



Western Cape
Government

**Policy on the Acceptance of Gifts by Office-Based
Officials and Office-Based Educators of the
Western Cape Education Department**

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1. Purpose and Scope

This policy seeks to:

- Provide clear guidelines and procedures on the acceptance and declaration of gifts. The policy is applicable to all office-based officials and office-based educators of the Western Cape Education Department (WCED).
- Augment the transversal “Directive on the acceptance and declaration of gifts in the Western Cape,” dated 26 November 2011 by providing a monitoring control mechanism for the acceptance of gifts in the WCED.

The “Directive on the acceptance and declaration of gifts in the Western Cape” must be adhered to in its entirety at all times.

2. Legislative Framework

- Constitution of the Republic of South Africa (Act 108 of 1996)
- Public Service Act, 1994 (Act 103 of 1994)
- Public Finance Management Act, 1999 (Act 1 of 1999)
- Employment of Educators, 1998 (Act 76 of 1998)
- Public Service Regulations, 2016
- Code of Conduct for Public Servants
- Prevention and Combating of Corrupt Activities (Act 12 of 2004)
- The Treasury Regulations for Departments, trading entities, constitutional institutions and public entities, 2005
- Directive on the Acceptance and Declaration of Gifts in the Western Cape Government (reference 3/3/1/1/4, dated 26 November 2011)
- Strategic People Management Minute: 0006/2017

3. Statement of Principles

Section 195 (1) 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. Services must be provided impartially, fairly, equitably and without bias.*

- d. *Public administration must be accountable.*
- e. *Transparency must be fostered by providing the public with timely, accessible and accurate information."*

The acceptance of a gift by government officials may generate a negative perception of possible corrupt behaviour and tend to weaken the public's trust in government. It destroys the fibre of integrity and good governance within the public service. (Directive 3/3/1/1/4, dated 26 November 2011)

The conduct of public servants should always be in line with the Code of Conduct and in the best interest of the public service and the public.

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.

4. Definitions

The word "**gift**", as used in this document, 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 either **tangible** or **intangible**. A gift may also be either **perishable** or **non-perishable**.

The word "**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.

The word "**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.

The word "**perishable**" means an item that has finite or limited shelf life. These items include meat, vegetables, dairy products and even prescription drugs.

The word “**non-perishable**” means items with a much longer shelf life and don't require refrigeration. These include canned goods, dry goods and dehydrated goods.

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

5. Acceptance of Gifts

- 5.1 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 conflict of interest and ensure that gifts are not presented so as to exert improper influence.
- 5.2 When considering the acceptance of a gift, officials should bear the following in mind:
 - 5.2.1 The disposition with which a gift is offered (some gifts are merely gestures of goodwill);
 - 5.2.2 The nature and value of a gift (is it morally acceptable to accept the gift?); and
 - 5.2.3 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).
- 5.3 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.
- 5.4 It is undesirable for family or members of the household or friends of an official to accept any gift on behalf of an official.

- 5.5 Officials should take careful note of the following concerning the receipt of gifts:
- 5.5.1 An official should, under no circumstances, accept a gift whereby he or she could be compromised or be seen to compromise their integrity or the integrity of WCED; or bound in his or her work; or whereby his or her judgement could be influenced such as recruitment and selection processes.
 - 5.5.2 Officials may accept¹ gifts not exceeding an accumulated value of R350.00 per year, but must ensure that such gifts are recorded in the gift register.
 - 5.5.3 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 to condone the receipt of that gift. Such condonation must be done with the criteria listed in paragraph 5.2 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.
 - 5.5.4 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 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.
 - 5.5.5 An official may not accept gifts from any party involved in the 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.
 - 5.5.6 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. (Prevention & Combating of Corruption Activities Act 12 of 2004 section 3)
- 5.6 Where refusal of a gift may give offence or might prejudice the interests of the

¹ Gifts can be received however may only be accepted upon condonement.

WCED, e.g. a gift from a foreign government or a token of appreciation for a public appearance, the Provincial Minister responsible for Education or Head of Department 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.

