have the option of transferring to elementary vocational training (PRO) or secondary special education (VSO). When leaving VMBO at an average age of 16, pupils may transfer to secondary vocational education (MBO). Those who have completed the theoretical programme of VMBO can also choose to transfer to HAVO. HAVO is intended as preparation for professional higher education (HBO). VWO is intended to prepare students for academic higher education (WO). In practice, however, a lot of VWO graduates transfer to HBO. The four-year HBO programmes lead to the award of a bachelor's degree. In WO, a bachelor's degree can be earned in three years. An academic master's degree programme takes either one or two years, dependant on the specific programme.

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The legal status of teachers, *as far as education law is concerned*, is governed by different laws following the above mentioned division of education levels, i.e. the Adult and Vocational Education Act (WEB), the Higher Education and Research Act (WHW), the Primary Education Act (WPO) and the General Secondary Education Act (WVO). Outside higher education, the requirements for the appointment of teachers are mentioned in each act. These requirements generally concern previous training (qualifications) and personal integrity (certificate of good conduct). See paragraph 2. Outside higher education law, each act addresses the position of teachers as educative professionals by prescribing their employers to comply in their personnel management with so called “competency requirements” (bekwaamheidseisen) of every teacher. That means, that these norms have to play a role in the school’s policy to reward, to situate, to promote or to dismiss teachers; all to the discretion of the school board. These demands of competency, which are elaborated in a Royal Decree, can be divided into norms with respect to *pedagogical and didactical* and those with respect to *professional* knowledge and skills. See also paragraph 11.

The position of professionals in higher education is essentially different from that of teachers in primary, secondary, and vocational schools. In the universities and the non university higher education institutions (in the following: non university HEI) professional independence is explicitly guaranteed. Article 6 of the Higher education and research act (WHW) holds a written guarantee by stating that academic freedom shall be respected within the institutions. In theory, academic freedom is considered to comprise the teacher’s freedom of research, such as the freedom to initiate research topics and to carry out research following personal insights, and his or her freedom to propound and publish the results of scientific research without external interference. It also comprises the student’s freedom of choice of the educational programme and the freedom not to be indoctrinated by teachers. In practice, there is a difference in the way academic freedom of teachers is protected between universities and non university HEI. Because of the fact that the qualitative requirements of teachers differ between the two sub-sectors, at the cost of non university HE, the level of protection in the latter is actually lower than in the university sector. Every university professor is, according to the WHW: “pre-eminently responsible for the development of his or her field of study and for the content of education in that field”. It means that government; university board, faculty board or other external forces may not interfere in such a way that this responsibility has become meaningless or has been taken over. A similar provision for teachers in non university HEI is lacking.

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A special category we should mention here are the teachers giving religious education.<sup>1</sup> Teachers of religion in nongovernmental (denominational) schools are appointed by the school board; the general requirements therefore do not differ from those for other teachers. They usually have a specialist diploma to teach religion. In public schools, they are trained and paid by the churches or ‘missionary bodies’ (parents also can opt in for humanistic education). They do have to meet some qualifications, as well as a certificate of good behaviour, but their position is different with respect to their legal status. Their position is at stake, because the current government plans to cut national funding for religious or philosophical education in government schools, to take effect in 2015.

## II. Required qualifications and diplomas for various teachers

Primary school teachers completed a four-year course at a non university HEI and can use the Bachelor of Education title. They are qualified to teach all subjects, (except physical education) and all age groups at primary level and in special education at both primary and secondary level. Secondary school, adult and vocational education teachers are trained at non university HEI and universities. Non university HE teacher education courses (worth 240 ECTS for a bachelor’s degree and 90 ECTS for a master’s degree) for secondary school teachers lead to either a grade one or grade two qualification and give access to the titles Bachelor of Education (grade two qualification) or Master of Education (grade one qualification). Courses are available in general subjects, arts subjects, technical subjects and agricultural

1 See Luce Pepin (2009), Teaching about religions in European School Systems. Policy issues and trends, NEF Initiative on Religion and Democracy in Europe. London: Alliance publishing trust, p. 87.

subjects. Students specialise in one subject. Non university HE teacher education courses cover both education in a field of study and aspects of teaching in general. Grade two teachers are qualified to teach the first three years of HAVO and VWO and all years of VMBO, secondary vocational education and adult education. Grade one teachers are qualified to teach at all levels of secondary education, including the last two or three years of HAVO and VWO respectively.

