



Isalathiso: 20190318-2964  
Inombolo yefayili: 3/3/4/3/3/2  
Imibuzo: ICandelo lezoBudlelane eMsebenzini

ISetyhula: 0011/2019

Umhla wokuphelelwa: Awukho

Iya: KumaSekela Balawuli-Jikelele, kuBalawuli abaziiNtloko, kuBalawuli (kwaNdlunkulu nakwii-ofisi zezithili), kumaSekela-Balawuli, kuBaphathi beeSekethe, kwiiNtloko zoQuquzelelo neNgcebiso ngeze-SLES, kwiiNqununu nakooSihlalo bamabhunga olawulo ezikolo zikarhulumente eziqhelekileyo

Isishwankathelo esifutshane: *Isikhokelo seenqununu esingendima yazo ekunikeni ingxelo nasekulawuleni isityholo sokuziphatha kakubi, iingxoxo zoluleko noxambuliswano olungokugxothwa emsebenzini okungenziwanga ngobulungisa (unfair dismissal disputes).*

**Isihloko: Isikhokelo seenqununu esingendima yazo yokunika ingxelo nokulawula izityholo zokuziphatha kakubi, iingxoxo zoluleko noxambuliswano olungokugxothwa emsebenzini okungenziwanga ngobulungisa (unfair dismissal disputes).**

1. Injongo yale setyhula kukunika isikhokelo sokuncedisa iinqununu ekunikeni ingxelo nokulawula izityholo zokuziphatha kakubi kwakunye nendima yazo ngethuba leengxoxo zoluleko noxambuliswano olungokugxothwa emsebenzini okungenziwanga ngobulungisa ezibangelwa ziinkqubo ezilolu hlobo. Esi sikhokelo sisebenza kuzo zonke iinqununu ezinxulumene nezikolo zikarhulumente kwiSebe leMfundo leNtshona Koloni (WCED).

## 2. **Isikhokelo semithetho esebenzayo**

Le mithetho nemigaqo-nkqubo ilandaleyo ilawula indima yenqununu ekunikeni ingxelo nasekulawuleni imibandela yezityholo zokuziphatha kakubi:

(a) IMigaqo yoLawulo lwaBasebenzi (*Personnel Administrative Measures (PAM)*), eyapapashwa kwiGazethi kaRhulumente No. 39684 yomhla we-12 Februwari 2016, efundwa kunye nesiqendu 16A(2)(a) soMthetho weZikolo zaseMzantsi Afrika 1996 (uMthetho 84 ka-1996), (*South African Schools Act (SASA), 1996 (Act 84 of 1996)*), icacisa ukuba inqununu inoxanduva lolawulo lweenkqubo zezikolo nabasebenzi abasesikolweni kwisikolo sikarhulumente njengoko kucacisiwe kwisiqendu 16A(3) seSASA, yaye mayiqhubeke njalo isenza imisebenzi yayo ebandakanya ukwenziwa kwemisebenzi yegunya elidluliselwe kuyo yiNtloko

yeSebe (HoD). Ngaphezulu, isiqendu 16A(2)(e) sicacisa ukuba inqununu kufuneka incedise ekusingatheni imibandela yezoluleko emalunga noofofithshala nabasebenzi abanika inkxaso abaqeshwe yiNtloko yeSebe.

- b) Isetyhula 0012/2019, yomhla we 09 ku Canzile 2019, eyadraftwa liBhunga lezoBudlelwane eMsebenzini lePhondo (*Provincial Education Labour Relations Council*) imalunga nokuthintelwa kokohlwaya ngokubetha.
- c) Uxwebhu i-*Western Cape Education Department Complaints Management Protocol and Guidelines, 2017*.
- d) UMgaqo-nkqubo othi *Phantsi ngeMpatho-gadalala yaBantwana (Abuse No More Protocol)* weSebe leMfundo leNtshona Koloni, 2014.
- e) Uxwebhu i-*Manual on the Basic Financial System for Schools*.

