



NORTH WEST DEPARTMENT

OF

EDUCATION

GIFT AND DONATION POLICY

Item	Table of contents	Page No.
1	Definition	3-5
2	Acronyms	5
3	Introduction	6
4	Policy Objectives	6
5	Scope of Policy	7
6	Legislative Mandate	7-8
7	Rationale of Policy	9
8	Stakeholder Analysis	9-10
9	Procedure for the Acceptance and Receipt of Gifts by Department	11
	Procedure for the Acceptance and Receipt of Gifts by Employees	12-13
10	Procedure for Disclosing Gifts	13
11	Prohibition on Acceptance and Receipts of Gifts	14
12	General Prohibition	15
13	Specifically Prohibited Gifts	15
14	Reporting of Non-Disclosure	15-16
15	Non Compliance of Sanctions	16-17
16	Creating Awareness	17
17	Monitoring	17
18	Administration	18
19	Policy Review	18
20	Policy Approval	18

1. DEFINITION

"Benefit" shall mean any tangible or intangible advantages or profits gained, such as tickets to sporting or other events, invitations to lunches, dinners, promotions or travel,

"HOD" shall mean the Head of Department/Accounting officer.

"Senior Management" means the Senior Management Service consisting of Employees who are incumbents of posts graded on level 13 or above, unless Specifically excluded in terms of a determination or deemed determination by the Minister;

"Ethics Champion" is an official appointed by the Head of the Department who are assigned the responsibility to drive the ethics and anti-corruption initiatives in the Department

"Corruption" shall mean the abuse of a position of employment by offering or acceptance of a benefit that is not legally due, for the commission of an act in connection with that position of employment, as defined in the *Prevention and Combating of Corruption Activities Act, No 12 of 2004*.

"Customers or clients" shall mean existing and potential future customers, stakeholders or clients external to the Department.

"Stakeholders" is employees, suppliers and the community which the Department draws its resources.

"Third party" someone who may be indirectly involved with the Department but is not a principal party to a contract or transaction

"Assets" is a resource controlled by the department as a result of past events and from which future economic benefits are expected to flow to the department

"Employer" means a person who: -

- a) Who employs or provides work for any other person and undertakes to remunerate such person;
- b) Who permits any person to assist in the carrying out of the department's mandate?

"Employee" means a person who: -Has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 8 (1) (a) of the Public Service Act, and includes a person contemplated in section 8 (1) (b) or 8 (3) (c) of that act; or

- a) Has been appointed on contract in terms of section 8 (1) (c) (ii) of the Public Service Act.

"Gifts" means a token which is bestowed voluntarily without any expectation of tangible compensation, and for which no direct or indirect contractual obligations are imposed. Example are" loans; payments; information or money; services; personal travel; entertainment; gifts or favours from customers or suppliers, or from a person doing or seeking to do business with the DoE; any discount; hospitality; tangible or intangible item to the cumulative value of **R 500 per year**, unless prior approval is obtained from the relevant executive authority; including but not limited to, cash, food and drink and honoraria for speaking engagements related to or attributable to the DoE and employment or the official position of an employee.

"Corporate gift" means gift (which may or may not bear a logo) offered by a government department or entity to their employees at official events (it includes gifts presented to foreign delegations or other department.

"Gratification" means a reward for an official for lawful/ unlawful responsibilities that includes donation, gift, loan, fee, reward, valuable security, property, or interest in property of any description, whether movable or immovable, or any other similar advantage. The definition also includes gratification as defined in Section 1 of the *Prevention and Combating of Corrupt Activities Act No 12 of 2004* (as amended).

"Suppliers" shall mean existing and potential vendors, contactors, sourcing partners, service providers, distributors, and consultants who supply goods or services to the Department, as well as any other third parties who may in future become suppliers or vendors of goods or services to the Department.

"Family member", in relation to any person, means his or her parent, sister, brother, child or spouse—

(a) Including a person living with that person as if they were married to each other, namely a life partner;

(b) Whether such relationship results from birth, marriage or adoption;

(c) Including any other relative who resides permanently with that person; and

(d) Including any other relative who is of necessity dependent on such person;

"Donations" , A donation may take various forms, including [cash offering](#), [services](#), new or used goods including [clothing](#), [toys](#), [food](#), and [vehicles](#).

