



**Western Cape  
Government**

Education

**POLICY ON THE ACCEPTANCE OF GIFTS BY OFFICE-BASED OFFICIALS AND OFFICE-  
BASED EDUCATORS OF THE WESTERN CAPE EDUCATION DEPARTMENT,  
2020**

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## 1. Definitions

In this policy, any word or expression to which a meaning has been assigned bears the same meaning assigned to it, and unless the context indicates otherwise:

“**gift**” means anything of value offered to an official, that is, any item or service that is over and above the official's salary or employment entitlements, a gift may be **tangible** or **intangible**, as well as **perishable** or **non-perishable**;

“**gratification**” means a reward or source of satisfaction or pleasure. Reward can be gratification for a job well done and can include the following: gift, money, donation, loans, a fee, avoidance of loss, status, employment, payment of a loan, rewards or a privilege, valuable security, property of any description whether movable or immovable or any other similar advantage. All the afore listed is deemed as corruption in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), when used or given or offered by an individual to reward an employee in the public service;

“**intangible gift**” means something offered that has no lasting value for accounting purposes, such as a personal service, preferential treatment, privileged access or the promise of a special favour or advantage;

“**non-perishable**” means items with a much longer shelf life that do not require refrigeration. These include canned, dried and dehydrated goods;

“**perishable**” means an item that has a finite or limited shelf life. These items include meat, vegetables, dairy products and even prescription drugs;

“**tangible gift**” means something that is a material good, which includes amongst others, consumer goods, entertainment, hospitality (dining, accommodation, and invitations to attend functions, events or journeys), travel, promotional material (such as a free diary), samples, vouchers, personal items, scholarships, discounts on goods or services, sponsorships, donations and money.

## 2. Legislative framework

The legislative framework for this policy is:

- a) Code of Conduct for Public Servants;
- b) Constitution of the Republic of South Africa, 1996;
- c) Directive on the Acceptance and Declaration of Gifts in the Western Cape Government, dated 26 November 2011;
- d) Employment of Educators Act, 1998 (Act 76 of 1998);
- e) National Treasury Regulations for departments, trading entities, constitutional institutions and public entities, 2005, issued in terms of the Public Finance Management Amendment Act, 1999 (Act 29 of 1999);

- f) Prevention and Combating of Corrupt Activities, 2004 (Act 12 of 2004);
- g) Public Finance Management Act, 1999 (Act 1 of 1999);
- h) Public Service Act, 1994 (Act 103 of 1994);
- i) Public Service Handbook for Senior Management Service, 2003
- j) Public Service Regulations, 2016, published in *Government Gazette* No. 40167 of 29 July 2016;
- k) Strategic People Management Minute 0006/2017, dated 09 September 2017.

### 3. Purpose

- 3.1 The purpose of this policy is to—
- a) provide clear guidelines and procedures for the acceptance and declaration of gifts; and
  - b) augment the transversal *Directive on the Acceptance and Declaration of Gifts in the Western Cape Government*, dated 26 November 2011, by providing a monitoring control mechanism for the acceptance of gifts in the Western Cape Education Department (WCED).
- 3.2 The *Directive on the Acceptance and Declaration of Gifts in the Western Cape Government*, dated 26 November 2011, must be adhered to in its entirety at all times.

### 4. Scope

This policy is applicable to all office-based officials and office-based educators of the WCED.

### 5. Statement of principles

- 5.1 Section 195(1)(a–g) of the Constitution of the Republic of South Africa, 1996, states:
- (1) *Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:*
    - (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.*
- 5.2 The acceptance of a gift by government officials may generate a negative perception of possible corrupt behaviour and tends to weaken the public's trust in government. It destroys the fibre of integrity and good governance within the public service.

5.3 The conduct of public servants should always be in line with the *Code of Conduct for Public Servants* and in the best interests of the public service and the public.

5.4 The general principle is that an official should not accept a gift (whatever its nature or value) if it could be seen by others as either an inducement or a reward, which might place the official under an obligation to a third party.

## **6. Acceptance of gifts**

6.1 Officials must always consider the impression that the acceptance of a gift could make, as well as how it may be interpreted if subjected to a public investigation. An official should thus guard against a conflict of interest and ensure that gifts are not presented so as to exert improper influence.

6.2 When considering the acceptance of a gift, officials should bear the following in mind:

- a) The disposition with which a gift is offered (some gifts are merely gestures of goodwill).
- b) The nature and value of a gift (is it morally acceptable to accept the gift?).
- c) Whether the acceptance of a gift may lead to a tendency (if so, the frequency with which such offers are made thereafter should be noted).

