

Department of Higher Education and Training

Recommended

Whistle Blowing Policy for Public TVET Colleges



**SOUTH WEST GAUTENG TECHNICAL AND VOCATIONAL
EDUCATION AND TRAINING COLLEGE**

EDUCATION OF DISTINCTION

Department of Higher Education and Training
Technical and Vocational Education and Training College
Recommended Whistle-blowing Policy

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AMENDMENT AND APPROVAL RECORD

| Amendment No. | Amendment description | Originator | Approved By | Date |
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SOUTH WEST GAUTENG TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING COLLEGE

Whistle-blowing Policy

Department: Governance
Responsibility : Mr. Dan L. Nkosi (Accounting Officer)

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| <p>_____</p> <p>Prepared and submitted by the Accounting Officer to Council</p> <p>Date: _____</p> | <p>_____</p> <p>Adopted by Council (Signed by Chairperson obo Council)</p> <p>Date: _____</p> | <p>Implementation Date:</p> |
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1. Legislative framework and best practice regulations

Key principles contained in the following legislation and best practices were applied to develop this Policy:

- a) CET Colleges Act No.16 of 2006, (as amended) (the “Act”) (formerly the FET Act);
- b) Protected Disclosures Act No.21453 of 2000
- c) Public Finance Management Act, 1999 (Act No 1 of 1999 as amended by Act 29 of 1999)(PFMA);
- d) National Treasury Regulations of March 2005;
- e) Constitution of the Republic of South Africa, 1996;
- f) Public Service Act, 1994;
- g) Public Service Regulations, 2001;
- h) Labour Relations Act No. 66 of 1995; and
- i) King III Code of Governance Principles of 2009.
- j) Batho Pele Principles.

2. Purpose

The policy is designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractice within the College. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct. Details of these procedures are obtainable from the Human Resources Department. The policy covers all genuine concerns raised including:

- Financial misconduct
- Health and safety risks
- Environmental damage
- Unfair discrimination
- Corruption and misconduct
- Attempts to suppress or conceal any information relating to any of the above.

If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance or discipline, those procedures will be evoked.

3. Definitions, acronyms and abbreviations

For the purpose of this Policy, unless the context indicates otherwise, the following definitions, acronyms and abbreviations are set out for the terms indicated:

- 3.1 **“Accounting Officer”** – Mr. Dan L. Nkosi.
- 3.2 **“Act”** – is the CET Colleges Act No.16 of 2006, as amended.
- 3.3 **“College”** – is a Public TVET College (SWGC).

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- 3.4 **“Council”** - is the Council of the College established in terms of the Act.
- 3.5 **“Department”; “DHET”** – is the Department of Higher Education and Training.
- 3.6 **“Employee”** – is any official, employed by the College, irrespective of grade, full-time or part-time, Council or Departmental appointed, or paid on a salaried or an hourly/daily individual basis.
- 3.7 **“Minister”** – is the Minister of the Department of Higher Education and Training.
- 3.8 **“PFMA”** – Public Finance and Management Act.
- 3.9 **“SMS”** – is Senior Management Service.
- 3.10 **“TVET”** – is Technical and Vocational Education and Training.
- 3.11 **“VCET”** – is Vocational and Continuing Education and Training.
- 3.12 **“Whistle-blower”** – is a person raising a concern about malpractice within an organisation.
- 3.13 **“Public Service Commission”** – Is the National Public Service Commission Anti-Corruption Hotline whose contact details are: Public Service Commission The Secretariat Professional Ethics and Risk Management Private Bag X121, Pretoria 0001 Tel: (012) 352 1031 Fax: (012) 325 8323

4. Application

This Policy is issued under the authority of the Council of the College and is applicable to all Employees and Council members. This Policy should also be read in conjunction with the Human Resources Manual, Chapter 2 of Public Service Regulations, 2001 and the Code of Good Practice contained under schedule 8 of the Labour Relations Act of 1995.

Who can raise a concern? Any member of staff who has a reasonable belief that there is corruption or misconduct relating to any of the protected matters specified above may raise a concern under the procedure detailed. Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true. The issues raised may relate to a manager, another member of staff, a group of staff, the individuals own section or a different section/ division of College and the Department. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause the College to transgress legal obligations.

5. General principles

- 5.1 The Public Service Regulations, Chapter 2: Code of Conduct for the Public Service acts as a guideline to Employees (of the College and DHET) and Council members as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationship with others. It is applicable to all Employees and Council members. Compliance with the policy and the code of conduct is necessary to enhance professionalism thereby ensuring confidence in the public service.
- 5.2 Chapter 4: Senior Management Service (SMS), Part VII of the Public Service Regulations, addresses *Ethics and Conduct*; it states that, members of the SMS shall:
- a) display the highest possible standards of ethical conduct;
 - b) set an example to their subordinates and maintain high levels of professionalism and integrity in their interaction with political office-bearers and the public; and
 - c) ensure that they minimise conflicts of interest and that they put the public interest first in the performance of their functions.
- 5.3 College Employees and Council members should act ethically when they conduct themselves in the workplace in executing their duties and making decisions. The PFMA refers to committing wrongful acts “...willfully or negligently...” The consequences are facing disciplinary action, suspension, dismissal, having to pay back monies in the event of an official misappropriating funds and criminal proceedings. Employees and Council members are required to act responsibly and to exercise good judgement when executing their duties.
- 5.4 Chapter 10 of The Constitution, section 195, describes the democratic values and principles applicable to all spheres of government, organs of state and public enterprises, as to:
- a) a high standard of professional ethics must be promoted and maintained;
 - b) efficient, economic and effective use of resources must be promoted;
 - c) public administration must be development-oriented;
 - d) services must be provided impartially, fairly, equitably and without bias;
 - e) people's needs must be responded to, and the public must be encouraged to participate in policy-making;
 - f) public administration must be accountable;
 - g) transparency must be fostered by providing the public with timely, accessible and accurate information;
 - h) good human-resource management and career-development practices, to maximise human potential, must be cultivated; and
 - i) public administration must be broadly representative of the South African people, with employment and personnel management practices based

