



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

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DEPARTMENT OF BASIC EDUCATION PRIVACY POLICY:

Introduction

The purpose of the Protection of Personal Information Act, 4 of 2013 (POPIA) is to promote the protection of personal information being processed by public and private bodies and to introduce certain conditions for the lawful processing of personal information.

As a public body (as described in section 1 of POPIA), Department of Basic Education (DBE) must ensure that whilst it performs a public function, the personal information of its stakeholders are protected and lawfully processed.

This policy explains how we obtain, process and disclose the personal information of individuals and juristic persons in accordance with the requirements of the Protection of Personal Information Act ("POPIA").

At the DBE we are committed to protecting the privacy of all and to ensure that personal information is collected, processed and disclosed (where applicable) properly, lawfully and transparently.

The purpose of this privacy policy is to inform you how the DBE deals with the personal information you provide for purposes amongst others for accessing the DBE website and mobile application. The terms and conditions of this privacy policy constitutes a legally binding agreement between you and the DBE. By accessing, browsing and/or using this website and mobile application, you acknowledge that you have read, understood, and agree to be bound by these terms and conditions, as may be amended from time to time.

The DBE is committed to protecting the personal information of our learners, educators and parents accessing this website and mobile application. The DBE will adhere to the principles as outlined in Section 51 of the Electronic Communications and Transactions Act, 2002 and the provisions contained in the Protection of Personal Information Act, 2013 (Act No: 4 of 2013) (POPI Act) with regards to protecting the information amongst others on its website, mobile application and other electronic data bases within its control. In line with these principles, the DBE undertakes to:

- Obtain your permission to process your personal information;
- Inform you, upon request, of the specific purpose for which we process your personal information;
- Only use your personal information for the purpose for which it was obtained and not for any other purpose; and
- Only retain your personal information for as long as we are legally required to do so.

Purpose

The purpose of POPIA as it pertains to the DBE is to –

“(a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at-

(i) balancing the right to privacy against other rights, particularly the right of access to information;”

POPIA must be interpreted in such a manner that –

“does not prevent any public or private body from exercising or performing its powers, duties and function in terms of the law as far as such powers, duties and functions relate to the processing of personal information and such processing is in accordance with this Act or any other legislation”.

What is Personal Information

The POPI Act defines “**personal information**” as information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

- information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- information relating to the education or the medical, financial, criminal or employment history of the person;
- any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- the biometric information of the person;
- the personal opinions, views or preferences of the person;
- correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- the views or opinions of another individual about the person; and
- the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

The Processing of your Personal Information

The processing of personal information includes, *inter alia*: collecting, storing, using, receiving, erasing, destroying, backing-up, transmitting, changing, organising and sharing of your personal information.

The DBE collects personally identifiable information, such as your name; email address, home or work address or telephone number, school name and EMIS Number, district, province, gender, age, race, results of learners, etc.

The Processing of Personal information must comply with Chapter 3 of the POPI Act which provides for the conditions for lawful processing of information. The eight conditions have been explained and outlined in the Department of Basic Education Guidelines on the Protection of Personal Information Act.

What is the purpose of collecting your Personal Information?

The DBE collects and uses personal information for research, assessment of programme intervention and support and strengthening of peer education in schools. The DBE will use data to inform learners of other products or services available from The Department of Basic Education and its affiliates. The DBE may also contact learners for surveys to conduct research about learner opinion of current services or of potential new services that may be offered.

Section 38 of POPIA provides for exemptions in terms of POPIA, in respect of certain functions of a public body.

“38(1) Personal information processed for the purpose of discharging a relevant function is exempt from sections 11(3) and (4), 12, 15, and 18, in any case to the extent to which the application of those provisions to the personal information would likely to prejudice the proper discharge of that function.”

The exempted functions referred to above, relate to the following

1. The data subject's right to object to the processing of personal information, in terms of section 11(3) and (4);

This exemption indicates that the provision of personal information to the DBE is necessary and mandatory in order for the DBE to perform its functions as legislated.

2. The obligation to ensure that personal information is collected directly from the data subject, in terms of section 12;

DBE may collect personal information of data subjects from other sources other than the data subject

3. The requirement that further processing must be compatible with the purpose of initial collection, in terms of section 15;

DBE is required to maintain its data for historical purposes (amongst others), which allows for collected personal information to be retained and processed further if required.

4. The requirement to notify data subjects when collecting personal information in terms of section 18

The DBE is not required to notify data subjects when collecting personal information due to the impracticality thereof, thus, data subjects are required to provide consent to collect and process personal information, and the POPIA manual will serve as a general notification of collection, processing and disclosure of personal information.

“Relevant function” as described above, means any function of-

(a) a public body;

Information is collected either from the data subject directly, or from third parties (i.e. the department of social development, home affairs etc.) which “consent” is covered in the general consent confirmation when accessing the DBE systems such as the website and mobile app. Where possible we will inform natural and juristic persons what information is required to be provided to the DBE in order to perform its functions and activities.

The Categories of sources from which the DBE collect personal information?

