



education

Department:
Education
PROVINCE OF KWAZULU-NATAL

REMUNERATIVE WORK OUTSIDE THE PUBLIC SERVICE POLICY

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1. INTRODUCTION

- 1.1. In terms of section 30(b) of the Public Service Act, 1994 (Proclamation 13 of 1994), officials must ensure that they place all their time at the disposal of the employer to perform the work they have been appointed for in compliance with their Performance Agreements.
- 1.2. Provisions exist for an official to perform remunerative work outside the public service; however, the performance of such must be monitored and controlled.
- 1.3. The KwaZulu-Natal Department of Education (the Department”) must therefore manage applications for remunerative work by officials outside the Public Service in a consultative and non-discriminatory manner, in order to meet the specific and distinct needs of different officials.
- 1.4. Officials must apply to the Executive Authority for approval to conduct such remunerative work outside the public service, and to enhance uniformity, professionalism and confidence in the public service.
- 1.5. All officials in the public service who received permission to perform other remunerative work, and who are designated as a category to disclose their financial interests, are required in terms of the PSR, 2016 (Chapter 2, Part 2, Regulation 19) to disclose on the eDisclosure system all income-generating assets, benefits or remuneration received from trusts, directorships and partnerships, remunerated work outside the official’s employment in his or her department, benefits derived from consultations and retainerships, value of sponsorships, ownership or other interests in immovable property and details of vehicles.

2. DEFINITION OF TERMS

In this policy, unless the context indicates otherwise-

- (a) A word or expression, to which a meaning has been assigned to in the Act, has the same meaning;
- (b) Clauses and headings are for convenience only and may not be used in its interpretation; and
- (c) The following expressions bear the meanings assigned to them and similar expressions bear corresponding meanings:

“Act” means the Public Service Act, 1994 (Proclamation 103 of 1994);

“Delegated Authority” means the Chairperson of the Ethics Committee

“Department” means the KwaZulu-Natal Department of Education

"EPMDS" means the Employee Performance Management and Development System of the Department;

"Executive Authority" means the Member of Executive Council responsible for the Department as contemplated in the Act;

"GPSSBC" means General Public Service Sector Bargaining Council;

"HRM" means the Human Resource Management Unit in the Department;

"official" means a person appointed in terms of the Act, educators, including office-based educators, appointed in terms of the Employment of Educators Act; and excluding a person appointed as a special advisor in terms section 12A of the Act.

"remunerative work" means remunerative work outside of the public service as contemplated in section 30 of the Act.

3. PURPOSE

The purpose of this Policy is to provide measures to be utilised in regulating and considering applications or requests by officials to perform remunerative work, and aims to-

- (a) Inform officials on what is expected of them when undertaking remunerative work;
- (b) Enhance uniformity and transparency in the processing of applications for remunerative; and
- (c) Ensure conformity to the norms and standards prescribed by the Act, the Regulations promulgated in terms thereof and the Code of Conduct.

4. SCOPE OF APPLICATION

This Policy applies to all officials within the Department.

5. LEGISLATIVE FRAMEWORK

Remunerative work is governed by-

- (a) The Public Service Act;
- (b) The Labour Relations Act, (Act No. 66 of 1995);
- (c) The Basic Conditions of Employment Act, (Act No. 75 of 1997);
- (d) The Public Finance Management Act, (Act No. 1 of 1999) and regulations;
- (e) The Employment Equity Act, (Act No. 55 of 1998);
- (f) Public Service Regulations, 2016
- (g) The Public Service Amendment Act, 2007 (Act No. 30 of 2007)
- (h) The Senior Management Service Handbook; and
- (i) GPSSBC Collective Agreement No. 2 of 1999.
- (j) Public Administration Management Act, No 11 of 2014
- (k) Constitution of the Republic of South Africa, 1996
- (l) Employment of Educators Act, No 76 of 1998

6. PERFORMANCE OF REMUNERATIVE WORK

Unless otherwise provided for in the conditions of employment of an official-

- (a) Each official must place the whole of his or her time at the disposal of the Department;
- (b) No official may perform any remunerative work without prior authorisation of the Executive Authority / Delegated Authority. Authorisation should be obtained well before other remunerative work is conducted. There is no process that allows for *post facto* authorisation for other remunerative work conducted by an official outside his or her employment in the Department.
- (c) Approval will be effective from date of signature of approval by the Executive Authority / Delegated Authority.

