



Province of the
EASTERN CAPE
EDUCATION

OFFICE OF THE HOD

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PROVINCE OF THE EASTERN CAPE

DEPARTMENT OF EDUCATION

ETHICS POLICY

ETHICS POLICY

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PREAMBLE

Whereas the Constitution of the Republic of South Africa, 1996 (the “Constitution”) enshrines the rights of all people in the Republic of South Africa and affirms the democratic values of human dignity, equality and freedom.

Recalling section 195 of the Constitution which establishes basic values and principles governing public administration across all spheres of government, including the promotion and maintenance of high standards of professional ethics.

Whereas the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies, ethical values and the rule of law.

Recognising with appreciation that policies, legislation and regulations were developed and implemented to manage integrity and promote good governance in the public sector.

Acknowledging the lack of enforcement and unsatisfactory implementation of certain aspects of the regulatory framework managing integrity and promoting good governance in the public sector.

Further acknowledging that certain provisions of the regulatory policy managing integrity and promoting good governance in the public sector are obsolete.

Noting the significant efforts that have been made by government institutions together with civil society and representatives from the business sector to promote integrity, reduce corruption and improve public and corporate governance.

Observing that corruption is not declining despite efforts made.

The Ethics Policy is introduced to provide a policy derived from the existing regulatory framework dealing with a multiplicity of ethical and good governance measures in order to align all measures regulating ethics and integrity in the public sector, with the following objectives:

1. Strengthening existing measures regulating probity in the public service.
2. Strengthening capacity to prevent corruption.
3. Monitoring and Evaluation to ensure compliance; and
4. Enforcement as a deterrent.
5. This Ethics Policy will help to protect the integrity of the Department and foster public confidence in it.

1. DEFINITIONS

“Conflict of interest” refers to a conflict between the public duties and private interests of an employee, in which the employee has private interests which could improperly influence him/her, and/or negatively impact on his/her disposable time to work, and/or negatively impact on his/her official obligations or official duties, and/or negatively impact on the public interest.

“Corruption” means any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);

“Department” or **“Education”** means Department of Education;

“Good governance” has eight major characteristics. There are participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. These characteristics assure that corruption is minimised, and that the interests of the most vulnerable in society are given attention;

“Ethics” is broadly defined as well considered standards of right and wrong that prescribe our rights, obligations and benefits to society. Ethics is about how we ought to live, treat others, run or manage our lives and organizations;

“Employment” means appointment in the public service or secondment to a department for which the appointee receives remuneration or is rewarded for performance of work;

“Gift” means a token which is bestowed voluntarily without any expectation of tangible compensation, and for which no direct or indirect contractual obligations are imposed;

“Hospitality” can be any food, drink, entrance to events, accommodation or entertainment provided free of charge or heavily discounted and for which no direct or indirect contractual obligations are implied;

“Integrity” means steadfast adherence to a strict moral or ethical code, policy or legal instruments and preceding codes;

“Private benefits” include, but are not limited to, favours, donations, grants and sponsorships that directly or indirectly benefit the public servant;

“Public servant” means any employee of a national and provincial Department or any employee of a municipality;

“Public sector” inclusive of local government;

“Public service” only includes national and provincial Departments;

"Other Remunerative Work/ORW" means any business carried out or services rendered for gain or personal benefit by an employee outside his or her employment in the relevant department, for which remuneration is received.

2. PURPOSE

The main purpose of the Ethics Policy is to promote ethical behaviour, exemplary conduct and practices by public servants in the quest to achieve service excellence and desist from corruption or any unprofessional conduct.

The Ethics Policy aims to strengthen measures and standards for managing integrity and promote ethical conduct in the public service as required by the Public Service Co-ordinating Bargaining Council Resolution 2 of 1999 and Employment of Educators Act No. 76 of 1998. This policy provides provisions for managing unethical conduct that can arise as a result of financial interests, gifts, hospitality and other benefits, post-public employment and remunerative work outside the public service.

In order to give practical effect to the relevant constitutional provisions relating to the public service, all Education employees are expected to comply with the Ethics Policy and Code of Conduct.