### 3. Indima yenqununu

#### 3.1 Ukunika ingxelo

3.1.1 Kwakuba kunikwe ingxelo ngesityholo sesehlo esingaqinisekiswa, ngokuxhomekeke kubunjani besityholo, inqununu mayinike ingxelo ngalo mbandela kwiCandelo lezoBudlelwane eMsebenzini (makufundwe isiHlomelo A njengesikhokelo).

3.1.2 Mayiqinisekise ukuba kwimeko yabaqeshwa abaqeshwe libhunga lolawulo, liyaziswa ibhunga lolawulo ngesihlo sesityholo sesehlo esingaqinisekiswa.

3.1.3 Yinto eyaziwayo ukuba iSebe iWCED alinalo igunya lolawulo ekwenzeni isigqibo ngokomthetho malunga nabaqeshwa abaqeshwe libhunga lolawulo. Nakuba kunjalo, makunikwe ingxelo ngezehlo ezichaphazela abaqeshwa abaqeshwe libhunga lolawulo lesikolo kunontlalontle wesithili (ngokumalunga nomhlathi 3.5(d)(i) woMgaqo-nkqubo othi *Phantsi ngeMpatho-gadalala yaBantwana (Abuse No More Protocol)* weSebe leMfundo leNtshona Koloni, 2014) kunye/okanye iCandelo lezoBudlelwane eMsebenzini. Izizathu zoku zezi:

- a) kukuqinisekisa ukuba bonke abafundi bafumana iingcebiso, inkxaso nokubabuzisa ngokwenzekileyo okuyimfuneko;
- b) nokwenzela ukuba unontlalontle wesithili abe nako ukunika ingxelo ngalo mba kwi-SAPS, ngokuxhomekeke kwiimeko ezingqonge ityala.

3.1.4 Wakuba waziswe inqununu lo mba ukwenzela ukuba iwuqwalasele, inqununu ngokukhawuleza mayiqhagamshelane yaye yazise abazali/abagcini bomfundi (babafundi) ngesihlo sesityholo esingaqinisekiswa.

3.1.5 Inqununu mayazise umphathi wesekethe kwi-ofisi yesithili echaphazelekayo. Ngokuxhomekeke kubunjani besenzo sokuziphatha kakubi, abadlali-ndima mabenze isigqibo bebonke ngenkqubo yongenelelo ngoncedo eyenye kodwa engaphelelanga ekunikeneni iingcebiso abafundi nokhuseleko lomfundi (lwabafundi) kuphela.

3.1.6 Kwimeko yezityholo zolwaphulo-mthetho ezingaqinisekiswa (umzekelo ukushishina ngezinyobisi, apho abanye abantu besoyikela ubomi babo, ukubethwa wenzakaliswe njalo-njalo) inqununu mayinike ingxelo ngalo mbandela kwi-SAPS ngokuthethana nomphathi wesekethe/nebhunga lolawulo.

## 3.2 Imisebenzi eluxanduva

3.2.1 Inqununu ayinakwenza uphando ngemibandela yempatho-gadalala (makufundwe umgaqo-nkqubo othi *Phantsi ngeMpatho-gadalala yaBantwana (Abuse No More Protocol of the WCED, 2014)*). limeko ezifana nezi mazixelwe ngokukhawuleza.

3.2.2 Kuzo zonke ezinye izehlo, kungabandakanywanga ezempatho-gadalala, kucetyiswa ukuba kuqokelelwe ingcaciso echaphazelekayo ukuqinisekisa ukufaneleka kwesehlo nokuba kulandelwe inyathelo ekucetyiswa ngalo kwisiHlomelo A.

3.2.3 Kwakuba kunikwe ingxelo ngalo mbandela kwiSebe i-WCED, uthathwa njengokuba ngumbandela emakugqitywe ngawo kulandelwa imigaqo yomthetho (*sub judice*) yaye akufuneki nyathelo lilelinye malithathwe yinqununu, ngaphandle kokuba iligosa eliququzelela unxibelelwano.