- (d) No official may be given time off to attend to remunerative work during official working hours, whether it is for political party-related matters or not;
- (e) No official may claim additional remuneration in respect of any official duty or work performed voluntarily unless such is dealt with by the EPMDS Policy;
- (f) Any additional remuneration, allowance or other reward received by an official in connection with his or her work in the public service, other than in accordance with the Act or this Policy, must be paid into the Provincial Revenue Fund, provided that where the remuneration, allowance or reward does not consist of money, the value thereof, as determined by the Head of the Department, may be recovered from the official by the way of legal proceedings, or in such a manner as the Provincial Treasury may approve; and
- (g) Any unauthorised salary, fee, bonus, or honorarium, which may be payable in respect of the services of an official working at the disposal of any other government institution, council or body must be paid into the Provincial Revenue Fund.

7. CONDITIONS FOR PERFORMANCE OF REMUNERATIVE WORK

The following must be taken into consideration prior to granting authority to perform remunerative work and in any subsequent evaluation of the permission granted:

- (a) The work must not be performed with any organ of State, e.g., that which provides services for the State's/ Department's - nutrition programme;
- (b) The nature and extent of the business interest of the official concerned, which may not hamper the performance of the official duties;
- (c) The remunerative work must be performed entirely outside of prescribed hours of duty;
- (d) The remunerative work may not be of such nature that it negatively affects the Department;
- (e) There must be no conflict of interest between the work that will be performed outside the public service and the person's duties within the public service. If conflict of interest is discovered after the granting of permission for the remunerative work outside the public service, the permission must be withdrawn immediately;
- (f) The remunerative work may not rely in any way on the Department's resources or Government property or equipment, or require the utilisation of such;
- (g) The maximum remunerative time to be worked by the applicant per week including normal working hours, overtime and RWOPS may be prescribed by the executive authority or his/her designee, with due consideration to the possible impact on the official's duties and overall performance in the Department.
- (h) The granting of permission must be subject to compliance with any legislative provisions that may regulate the additional remunerative work, e.g. maximum hours of overtime per day/ week;
- (i) The applicant agrees that his/her first commitment is to meet the operational objectives of the Department.

8. APPLICATION PROCEDURE

- 8.1. Officials applying for authority to perform remunerative work must-
 - (a) Complete the application form attached hereto as Annexure A;
 - (b) Submit the completed form to his or her Responsibility Manager for a recommendation; and
 - (c) Submit the completed form to the Ethics Office for processing.
- 8.2. The Ethics Office should issue an acknowledgement letter to the applicant upon receipt of the application.
- 8.3. The outcome of the application must be made known within 30 days of receipt of the application.
- 8.4. The date on which the official submits the completed form to the Ethics Office marks the start of the thirty (30) day period to obtain permission from the Executive Authority / Delegated Authority.
- 8.5. The Ethics Officer must liaise with necessary role players to obtain all relevant details about the application of the official. Once the Ethics Officer has gathered all relevant facts, the application together with a report containing the Ethics Officers recommendations will be submitted to the Executive Authority / Delegated Authority for a decision.
- 8.6. The Executive Authority / Delegated Authority, guided by the recommendation of the Ethics Officer, will decide on the application within fifteen (15) days of receiving the Ethics Officer's report.
- 8.7. The Ethics Officer must formally communicate the decision to the applicant, with reasons being furnished for an unsuccessful application and an approval certificate being issued for a successful application.
- 8.8. The certificate must state the nature of work that was approved, the period of approval (i.e.: twelve (12) months) and the conditions attached to the approval. N.B. Only upon the certificate being issued may the official commence with the other remunerative work.
- 8.9. The approval will also be linked to the official's post at that point in time, meaning when an official is promoted or transferred, his or her permission to perform other remunerative work terminates.
- 8.10. Should a decision not be made within the thirty (30) day period, the official automatically receives permission to perform other remunerative work (called "deemed approval"). In this case, the Ethics Officer must also provide the official with an approval certificate, but only after assessing that the deemed approved work will not contravene Section 30(2) of the Public Service Act, 1994. If a contravention is indicated, the Ethics Officer must submit a request to the Executive Authority / Delegated Authority to withdraw the approval.
- 8.11. If approval is granted by default, permission must still be evaluated and can be withdrawn at any time when a conflict of interest or any other disqualifying criterion is detected.
- 8.12. All approved applications must be captured on PERSAL.
- 8.13. A renewal application must be submitted to the Ethics Office at least thirty (30) days before expiry of the existing approval.