University graduates with a 'doctoral' or master's degree can take a postgraduate teacher education course (ULO) leading to a grade one qualification. Courses are available in all subjects of the curriculum of secondary education. Students specialise in one subject, sometimes with an extra qualification to teach a subject like general science or culture and the arts. Graduates from university-based teacher training courses have a grade one qualification. They may teach at all levels of secondary education.

Teachers in higher education don't have to meet legal standards. As a form of by-law however, institutions and faculties often demand that for a permanent position, teachers follow courses on 'pedagogical development' and training in teaching skills.

The different sectoral laws don't mention Dutch citizenship or nationality as a prerequisite to be appointed. This kind of regulation would probably be incompatible with European Law, given the fact that discrimination on the basis of nationality is forbidden (article 18 TFEU). There is however the requirement, following article 3a of the Primary Education Act (and in the other Education Laws) of a Certificate of Good Conduct (Verklaring omtrent het gedrag or VOG). This is a declaration which states that the employee does not have a criminal record relevant for his work. The teacher may apply for a Certificate of Good Conduct online or in the municipality in which he is registered. The certificate is issued by the Ministry of Security and Justice. A Certificate of Good Conduct is compulsory for teachers, but also for cleaners or employees working in after school care facilities.

### III. The nature of the teacher's employment contract

Accordingly to the dual system enshrined in the Constitution, the position of teachers in government and non government schools is different. In public education, the teaching staff consists of civil servants<sup>2</sup> and the administrative court has jurisdiction. The staff in private education works on contractual basis, and is subject to different rules regarding appointment and dismissal than their colleagues in public education. The legal status of civil servants is different from the conditions in the private sector. Government employment is regulated by administrative law, for example, whereas employment in the private sector is subject to private (labor) law. Civil servants are not employed on a contractual basis (as is the case with employees in the private sector), but on an unilateral appointment by the competent authority. Dismissal can be fought by appealing to the administrative court and the Central Appeals Tribunal. In private education the civil judge is the competent judicial body. The great majority of teaching staff (about 70 percent) works in private education, and therefore has a contract governed by private law. There are plans to standardize the legal status of civil servants. Legislation governing civil servants will be brought in line with employment law. The transition from job to job must be subject to the same conditions for civil servants as for workers in the private sector. Also, members of the House of Representatives have filed an initiative on this issue. Their proposal for a bill was put before the House on 3 November 2010. The initiative puts an end to formal appointments and legal proceedings before the administrative court. Due to the fact that there is now a new government and a new coalition, which seeks to have an all encompassing agreement with the unions (on improving the economy), these plans have been halted.

The 'dual system' also applies in higher education. Staff in the ten government Universities consists of public servants within the meaning of the Central and Local Government Personnel Act. The same does not apply to staff in the three private Universities, all the non university HEI and all the private

2 See Ministry of the Interior and Kingdom Relations (2010), for an extensive description of the legal status of civil servants (and thus: teachers working at a public school or university).

institutions. They fall under the provisions of labor law regulations insofar as the relevant educational legislation and the regulations based thereon do not differ from these provisions. Private sector staff can be deemed to share the status of public sector personnel in respect of those conditions of service that are determined by the public Universities. They are essentially free to recruit their own academic staff. In addition to civil service and national labor laws, Dutch Universities also negotiate separate labor contracts for the sector, which include specific rules for dismissal.