3.2.4 Yonke imibuzo yamajelo eendaba emalunga nesityholo sesehlo esingaqinisekiswa mayithunyelwe kwiCandelo lezoNxibelelwano.

3.2.5 Kumele inqununu ifumaneke ukwenzela udliwano-ndlebe olunokubakho negosa lezobudlelwane emsebenzini kunye/okanye amagosa emibutho yeemanyano zabasebenzi ngokuxhomekeke ekubeni kwenziwe idinga lokwenza uphando ngalo mbandela.

3.2.6 Inqununu inokucelwa ukuba ibe lingqina ngethuba leengxoxo zoluleko egameni leSebe i-WCED kunye/okanye naliphi na iqela elichaphazelekayo ngokuxhomekeke kwiimpawu zokufaneleka zesi sehlo.

3.2.7 Akunakwaliwa ukubakho kwamangqina kungekho zizathu zivakalayo. Kwimeko yokuba iSebe i-WCED kunye/okanye umbutho wemanyano yabasebenzi ufuna utitshala/umsebenzi karhulumente nokuba ngowuphi na ukuba anike ubungqina

kwiingxoxo zoluleko, inqununu mayincedise ngamalungiselelo/ngothethwano oluyimfuneko.

#### 4. **Imvume (Consent)**

- 4.1 Igosa lezobudlelwane emsebenzini nommeli wemanyano yabasebenzi, baya kwenza uphando ngalo mbandela, yaye apho kukho abafundi abachaphazelekayo, baya kufuna imvume yomzali/yomgcini kwangaphambi kophando, ukuba iyimfuneko kwiingxoxo zoluleko ezimiselweyo.
- 4.2 Uyacelwa uqaphele ukuba ukumelwa ngamagosa omthetho (*legal representation*) kuya kuvunywa kuphela kwiimeko ezizodwa yaye kuya kuxhomekeka kwisigqibo segosa elinyuliweyo elichophele ezi ngxoxo. Makangaze naphantsi kwazo naziphi ma iimeko, ummeli womthetho ahambele isikolo okanye athethane nomfundi okanye nomqeshwa/notitshala, ngaphandle kokuba igosa elichophele iingxoxo linikwe imvume elolu hlobo.
- 4.3 Kucetyiswa ukuba xa umfundi ebuzwa imibuzo kudliwano-ndlebe makubekho utitshala, unontlalontle, itheraphisti, isayikholoji, umcebisi okanye umntu olikhonco (*intermediary*) ukwenzela ukuba kukhuselwe ezo zinto zimlungiselela ngeyona ndlela ibhetele umfundi kuba engekho umzali/umgcini womfundi.
- 4.4 Kunokufunwa ukuba inqununu, njengomphathi weziko, iqinisekise ukuba abazali/abagcini banikwa ileta yemvume (*a letter of consent*) ngokumalunga noku yaye mayibuyiswe ngokunjalo. Ileta yemvume imele ukubucacisa gca ubunjani besityholo esingaqinisekiswa kunye nayo nayiphi na enye ingcaciso echaphazelekayo enokufunwa.
- 4.5 Kubalulekile ukuba abazali/abagcini boqonde isizathu semvume, ubunjani benkqubo yeengxoxo kunye nayiphi enye inkxaso eyimfuneko okanye iingcebiso eziya kunikwa ingqina.
- 4.6 Zakuba iileta zemvume zibuyiselwe esikolweni, nokuba zeziyivumayo okanye eziyikhabayo imvume, ezi leta mazingeniswe yinqununu kwigosa lezobudlelwane emsebenzini, kumqeshwa, kummeli wemanyano yabasebenzi okanye kummeli womthetho.
- 4.7 Makusetyenziswe ifom yemvume emiselweyo (makufundwe isiHlomelo B esikwenza kube lula oku).