6.3 Awards or prizes, in cash or kind, bestowed upon officials as a result of their endeavours in their field must be reported by the official to his/her supervisor who will determine the appropriate response.

6.4 It is undesirable for family or members of the household or friends of an official to accept any gift on behalf of an official.

6.5 Officials should take careful note of the following concerning the receipt of gifts:

6.5.1 An official should, under no circumstances, accept a gift whereby he/she could be compromised or be seen to compromise their integrity or the integrity of the WCED, or bound in his/her work or whereby his/her judgement could be influenced such as in recruitment and selection processes.

6.5.2 Officials may accept<sup>1</sup> gifts not exceeding an accumulated value of R350,00 per year, but must ensure that such gifts are recorded in the gift register.

6.5.3 Should an official receive a gift with a value exceeding R350,00, the gift must be recorded in the gift register, irrespective of whether or not the gift is accepted. The Head of Department or delegated authority must be requested within 14 working days

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<sup>1</sup> Gifts can be received, but may only be accepted upon condonement.

to condone the receipt of that gift. Such condonation must be done with the criteria listed in paragraph 6.2 in mind. Should the acceptance of the gift not be condoned, the Head of Department must decide whether the gift may be retained by the WCED.

- 6.5.4 Officials may accept gifts in the form of marketing or promotional materials, such as diaries, stationery or T-shirts, if such items are available to all employees or groups of employees or members of the public. If such marketing or promotional items are generally available to all employees or group of employees or members of the public, then such gifts **need not** be noted in the gift register.
- 6.5.5 An official may not accept gifts from any party involved in tender processes. This prohibition applies to the pre-contracting period, the contracting period and the post-contracting period. The period during which a contract is considered, negotiated or in place is regarded as a particularly high-risk period, as it is usually during such a period that officials may be vulnerable to corrupt proposals and practices.
- 6.5.6 Under no circumstances should an official attempt to solicit a gift from a contractor, supplier, consultant or a person to whom services are rendered by the WCED.
- 6.6 Where refusal of a gift may give offence or might prejudice the interests of the WCED, e.g. a gift from a foreign government or a token of appreciation for a public appearance, the Head of Department or Provincial Minister of Education or delegated authority (depending on the rank of the person to whom the gift was offered) must decide whether such a gift may be retained by the official or by the WCED.
- 6.7 The receiving of gifts based on cultural tradition should be managed in a culturally sensitive manner, without compromising standards of accountability and transparency. All such gifts must be handed over to the WCED. Should the official decide not to accept the gift, he/she may request the person or community offering the gift to show appreciation by submitting a letter of commendation to the Head of Department. The Head of Department or Provincial Minister of Education (depending on the level of the official to whom the gift was offered) must then decide whether the gift may be retained by the official or the WCED.
- 6.8 Repeated invitations from one source should be considered inappropriate and must be politely declined.
- 6.9 Any offer of personal special discounts or reduced costs for goods or services by a contractor, supplier or consultant must be declined. Similarly, offers of access to outlets not available to the general public must be declined.
- 6.10 Owing to the nature of the client base of the WCED, officials who render a service to clients may occasionally be offered a gift as a token of appreciation for assistance received. Officials must therefore take great care not to be placed in a situation

where their actions might be construed as improper, or may indicate bias or favouritism towards an organisation or person. All such gifts received must be recorded in the gift register.

- 6.11 Standing invitations to boxes or season tickets for sports events may not be accepted.
- 6.12 Any invitations to lunch, dinner, sports events or once-off social or cultural events may be accepted, except if attendance thereof would interfere with the service delivery of the WCED or could be misconstrued or would prejudice the interests of the WCED. Such invitations must be noted in the gift register.
- 6.13 Any gift, reward or invitation (monetary or otherwise) beyond those dealt with above must be recorded in the gift register.
- 6.14 Intergovernmental gifts must be declared in the gift register and must receive prior approval from the delegated official.