In the Netherlands there is no law protecting academic tenure, and although professors had, de facto, tenure owing to their employment status as civil servants, this situation is changing as greater institutional autonomy brings with it a shift towards institutional and individual contracts for academic staff.

Employment relationships in the Netherlands are mostly governed by collective labor agreements (hereinafter abbreviated as: CLA), by individual employment agreements and, if any, by the internal regulations of the employer. Much of Dutch employment law, however, is mandatory. The conditions of service and legal status of education personnel in both the public and private sectors are determined partly at supra sectoral and sectoral level and partly at decentralised and institutional level. Employers' organisations and trade unions in the education sector negotiate at decentralised level. The competent authority and the federations of public service and education unions representing the staff of the institutions for which that particular competent authority is responsible negotiate at institutional level. Except in the primary sector, some aspects of pay and working conditions are now regulated per sector, as provided for by various education acts and sector-specific framework decrees. The social partners (employers' organisations and trade unions) conclude collective agreements without the mediation of the Minister of Education, Culture and Science. However, the minister still has a big influence on the outcome of negotiations, as the minister controls and fixes the overall budget of educational institutions.

#### **IV. Employer of the teacher**

All schools have a legally recognised competent authority, also referred to as the school board or Executive Board. The competent authority administers and manages the school or schools for which it is responsible. Administration entails looking after the material aspects of the organisation of a school and, in particular, meeting the running costs and personnel costs. Management involves personnel matters such as appointment and dismissal of staff etc. The competent authority is responsible for what goes on in the school insofar as this is governed by statutory regulations. Some of its powers may be delegated to the school head or headmaster, but responsibility continues to lie with the competent authority. The competent authority of private schools is an administrative body governed by private law. As a condition of funding from the public purse, the law lays down that private educational establishments must be maintained by a legal person with full legal competence, whose aim is to provide education, without any profit-making motive.

The competent authority or the Executive Board is therefore by law designated for the hiring, firing and disciplining of staff. A distinctive feature of the Dutch education system is that it combines a centralised education policy with the decentralised administration and management of schools. With due regard to the provisions of the Constitution, central government creates conditions for enabling education through legislation, which applies to both governmentally and not governmentally run institutions. Schools receive an annual budget from which all staff- and- utilization - costs must be met. The amount allocated is based on fixed rates for each cost item. Within the scope afforded by law, schools may decide themselves how they choose to spend the block grant. Block grant funding allows the school board freedom in deciding how resources are spent (to the appointment of new personnel or to exploitation) and also in negotiating the pay and conditions of staff. Schools receive a fixed amount per pupil together with a fixed amount per school (flat-rate basic grant). Roughly, about 70% of all

costs is spent on personnel. It's therefore the competent authority who pays the salary of the teacher, but indirect off course, the State via the Ministry of Education.

## V. Recruitment and legal position of teachers in a school

The collective labor agreements in the different educational sectors (primary education, secondary education, vocational training, non university HEI and universities) are intended to implement the provisions in the sectoral education law, such as section 4.5 of the Higher Education and Academic Research Act (WHW), insofar as agreed at the branch of industry level. The CLA's lay down the regulations on employment conditions for all Dutch educational institutions, and apply directly to non government (state funded) schools and universities as a CLA within the meaning of the Collective Labor Agreement Act. They formally apply to the labor relations within government institutions by decision of their boards.

In all of the CLA's, a chapter is dedicated to personnel management, with regulations concerning the employment contract and staff policy instruments, and the possibility of disciplinary measures and suspension. When recruiting and selecting, the employer has to act in accordance with the code of the Dutch Association for Staff Policies. The employer can require a medical examination. Also, one of the articles in the Collective Labor agreement stipulates: "Within the recruitment and selection policy, the employer shall pursue an incentive policy aimed at women, the occupationally disabled, foreigners and other employee groups in a disadvantaged or otherwise vulnerable position" (f.i. article 6.3 of the CLA for the Universities). The employer can establish appointment criteria for the different job profiles of academic staff. The person involved must meet these criteria in order to be eligible for an employment contract (article 6.4 of the CLA of universities).