"Sponsorship", refers to either cash and or in –kind fee paid on behalf of an employee. This includes bursaries, sponsorship to publish a research paper by either the Department or other institution. To **sponsor** something is to support an event, activity, person, or organization financially or through the provision of products or services in return for access for commercial, profit purpose associated with that person or organization.

"Rewards" To give money or another kind of payment that is given or received for something that has been done or that is offered for something that might be done.

"Hospitality" The activity of providing food, drinks, etc. for people who are the guest or customers of an organization.

2. ACRONYMS

- 2.1 **EA-** Executive Authority of the Department
- 2.2 **DoE** – Department of Education
- 2.3 **HOD-** Accounting Officer of the Department
- 2.4 **PRECCA-** Prevention and Combating of Corrupt Activities Act 12 of 2004
- 2.5 **PFMA-** Public Finance Management Act 1 of 1999
- 2.6 **PSR-** Public Service Regulations 01 August 2016
- 2.7 **PSC-** Public Service Commission
- 2.8 **DPSA-** Department of Public Service Administration
- 2.9 **AGSA** - Auditor General South Africa
- 2.10 **FPP** –Fraud Prevention Policy
- 2.11 **FPS-**Fraud Prevention Strategy
- 2.12. **SAPS-** South African Police Services

3. INTRODUCTION

This policy in terms of Gifts and Donations is authorised by Section 45(b), (c) and section 76 (1) of Public Finance Management Act, Public Service Regulations and Public Service Code of Conduct which places an onus on each of official within the department to take responsibilities for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility.

4. POLICY OBJECTIVES

4.1. This policy will be applicable to all employees within the North West Department of Education.

The aim of this policy is to:

- Give direction and directive to all employees of the Department on matters relating to acceptance and granting of gifts, donations and sponsorships to the state;
- Provide guidance on the behaviours expected in accordance with the Public Service Commission values;
- Promote transparency and avoid conflict of interest;
- Ensure fairness in the interests of employees and the Department;
- Comply with the requirements of the law relating to the prevention of corruption;
- To ensure proper disclosure of all gifts, donations and sponsorships granted and accepted by the department.

4.2 By ensuring the above is implemented, the Department will be able to:

- Allow employees, where appropriate, to accept and receive gifts provided that these gifts do not interfere with or have the potential to interfere with their responsibilities to the department, improperly influence the judgments expected of them when acting on behalf of the Department, or amount to corruption in anyway.
- Protect employees from misplaced charges of conflict of interest or corruption by providing a mechanism for the acceptance and of gifts by employees.

5. SCOPE OF POLICY

5.1 This policy applies to all employees of the Department, including interns, Educators, learners and third parties directly or indirectly having dealings with the department.

6. LEGISLATIVE MANDATE

6.1. The Constitution of the Republic of South Africa 108 of 1996

Set a high standard of professional ethics which, must be promoted and maintained. Services must be provided impartially, fairly, equitably and without a bias. Public administration must be accountable. Transparency must be fostered by providing the public with timely, accessible and accurate information.

6.2. Public Finance Management Act (PFMA),

Act 1 of 1999 as amended by Act 29 of 1999, section 81 which deals with financial misconduct by officials in the departments and constitutional institutions. Section 85 and 86 deals with regulation on misconduct procedures and offences and penalties.

6.3. Treasury Regulation chapter 4

Which makes provisions that the Accounting Officer may approve Gifts and Donations of state money and other movable property in the interest of state.

6.4. Protected Disclosure Act 26 of 2000,

Which makes provision for procedures in terms of which employees in both the private and public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employer; also provide for the protection of employees who make a disclosure which is protected in terms of this act and to provide for matters connected therewith

6.5. Prevention and Combating of Corrupt Activities Act 12 of 2004

Which guides the departments on how to prevent and combat corrupt activities in the workplace.

6.6. Public Service Act, 1994,

To provide for the organisation and administration of the public service of the Republic, the regulation of the conditions of employment, terms of office, discipline, retirement and discharge of members of the public service, and matters connected therewith.