## 5. **Amalungiselelo eehambo nawokwenziwa komsebenzi**

- 5.1 ISebe iWCED linokufuna uncedo esikolweni, kule meko inqununu, ukuqinisekisa ukubakho kwabafundi kwiingxoxo zoluleko kunye/okanye kwiingxoxo zoxambuliswano ngokugxothwa emsebenzini okungenziwanga ngobulungisa ngokwenza amalungiselelo/ngokufuna izithuthi zokukhwela.
- 5.2 Ifom yemvume (*consent form*) enika umfundi imvume yokuba akhweliswe sisikolo/liSebe iWCED nokuba anike ubungqina necacisa isizathu sokubakho kwakhe kwiingxoxo mayizaliswe ngabazali/ngabagcini babafundi.
- 5.3 Kucelwa uqaphele ukuba luxanduva lombutho wemanyano yabasebenzi kunye/okanye lommeli womthetho ukwenza amalungiselelo kunye/okanye ukuqinisekisa ukuthuthwa kwabafundi abadlala indima njengamangqina egameni lawo.
- 5.4 ISebe iWCED liya kuqinisekisa ukuba ukhona umntu olikhonco okanye unontlalontle, umzali/umgcini engekho yaye ukhona nalapho kuyimfuneko, ukwenzela ukuba kukhuselwe amalungelo omfundi osengumntwana.
- 5.5 Ukuba isikolo siyinxenye ye-*National School Nutrition Programme*, kucetyiswa ukuba inqununu mayenze amalungiselelo esidlwana esincinane (*snack*) ukulungiselela abafundi.
6. Kucelwa wazise okukule setyhula bonke abachaphazelekayo ukuze bakuthathele ingqalelo.

**ISAYINWE:** NGU-BK SCHREUDER

**INTLOKO:** YESEBE LEMFUNDO

**UMHLA:** 2019-03-09









NATURE OF TRANSGRESSION	PROPOSED ACTION					COMMENTS AND/OR POLICY GUIDELINES
	FIRST TRANSGRESSION	SECOND TRANSGRESSION	THIRD TRANSGRESSION	FOURTH TRANSGRESSION	FIFTH TRANSGRESSION	
	<p>The proposed action should not automatically be imposed.</p> <p>The nature and circumstances of each individual case should be taken into consideration prior to making a decision.</p> <p>Therefore, the proposed code serves only as a guideline.</p>					
2.5 Making false statements or giving false evidence	Refer to Director: Employee Relations					
2.6 Administering corporal punishment (section 10 of the South African Schools Act, 1996 (Act 84 of 1996))	Refer to Director: Employee Relations					
2.7 Threatening violence (to cause physical injury to any other person) or physical assault	Refer to Director: Employee Relations					
2.8 Making remarks of a racist nature	Refer to Director: Employee Relations					
2.9 Gross dishonesty	Refer to Director: Employee Relations					
2.10 Endangering the safety of others	Refer to Director: Employee Relations					
2.11 Willful damage to WCED's property or equipment or the property of other staff members	Refer to Director: Employee Relations					
2.12 Gross insubordination	Refer to					The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.

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2.13 Financial misconduct	<p>Directorate: Employee Relations</p> <p>Refer to Directorate: Employee Relations</p>					<p>The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal, the Public Finance Management Act, 1999 (Act 1 of 1999), Treasury Regulations, and the Manual on the Basic Financial System for Schools must be taken into account.</p>
2.14 Sexual assault/molestation	<p>Refer to Directorate: Employee Relations</p>					<p>See Abuse No More Protocol of the WCED, 2014.</p>
2.15 An employee found guilty, in any criminal court of law, or a common-law or statutory offence	<p>Disciplinary action will depend on the nature and circumstances of the case</p>					<p>Disciplinary action will depend on the nature and circumstances of the case, as well as on the previous record of the employee. The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.</p>
2.16 Under the influence of drugs/alcohol or in possession of banned substances	<p>Refer to Directorate: Employee Relations</p>					<p>The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.</p>

