

Department of Higher Education and Training
Recommended
Conflict of Interest Declaration Policy for Public CET
Colleges



Free State
CET College
Community Education
and Training College

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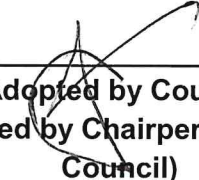
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AMENDMENT AND APPROVAL RECORD

Amendment No.	Amendment description	Originator	Approved By	Date

Name of CET College: Free State Community Education and Training College		
Conflict of Interest Declaration policy		
Department: Governance Responsibility : Accounting Officer		
<p style="text-align: center;"><i>MA Matlawa</i></p>  <hr/> <p style="text-align: center;">Prepared and submitted by the Accounting Officer to Council</p> <p style="text-align: center;">Date: <u>23/01/2018</u></p>	<p style="text-align: center;"><i>Mr F.R Sello</i></p>  <hr/> <p style="text-align: center;">Adopted by Council (Signed by Chairperson obo Council)</p> <p style="text-align: center;">Date: <u>24/01/2018</u></p>	<p style="text-align: center;">Implementation Date:</p>

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1. Legislative framework and best practice regulations

Key principles contained in the following legislation were applied to develop this policy:

- (a) CET Colleges Act No.16 of 2006, as amended (the "Act")(formerly the ABET Act);
- (b) Public Service Regulations 2001, as amended;
- (c) Public Finance Management Act, 1999 (Act No 1 of 1999, as amended by Act 29 of 1999) (PFMA);
- (d) National Treasury Regulations, March 2005;
- (e) Draft National Treasury Regulations Gazetted 30 November 2012;
- (f) The Prevention and Combating of Corrupt Activities Act, 2004; and
- (g) Amended Public Service Integrity Management Framework.

2. Purpose

The primary purpose of this policy is to:

- a) define under which circumstances an interest shall be declared as a Conflict of interest;
- b) promote transparency and provide a framework for the identification and management of Conflict of interest relating to the College and its Employees, DHET Employees at the College, Council members, or external members of Council committees; and
- c) document the process for the disclosure, approval and review of actual, potential and/or perceived Conflict of interest.

3. Definitions, acronyms and abbreviations

For the purpose of this policy, unless the context indicates otherwise, the following definitions are set out for the terms indicated:

- 3.1 **"Accounting Officer"** – is the College Principal.
- 3.2 **"Act"** – is the CET Colleges Act No.16 of 2006, as amended.
- 3.3 **"College", "CETC"** – is a Public Community Education and Training College.
- 3.4 **"Conflict of interest"** – means a conflict between the public duties and private interests of an employee, Council member or external member of a College committee or a member of their immediate family which could improperly influence him/her. This includes but is not limited to:
 - a) a financial interest;

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- b) an ownership interest; and
 - c) any relationship with a third party.
- 3.5 **“Council”** - is the governing structure of the College.
- 3.6 **“Department”; “DHET”** – is the Department of Higher Education and Training.
- 3.7 **“Employee”** – is any official, employed by the College, irrespective of grade, full-time or part-time, or Council, or Departmental appointed, or paid on a salaried or an hourly/daily individual basis.
- 3.8 **“Ethics Champion”** – is a person designated, by the Accounting Officer, at executive level with the delegated authority to drive ethics and anti-corruption initiatives.
- 3.9 **“Exco’** – is the Executive Committee of the College.
- 3.10 **“Financial interest”** - means an interest that can result directly or indirectly in a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity or venture, or as a result of salary, gratuity or other compensation or remuneration from any person or entity.
- 3.11 **“Immediate family”** – in relation to a member, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that member as if they were married to each other.
- 3.12 **“Minister”** – is the Minister of the Department of Higher Education and Training.
- 3.13 **“Nepotism”** – the appointment, employment, promotion or advancement of a family member or relative in a position, or the advocacy of such actions by any employee, where that employee is able to influence, directly or indirectly, the decisions relating to these specified actions.
- 3.14 **“Registrable interest”** – means the financial interests listed for declaration in Annexure A.
- 3.15 **“Remuneration”** – means receipt of benefits in cash or in kind.
- 3.16 **“Submitted form”** – means a form submitted by an employee to the Ethics Champion as required by paragraph 7.

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3.17 **“SMS”** – means Senior Management Service

4. Scope

The requirements outlined in this policy apply to all Employees, Council members of the College and members of the public appointed to Council committees. The Principal and Deputy Principals are DHET employees and subject to DHET policies as well as the College.

5. Roles and Responsibilities

5.1 Council

The members of Council are ultimately responsible for the implementation of the Conflict of Interest Declaration policy but may delegate certain responsibilities to Exco, and the internal audit function as set out below.

5.2 Exco

Exco is responsible for the following with respect to this policy:

- a) Ensure that all Employees, Council members and external members of College committees, are made aware of the contents of this policy, including training and education thereof.
- b) Ensure that the policy is published on the College website and that it is easily accessible for public inspection at all reasonable times.

5.3 Ethics Champion Function

The Ethics Champion function is important in embedding the policy in the College. It is responsible for the following:

- a) Report in the quarterly and annual compliance reports submitted to DHET on the monitoring of, compliance with and accessibility of this policy.
- b) Maintain a Conflict of Interest register in which all declaration forms or meeting declarations completed by Nominated Employees, Council members or external members of College committees, are recorded.
- c) Assist Exco in discharging its responsibilities including arranging training of Employees, Council members and external members of College committees.