## VI. Obtaining a permanent position

Many teachers in primary and secondary education don't get a permanent position right away; usually they are first hired for a provisional appointment for a year. Often teachers also start their career as a temporary replacement teacher (f.i. when a teacher is pregnant or on sick leave). According to the labor laws, a temporary appointment can be extended for up to three times, after that, the employer has to either end the contract with the teacher, or give him a permanent position (Civil Law Book Book 7, article 768a).

The CLA for the universities also contains a provision on tenure track (Article 6.5a). Tenure track is understood to mean the formally established procedure towards permanent employment for academic staff. Universities should have a procedure how the tenure track process can lead to employment for an indefinite period of time in an academic position; the duration of the process; the assessment procedure and assessment criteria and the consequences of a positive or negative assessment. There should also be made provisions in cases like pregnancy and maternity leave or a long-term period of illness or occupational disability.

An employee with a temporary employment contract is deemed to be dismissed when the term of the employment contract has expired. Teachers with a permanent position have a guarantee under the applicable CLA that the employer can only terminate the employment contract based on reasonable grounds. Notices must be given in writing, supported with reasons and with due observance of the applicable notice period. If the employer has the intention to terminate the employment contract due to employee's incompetence or unsuitability, the employer must investigate whether other suitable work is available for the employee, unless the shortcomings can be attributed to faults or actions on the part of the employee

Teachers who are appointed at non government (state funded) schools in primary and secondary education (f.i. regulated in article 59 section 2 Primary Education Act), sign a so called ‘document of appointment’ (Akte van Aanstelling), a contract which contains provisions such as: the effective date of the appointment; the capacity in which the person is appointed; the size of the job; determining whether the appointment is permanent or temporary employment and place in the latter case, the grounds for the temporary nature and duration of the appointment.

## VII. Career possibilities and wages

Teachers in the Netherlands can progress through various pay grades as well as be promoted to higher-ranked positions within the school. Teachers can become deputy head teachers, head teachers, principals and/or school managers. Teachers who choose to remain in the classroom for their entire career may earn seniority through professional development and experience, and can increase their initial salary by more than 75% over their career. Because schools in the Netherlands have a great deal of autonomy, government schools and non government schools as well, each school’s managerial staff and school board has almost total control over the school’s staff and their promotion opportunities. The Ministry of Education only requires that teachers be licensed in order to be hired at a government-funded school.

In primary education, teachers start with an annual salary around 37,000 dollar, up till 53,000 dollar at end of their career. In secondary education these figures are 38,000 for a teacher just graduated to 66,000 dollar after 10-15 years of experience.<sup>3</sup>

## VIII. Transfer to another school

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The law states that the teacher will be in the general service of the competent authority. He or she is therefore not appointed at a specific school, but has a general appointment for all of the schools governed by the board. The document of appointment contains also provisions and grounds for suspension, dismissal and disciplinary actions against teachers. As mentioned earlier, teachers in government schools don’t have a contract, they are appointed by the public authority which governs the government school, yet, in practice, the same rules apply to them.

When it comes to transferal to another school (voluntarily or involuntarily) and the conditions under which transfer to another school is possible, again, the CLA is the central document. In principle, transfer of the employee has to have his or her consent. Involuntary transfer of the teacher from one to another institution of the employer (which is the school board) is only possible when there is a teacher shortage or a surplus in a school, in case of a conflict situation (collaboration with colleagues is no longer possible), in case of dysfunction, or ‘named by the employer in other weighty circumstances’ (article 10.6 CLA Primary Education).