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	The nature and circumstances of each individual case should not automatically be imposed. Therefore, the proposed code serves only as a guideline.					
2.17 Participating in unprotected industrial action	Refer to Directorate: Employee Relations					The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.
2.18 Refusing to do any lawfully assigned regular work or to obey instructions from the designated supervisor without just or reasonable cause, the onus being on the employee to justify his refusal and/or disobedience	Refer to Directorate: Employee Relations					The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.
2.19 Unjustifiably prejudicing the administration, discipline or efficiency of the WCED, school or training institution	Refer to Directorate: Employee Relations					The nature and circumstances of the case will determine the sanction and may warrant a sanction of dismissal.
2.20 Performing poorly or inadequately for reasons other than incapacity	Refer to Directorate: Employee Relations					The nature and circumstances of the case may warrant a sanction of dismissal. Consideration to be given to the procedure as outlined in schedule 1 of the Employment of Educators Act, 1998 (Act 76 of 1998).
2.21 Conducting him/herself in an improper, disgraceful or unacceptable	Refer to Directorate: Employee Relations					The nature and circumstances of the case may warrant dismissal.

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2.22 manner while on duty Misusing official property for private purposes	Refer to Directorate: Employee Relations					The nature and circumstances of the case may warrant dismissal.
2.23 Being absent from the workplace while on duty, without the permission of the supervisor	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
2.24 Driving government vehicle or any mobile equipment without authority	Refer to Directorate: Employee Relations					
2.25 Misusing a government vehicle or any other mobile equipment	Refer to Directorate: Employee Relations					
2.26 Attempting to bring, or causing the name of the WCED to be brought into disrepute	Refer to Directorate: Employee Relations					
2.27 Gross negligence with serious or potentially serious consequences for the WCED, its staff or the public	Refer to Directorate: Employee Relations					
2.28 Revealing confidential information to unauthorised persons (revealing confidential	Progressive discipline	Refer to Directorate: Employee Relations if final				The nature and circumstances of the case may warrant dismissal.

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information shall mean unauthorised presentations, discussions, press releases, publications and/or any communication whatsoever on any matters that could embarrass or harm the Western Cape Government and/or its staff)		written warning has been issued during the disciplinary meeting				
2.29 Loss of WCED property or the property of other staff members as a result of carelessness	<b>Progressive discipline</b>	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
2.30 Performing private activities during official working hours	<b>Progressive discipline</b>	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
2.31 Performing private work without the necessary written permission	<b>Progressive discipline</b>	Refer to Directorate: Employee Relations if final				

The nature and circumstances of each individual case should be taken into consideration prior to making a decision. Therefore, the proposed code serves only as a guideline.

The proposed action should not automatically be imposed.

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2.32 Causing serious disruptions in interpersonal relationships	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
2.33 Unauthorised and/or uncommunicated absenteeism unless the employee offers a reasonable and legitimate excuse for his absence (the onus being on the employee to justify his absenteeism)	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				The nature and circumstances of the case may warrant dismissal.
2.34 Misusing official phones, cellphones and fax machines for private purposes, without authorisation	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
2.35 Misusing official information	Progressive discipline	Refer to Directorate:				

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technology apparatus such as desktop or laptop computers and printing devices		Employee Relations if final written warning has been issued during the disciplinary meeting				
2.36 Flagrantly disregarding safety standards	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
<b>3. LESS SERIOUS TRANSGRESSIONS</b>						
3.1 Late-coming/absenteeism	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				For a first offence the usual disciplinary action will entail counselling.
3.2 Sleeping on duty	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the				

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3.3 Disregarding safety regulations where contravention is minor	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.4 Smoking in an area where it is prohibited	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.5 Gambling on WCED premises	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.6 Improper or unprofessional conduct	Progressive discipline	Refer to Directorate: Employee Relations if final written warning has been issued				



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3.7 Insubordination	Progressive discipline	Refer to Director: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.8 Matters relating to daily duties	Progressive discipline	Refer to Director: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.9 Posting, and/or distributing and/or displaying, and/or fixing notices, posters, stickers etc. on WCED premises or soliciting of any kind without the WCED's written permission	Progressive discipline	Refer to Director: Employee Relations if final written warning has been issued during the disciplinary meeting				
3.10 Leaving work early without permission	Progressive discipline	Refer to Director: Employee Relations if final written warning				