6. Policy statement

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- 6.1 A Conflict of interest may arise when an Employee, Council member or external member of any College committee has the opportunity to influence the College's business, administrative, academic or other decisions in a way that could lead to personal gain or advantage of any kind for them or a member of their family.
- 6.2 An Employee, Council member or external member of any College committee shall not participate in any decision of the College that relates to or has any effect on a business in which the person or a family member has a financial interest or with which such person has or is negotiating to have any paid employment or a consulting relationship.
- 6.3 The College has the right, via an appropriate register of companies, both to verify the information supplied by Employees, Council members or external members of College committees as well as to ascertain whether any Employee has a financial interest that has not been declared.
- 6.4 In accordance with the CET Act a member of Council or an interim Council:
- a) must, before he or she assumes office, declare any business-commercial or financial activities undertaken for financial gain that may raise a possible Conflict of interest with the College;
 - b) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the Council;
 - c) may not have a Conflict of interest with the College;
 - d) may not have a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting and which entails or may entail a Conflict or possible Conflict of interest with the College; and
 - e) must, before the meeting and in writing, inform the chairperson of that meeting of the Conflict or possible Conflict of interest.

7. Conflict of Interest Disclosure Framework

- 7.1 The Conflict of interest disclosure framework is guided by the following key principles:
- a) Employees, Council members and external members of College committees may not use public office for private gain.
 - b) Employees, Council members and external members of College committees must act impartially and may not give preferential treatment to any private organization.
 - c) Employees may not undertake remunerative work outside their employment in the Public Service without prior approval.

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- 7.2 The framework reflects the aim to prevent rather than to punish. The framework further serves not only to guide the relevant officials in making decisions, but also to protect them.
- 7.3 In addition to the amended Chapter 3 of the Public Service Regulations that requires all members of the SMS to disclose their financial interests, the Amended Public Sector Integrity Management Framework extends the requirement to disclose financial interests to all employees in the Public Service.

8. Annual declaration requirements

- 8.1 Every employee, Council member or external member of a College committee shall not later than 31 January of a year, disclose to Council on the form determined for this purpose (Annexure A), particulars of all her/his registrable interests in respect of the period 1 January of the previous year to 31 December of the year in question.
- 8.2 During the year disclosure shall be made every time new registrable interests are obtained.
- 8.3 Any person who assumes duty as an employee, Council member or external member of a College committee after 1 January in a year shall make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her/his assumption of duty.
- 8.4 The form to be used for the submission of financial disclosures is attached as Annexure A and general information is included as Annexure B.
- 8.5 The form must be signed by the Accounting Officer and a Commissioner of Oaths after all requested items have been completed.
- 8.6 The original completed form must be submitted to the Ethics Champion for updating of the Financial Interest Declaration register and record keeping.
- 8.7 The disclosure of the Ethics Champion shall be submitted directly to the Accounting Officer.
- 8.8 Information disclosed to the Ethics Champion is of a confidential nature and steps must be taken to protect the confidentiality of information. Access to such information is limited to certain specified functions which must be authorised by the Accounting Officer. Any unauthorised disclosure of such information constitutes misconduct.

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- 8.9 An employee, Council member or external member of a College committee whose spouse, partner, business associate or close family member, stands to acquire any direct benefit from a contract concluded with the College, shall disclose in writing full particulars of the benefit to the Ethics Officer and withdraw from participating in any manner whatsoever in the process relating to that contract.
- 8.10 A member of the Council or a member of a committee of the Council who contravenes subsections 6.4.1 to 6.4.5, after the Council has followed a due process, may be:
- a) suspended from attending a meeting; or
 - b) disqualified as a member of the Council or a member of a committee of the Council.

9. Mechanisms for the Identification of Conflict of Interest

- 9.1 The following mechanisms can be utilised to identify potential Conflict of interest:
- a) All Employees, Council members and external members of committees are to be trained on the content of this policy and made aware of the specific circumstances that may give rise to a Conflict of interest.
 - b) When an Employee, Council member or external member of committees becomes aware of a potential Conflict of interest, the process set out in this document for the disclosure and or declaration thereof must be followed.
- 9.2 Measures to consider
- a) Avoid any situation where objectivity may be impaired when conducting business with a supplier or interest group.
 - b) The following must be disclosed and or declared immediately in writing which may result in a Conflict of interest with a supplier or interest group or prospective supplier or prospective interest group:
 - an existing financial interest; or
 - an existing ownership interest.
- 9.3 Measures to mitigate
- a) Implement the process set out in this policy regarding disclosure, declaration and any guidance that may be issued following the assessment of any disclosure/declaration.
 - b) Implement the processes included in the College Charter and Code of Conduct for committees with respect to declaration of Conflict of interest.

10. Adoption of policy

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This policy is effective from the date on which it is adopted by the Council.

11. Availability of conflict of interest declaration policy

A copy of this policy and other relevant documentation should be made available on the College website.

12. Annual review of policy

This policy will be subject to an annual review by College management to ensure its relevance. Colleges should forward any inputs and recommendations to the CET Branch of DHET for possible consideration during the annual review process.

Any recommended changes to the Conflict of Interest Declaration policy should be presented to the College Council for adoption.

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ANNEXURE A: DECLARATION FORM



AnnexureA.docx

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ANNEXURE B: FINANCIAL DISCLOSURE FRAMEWORK



Annexure B
FINANCIAL DISCLOSI