In the CLA applicable in secondary education, the employer who proposes to a teacher another workplace has to consult with the employee to review the conditions under which the transfer will take place. The agreements have to be documented (art.17.2 CAO VO). The CLA also states that possible travel expenses are reimbursed and the teacher has the right to appeal the decision regarding the transfer to another school.

3 OECD (2012), Education at a Glance 2012: OECD Indicators, OECD Publishing <http://dx.doi.org/10.1787/eag-2012-en>, p.465

## IX. A part-time job in education

Part time jobs are quite regular in the Netherlands. In the Netherlands almost 40 per cent of the employed labor-force works part-time, while in the European Union less than 20 per cent works in part-time jobs.<sup>4</sup> Part-time work is, also in education, especially prevalent among women. Working part time is protected by law. Two laws in particular are relevant to part-time workers: the Prohibition of Discrimination by Working Hours Act (*Wet Verbod onderscheid arbeidsduur*, WVOA) and the Adjustment of Working Hours Act (*Wet Aanpassing Arbeidsduur*, WAA). This last law entitles employees the right, be it under certain conditions, to unilaterally alter the terms of an already existing employment contract.

## X. Combining jobs

In general, there are not many teachers in primary and secondary education, or in vocational education, working as a self employed person. Most of the teachers work as employees. Ancillary activities, paid or not-paid can be forbidden by the employer, according to the CLA (see f.i art. 11.3 CLA primary education). Thus, also voluntary jobs can be excluded, when there is reason to believe that the activity of the employee is in conflict with the interest of the institution.

## XI. Training and maintaining skills

The CLA's contain provisions concerning schooling and in-service training. Keeping a close eye on the employee's knowledge and skills is recognized in the CLA's as an aspect of Human Resource Policy of vital importance, also to preserve, and if possible strengthen, the employee's opportunities on the labor market, both within and outside the education sector as well as to ensure the employee's knowledge and skills meet the requirements of the employer. Maintaining this knowledge and skills at the desired level and further developing it is a joint responsibility and obligation of the employer and the employee.

The law has also provisions on maintenance of qualifications. Teacher competency documents and a register of teachers are in the eyes of the government valuable instruments that can be used to help improve teacher quality. The Education Professions Act (*Wet beroepen in het onderwijs*) has been in force since August 2006. This legislation, which altered different sectoral education laws, requires the competent authority to maintain a teacher competency document for each individual teacher. The teacher competency document details the teacher's competencies and the activities aimed at maintaining and improving these competencies. The use of teacher competency documents is far from ubiquitous, however. In 2011, 42 percent of teachers in primary education had a teacher competency document.<sup>5</sup> This figure was roughly 25 percent for teachers in secondary education and senior secondary vocational education. Teachers do actively work on maintaining their professional competencies, but the substantive relationship with the competency standards for teachers is often merely implicit or lacking altogether. The government plans to establish a system of professional registration. Professional registration should give an impulse to the quality of the teaching profession. The aim is to encourage teachers to maintain and improve their professional competencies. In addition, inclusion in a professional register is also a mark of one's professional status.

According to article 32a paragraph 4 of the Primary Education Act, and similar provisions in the Acts on general secondary education and vocational training (it therefore does not apply to higher education) the mentioned competences are focused on acting in the educational process, acquiring general professional practice and working within an educational organization. They include in

4 See Visser, Wilthagen, Beltzer, Van de Putte (2004), *Part-time Employment in the Netherlands: From Atypicality To A Typicality*, Amsterdam: University of Amsterdam.

5 Van der Aa, Lubberman, Van de Vlasakker, Stuivenberg & Kans (2011). *Evaluatie van de wet beroepen in het onderwijs*, Rotterdam: Ecorys.

anyway requirements of the pedagogical knowledge, skills and professional competence. By means of an Executive Order of the government, the Decree teaching competence (BBO), the principles are elaborated in further requirements that contribute to a minimum professional standard. These principles of ‘good teaching’ involve –again- both skills and knowledge. See for example Article 2.4 Bbo: teachers in primary education “learn students’ leadership but also responsibility and to acquire ownership,” and “on a practical level teachers are aware of communication theories, group dynamics and intercultural communication and have particularly insight in the implications for their own actions”.