6.7. Public Service Regulations, August of 2016,

Which makes provisions on how employees must conduct business with the state and disclose their financial interest in the Public Service

Other relevant frameworks

6.8. The Public Sector Integrity Management Framework,

Provides a comprehensive Integrity Framework derived from the existing regulatory framework dealing with a compendium of ethical and good governance measures in order to align all measures regulating ethics and integrity in the public sector, by: Strengthening existing measures regulating probity in the public service; Strengthening capacity to prevent corruption; Monitoring and evaluation to ensure compliance; and Enforcement as a deterrent. Introducing compulsory financial disclosure, the declaration of gifts, hospitality and sponsorships and approval for other remunerative work.

6.9. Batho Pele Principles

Were developed to serve as acceptable policy and legislative framework regarding service delivery in the public service. These principles are aligned with the Constitutional ideals of promoting and maintaining high standards of professional ethics; providing service impartially, fairly, equitably and without bias; utilizing resources efficiently and effectively; responding to people's needs; the citizens are encouraged to participate in policy-making; and rendering an accountable, transparent, and development-oriented public administration.

6.10. Public Service Code of Conduct

Which outline how the employees within public service should conduct their duties, how they should relate to the public and how to conduct their personal and private interest.

Other internal policies, delegation of authority, Conditions of service and Disciplinary processes

7. RATIONALE OF POLICY

The Departmental Gift and Donations Policy is developed in line with the Public Sector Integrity Management Framework and relevant acts of the South African Government, and any acceptance of an offer of a bribe or a commission must however be viewed as illegal and may result in criminal action.

Employees must take great care not to be placed in a situation where their actions might be construed to be improper, may indicate bias towards an organisation or person, or indicate favouritism towards any organisation or person.

8. STAKEHOLDER ANALYSIS

8.1. Roles and Responsibility of Internal Stakeholders

8.1.1 Accounting Officer

The Accounting Office of the Department is accountable for overall governance in the Department.

The Accounting officer must set appropriate measures (i.e. the development of strategies/gift and donation policies and approval of gift register for the effective management of gifts and donations.

8.1.2 Ethics Officer

The Ethics Officer shall submit quarterly written report to the Accounting Officer of all gifts and donations received in cash or in kind

8.1.3 Senior Management

Shall be responsible for ensuring that they will receive quarterly declaration of all their subordinates.

8.1.4 Sub - Directorate Anti – Fraud & Corruption Services

The Sub - Directorate shall be the custodian of this Policy, and coordinate corruption prevention activities throughout the Department. The primary responsibility of the Directorate shall be to investigate corruption where it is reported.

8.1.5 Legal Services

The role of Legal Services shall be upon recommendation or after the investigation kick start a process of recovery of loss, or recommend any other alternative relief possible.

8.1.6 Employee Labour Relations Services (ELRS)

When determining the appropriateness of disciplinary steps against an official charged in terms of section 38 (1) (h) of PFMA, Labour Relations takes the following into account:

- The circumstances of the transgression
- The extent of the expenditure involved and,
- The seriousness of the transgression
- Ensuring that the disciplinary process is carried out within ninety days

Advising the Executive Authority, the Department of Public Service and Administration and the Public Service Commission of the outcome of disciplinary and criminal proceedings.

8.1.7 Asset Management Unit (SCM)

Shall responsible for the asset verification through observation, listing and counting of major and minor assets to determine condition, location, physical existence and usage levels and validate against physical and accounting records.

The next step will be to record in the Departmental Assets and Gift Register

8.2 Roles and Responsibility of External Stakeholders

8.2.1 South African Police Service (SAPS)

The role of SAPS on terms of this policy shall be limited to the Department reporting cases of corruption and the Department doing follow ups regarding any progress that would be registered concerning those matters.

8.2.2 Public Service Commission (PSC)

The Public Service Commissioner refers to the Department all cases of corruption reported through the National Hotline. The interaction of the Department and PSC shall be limited to us investigating and proving PSC with regular updates in as far as the responsibility of the Department is concerned regarding those cases.

8.2.3 Office of the Premier (OTP)

Shall be the coordinator office in terms of this policy in as far as implementation of corruption prevention activity in the Department.

