



education

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Department:  
Education

PROVINCE OF KWAZULU-NATAL

# CONFLICT OF INTEREST POLICY

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## **1. INTRODUCTION**

- 1.1. The KwaZulu-Natal Department of Education (“the Department”) strives to adhere to good governance principles and practices based on due diligence, openness, integrity, objectivity, honesty and fair decision-making.
- 1.2. Accounting Officers, by virtue of their responsibility, in terms of section 7(3) (b) of the Public Service Act, for the efficient management and administration of their departments and the maintenance of discipline, are, inter alia, under a duty to ensure that the conduct of their employees conform to the basic values and principles governing public administration and the norms and standards prescribed by the Act.
- 1.3. The Department, through the Conflict of Interests Policy, requires all employees declare their registrable interests.
- 1.4. This Policy must be read in conjunction with the Public Service Act, Public Service Regulations, and the Code of Conduct. The Explanatory Manual for the Code of Conduct for the Public Service sets standards of integrity and professional conduct for public servants and provides guidance in terms of employees not using public office for private gain and not undertaking any remunerative work outside their employment in the public service without prior approval.

## **2. PURPOSE OF THE POLICY**

The purpose of this policy is to assist employees in understanding *conflicts of interest* and manage them in a way that protects both employee and Department interests.

## **3. OBJECTIVES**

The objectives of this Policy are to:

- Institute measures to manage conflicts of interest in the Department and to protect public servants from any allegations of conflicts of interest.
- Restrict the business interest of employees to prevent conflicts of interest.
- Promote good governance and ethical conduct in the Department thereby ensuring that the public interest is served.

## **4. SCOPE**

The policy applies to all employees (permanent or contracted) of the Department.

## 5. REGULATORY FRAMEWORK

This policy is drafted in accordance with the following:

- Protected Disclosures Act 26 of 2000
- Labour Relations Act 66 of 1999
- Public Finance Management Act 1 of 1999, and regulations
- Prevention and Combating of Corrupt Activities Act 12 of 2004
- Public Service Act 103 of 1994, and regulations
- Constitution of South Africa Act 108 of 1996
- Financial Disclosure Framework
- Promotion of Access to Information Act 2 of 2000
- Promotion of Administration of Justice Act 3 of 2000
- Protected Disclosures Act 26 of 2000
- The Departments' Code of Conduct.

## 6. WHAT ARE CONFLICTS OF INTEREST?

### 6.1. Definition of Conflicts of Interest

A conflict of interest exists when officials have a direct or indirect personal interest that could interfere or be perceived by others to interfere with their objectivity in the performance of their duties. It includes using an employee's position, confidential information, work time, or the Department's materials or facilities for private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends, or business associates.

Perceived Conflict of Interest	Potential Conflict of Interest	Actual Conflict of Interest
<p>A Public Official is in a position to <u>appear</u> to be influenced by his/her private interests when doing his/her job</p> <p><b>Example:</b> The wife of one of the senior managers in SCM is the owner of a stationary company which is a service provider for the provincial government. This may be <u>perceived</u> as a conflict of interest.</p>	<p>A Public Official is in a position where he/she <u>may</u> be influenced <u>in the future</u> by his/her private interests when doing his/her job</p> <p><b>Example:</b> The same senior manager sits on the committee which is to decide on a service provider that will provide stationary to the provincial government. The senior manager's wife, who is the owner of the company, applied for the contract. In this case, there is a potential conflict of interest.</p>	<p>A Public Official is in a position to be influenced by his/her private interests when doing his/her job</p> <p><b>Example:</b> An actual conflict of interest will occur if the senior manager does not disclose the fact that his wife owns the company and he does not recuse himself from the committees involved in the tendering process.</p>

## 6.2. Types of Conflicts of Interest

Conflicts of interest can arise in at least four ways:

### Time conflict

A conflict of interest arises when outside employment, directorships or activities require so much time of a person that they are unable to perform their duties at the Department.

### Resource conflict

A conflict of interest arises when an outside interest leads an employee to use Department resources for purposes outside the scope of their Department duties.

### Objectivity Conflict

An employee's objectivity could be impaired when decisions they make on behalf of the Department will affect their personal interests, including financial interests in other companies.

### Relationship Conflict

A conflict of interest can arise when an employee must make decisions on behalf of the Department that will impact their family or close relations. For the purposes of this policy "family" shall include anyone who is related to an employee directly or through marriage including but not limited to spouse/s, children, parents, grandparents, parents-in-law, brothers and sisters-in-law.

## 6.3. Examples of Conflict of Interest

The following constitute conflicts of interest and should be avoided and/or declared by the official:

- Part-time employment in areas similar to those in which the Department is involved
- External work for suppliers, vendors, or other organisations hired by the Department or that derive benefit from the Department
- A financial interest, such as a shareholding or a commission position, in a business that is a supplier to the Department
- Exclusive or preferential discounts from an employee or representative of a supplier, person under investigation, or member of the public, including the purchase of shares from a supplier on a preferential basis
- Dealing directly with or through a spouse or family member who is a supplier or vendor, or is employed by one

- Nepotism or favouritism in hiring – appointment of family members to a position within one’s influence
- Soliciting loans from a citizen, a person under investigation, or a supplier, that is not generally in the business of granting loans to the public
- Giving work time and assets of the Department to external interests, including political campaigns, business issues, and personal matters
- Participation in any activity that might lead to the disclosure of proprietary information of the Department or of citizens who have entrusted this information to the Department.