## **7. Recording of gifts in the register**

- 7.1 The acceptance of any gift(s) as contemplated in this policy, other than the marketing and promotional items described in paragraph 6.5.4, must be recorded in the gift register (attached hereto as **Annexure B**).
- 7.2 A gift register must be introduced and maintained at director, chief director and deputy director-general levels.
- 7.3 The gift register at director level must be maintained for all his/her staff, including him/herself, to declare gift(s) received.
- 7.4 Each director must grant approval for any gift(s) prior to staff members accepting it.
- 7.5 Equal rank approvals are not permissible.
- 7.6 Each director must communicate to all staff **biannually**, requesting the declaration of any gift(s) received.
- 7.7 Registers and declaration of gift forms must be accessible for inspection, reporting and auditing purposes.
- 7.8 The gift register must contain the following information:
  - a) Number of the declaration of gift form, as referred to in subparagraph 8.5, which the receiver completed.
  - b) Date of receipt of the gift.
  - c) Name, surname, identity number and PERSAL number of the recipient.
  - d) Relationship between the giver/donor and the employee/WCED.

- e) Nature and description of the gift or invitation.
- f) Estimated value.
- g) Name, address and telephone number of the donor (or contact person in the case of a company).
- h) Reason/rationale for condonement of the gift (where applicable – exceeding R350,00).

7.9 The declaration forms are attached hereto as **Annexures C1 and C2**.

## **8. Procedure for completing declaration of gift forms**

- 8.1 Initially, an official is regarded as having been “offered” a gift.
- 8.2 The decision to accept the gift must be evaluated by the official against the criteria in paragraph 6 of this policy.
- 8.3 The official accepts or declines the gift.
- 8.4 If accepted, the official must request a declaration of a gift form (either **Annexure C1 or C2**) from his/her supervisor.
- 8.5 All declaration of gift forms must be sequentially numbered by the directorate, chief directorate and branch. The financial year in which the gift was received must be included. Declaration numbering must be standardised across directorates, i.e. “Financial Year e.g. 20/21(1)” for Annexure C1, “Financial Year e.g. 20/21(2)” for Annexure C2.
- 8.6 The sequentially numbered declaration form is issued to the official who has been offered the gift. The official must complete the form and return it to the supervisor.
- 8.7 The directorate, chief directorate and branch must maintain a record of all declaration forms issued (attached hereto as **Annexure D**). This record will enable the directorate, chief directorate and branch to follow up on issued forms which were not completed and returned.
- 8.8 The information on a completed **Annexure C1** declaration form, for gifts not exceeding R350,00, must be recorded in the gift register.
- 8.9 The information on a completed **Annexure C2** declaration form, for gifts exceeding R350,00, must be recorded in the gift register and then submitted to the supervisor for condonation as described in subparagraph 7.8(h). The condonation or non-condonation of the acceptance of the gift must also be recorded in the gift register.
- 8.10 Should the acceptance of the gift not be condoned, the matter must be referred to the Head of Department for a decision on whether the gift may be retained by the

official or by the WCED.

- 8.11 Using **Annexure D**, the person responsible for maintaining the gift register must request for possible gifts to be declared on a monthly basis and conduct a follow-up on declaration of gift forms that were issued during the month.

## **9. Process of disposing of received gifts**

- 9.1 The relevant executive authority, with the assistance of the ethics officer or unit, shall examine each gift and the circumstances surrounding it and further assess whether an adverse effect may result from the return of a gift. This would be the first option, as the gift would be deemed accepted if not returned.
- 9.2 Gifts may be disposed of for the following reasons:
- a) Posing a potential conflict of interest.
  - b) Offensive e.g. ornaments made from rhino horns or clothing items made from animal fur, etc.
- 9.3 If the return of a gift is not deemed feasible, the ethics officer may be required to dispose of the gift. If the gift is not of an offensive nature, this may include the following:
- a) Gifts may be donated to a school, charitable organisation, old age home, etc.
  - b) Gifts may be auctioned once a year to employees or the public. All proceeds must be donated to a school, charitable organisation, old age home, etc.

## **10. Biannual submissions**

- 10.1 Biannual (**six monthly**) declarations must be done by directors, chief directors, deputy directors-general and the Office of the Head of Department for periods ending **30 September and 31 March** respectively. Declarations must be submitted **no later than two weeks** after these dates.
- 10.2 All directors, chief directors, deputy directors-general and the Office of the Head of Department must each forward a copy of the completed declaration of gift forms, irrespective of whether gifts were declared or not, to the Directorate: Internal Control.
- 10.3 The Directorate: Internal Control will liaise with all branches and request the submission of gift registers on behalf of the Head of Department. The completed WCED gift register will be submitted to the Head of Department for sign off/approval.