3. SCOPE OF APPLICATION

This Ethics Policy is applicable to the following public servants –

1. All persons employed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), as amended;
2. All persons employed in terms of the Public Finance Management Act No. 1 of 1999, as amended;
3. All educators employed in terms of the Employment of Educators Act No. 76 of 1998, as amended; and

Senior managers contemplated in (a), (b) and (c) above, for a period of a maximum period of 12 months after they have left the public service.

4. CODE OF CONDUCT

The Code should act as a guideline to employees as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationship with others (internal and external). Compliance with the Code can be expected to enhance professionalism and help to ensure confidence in Education's employees and in the public service in general.

The primary purpose of the Code is a positive one, *viz.* to promote exemplary conduct. Notwithstanding this, an employee may be dealt with in accordance with the relevant collective agreement, as outlined in the Public Service Co-ordinating Bargaining Council (PSCBC) Resolution No. 2 of 1999, if she or he contravenes any provision of the Code or fails to comply with any provision thereof.

RELATIONSHIP WITH LEGISLATURE AND THE EXECUTIVE

An employee:

1. Is faithful to the Republic and honours the Constitution and abides thereby in the execution of her or his daily tasks;
2. Puts the public interest first in the execution of her or his duties;
3. Loyally executes the policies of the Government of the day in the performance of her or his official duties as contained in all statutory and other prescripts;
4. Strives to be familiar with and abides by all statutory and other instructions applicable to her or his conduct and duties; and
5. Co-operates with public institutions established under legislation and the Constitution in promoting the public interest and in particular, that of the Department.

RELATIONSHIP WITH THE PUBLIC

An employee:

1. Promotes the unity and well-being of the South African nation in performing her or his official duties.
2. Will serve the public in an unbiased and impartial manner in order to create confidence in the public service and in particular, that of the Department.
3. Is polite, helpful and reasonably accessible in her or his dealing with the public, at all times treating members of the public as customers who are entitled to receive high standards of service.
4. Has regard for the circumstances and concerns of the public in performing her or his official duties and in the making of decisions affecting them.
5. Is committed through timely service to the development and upliftment of all South Africans;
6. Does not unfairly discriminate against any member of the public on account of race, gender, ethnicity or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, or language;
7. Does not abuse her or his position in the public service and in particular, within Education and to promote or prejudice the interest of any political party or interest group;
8. Respects and protects every person's dignity and her or his rights as contained in the Constitution; and

RELATIONSHIPS AMONGST EMPLOYEES

An employee:

1. Recognises the public's right of access to information, excluding information that is specifically protected by law.
2. Co-operates fully with other employees to advance the public interest and in particular, that of Education;

3. Executes all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution and/or any other law;
4. Refrains from employing relatives who report directly to the employee or favouring relatives and friends in work-related activities and never abuses her or his authority or influences other employees, nor is influenced to abuse her or his authority;
5. Uses the appropriate channels to air her or his grievances or to direct representations;
6. Is committed to the optimal development, motivation and utilisation of her or his staff and the promotion of sound labour and interpersonal relations;
7. Deals fairly, professionally, and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, or language; and
8. Refrains from party political activities in the workplace.

PERFORMANCE OF DUTIES

An employee:

1. Strives to achieve the objectives of her or his institution cost effectively and in the public's interest and in particular, that of Education;
2. Is creative in thought and in the execution of her or his duties; seeks innovative ways to solve problems and enhances effectiveness and efficiency within the context of the law;
3. Is punctual in the execution of her or his duties;
4. Executes her or his duties in a professional and competent manner;
5. Does not engage in any transaction or action that is in conflict with or infringes on the execution of her or his official duties (e.g. she or he should not give preference to or favour a supplier in exchange.
6. for anything of personal benefit to herself or himself or to her or his families and friends and refrains from having any personal interest in any business transaction with Education);
7. Will recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this should be properly declared by the employee;
8. Accepts the responsibility to avail herself or himself for ongoing training and self-development throughout her or his career;

9. Is honest and accountable in dealing with public funds and uses such only for authorised official purposes;
10. Promotes sound, efficient, effective, transparent and accountable administration;
11. In the course of her or his official duties, shall report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest and/or to that of Education;
12. Gives honest and impartial advice, based on all available relevant information, to a higher authority when asked for assistance of this kind; and
13. Honours the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret.