- Lurits;
- SA-SAMS
- Parents of learners;
- Learners;
- Educators;
- School principals;
- District coordinators;
- Provincial coordinators; and
- National coordinators.

Reasons for collection and retention of personal information:

(a) To gather contact information of an identifiable, living, natural person (educators, officials, learners, parents) and where applicable an identifiable, existing juristic person (contractors or service providers);

(b) To confirm and verify the identity of a natural person (ID numbers) or juristic person (registration numbers) or to verify that a person (i.e. third

parties) are an authorized user of the DBE's systems, processes, website, etc.

(c) To conduct trend analysis (year on year progress of learners), statistical purposes and historical research or to allow for such research activities to be conducted making use of the DBE data;

(d) For audit and record keeping purposes

(e) To provide collected information in connection with legal proceedings and in the prevention, detection and prosecution of offences.

Disclosure of your Personal Information to third parties?

Your personal information shall be kept confidential at all times and may only be disclosed to DBE, provincial education, district education officials and government departments as may be legally required.

The DBE has agreements and security measures in place to ensure that all third parties to whom your personal information is disclosed comply with the terms and provisions of the POPI Act. The DBE will ensure that third parties fully understand the duties and obligations they become encumbered with in retaining the privacy and integrity of your personal information.

Authorisation by law to process the personal information of children

Section 34 of the POPI Act provides for the prohibition of processing of personal information of children:

“A responsible party may, subject to section 35, not process personal information concerning a child.”.

In other words, the DBE may not process personal information of children unless the processing is effected in terms of section 35 of the POPI Act.

Section 34 (1) of the POPI Act provides that the prohibition on processing personal information of children referred to in section 34, does not apply if the processing:

- occurs with the prior consent of a competent person;
- is necessary for the establishment, exercise or defence of a right or obligation in law;

- is necessary to comply with international public law
- For historical, statistical, or research purposes where:
 - it is in the public interest and is necessary for a specific purpose;
 - processing does not adversely affect the individual privacy of the child;
 - it appears to be impossible or would involve a disproportionate effort to ask for consent;
 - the child deliberately publicised their personal information with a competent person's consent.

Authorisation by the Regulator to process the personal information of children

The DBE may in terms of section 35(2) of the POPI Act apply to the Regulator and by notice in the Gazette for authorisation to process personal information of children.

The Regulator may grant such authorisation if the processing is in the public interest and appropriate safeguards are in place to protect the child's Personal Information.

The Regulator may impose conditions with authorisations and the conditions may require a responsible party:

- to provide reasonable means for a competent person to review or refuse the processing of a child's personal information.
- to provide notice:
 - regarding the nature of a child's personal information
 - about the method of processing
 - regarding any further processing practices.
- avoid any action that may encourage or persuade a child to disclose more personal information about themselves than is necessary
- to establish and maintain reasonable procedures to protect the integrity and confidentiality of the personal information collected from children.

Security measures to ensure Protection of your Personal Information

Due to the nature of the internet, information submitted by the DBE website, or mobile application may not be secure, unless submitted by/through a secure connection. We

do however have reasonable security measures in place to protect your Personal Information.

Unfortunately, we cannot assume any guarantee for other providers whose websites you might reach through links on the DBE website. The DBE cannot control the confidentiality, access or dissemination of any information that is retrieved through the use of “cookies” or information retrieved through the collecting and storing of IP addresses of visitors to this DBE website or mobile application.

The DBE website offers a self-service login for learners and educators and should you choose to use this facility we strongly advise you to safeguard your login details in order to prevent unauthorised access to your personal information.

Access to your Personal Information

You may contact the DBE to enquire what personal information we hold for you. The DBE shall make the information available to you upon request and after reasonable satisfaction that you have confirmed your identity.

Change to your Personal Information

The POPI Act requires that all personal information stored must be accurate and updated. You may update, correct, amend or delete your personal information at any time either via the Self-Service portal on the DBE website or via the mobile application.

Please note that before any changes to your personal information is made, we will take all reasonable steps to confirm your identity.

Right to lodge a complaint

In terms of section 18(h)(v) the POPI Act (POPI Act), you have the right to lodge a complaint to the Information Regulator South Africa (IRSA). The IRSA contact details are:

<https://www.justice.gov.za/inforeg/contact.html>

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Email infoereg@justice.gov.za

Amendments to this Privacy Policy

Please note that the DBE reserve the right to make amendments and/or changes to this privacy policy from time to time and will take all reasonable steps to inform you of any such amendments or changes. You are also requested to please check the DBE website periodically to inform yourself of any changes.

Consent to process Personal Information

By submitting your details and/or using the DBE website or mobile application, you accept the terms and conditions of this privacy policy and consent to the processing of your personal information by the DBE.

APPROVED / NOT APPROVED / APPROVED AS AMENDED

A handwritten signature in black ink, appearing to read 'HM Mweli', written over a faint circular stamp.

MR HM MWELI
DIRECTOR-GENERAL
DATE: 17/01/2023