The Department shall have the responsibility to be part of any fraud prevention organized by the Office of the Premier and provide feedback on all cases referred to the Department by Public Service Commission through office of the Premier.

9. PROCEDURE FOR THE ACCEPTANCE AND RECEIPTS OF GIFTS BY THE DEPARTMENT

- 9.1 The Accounting Officer may approve the acceptance of gifts, donations and sponsorships to the state, whether in cash or in kind
- 9.2 All gifts, donations and sponsorships to the Department must be formally acknowledge by the Accounting Officer.
- 9.3 All cash, gifts, donations or sponsorships must be paid into the relevant revenue fund except for those excluded by Treasury Regulation 21.2.5
- 9.4 The MEC may decide how a gift, donation or sponsorship should be utilised where it is not apparent for what purpose it should be applied.
- 9.5 All gifts, donations or sponsorships received during the course of the financial year must be disclosed as a note to the annual financial statements of the department.
- 9.6 When a donor or sponsor request to remain anonymous, the Accounting Officer must submit to the Provincial Treasury, a certificate from both the Public Protector and the Auditor General.

10 PROCEDURE FOR THE ACCEPTANCE AND RECEIPT OF GIFTS BY EMPLOYEES

10.1 Cash or Cash Equivalents

10.1.1 Offers of cash or cash equivalents (e.g. lottery tickets, gift vouchers or gift cheques) made by suppliers, contractors, vendors service users, their relatives or any other third party to individuals officers/employees of the Department of Education **should be declined.**

10.2. Non Cash gifts

10.2.1 **PSR Regulation 13 (h)- Ethical conduct.** An employee shall not receive or accept any gift from any person **in the course and scope of his or her employment**, (other than from a family member), to the cumulative value of **R500 per year**, unless prior approval is obtained from the relevant executive authority;

- Can still receive to the cumulative value of R500 per year;
- Not necessarily from the same person;
- If more than R500 obtain permission from Executive Authority

10.2.2 Seasonal gifts such as calendars or diaries can be accepted. This type of gift can be easily distinguishable from more expensive or substantial items which cannot on any account be accepted.

10.2.3 **Corporate gifts** such as branded stationery, cups or mugs can be accepted by officials. However corporate gifts that are valued or has rand value of R500 or more must be declared.

10.2.4 Corporate gifts issued by service providers at seminars, workshops, training, conferences, meetings, indabas etc. may be accepted by officials and to be declared to the Accounting officer for approval, including the officials must declare such gifts if it has a rand value of 350 or more.

10.2.5 However if you received an inexpensive gift as outline in clause 10.2.1 to 10.2.3 above and it has become more than once within a financial year the value of the gifts had become immaterial, and should thereafter be declared to the Accounting Officer with immediate effect through utilizing the appropriate form prescribe for such declaration.

These clauses will therefore no longer provide the official with any protection, if they do not declare

- 10.2.6 Corporate gifts issued by the Department to its own officials through event such as women events as example or any other similar events, are allowed and acceptable if priorly approved by the Accounting Officer through the regular tender procedures as prescribe and does not need to be declared
- 10.2.7 Gifts or donations received with a rand value of ***less than R500*** may not be disclosed however such gifts or donations received should be registered to monitor the accumulative rand value of gifts and donation, and should the accumulative rand value be R500 or more within the financial year then prior approval must be obtained prior to acceptance of the gifts and donation.
- 10.2.8 **No Official** is allowed to request sponsorship on behalf of the department without the prior written approval of the relevant authority
- 10.2.9 All request for sponsorship should be made in writing, to the relevant authority, specifying the particulars of the sponsorship, donation, gift or hospitality and be accompanied by the relevant supporting documents for approval by the relevant authority, before any request is made on behalf of the department or any acceptance is made whether it be in an individual or joint capacity or on behalf of the department
- 10.2.10 If an official were to declare or disclose any such gifts, and the officials failed to do so within a reasonable time frame being within a week (Five working days) of acceptance, the official will be in misconduct, and will be disciplined in accordance with the Public Service Disciplinary measure and procedures as prescribed
- 10.2.11 The acceptance of any gift or donation is subject to a submission recommended by the relevant manager, Supervisor, Director or District Director for approval by the Accounting Officer. Submission must pass through the **Sub - Directorate Anti – Fraud & Corruption Services** for recommendations to the Accounting Officer who will then issue out acknowledgement receipts and provide the final outcome.
- 10.2.12 The response towards the approval or disapproval should be communicated to the official within at least thirty (30) days from receipt of the request