- (a) The performance of remunerative work is linked to the financial year, provided that-
 - (i) Newly appointed officials must apply to perform remunerative work within 30 days of assuming duty; and
 - (ii) Existing officials who wish to commence remunerative work must apply and receive permission before commencing any remunerative work.

9. MONITORING AND EVALUATION

- 9.1. The Ethics Office will continuously monitor officials' performing other remunerative work to detect any conflict of interest or deviation from the certificate of approval.
- 9.2. The monitoring process must be recorded using the reporting format provided.
- 9.3. When a conflict or deviation is detected, a report must be compiled and submitted to the Executive Authority / Delegated Authority to revoke the approval to perform other remunerative work.
- 9.4. The Ethics Office must inform the Ethics Committee on a quarterly basis of the number of applications received, the identified conflicts of interest, the outcome of the application process and the number of monitoring reports completed.

10. ROLES AND RESPONSIBILITIES

10.1. Employee / Applicant

The Official must ensure that he/ she-

- 10.1.1. Completes, in full, an application form requesting permission to perform other remunerative work
- 10.1.2. Submits the completed application form to their Responsibility Manager for recommendation.
- 10.1.3. Submits the completed application form with the recommendation of the Responsibility Manager to the Ethics Office.
- 10.1.4. Starts performing other remunerative work only after permission has been granted.
- 10.1.5. Informs the Ethics Officer when he / she is promoted, transferred, ceases to perform the remunerated work or there are other changes in conditions relating to the permission granted Honour the conditions of approval and not venture into performing other activities for which permission was not obtained.
- 10.1.6. If necessary, apply for renewal of the application to perform remunerative work outside the public service prior to the expiration of the existing approval.

10.2. The Responsibility Manager

- 10.2.1. The Responsibility Manager must furnish comments and recommendations with due consideration to the following:
 - 10.2.1.1. The performance of the official.
 - 10.2.1.2. Whether the performance of the additional remunerative work would have any negative effect on any other official.
 - 10.2.1.3. Whether the performance of the official would be adversely affected by the remunerative work.

10.2.2. The Responsibility Manager must also ensure that:

10.2.2.1. The official seeking permission to perform remunerative work is reminded that he/she may not commence such work prior to obtaining the required authority.

10.2.2.2. He / she monitors the official who has been granted permission to perform other remunerative work, especially for possible abuse of state resources, other contraventions of the Code of Conduct and negative impact on performance.

10.2.2.3. He / she brings any abuse of state resources, other contraventions of the Code of Conduct and / or negative impact on performance to the attention of the Ethics Officer.

10.3. Ethics Officer

The Ethics Officer must ensure that-

10.3.1. The system relating to remunerative work performed by officials outside their employment in the Department is adequately managed.

10.3.2. He / she submits the completed assessment, supported by all relevant information, to the Executive Authority / Delegated Authority for a decision.

10.3.3. He / she assesses all applications for perceived, potential or any actual conflict of interest.

10.3.4. He / she makes recommendations to the Executive Authority / Delegated Authority based on the assessment of the application and includes any information relating to conflict of interest that is detected.

10.3.5. All steps in the approval process are captured on PERSAL.

10.3.6. A register is kept, and applications are monitored / reviewed for any conflict of interest, and any conflict of interest that is detected is reported to the Ethics Committee.

10.3.7. The Ethics Committee is kept informed on the other remunerative work process, such as the number of applications received, the identified conflicts of interest, the outcome of the application process and the number and nature of monitoring reports completed.

10.4. HRM

The HRM must ensure that-

10.4.1. Performance information, such as performance agreements, work plans, and any other relevant information in the personnel file, that may be needed to guide the Executive Authority / Delegated Authority in deciding on an application is provided to the Ethics Officer in report format, upon request.

10.4.2. Prospective officials are informed during the recruitment phase that they would be required to request permission to perform other remunerative work, if they successfully join the public service.