PERSONAL CONDUCT AND PRIVATE INTERESTS

An employee:

1. During official duties, dresses and behaves in a manner that enhances the reputation of the public service and in particular, that of Education and;
2. Acts responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned and refrains from usage thereof, including the carrying of weapons, whilst in Government premises, Government motor vehicles or whilst engaged in Government employment;
3. Does not use or disclose any official information for her or his personal gain or for the gain of others; and
4. Does not, without approval, undertake remunerative work outside her or his official duties or use office equipment for such work.

LEGISLATIVE REQUIREMENTS

Acceptance of Gifts, Hospitality and other benefits:

1. An employee shall "not receive or accept any gift in the course and scope of his employment to the cumulative value exceeding R500 per year, unless approval is obtained from the relevant executive authority"
2. Each section head shall maintain a gift register in which gifts and/or hospitality accepted are recorded. These registers are to be emailed to the Chief Risk Officer within 5 working days of the new quarter.

3. In the event where a gift or item is already received and an employee is not willing to follow the declaration process or approval to accept is not granted and it is not possible to return the gift to the person or supplier where it originated from, the item must be handed in to the Supply Chain Management Unit who must record it in the gift register and dispose of it via the disposal policy.

Other Remunerative Work Outside as contemplated In Section 30 Of The Public Service Act, 1994

1. No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant Department, except with the written permission of the Executive Authority of the Department. In considering an application from an employee to engage himself or herself to perform remunerative work outside his or her employment, the Executive Authority or designated official must take into account whether or not the other remunerative work:
 - a. Could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's function; and
 - b. Constitute a contravention of the Code of Conduct.

APPLICATION FOR PERMISSION TO PERFORM OTHER REMUNERATIVE WORK OUTSIDE THE RELEVANT DEPARTMENT

Principles regarding the application for Other Remunerative Work

1. Before undertaking ORW, an employee must first obtain written permission from the executive authority or delegated authority in terms of applicable prescripts and the Directive.
2. The permission to perform ORW shall not exceed a period of 12 months and shall be aligned with the financial year (between 01 April of the year in question – 31 March of the following year).
3. If the employee wishes to continue performing ORW after the approved period, a new application (referred to as a re-application) should be submitted at least 60 days before expiry of the approved period.
4. The application must be made using the application form determined by the Minister.

5. Permission to perform ORW is given only for the work specified in the form.
6. Employee granted permission to perform remunerative work outside his or her employment shall not:
 - a. Perform such work during official working hours; and
 - b. Use official equipment or state resources for such work.
 - c. Conduct business with an organ of the state.

CONDUCTING BUSINESS WITH AN ORGAN OF STATE

Statutory Framework

Regulation 13(c) of the Public Service Regulations, 2016 provides that an employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.

An employee is regarded as 'conducting business with an organ of state' when an employee or an employee acting as a director of a private or public company-

(a) concludes, or intends to conclude, a written or oral agreement, irrespective of the process followed with an organ of state.

(b) through such an agreement provides goods or services to any organ of state for any personal benefit, financial or otherwise.

In order to give effect to regulation 13(c) of the Regulations, employees are prohibited from –

(a) registering with the government's Central Supplier Database.

(b) conducting business directly or indirectly with an organ of state (including the department in which the employee is employed).

(c) being a director of a company or a member of a close corporation conducting business with an organ of state.

Employees as candidates for elections

Regulation 15 provides as follows:

1. An employee who is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998, stating that he or she is a candidate in an election, shall, not later than the next working day, inform his/her head of department in writing and submit the copy of the certificate.

2. The employee shall be deemed to be on annual leave from the date following the date the certificate is so issued until, if he/she is:
- a) **Elected and accepts the election –**
Immediately when he/she accepts the election he/she is deemed to have resigned from the public service. However, the formal procedures of resignation should still be followed by the employee.
 - b) **Elected but declines the election –**
the employee will come back to the office to resume his/her duties.
 - c) **Not elected –**
the employee will come back to the office to resume his/her duties;

FINANCIAL DISCLOSURE

Legislative Framework

In terms of the Public Services Regulations, 2016 (PSR, 2016) designated employees are required to disclose their financial interests (Chapter 2, Part 2).