## 7. MANAGING CONFLICTS OF INTEREST

There are at least three (3) ways to manage or mitigate a *conflict of interest*:

### 7.1. Prevention / Avoidance

The preferred method of dealing with a conflict of interest is to avoid it. Employees must:

- avoid situations that give rise to conflicts of interest;
- refrain from using their position for personal gain; and
- refrain from using Department resources (including information) for purposes outside the scope of their Department duties.

### 7.2. Disclosure

When an employee becomes aware of a potential or existing conflict of interest (that could not or was not avoided), he/she must disclose such conflict in an accurate and timely fashion. Disclosure can be made to a line manager or the Human Resources unit, using the Declaration of Interest Form.

#### (a) *Disclosure of financial interests and assets*

- (i) Senior Managers (Salary Levels 13-16) are required to disclose their financial interest and asset in the prescribed e-disclosure format by 30 April annually or on appointment as the case may be and wherever their financial interest change in term of the Financial Disclosure Framework and sub-regulation 21 of the Public Service Regulations, 2016 as amended.
- (ii) Salary Level 12, including those employed on an Occupational Specific Dispensation (OSD), in the Department are required to disclose their financial interests and assets in the prescribed format by 30 June annually or on appointment as the case may be whenever

their financial interest change.

- (iii) Salary Level 11, including those employed on an Occupational Specific Dispensation (OSD), in the Department are required to disclose their financial interests and assets in the prescribed format by 31 July annually or on appointment as the case may be whenever their financial interest change.
  - (iv) Employees below salary level 11 in Supply Chain Management and Finance Units including those employed on an Occupational Specific Dispensation (OSD) in the department are required to disclose their financial interests and assets in the prescribed format by 31 July annually or on appointment as the case may be whenever their financial interest change.
  - (v) New employees including those employed on an Occupational Specific Dispensation (OSD) in the department are required to disclose their financial interests and assets in the prescribed format 30 days after the assumption of duty.
  - (vi) The Accounting Officer must ensure that all financial disclosure forms are scrutinized for possible conflict of interest.
  - (vii) Information relating to disclosures must be treated as sensitive information and access to this information must be protected and restricted.
- (b) *Declaration of relatives doing business with government*
- (i) Employees are required to declare whether they have family, as defined in Section 6 above, who are doing business with government and, in particular, the Department.
  - (ii) Employees are required to declare whether their spouses are doing business with government and, in particular, the Department.

### **7.3. Recusal**

An employee, being aware of an actual or perceived conflict of interest, must refrain from participating in meetings or decision-making which could be affected by the conflict of interest.

## **8. RESPONSIBILITIES (DO'S AND DON'TS)**

In order to comply with this policy employees should heed the following practical guidelines:

### **Don't:**

- Get involved in hiring, supervision, management or career planning of any relative or in the financial controlling and auditing or human resource discussions of any relative.
- Make improper use of your position in Department, or of confidential information you have gained, to achieve personal interests or indirect gain.
- Allow your relationships with contractors or suppliers to influence business decisions made on behalf of Department.
- Accept free travel and accommodation arrangements from a Department supplier.

### **Do:**

- Declare any conflict of interest to your line manager, a member of the Human Resource unit or senior management. You are not to pursue your own interests at the Department's expense.
- Make sure there is no vested interest between you, the contractor or the Department you are doing business with.
- Conduct your relationships with contractors and suppliers in a professional, impartial and competitive manner.
- Seek guidance from your line manager or a member of the Human Resource unit if you have doubts.
- Ask yourself the question: Would I feel comfortable explaining any action to my work colleagues or the media?

## **9. COMMUNICATION OF POLICY**

The Human Resource unit of the Department is responsible for the communication of this Policy to all employees.

If an employee is unsure how to apply this policy, whether a situation or personal interest constitutes a conflict of interest, or whether a circumstance should be disclosed, the employee should seek advice from:

- His/her line manager, or
- The Senior Manager: Human Resource unit.



## **10. REPORTING A VIOLATION OF THIS POLICY**

If an employee has a reasonable belief of non-compliance with this policy, he/she should report the suspected or actual violation to:

- His/her line manager; or
- The Senior Manager: Human Resource unit; or
- The Department's Whistle-Blower hotline; or
- The National Anti-corruption hotline on 0800 701 701.

## **11. NON-COMPLIANCE**

11.1 A conflict of interest in contravention of the provisions of this policy is considered serious misconduct and the employee concerned must be dealt with in terms of the Disciplinary Policy and/or prosecuted criminally as the case may be.

11.2 Failure by an employee to complete and submit a financial disclosure form constitutes misconduct and must be dealt with in terms of the Disciplinary Policy.

11.3 Where an employee commits an act misconduct that constitutes a criminal offence this must be reported to the South African Police Service and the employee may be prosecuted criminally.

## **12. ROLES AND RESPONSIBILITIES**

All employees share the responsibility of adhering to and enforcing is Policy. The specific roles and responsibilities are as follows:

### **12.1. Accounting Officers**

Accounting officers must ensure that all financial disclosure forms are scrutinised for possible conflicts of interest.

### **12.2. Heads of Business Units**

Heads of Business Units must ensure that all employees within their business unit complete and submit financial disclosure forms.

### **12.3. Chief Financial Officer**

Ensure that all employees of the Department disclose their financial and business interests annually.

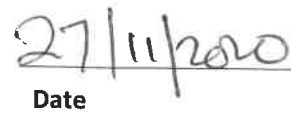
**12.4. Human Resource Management and Development**

Ensure that content of this Policy Framework is communicated to all line managers and employees in the Department.

**13. IMPLEMENTATION DATE**

This policy will come into effect on the date of signature by the Accounting Officer.

  
\_\_\_\_\_  
Signature of Accounting Officer

  
\_\_\_\_\_  
Date