on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

All Employees and Council members must uphold the principles of the Constitution when performing their respective responsibilities

6. Culture of Openness

The College commits itself to encouraging a culture that promotes openness. This will be done by:

- Involving employees, listening to their concerns and encouraging the appropriate use of this policy/process on whistle-blowing promoted by Senior Management. This policy will be issued to all existing employees and to each new employee.
- Educating/training/informing/explaining to employees what constitutes fraud, corruption and malpractice and its effect on College. Promoting awareness of standards of appropriate and accepted employee conduct and establishing a common understanding of what is acceptable and what is unacceptable behavior.
- Encouraging unions to endorse and support this approach
- Having a policy to combat fraud
- Annual reporting to the DHET on the number of fraud/corruption matters reported and the outcome.

7. Assurances and Confidence

- The College Council will ensure that any member of staff who makes a disclosure in the above mentioned circumstances will not be penalised or suffer any occupational detriment for doing so. Occupational detriment as defined by the Act includes being dismissed, suspended, demoted, transferred against your will, harassed or intimidated, refused a reference or being provided with an adverse reference, as a result of your disclosure.
- If you raise a concern in good faith in terms of this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. This assurance is not extended to employees who maliciously raise matters they know to be untrue. A member of staff who does not act in good faith or who makes an allegation without having reasonable grounds for believing it to be substantially true, or who makes it maliciously or vexatiously, may be subject to disciplinary proceedings.

- In view of the protection offered to a member of staff raising a bona fide concern, it is preferable that the individual puts his/her name to the disclosure. The College Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless wish to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. However, we do expect the same confidentiality regarding the matter from you. If the situation arises where we are not able to resolve the concern without revealing your identity (for example where your evidence is needed in court), we will discuss with you whether and how we can proceed. Accordingly, while we will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.

8. Handling of Complaints

Once the whistle-blower has told us of the concern, the concern will be look into to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. The issue raised will be acknowledged within 7 working days. If it is requested, an indication of how the organisation proposes to deal with the matter and a likely time scale could be provided. If the decision is made not to investigate the matter reasons will be given. The College will tell the whistle-blower who would be handling the matter, how you can contact him / her and whether your further assistance may or will be needed. When the whistle-blower raises a concern, you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you disclose it at the outset. If the whistle-blowers concern falls more properly within the Grievance Procedure, the College will advise the whistle-blower accordingly. While the purpose of this policy is to enable the College Council to investigate possible malpractice and take appropriate steps to deal with it, the College Council will give the whistle-blower as much feedback as it properly can. If requested, the College Council will confirm their response to the whistle-blower in writing. Please note, however, that the College Council may not be able to advise the whistle-blower the precise action to take where this could infringe a duty of confidence owed by the College Council to someone else.

9. How to raise a concern internally

Step one: If you have a concern about malpractice, we hope you will feel able to raise it first with your manager/ supervisor. This may be done verbally or in writing.

Step two: If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter either with the **Human Resource Assistant Director: T. Khuse on 072 821 0873; the Internal Audit Assistant Director: Charity Madzwigi on (010) 140 2010 or the Quality Assurance Manager: W. Magagula on 082 5797593.** Please say if you wish to raise the matter in confidence so that they can make appropriate arrangements.

Step three: If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the **Chairperson of Council Ms N.P. Tsokolobane on 060 976 9303.**

Should you have exhausted these internal mechanisms or where you have substantial reason to believe that there would be a cover-up or that evidence will be destroyed or that the matter might not be handled properly, you may raise the matter in good faith by using the DHET whistle-blowing National Public Service Anti-Corruption Hotline.

Independent advice : If you are unsure whether to use this procedure or you want independent advice at any stage, you may contact your personal legal adviser, or your labour organisation. Their legally trained staff can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

External contacts Option 1: While we hope this policy gives you the whistle-blower the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. ODAC will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Option 2: While we hope this policy gives you the reassurance you need to raise such matters internally, we would rather you raised a matter with the appropriate regulator than not at all. Provided you are acting in good faith, you can also contact: The Public Protector on (012) 366 7000 as well as their Toll Free number on 080 011 2040; or The Auditor-General on (012) 426 8000. If you are dissatisfied; If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy. While we cannot guarantee that we will respond to all matters in the way that you might wish, we commit ourselves to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

10. Adoption of Policy

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

11. Availability of Whistle-blowing policy

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

12. Annual revision 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 VCET Branch of the Department for possible consideration during the annual review process.

Any recommended changes agreed to by the VCET Branch of DHET to the Whistle-blowing Policy should be presented to the College Council for adoption.