- 5.7 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 or 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 responsible for 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.
- 5.8 Repeated invitations from one source should be considered inappropriate and must be politely declined.
- 5.9 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.
- 5.10 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 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.
- 5.11 Standing invitations to boxes or season tickets for sport events may not be accepted.
- 5.12 Any invitations to lunch, dinner, sports events or once-only 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 interest of the WCED. Such invitations must be noted in the gift register. (Directive 3/3/1/1/4, dated 26 November 2011)

- 5.13 Any gift, reward or invitation (pecuniary or otherwise) beyond those dealt with above must be recorded in the gift register.
- 5.14 Intergovernmental gifts must be declared in the gift register and must receive prior approval from the delegated official. (Directive 3/3/1/1/4, dated 26 November 2011)

6. Recording of Gifts in the Register

- 6.1 The acceptance of any gift/s as contemplated in this policy, other than the marketing and promotional items described in paragraph 5.5.4, must be recorded in the gift register (attached hereto as **Annexure B**).
- 6.2 A gift register must be introduced and maintained at Director level, Chief Director and Deputy Director-General level.
- 6.3 The gift register at Director level must be maintained for all of his/her staff, including him/herself, to declare gift/s received.
- 6.4 Each Director, to grant approval of gift/s prior to staff members accepting it.
- 6.5 Equal rank approvals are not permissible.
- 6.6 Each Director to communicate to all staff, **bi-annually**, requesting the declaration of any gift/s received.
- 6.7 Registers and declaration of gift forms must be accessible for inspection, reporting and auditing purposes.
- 6.8 The gift register must contain the following information:
 - 6.8.1 The number of the Declaration of Gift Form, as referred to in subparagraph 6.6, which the receiver completed.
 - 6.8.2 The date of receipt of the gift.
 - 6.8.3 The name, surname, identity number, and PERSAL number of the recipient.
 - 6.8.4 The relationship between the giver/donor and the employee/department.
 - 6.8.5 Nature and description of the gift or invitation.
 - 6.8.6 The estimated value.

- 6.8.7 Name, address and telephone number of the donor (or contact person in the case of a company).
- 6.8.8 Reason/rationale for condonement of the gift (where applicable-exceeding R350.00).
- 6.9 The declaration forms are attached hereto as **Annexures C1 and C2**.

7. Procedure for Completing of Declaration of Gift Forms

- 7.1 Initially, an official is regarded as having been “offered” a gift.
- 7.2 The decision to accept the gift must be evaluated by the official against the criteria in paragraph 5 of this policy.
- 7.3 The official accepts or declines the gift.
- 7.4 If accepted, the official must request a declaration of a gift form (either **Annexure C1 or C2**) from his/her Supervisor.
- 7.5 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. 18/19 (1)” for Annexure C1, “Financial Year e.g. 18/19 (2)” for Annexure C2.
- 7.6 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.
- 7.7 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.
- 7.8 The information on a completed **Annexure C1** declaration form, for gifts not exceeding R350.00, must be recorded in the gift register.
- 7.9 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 paragraph 6.8.8. The

condonation or non-condonation of the acceptance of the gift must also be recorded in the gift register.

- 7.10 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.
- 7.11 Using **Annexure D**, the person responsible for maintaining the gift register must request on a monthly basis for possible gifts to be declared and conduct a follow-up on declaration of gift forms that were issued during the month.

8. Process of Disposing Received Gifts

- 8.1 The relevant EA 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 a return of the gift. This would be the first option, as the gift would be deemed accepted if not returned.
- 8.2 Gifts can be disposed because of the following reasons:
- Posing potential conflict of interest.
 - Offensive e.g. ornaments made from rhino horns, or clothing items made from animal fur, etc.
- 8.3 If the returning of the 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 gift be donated to a school, charitable organization, old age home, etc.
 - The gift to be auctioned once a year to employees or the public. All proceeds need to be donated to a school, charitable organisation, old age home, etc.

9. Bi-Annual Submissions

- 9.1 Bi-annual (**six monthly**) declarations must be done by Directors, Chief Directors, Deputy Director-Generals 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 (2) weeks** after these dates.

- 9.2 All Directors, Chief Directors, Deputy Director-Generals and the Office of the Head of Department must each forward a copy of the completed declaration of gift forms, irrespective whether gifts were declared or not, to the Directorate: Internal Control.
- 9.3 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.

10. Disclosure of Financial Interest by Designated Officials

The Public Service Regulations, 2016, (Chapter 2) and Public Service Handbook for Senior Management Service (Chapter 9, paragraph 4) stipulate that designated officials must disclose to the relevant Executive Authority, by no later than **30 April** of each year and on a form provided for this purpose by the **Public Service Commission**, particulars of all their financial interests, including gifts received from a source other than a family member for the period 1 April of the previous year to 31 March of that year. 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.

11. Delegated Authority

The authority to approve the acceptance of gifts is delegated to the level of Director. 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 responsible for Education.

12. Failure to Comply

The compliance of this policy will depend on the co-operation of all personnel. All employees share the responsibility for adhering to and enforcing the 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 or her, as determined in the Public Service Act, 1994 (Act 103 of 1994).

13. Date of Effect

This policy is effective from the date of signature of the Head of Department. The policy will be reviewed annually including for changes in legislation (if applicable) and will be amended accordingly.