10.5. Ethics Committee

The Ethics Committee must act as an advisory body to the Executive Authority / Delegated Authority.

10.6. Executive Authority / Delegated Authority

The Executive Authority / Delegated Authority must ensure that:

- 10.6.1. A decision to grant or refuse permission for an official to perform other remunerative work is made within thirty (30) days from the date of receipt of an application.
- 10.6.2. He / she signs the certificate when permission has been granted.
- 10.6.3. He / she considers revoking permission based on reports of the Ethics Officer outlining conflicts of interest or a violation of the conditions under which permission had been granted.
- 10.6.4. He / she bases the decision to grant or refuse permission on the criteria outlined in section 30 of the Public Service Act, 1994 and be guided by the comments of the Responsibility Manager and the recommendations of the Ethics Officer.
- 10.6.5. The full reason/s for refusal of permission must be provided so that the Applicant may be informed accordingly.

11. GRANTING AUTHORITY

The granting of authority to perform remunerative work is subject to the performance of the official as contemplated in the EPMDS policy, and such authority may be revoked in the event that the additional work has a negative effect on the health and/or work performance of the official.

12. CESSATION OF REMUNERATIVE WORK

13. Where an official ceases to perform remunerative work before expiry of the approved period, the said official must submit written notice to the HRM indicating the date on which remunerative work ceased, for submission to the Ethics Officer before it is returned to HRM for recording in the personal file of the relevant official

14. REVOCATION OF PERMISSION

Permission already granted will be revoked in the following instances:

- 14.1. If the official to whom permission was granted is found to be performing RWOPS during official working hours.
- 14.2. If the RWOPS being performed is affecting the official's performance in terms of their official duties.
- 14.3. If the official is promoted or transferred to another position.

15. IMPLICATIONS OF NON-COMPLIANCE WITH THE POLICY

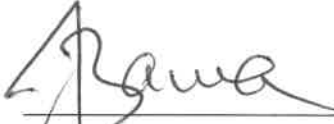
Officials who contravene any provision of this Policy will be subject to disciplinary proceedings in accordance with the Disciplinary Code and Procedures contained in GPSSBC Collective Agreement No.2 of 1999, and the Senior Management Service Handbook.

16. MONITORING AND EVALUATION


- 16.1. The Head of Department is the custodian of this Policy and is supported in its implementation, monitoring and evaluation by HRM and all Responsibility Managers.
- 16.2. The Policy may be amended as and when necessary.

17. DATE OF EFFECT

This policy comes into effect on the date of signature by the Head of the Department.



Signature of Acting/Head of
Department



Date

SECTION B: WORKING HOURS (To be completed by the applicant)

10. CURRENT WORKING HOURS OF THE APPLICANT (PER WEEK)

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11. CALL / STANDBY DUTIES HOURS (PER WEEK)

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12. CURRENT OVERTIME HOURS WORKED (PER MONTH)

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SECTION C: APPLICATION FOR OTHER REMUNERATIVE WORK (To be completed by the applicant)

13. Please select the category of other remunerative work applying for (tick only ONE option):

CATEGORY OF WORK (PLEASE TICK THE APPROPRIATE BOX)	
Administrative and Support Service Activities (including Secretarial Services)	
Architecture, Planning and Surveying	
Building Construction	
Consultancy Work	
Design (Textile, Graphics)	
Engineering and Mechanical Repairs	
Farming and Breeding	
Fashion Design / Sewing	
Financial Industry (including Money Lending, Insurance, Accounting Services, Broker)	
Fitness Industry (including Gym, Yoga, Pilates and Karate Instructor)	
Health Professionals	
Sub Categories of Health Professionals	
Medical Doctors	
Nursing and Midwifery Professionals	
Traditional and Complementary Professionals	
Paramedical Practitioners	
Sport Scientists (Physiotherapists, etc.)	
Veterinarians	
Other Health Professionals (Psychologists, etc.)	
Hospitality Industry (including Catering, Baking, Tavern Owner and Restaurants)	
Import and Export Business	
Information and Communication (including Call Centre / Contact Centres / Programming)	
Logistics, Transport and Storage (including Shuttle Services, Travel Agency)	