- 10.2.13 Disclosure in a Gift Register must take place in accordance with the prescribed form attached as **Annexure A** to the policy.
- 10.2.14 The acceptance or receipt of the gift may not take place in circumstances that amount to a conflict of interest on the part of the employee.
- 10.2.15 The acceptance or receipt of the gift may not take place in circumstances that amount to corruption.

11. PROCEDURE FOR DISCLOSING GIFTS

- 11.1 The procedure for disclosing any gift or donation is subject to a submission to the relevant manager, Supervisor, Director or District Director who then make recommendations to the Accounting Officer and it must pass through the Sub – Directorate Anti – Fraud & Corruption Services and for recommendations to the Accounting Officer who will then issue out then provide the final outcome.
- 11.2 The submission shall be forwarded to the Accounting Officer through the Sub - Directorate Anti – Fraud & Corruption Services Unit for approval and shall include the following:
Motivation, why it is in the interest of the Department to grant a gift or donation.
- *Details of the recipient of the gift or donations.*
 - *The cost of the gift or donations*
 - *The benefit to the department, if any, and the link to its strategic objective/Plan*
 - *Any other relevant information that would enable the Accounting Officer to decide whether or not such a gift or donation should be granted.*
- 11.3 The Sub – Directorate Anti – Fraud & Corruption Services shall monitor, maintain the implementation of this policy and report to Management Structurers and other oversight structures.

12. PROHIBITION ON ACCEPTANCE AND RECEIPTS OF GIFTS

- 12.1 DoE employees are required to use their best judgement to avoid situations of real or perceived conflict. DoE employees shall not accept, solicit or receive gifts, donations or any

other benefits that may have an influence on their objectivity in carrying out their official duties or that may place them under obligation to the donor.

12.2 The improper acceptance of gifts and hospitality will lead to accusations of bias and even corruption, potentially leading to investigations and possible corrective action and charges

12.3 It is not feasible that a comprehensive set of rules be drawn up to cover every situation. The situation context must be borne in mind, specifically the relationship between the DoE, the organisation concerned and the role of the individual in that relationship. However, improper acceptance of a gift or hospitality will be viewed in a serious light and may, apart from any other consequences, lead to internal disciplinary action.

- Should the employee have reservation about contravention of gifts and donations policy to their immediate supervisor/manager, employee should either;
- Report allegations of corruption anonymously, by contacting any member of the management,
- Report to Sub – Directorate Anti – Fraud & Corruption Services.
- Report to office of the Head of Department / Superintendent - General,
- Report to the National Anti-Corruption Hotline at **0800 701 701 (NACH)**

15.2 Reporting by member of public

The department encourages a member of the public who suspects contravention of gifts and donations policy to contact either of the following:

- Area Officer Managers
- Circuit Managers
- District Directors
- Member of Senior Management
- Sub – Directorate Anti – Fraud & Corruption Services
- Office of the Head of Department / Superintendent - General
- Office of the Public Protector
- Office of the Premier
- National Anti-Corruption Hotline **0800 701 701**
- South African Police Services(SAPS)
- Office of Auditor General

16. NON-COMPLIANCE OF SANTIIONS

16.1 Departmental employees shall adhere to the Public Service Regulation and confines to all relevant and cultural values.

16.2 In terms of the Public Service Code of Conduct all employees are **NOT** allowed to receive gifts or benefits for himself or herself as these may construed as a bribe.
Refer: Chapter 2-Part 1. 13 (h) of Public Service Regulations of 2016.

16.3 When a person is employed as a Public Servant, such an appointment carries a very Special meaning. It clearly implies that such an employee sells his or her labour to the state and will be remunerated from the taxes collected from the community at large and that the employee shall then provide the community with the best possible service in a professional and dedicated manner.

