



**Western Cape
Government**

WESTERN CAPE EDUCATION DEPARTMENT

**POLICY ON THE ACCEPTANCE OF GIFTS BY OFFICE-BASED PUBLIC
SERVICE AND EDUCATOR OFFICIALS OF THE WESTERN CAPE
EDUCATION DEPARTMENT,
2024**

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Annexures

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Annexure D:	Record of declaration of gift forms issued.

1. Preamble

The purpose of this policy is to provide clear guidelines and procedures for the acceptance and declaration of gifts.

2. Legislative framework

The legislative framework for this policy is:

- a) Constitution of the Republic of South Africa, 1996
- b) Public Service Act, 1994 read with the
- c) Public Service Regulations, 2016 which contains the Code of Conduct for Public Servants
- d) Public Service Amendment Regulations, 2023, Government Gazette number 49517 dated 20 October 2023
- e) Public Finance Management Act, 1999 (Act 1 of 1999)
- f) Directive on the Acceptance and Declaration of gifts in the Western Cape dated 26 November 2011
- g) Financial Management Circular No.8 of 2016, Supplementary 01 of 2024: Management of the acceptance and declaration of gifts in the Department of the Premier

3. Scope

This policy is applicable to all the office-based public service and educator officials of the WCED.

4. Statement of principles

- 4.1 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.*

4.2 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.

4.3 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.

4.4 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.

5. 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.

6. Acceptance of gifts

- 6.1 Public Service Amendment Regulation 13 (h) of Oct 2023, stipulates that an employee may not receive or accept any gift in the course and scope of his or her employment to a cumulative value exceeding R500 per year unless approval is obtained from the relevant executive authority.
- 6.2 Notwithstanding the prescript above, obtaining approval means that the receiving employee must obtain both the support of the Chief Financial Officer (CFO) and the approval of the relevant authority on the Gift Register for the gift to be accepted.
- 6.3 The following principles and threshold values apply to the acceptance of gifts in the Department:
 - 6.3.1 Unless otherwise stipulated in this Policy, all gift/s received, irrespective of value, must be declared in the Gift Register (attached as Annexure B to this Policy).

- 6.3.2 Gift/s with a cumulative value greater than R500 per annum (financial year) require approval in line with the provisions of this Policy.
- 6.3.3 Gift/s with a cumulative value of up to R500 per annum may be accepted without approval but must be noted by the Delegated Official and declared in the Gift Register.
- 6.3.4 Marketing materials (such as pens, calendars, etc.), with a cumulative value of up to R500, may be accepted without approval and need not be declared in the Gift Register, provided that such marketing materials are available to all employees or groups of employees or the general public.
- 6.3.5 Marketing materials with a cumulative value greater than R500 must receive approval in line with the provisions of this Policy (examples are memory sticks, power banks etc.), and must be declared in the Gift Register (attached as Annexure B to this Policy).
- 6.3.6 Intergovernmental and interdepartmental gift/s, as well as gifts from public entities and government councils/chambers and forums established by law e.g., PSCBC, may be accepted without approval but must be declared in the Gift Register.
- 6.3.7 Own Department offerings received as a participant in a particular project/event, may be accepted without approval and need not be declared (examples are T-shirts, mugs, memory sticks etc. that promote a project/event in the Department).
- 6.3.8 Acceptance of gift/s from family/friends, as benefactors who do business with the Department, must receive approval in line with the provisions of this Policy, and must be declared in the Gift Register (attached as Annexure B to this Policy).
- 6.3.9 Gift/s received in the line of duty must receive approval, in line with the provisions of this Policy, and must be declared in the Gift Register (for example, an employee who is a Board Member of another organisation by virtue of his/her position in the Department or in government, must declare any gift/s received from that organisation).
- 6.4 Acceptance of gift/s with a value of greater than R500 up to R2000.00, must be supported by the CFO, and be approved by the relevant authority listed in (i) – (iv) below and must be declared in the Gift Register (attached as Annexure B to this Policy).
- Approval authority for gifts greater than R500 up to R2000.00:
- (i) A Chief Director for employees on salary levels 1 – 13
 - (ii) A Deputy Director–General for employees on salary level 14

- (iii) The Head of Department for salary levels 15
- (iv) The Executive Authority for the Head of Department

- 6.5 Acceptance of gift/s with a value greater than R2000.00, must be consulted with the CFO and receive the approval of the Accounting Officer. Gifts bestowed upon the Chief Financial Officer must be supported by the Head of Department and receive the approval of the Executive Authority. Gifts bestowed upon the Accounting Officer must be supported by the CFO and receive the approval of the Executive Authority. All gifts to be declared in the Gift Register (attached as Annexure B to this Policy).
- 6.6 Equal rank approvals are not permissible.
- 6.7 Employees are prohibited from accepting gift/s from any benefactor if such acceptance creates a potential conflict of interest.

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 6.4.4, 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 communicate to all staff biannually, requesting the declaration of any gift(s) received.
- 7.5 Registers and declaration of gift forms must be accessible for inspection, reporting and auditing purposes.
- 7.6 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 R500,00).

7.7 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 R500,00, must be recorded in the gift register.
- 8.9 The information on a completed Annexure C2 declaration form, for gifts exceeding R500,00, must be recorded in the gift register and then submitted to relevant manager 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 supported by the Chief Financial Officer and submitted to the Head of Department for approval. The Head of Department must declare gifts to the Executive Authority.

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.