CATEGORY OF WORK (PLEASE TICK THE APPROPRIATE BOX)	
Manufacturing Mining Construction	
Real Estate (including Renting of Properties, Selling and Listing of Properties)	
Retail and Wholesale Trade	
Sales and Marketing (including Advertising, Public Relations and Promotion, as well as direct marketing of Cosmetics, Jewellery, Health Products)	
Security Industry	
Sports Recreation and Cultural (including Dancer, Musician, Singer)	
Training Research and Development (including Lecturer and Tutor)	
Pastoral Services (Religious Leader. Reverend, Priest, etc.)	
Funeral Services	

14. DESCRIBE IN DETAIL THE NATURE OF WORK THAT WILL BE PERFORMED

15. DATES FOR PERFORMING OTHER REMUNERATIVE WORK

PLANNED START DATE OF OTHER REMUNERATIVE WORK (NOTE THAT PERMISSION IS ONLY GRANTED FOR A MAXIMUM PERIOD OF 12 CALENDAR MONTHS)

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PLANNED END DATE OF OTHER REMUNERATIVE WORK

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SPECIFY THE DAYS OF THE WEEK AND SPECIFIC HOURS THAT WORK WILL BE PERFORMED

DAY	WORKING HOURS (EG: 05:00 TO 06:00 AND 18:00 TO 21:00)
Monday	
Tuesday	
Wednesday	
Thursday	
Friday	
Saturday	
Sunday	

16. TOTAL NUMBER OF HOURS PLANNED FOR PERFORMING OTHER REMUNERATIVE WORK (PER MONTH)

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17. TOTAL NUMBER OF MONTHS IN WHICH OTHER REMUNERATIVE WORK WILL BE PERFORMED

I confirm that I will not use any state resources for the purpose of performing other remunerative work.

I accept that I shall not conduct business with any organ of the State, either in person or an entity (including non-profit organisations).

I accept that permission to perform other remunerative work is only granted for the time agreed upon (and reflected on the certificate of approval), and that it only applies to the services / types of remunerative work as indicated in this application form.

I accept that, should I wish to continue with such remunerative work, I must renew my application (where approval is sought for a 12-month period and the intention is to continue with the other remunerative work) before it expires, by submitting a new application form at least 30 days before expiry.

I accept that non-compliance with any of the conditions, monitoring or control measures pertaining to other remunerative work may lead to disciplinary action and that the sanction imposed includes forfeiture of remuneration and / or benefits gained by such non-compliance.

I accept the normal policies and measures governing discipline also apply interms of non-compliance with the other remunerative work policy and measures.

I agree to abide by any control measures applicable to the other remunerative work system, including that it may be required of me to sign in and out each time I enter or exit the institution where I perform my basic or overtime duties.

I agree to attach the certificate of approval when disclosing my financial interests, if applicable.

I acknowledge that the Executive Authority can, at any time, terminate my authorisation to perform other remunerative work, based on a change in operational requirements and / or a lack of performance on my part.

Signature of Applicant: _____

Designation: _____

Date:

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After completing the form and signing the above (sections A to D), please present it to the supervisor for comments (see Section E below). Thereafter, submit to the Ethics Officer for further administrative processing and submission to the Executive Authority / Delegated Official.

SECTION E: RECOMMENDATIONS (to be completed by the Immediate Supervisor)

RECOMMENDATION BY SUPERVISOR:

APPLICATION IS SUPPORTED / NOT SUPPORTED

MOTIVATION FOR RECOMMENDATION / REASON FOR NOT SUPPORTING:

Signature of Supervisor: _____

Designation: _____

Date:

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SECTION F: RECOMMENDATIONS

APPLICATION IS SUPPORTED / NOT SUPPORTED

MOTIVATION FOR RECOMMENDATION / REASON FOR NOT SUPPORTING:

If not supported please state reason(s):

Reason(s)	Tick
Conflict of Interest	
Organisational requirements (work load)	
Impacting negatively on the employee's performance	
Contravening provisions in the Code of Conduct	
Involving the use of State resources to perform other remunerative work (including telephone, fax, email, etc.)	
Prevents the employee from placing their time at the disposal of the State	

Signature of Ethics Officer: _____

Designation: _____

Date:

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SECTION G: APPROVAL (to be completed by the Executive Authority or Delegated Authority)

APPLICATION IS APPROVED / NOT APPROVED

COMMENTS:

Signature of Executive Authority / Delegated Authority: _____

Date:

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