There are general obligations in the CLA, for instance: “the social policy of the institutions shall be aimed at promoting development opportunities and career prospects. The continued employability of staff requires attention in this respect. Mobility, both within and outside one’s own institution, is a vital aspect here” (article 6.5 of the CLA of the universities). Institutions are required by the CLA to establish a career policy. In some of the CLA’s, such as the CLA for the universities (article 6.5 par.3), is stated that “every employee with a temporary employment contract for a period of two years or longer, shall be given the opportunity to obtain career advice from a professional organisation. The employer shall bear the costs for this consultation. This possibility shall be offered within a certain time-scale so that the outcome can be used in an individual guidance programme aimed at increasing the employee’s chances on the internal or external labour market”.

The CLA for universities regulates that “each year the employee will be granted at least two development days for working on his or her long-term employability. Development days may be saved for future use provided this has been agreed in writing between the employer and employee before the end of the year. [...] The employer may instruct the employee to attend compulsory study or training courses, if so required to function properly in a current or future position. The employer shall provide the employee with the necessary facilities in this respect”.

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In addition, the teacher in higher education is entitled to training and may therefore request the employer to provide the facilities needed to attend a study or training course. The university even has to provide the employee with the necessary facilities, “when there is little relation between the study or training course and the current or future position, if this contributes to the employee’s career development” (Article 10.9 CLA universities). Similar provisions are applied in the CLA’s for the other education sectors. In primary and secondary education, teachers are stimulated to take on further studies (f.i. to study for a master degree) through personal grants provided to fund ongoing professional training and education (the *Lerarenbeurs*). Since the grant’s introduction in mid-2008, almost 19,000 applications have been honoured. Of these, approximately two thirds have been used to fund degree programmes at Bachelor’s or Master’s level, and the remainder to fund short training courses. Since 2012, the grant is only available in respect of accredited degree programmes.<sup>6</sup>

## XII. Leave of absence

The Labor Laws and CLA are also regulating leave of absence. The statutory number of vacation hours per year is four times the number of working hours per week. Sometimes employees get more than the minimum number of vacation hours. This extra holiday hours are called statutory holiday hours. Employees in general are also entitled to an annual holiday allowance of at least 8% of the gross salary.

The different CLA’s provide for pre and post maternity leave, adoption leave, foster care leave, calamities and short-term non-attendance leave, short-term and long-term care leave and parental leave. There are also provisions for study leave (for instance when a teacher has received a personal grant to obtain a master degree).

6 Ministry of Education (2011) *Teaching 2020. A strong profession!*, The Hague: Ministry of Education, Culture and Science.



At the request of the employee, the employer/educational institution may grant the teacher in higher education long-term leave to enjoy a sabbatical (article 4.16a CLA for the universities). A sabbatical is taken to mean a prolonged leave period during which the employee devotes either general or specific attention to his own employability. When a sabbatical is granted, the employer and employee have to make arrangements pertaining to the details of the leave and the way in which it shall be taken, the term of the leave, whether or not remuneration payments shall be continued, payment of the pension contribution etc.

### **XIII. Liability and teachers**

The most likely reason a school, or teacher employed at a school, will face legal action is in negligence where a student has been injured while under the school's protection. This may occur in a variety of settings. To satisfy the elements of the tort of negligence the student who becomes in law the plaintiff must prove that a duty of care was owed, that the duty was breached, by not maintaining the appropriate standard and that the injury was a reasonably foreseeable consequence of that breach of duty. According to the Dutch Civil Law Code, the employer is responsible for the unlawful actions of the employer, Civil Law Book 6, article 170. Teachers will be insured by the insurance policy of the school.