## **11. Disclosure of financial interests by designated officials**

Chapter 2 of the *Public Service Regulations, 2016*, and Paragraph 4 of Chapter 9 of the *Public Service Handbook for Senior Management Service, 2003*, stipulate that designated officials must disclose particulars of all their financial interests, including gifts received from a source other than a family member, for the period 01 April of the

previous year to 31 March of that year to the relevant executive authority by no later than **30 April** of each year on a form provided for this purpose by the **Public Service Commission**. The original completed form must be submitted to the Public Service Commission **by no later than 31 May** of that year. A copy of each completed disclosure form must be retained for inspection and auditing purposes.

## **12. Delegated authority**

The authority to approve the acceptance of gifts is delegated to the level of director. The declaration for gifts accepted by members of Senior Management Services (excluding the Head of Department) must be submitted to the Head of Department. The Head of Department must declare gifts to the Provincial Minister of Education.

## **13. Failure to comply**

Compliance with this policy will depend on the cooperation of all staff members. All employees share the responsibility for adhering to and enforcing this policy. Any official who, without just cause and after written notice, fails to comply with this policy may be charged with misconduct and disciplinary steps may be initiated against him/her, as determined in the Public Service Act, 1994 (Act 103 of 1994).

## **14. Implementation date**

This policy is effective from the date of signature of the Head of Department.

## **15. Review**

This policy must be reviewed annually or in the case of changed circumstances such as pronouncements by legislation and/or regulations.

## **Policy on the Acceptance of Gifts by Officials of the Western Cape Education Department**

### **Frequently Asked Questions**

The Public Service Act, (Act 103 of 1994) prescribes the conditions under which public service employees may or may not accept gifts.

#### **Why is this matter important?**

The integrity of the Western Cape Education Department is of paramount importance. The public's confidence in public sector institutions rests on the understanding that public servants are guided in their decisions by policies and not personal interest. If an official accepts a gift to influence a decision, the entire democratic process is undermined. For this reason, every official must understand clearly when a gift is acceptable and when it is not.

#### **What are gifts?**

In the realm of public sector work, a gift is understood to be anything of value you are offered that is over and above your normal salary or employment entitlements. Gifts may be tangible or intangible. Tangible gifts include consumer goods, entertainment, hospitality (dining, accommodation and invitations to attend functions, events or journeys), travel, promotional material (such as a free diary), samples, vouchers, personal items, scholarships, discounts on goods or services, sponsorships, donations and money.

Intangible gifts are those that have no lasting value for accounting purposes, such as a personal service, preferential treatment, privileged access or the promise of a special favour or advantage. Although intangible benefits cannot be seen or touched, such benefits can have the same impact as tangible ones.

#### **What are the conditions under which an official may accept, declare and keep a gift?**

There are three crucial questions you need to ask yourself when you are offered a gift:

- Should I accept it?
- Should I declare it?

- Should I keep it?

The general rule is as follows: If the giving or receiving of gifts constitutes an inducement to obtain an improper advantage over another person or organisation, that gift, in whatever form, should not be accepted. Although you, as a public servant, should not encourage offers of gifts or benefits, there are times when accepting them may be appropriate. However, there are many occasions when it is highly inappropriate to accept a gift.

When offered a gift, ask yourself the following questions:

- Is the gift being offered as a token of appreciation or as an instrument of influence?
- Who is offering the gift?
- What are his/her/their intentions in offering this gift?
- At what time am I being offered this gift?
- What is the value of this gift?
- What impression will be created if I accept this gift or benefit?

If you work in a sensitive area or an area of particular trust (such as internal audit, supply-chain management, tenders, procurement, and recruitment and selection), you should not accept gifts as they may be aimed at influencing the process and thus regarded as bribes.

Public perception matters. Even when an offer is made in good faith and with no ulterior motive, you must always consider how others could view the offer of a gift and your acceptance of that gift.

If the purpose of the gift is not clear, the Provincial Minister responsible for Education or his or her delegated authority may decide how the situation should be handled. If in doubt, seek the advice of the Deputy Director-General: Corporate Services.

### **Should I keep the gift?**

Upon declaration of the gift by the receiver, and approval of the acceptance of the gift by the delegated authority, an official is allowed to keep the gift.

*Note. Awards to officials by the Western Cape Education Department for meritorious performance are excluded from the policy on gifts.*

### **Should I declare the gift?**

Small gifts (such as pens and caps) that are received at expositions, conferences and open days which are open to all employees or the public need not be declared.