Regulations 16(c) and 18(3) give the Minister of Public Service and Administration (MPSA) powers to:

- (a) determine other categories of employees to disclose their financial interests; and
- (b) Direct the form, date and financial interests to be disclosed.

Non-Compliance

Non-compliance with the Directive constitutes a misconduct and therefore, grounds for disciplinary action.

- a. Acts of misconduct include:
- b. Failure to disclose on time.
- c. Failure to disclose even after being alerted to the fact; and
- d. Provision of false, inaccurate, or incomplete information.

POST-PUBLIC EMPLOYMENT

The public service does not have measures in place to regulate post-employment activities of former public servants. It is recognised that public servants may abuse their position to benefit certain individuals, themselves, or companies in exchange for favours, such as employment opportunities, after they have left the public service. The public service has agreed on the following to ensure that senior public officials shall not act, after they leave public office, in such a manner as to take improper advantage of their previous public office and to minimise the possibilities of:

1. Allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office.
2. Obtaining preferential treatment or privileged access to the Government after leaving public office;
3. Taking personal advantage of information obtained in the course of official duties before it becomes generally available to the public; and
4. Using their public office position to unfair advantage in obtaining opportunities for outside employment.

In order to prevent any conflict of interest and unethical conduct that may arise as a result of post-public employment, the following proposals are made to restrict post-employment activities of senior employees in the public service:

1. Senior public servants who are about to resign from the public service shall disclose in a confidential form all confirmed offers of employment to the Executive Authority;
2. The Executive Authority shall scrutinise the disclosure to ensure that there is no conflict of interest between the official's functions in the public service during the period of one year prior to the termination of their service and the new functions outside the Public Service Act.
3. Should there be any conflict of interest, the senior official shall not, within 12 months after leaving the public office accept appointment to a board of directors of, or employment with, entities with which they personally had significant official dealings during the period of one year immediately prior to the termination of their services.

4. The Executive Authority shall retain the authority to reduce or waive this limitation period (cooling-off period) of employment depending on the circumstances of each case. Private entities that have any existing business contracts or stand to acquire business contracts with the public service are prohibited from recruiting senior public servants that represent the public service in those business contracts or are doing the same or related work the public entity is rendering in the public service.
5. Service Level Agreements (SLAs) should include a clause restricting the recruitment of public senior servants by private entities and informing them of blacklisting of such companies; and employment contracts of senior managers should be amended to include a clause that informs them of these provisions.

5. COMPLIANCE

All employees of Education:

1. Shall sign a declaration annually that they have read, are familiar with, understand and will conform with this Code. Responsibility for ensuring that all employees and officials have signed and submitted the declaration lies with all managers; and
2. Who have doubts regarding a questionable situation that might arise should immediately consult their Manager or Supervisor for clarity.

6. FRAUD PREVENTION AND ANTI-CORRUPTION

It is the policy of the ECDoE that fraud, corruption, maladministration or any other dishonest activities of a similar nature are not tolerated. Such activities are to be investigated and actions instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative actions and the institution of recoveries where applicable.

The Department is committed to taking a stand against fraud and corruption also adopts a ZERO TOLERANCE stance as far as fraud and corruption is concerned. Therefore, the Department has formulated and adopted a Fraud Prevention and Anti-Corruption Policy

7. ENFORCEMENT

In order to improve enforcement of the Ethics Policy, all performance agreements of employees including Heads of Departments will include a specific Key Performance Area that binds and commits an employee to comply with these measures.

Any employee who fails to comply with the requirements /provisions of this policy contained in legislation, is subject to appropriate disciplinary action.

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14/05/2024
Date

Recommended by:



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14/05/2024
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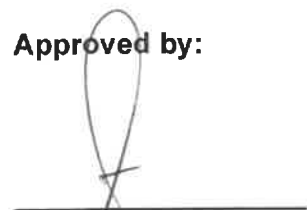
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18/05/2024
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