16.4 Ethical conduct in the Public Service is required by the Constitution, Section 195(1) of the Constitution requires a Public Administration that is governed in terms democratic values and principles including high standard of professional ethics must be promoted and maintained.

16.5 Any Departmental official who fails to comply or seek approval for accepting gift, donation and sponsorship will have committed a misconduct and will be disciplined in accordance with the Public Services Disciplinary measures and procedures as prescribed.

17. CREATING AWARENESS

17.1 In order for the policy to be sustainable, it must be supported by a structured education, communication and awareness programme.

17.2 It is the responsibility of all Manager, District Directors, Senior Managers to ensure that all employees, are made aware of, and receive appropriate training and education with regard to the Gifts and Donation Policy.

18. MONITORING

18.1 The Ethics Officer shall submit a written report to the Accounting Officer of all Gifts and Donations received.

18.2 All Supervisors, Senior Managers and District Directors must ensure that the implementation of this policy is monitored and adhered to it thereof.

18.3 Anti – Fraud & Corruption Services will therefore during their integration of Fraud Risk Assessment in to the operation of the Departmental programmes conduct awareness, Advocacy on the implementation and monitoring of the gift and donation policy.

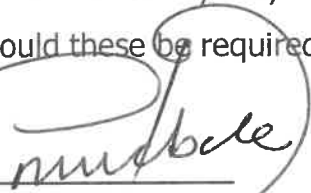
19. ADMINISTRATION


19.1 The DoE has overall responsibility for the maintenance and operation of this Policy and will be supported by the Sub - Directorate Anti – Fraud & Corruption Services and Human Resource in maintaining a record of concern raised and the outcomes (but in the form which does not endanger confidentiality)

19.2 The custodian of this policy is the Head of Department/ Superintendent - General who is supported in its implementation by the entire department's Senior Managers.


20. POLICY REVIEW

20.1 This policy will be reviewed yearly or when need arises and appropriate changes will be effected should these be required before the review date.


COMPILED BY: 
MR OM MABALANE
DEPARTMENTAL ETHICS OFFICER

SUPPORTED BY: 
CHAIRPERSON OF DEPARTMENTAL ETHICS COMMITTEE.
DEPARTMENT OF EDUCATION

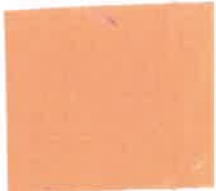
DATE : 16/05/2024

RECOMMENDED BY: 
MR MV SESHIBE:
ACTING SUPERINTENDENT - GENERAL: DEPARTMENT OF EDUCATION

DATE : 20-05-2024

APPROVED BY: 
Hon MEC. NTSETSAO VIOLA MOTSUMI (MPL)
MEMBER OF THE EXECUTIVE COUNCIL OF DEPARTMENT: DEPARTMENT OF EDUCATION.

DATE : 26/05/2024



Certification

I have read and understood the Departmental Policy on Gifts and have disclosed all material facts and circumstances relating to the receipt and acceptance of the specified gifts (including benefits or gratuities as defined in the policy).

I understand that if I have misrepresented the material nature of any gift accepted or received, that such action could constitute misconduct that may result in disciplinary action being taken against me, which may result in dismissal.

Employee Signature: _____ **Date:** _____

Employee Name: _____ **Employee No:** _____

Manager Name: _____

Manager Signature: _____

Ethics Officer Signature: _____ **Date:** _____

Head of Department Signature: _____ **Date:** _____

ANNEXURE A

DEPARTMENT OF EDUCATION.

Department of Education Application Form for gifts and donation: Gifts above R500.00

PERSONAL DETAILS OF APPLICANT

Surname

First names

Personnel number

Contact details

Disclosure

Please provide details of gifts, including the name of the supplier, client or third party, the nature of the gift, the estimated value of the gift, the date receipt of the gift, and any other relevant information. Please attach any relevant documents to this disclosure form.

Recommendation by Supervisor

Application is supported/not supported

Motivation for recommendation/reasons for not supporting

Signature of Supervisor: _____

Designation: _____

Date: _____

Recommendation by Ethics Officer

Application is supported/not supported

Motivation for recommendation

Signature of Ethics Officer: _____

Approval by Accounting Officer

Application is approved/not approved

Comments