All other gifts must be declared on a declaration of gift form, obtainable from the office of the Director, the office of the Chief Director or the office of the Deputy Director-General: Corporate Services in the case of Senior Management Services.

### **Can accepting a gift or benefit create a conflict of interest?**

Yes, it can. Conflict of interest is a clash between your official duty and your personal interest. If such a conflict occurs, you may be tempted to put your personal interest above public interest.

It does not matter how small a gift may be, it may still create a sense of obligation towards the giver. Conflict of interest can be the catalyst for serious acts of misconduct and corruption.

If in doubt, seek the advice of the Deputy Director-General: Corporate Services.

**GIFT REGISTER FOR THE PERIOD 01 APRIL ..... to 30 SEPTEMBER .....**

ANNEXURE B

**DIRECTORATE:** .....

Declaration number	Date received	Receiver				Gift description		Donor details		Noted/ Condoned /Not condoned & Reasons
		Initials and surname	Identity number	PERSAL number	Relationship with donor	Nature and description of gift	Estimated value	Person or Company name and address	Contact details (Name and telephone number)	

<b>Checked by SCM Champion: Print name:</b> ..... .....	<b>Signature:</b> ..... <b>Date:</b> .....	<b>Authorised by : Print name:</b> ..... .....	<b>Signature:</b> ..... <b>Date:</b> .....
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**DECLARATION OF GIFTS VALUED AT NOT MORE THAN R350,00****Purpose**

<b>Financial Year 20.../...(1)</b> <b>Ref no: .....</b>
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The purpose of this disclosure form is to ensure that details of gifts received are recorded in the Gift Register, in accordance with the Policy on the Acceptance of Gifts by Office-based Officials and Office-based Educators, and that they are noted by the Provincial Minister responsible for Education or Head of Department or his or her delegated authority.

**Employee's details**

<b>Name</b>	
<b>PERSAL number</b>	
<b>Identity number</b>	
<b>Designation</b>	
<b>Directorate</b>	
<b>Sub directorate</b>	
<b>Component</b>	

**Details of donor and gift**

<b>Date received</b>	
<b>Name of donor, or contact person in case of a company</b>	
<b>Contact details (address and telephone number)</b>	
<b>Nature of gift received</b>	
<b>Estimated value</b>	

<b>Relationship between the donor and the recipient</b>	
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**I hereby declare that the requirements of the Policy on the Acceptance of Gifts by Office-based Officials and Office-based Educators have been met.**

Employee's signature: \_\_\_\_\_

Name in print: \_\_\_\_\_

Date: \_\_\_\_\_

**Designated official**

**Receipt of gift noted in accordance with the Policy on the Acceptance of Gifts by Office-based Officials and Office-based Educators.**

Signature: \_\_\_\_\_

Name in print: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

***Note: Details of the gift must be recorded in the Gift Register. Both the declaration form and the gift register must be available for inspection and auditing purposes.***

**DECLARATION OF GIFT VALUED AT MORE THAN R350,00**

<b>Financial Year 20.../...(2)</b> <b>Ref. No.: .....</b>
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**Purpose**

The purpose of this disclosure form is to ensure that details of gifts received are recorded in the Gift Register, in accordance with the Policy on the Acceptance of Gifts by Office-based Officials and Office-based Educators, and that they are noted by the Provincial Minister responsible for Education or Head of Department or his or her delegated authority.

**Employee's details**

<b>Name</b>	
<b>PERSAL number</b>	
<b>Identity number</b>	
<b>Designation</b>	
<b>Directorate</b>	
<b>Subdirector</b>	
<b>Component</b>	

**Details of donor and gift**

<b>Date received</b>	
<b>Name of donor, or contact person in case of a company</b>	
<b>Contact details (address and telephone number)</b>	
<b>Nature of gift received</b>	

Estimated value	
Relationship between the donor and the recipient	

**I hereby declare that the requirements of the Policy on the Acceptance of Gifts by Officials and Office-based Educators have been met.**

Employee's signature: \_\_\_\_\_

Name in print: \_\_\_\_\_

Date: \_\_\_\_\_

### **Designated official**

**I hereby confirmed that I have evaluated the declaration and found it to be in order.**

**Receipt of gift condoned** **Yes / No**

Signature: \_\_\_\_\_

Name in print: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

***Note: Details of the gift must be recorded in the Gift Register. Both the declaration form and the gift register must be available for inspection and auditing purposes.***