It would be rare for a teacher to face criminal charges but it could happen if a teacher had an intention to harm or acted recklessly. There have been some cases in the Netherlands, in which teachers have been convicted for sexual offences against minors. The fact that a teacher is taking abuse of the confidence of (young) students is an aggravating circumstance in the trial.

### **XIV. Responsibilities and disciplinary sanctions**

Teachers have to meet certain standards, which are laid down by law. Article 23 paragraph 2 of the Constitution states that regarding the competence of the teachers, there is a statutory duty of the state to supervise education, especially the 'competence and morality' of teachers. Statutory rules have been laid down in the already mentioned Law on Professions in Education Act. This law changed the acts on primary, general secondary education and vocational training, and made it obligatory for teachers to meet standards of competence, and to record the acquired competences in a file. The maintenance of competences is a matter of the school board and should be updated regularly. See also paragraph 11.

Teachers are involved in the year round 'Human Resource Cycle' of professional development. A part of that is the annual consultation. With due observance of any further rules to be laid down by the employer and taking into consideration the performance in the previous period, once a year the teacher has to meet with his or her line manager with regard to the way in which the teacher/employee is expected to perform or pursue his or her career during a future set period to be agreed upon, as well as the conditions under which this shall take place. This annual meeting will focus on the following, inter alia: a. the well-being of the employee (including physical and mental health aspects); b. the employee's employability, including knowledge and skills in relation to future requirements, the employee's prospective career development, personal development and any additional education needs as well as the timescale in which this can be achieved; and c. the employee's degree of motivation. As the CLA of the Universities, article 6.6, paragraph 2, states: "these meetings shall take place in an open atmosphere with an equal contribution from both parties; the agreements to be made shall be laid down in writing and evaluated." Multi-year career development objectives and agreements are laid down in a personal development plan. These agreements and objectives will be laid down and evaluated in writing. A teacher can be fired if these reviews turned out unsatisfactory.

According to the CLAs the employer can impose a disciplinary measure on an employee who neglects his duties; this measure has to be in proportion to the neglect of duty. Neglect of duty comprises the breach of "any regulation and acting or failure to act in accordance with how a proper employee should

act under similar circumstances” (article 6.2 CLA of the Universities). The employer can lay down further rules with regard to the imposition of disciplinary measures. Constitutional rights of teachers, such as the Freedom of speech, should be upheld, within certain limits.<sup>7</sup>

An employee is legally suspended if on the basis of legal proceedings or the Law on special admission to psychiatric hospitals he has been deprived of his liberty; an employee is not legally suspended if the deprivation of liberty is the result of a measure taken in the interest of public health. The employer may further suspend an employee from active duty: if prosecution for a criminal offence has been instituted against him; if the employer has notified the employee that they intend to unconditionally dismiss him as part of a disciplinary measure, or if such a disciplinary measure has already been imposed; if, in the opinion of the employer, this is required in the interest of the institution. The decree, by means of which the employee is suspended from active duty, shall indicate the commencement date and the circumstances that gave rise to the suspension.

## XV. Reforms on the status of teachers and the consequences of the financial crisis

In the recent past, the Dutch government has presented several action plans for teachers, such as ‘Teacher 2020 – a strong professional and the *LeerKracht van Nederland* action plan. This plan contains measures that give teachers broader career opportunities (improving the ‘function mix’, i.e. qualifications and performance are to be rewarded by better career prospects, such as differentiation of responsibilities and remuneration). Teachers who are engaged in additional activities at a higher level may be moved to a higher position and receive commensurate remuneration. Schools must establish clear criteria for these kinds of promotions. It is primarily up to the schools themselves to set these criteria, in consultation with the participation councils<sup>8</sup>. This ‘function mix’ is being steadily improved. Teachers have been promoted in recent years, primarily in secondary education. These promotions were partly based on the teachers’ commitment and their contribution to educational development. Figures published March 2011 show, despite the steady growth, that all levels of education still need to make significant inroads. The aim is to establish a ‘cultural shift’ in which excellent teachers, teachers who redouble their efforts or take additional training, are rewarded for their enterprise with a promotion to a higher salary scale. Furthermore, teachers who wish to get a promotion have an extra motivation to keep their teacher competency document up-to-date.

As the European Commission already mentioned in a memorandum on teachers in November 2012: “as a result of the financial crisis and the need for fiscal consolidation, public budgets in all Member States are under great pressure. Governments are seeking ways of achieving more with fixed or reduced resources. All countries are seeking patterns of expenditure that limit or shrink current expenditure without dismantling the foundations of sustainable growth. Despite a general understanding that investing in education should be preserved as a priority due to the centrality of skills for sustainable growth, education is not immune to these pressures, particularly in countries where the need for short-term fiscal consolidation is greatest. These financial reductions are seriously affecting the teaching professions; in 20 education systems, cuts have been made in teaching staff salaries or a salary freeze has been applied in response to the economic downturn.”<sup>9</sup> The Netherlands also has to meet the European criteria of 3% limit in budget deficit. The current situation is that teacher salaries have been frozen, and due to budget cuts in special education (the most expensive form of education), teachers have been made redundant. Furthermore; a lot of schools are facing financial problems; the costs, for instance

7 Under the present interpretation of the Constitution, the school board can ask the teacher to endorse the (religious) identity of the school. The teacher can be dismissed when the school board is of the opinion that, as a consequence of certain behavior of the teacher, he acts contrary to the identity of the school. See Vermeulen (2008).

8 A participation council consists of elected representatives of teachers and parents. They are consulted by the school management over matters concerning the management of the school (s.a. the timetable of the school).

9 EC Commission (2012) Staff working document Supporting the Teaching Professions for Better Learning Outcomes, SWD (2012)374, Brussels: European Commission.

for energy, have gone up, but the funding from the government didn't. A lot of teachers are faced with more workload, as the size of classes is increasing.

## **XVI. Challenges for the future; the teaching profession in an ageing era**

Student numbers in the Netherlands will increase in secondary education in the years to come. In addition, many teachers will leave the profession. This will result in a rapidly increasing shortage of teachers in secondary education. The shortage will reach its peak in 2015 and 2016: there will be about 4,000 job vacancies on an annual basis.<sup>10</sup> Thereafter the shortage will gradually become less acute, though the numbers will remain high: in 2020 there will likely be 1,500 vacancies. Only after 2020 will supply and demand reach a state of balance. No serious short-term staffing problems are expected in primary education or in senior secondary vocational education. There is a threat of substantial teacher shortages in primary education after 2017, however.

On average, teachers have been retiring later in recent years. Whereas the retirement age in education was just under 61 years in 2006, by 2010 it was 62.5 years. The potential teacher shortage is currently less acute than expected because teachers are retiring later. It is likely that the average retirement age for teachers will rise even further, in keeping with trends in other employment sectors with comparable pension schemes. As the average retirement age increases, it is logical that the number of vacancies will not rise as fast.

The current estimation is that wages of public sector employees, excluding health care, will not be indexed in the next years, due to the economic crisis and the budget constraints, laid down by European agreements. Employers will receive an allowance to cover increases in the employers' contributions. In addition, investment as part of the *LeerKracht* action plan will be continued. This investment will result in a salary rise for certain employees in the educational sector.

The situation for teachers/lecturers in higher education, the perspective is also not very attractive. Lots of faculties also have to make choices, due to the budget shifts (becoming more dependant on external finance). It is essential for universities, which must operate in a constantly changing environment, to focus on the careers and mobility of their employees. This means that both the organisation and the employees invest in and bear responsibility for development, career and mobility.

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## **XVII. References**

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<sup>10</sup> Ministry of Education, Culture and Science (2011), p.7.