

PROVINCE OF THE EASTERN CAPE
DEPARTMENT OF EDUCATION



Fraud Prevention and Anti-Corruption Policy

Effective: 2020/2021

7.1

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

TABLE OF CONTENTS

GLOSSARY OF ABBREVIATION AND TERMS	2
1. INTRODUCTION	3
1.1 Foreword by the Accounting Officer	3
1.2 Legislative Framework.....	4
1.3 Statement of the Department's Attitude to Fraud	6
1.4 The Public Service Anti-Corruption Strategy	6
1.5 Definition of Fraud and Corruption	8
2 POLICY ON FRAUD AND CORRUPTRION	14
2.1 Background.....	14
2.2 Scope of Application of the Policy.....	14
2.3 Date of Adoption of the Policy	14
2.4 Policy	14
3 FRAUD AND CORRUPTION STRATEGIES	16
3.1 Structural Strategies	16
3.2 Operational Strategies.....	21
3.3 Maintenance and Review Strategies.....	29
4. CONCLUSION	31
5. ADOPTION OF THE POLICY	32

74



EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

GLOSSARY OF ABBREVIATION AND TERMS

Abbreviation/ Term	Description
Accounting Officer	Superintendent-General of the Eastern Cape Department of Education
AFU	Assets Forfeiture Unit
Department	Eastern Cape Department of Education
ECDOE	Eastern Cape Department of Education
ECTA	Electronic Communications and Transactions Act 25 of 2002
HR	Human Resources
MEC	Member of the Executive Council
PFMA	Public Finance Management Act 1 of 1999
PSCBC	Public Service Coordinating Bargaining Council
SAPS	South African Police Service
SCM	Supply Chain Management
SG	Superintendent-General
SMS	Senior Management Service

21



1. INTRODUCTION

1.1 Foreword by the Accounting Officer

Fraud and corruption has always been a high inherent risk that affects all Public Sector Institutions. This has been made possible by maladministration that has forever been growing in the Public Sector. With the highest budgetary allocation in the Eastern Cape Provincial Government, the Eastern Cape Department of Education ("Department or ECDoE") is susceptible to Fraud and Corruption.

Moreover, the Department is not only vulnerable, but has had many cases and/or reports on funds that have NOT been accounted for, which is evidently a case of fraudulent activities and/or pure negligent and mismanagement of funds. This then means that the risk of fraud and corruption within the Department has materialised, and should be given sufficient attention and resources to mitigate it.

The Department also encounters risks of fraud in all areas of its programs, from core business, to the transfer of files, dealing and/or colluding with contractors and suppliers, and in some cases, among departmental staff. Fraud in the Department is also suspected to be occurring greatly in the Compensation of Employees where the bulk of the Departmental budget is consumed.

The Department also realizes that the threat of fraud is becoming more complex. The instability and constant changes in the Departmental management and leadership and activities of external parties also creates gaps for fraudulent activities to manifest.

It is for this reason that all officials and stakeholders of the Department should commit to this Fraud Prevention Policy and Plan. This Policy does not only aim to reduce the incidence of fraud, but also to reduce the opportunities for Fraud.

In doing so, the Department has now committed itself to take a stand against fraud and corruption, and adopt a ZERO TOLERANCE stance as far as fraud and corruption is concerned.

The Department is therefore putting in place the Fraud Prevention Policy and Plan (Policy), to close down all "taps" on corruption, and to investigate and act on any of

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

the Departmental officials and stakeholders that defraud the Department. To emphasise the seriousness of combating fraud and corruption in the Department, the Department will have a Special Unit/Function that will focus on mitigating, and to an extent, eliminating fraud and corruption within the Department.

This policy retains the core elements of the fraud control framework; the need for rigorous risk assessments and detailed fraud prevention planning to prevent fraud from occurring; and obligations to thoroughly investigate, and prosecute where appropriate, in cases where fraud is detected. More importantly, however, at the heart of the new Policy is an obligation on the Departmental Accounting Officer to build a strong fraud prevention culture within the Department.

The Department takes the fraud prevention program extremely serious and is determined that all reasonable measures are taken to ensure that public funds are spent properly and judiciously. Ultimately this benefits all stakeholders by ensuring that the ECDoE funds are used fairly, equitably, and for their intended purposes.

1.2 Legislative Framework

This Fraud Prevention and Anti-Corruption Policy document has been developed as a result of the expressed commitment of Government and the department to rid the public sector of fraud and corruption. It also serves as an important contribution to the country's National Anti-Corruption Strategy and supplements the Public Service's Anti-Corruption Strategy.

The National Treasury Regulations promulgated in terms of the Public Finance Management Act 1 of 1999 (PFMA) require the Accounting Officer (Superintendent-General) of the ECDOE to develop and implement a fraud prevention plan for the Department.

The PFMA requires the Accounting Officer of a department to take effective and appropriate:

- i. Steps to prevent unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure and losses resulting from criminal conduct;

3/



EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

- ii. Disciplinary steps against any official who: contravenes or fails to comply with the PFMA; commits any act which undermines the financial management and internal control system of the Department; or who makes or permits the incurring of any unauthorised, irregular or fruitless and wasteful expenditure.

The Prevention and Combating of Corrupt Activities Act 12 of 2004 places a duty upon the person in charge of an institution or department to report any offence defined as corruption in terms of the Act, as well as the offences of: fraud; theft; extortion; forgery or uttering a forged document (if the quantum of the loss or amount involved is R100 000.00 or more); to the South African Police Service.

The acts of misconduct as contained in the Disciplinary Code for public servants set out in the Public Service Co-ordinating Bargaining Council's Resolutions (including Resolution 2 of 1999), and Section 17 (read with the remainder of Chapter 5) of the Employment of Educators Act 76 of 1998 identify (amongst others) fraud, theft, bribery, corruption and the falsification of records as constituting misconduct.

Officials involved in tender and procurement processes and the members of Bid Adjudication Committees are further bound by Codes of Conduct issued by the Treasury in relation to Supply Chain functions or to the Code of Conduct for Bid Adjudication Committee members.

The main principles upon which the Fraud Prevention and Anti-Corruption Policy of the ECDOE is based are the following:

- i. Creating a culture which is ethical and intolerant to fraud and corruption;
- ii. Deterrence of fraud and/or corruption;
- iii. Preventing fraud and/or corruption which cannot be deterred;
- iv. Detection of fraud and/or corruption;
- v. Investigating detected fraud and/or corruption;
- vi. Taking appropriate action in the event of fraud and/or corruption, e.g. instituting criminal, civil or disciplinary action, and the recovery of any losses; and

7.1



- vii. Applying sanctions that include “blacklisting” and prohibition from further employment or of doing further business with the Department.

1.3 Statement of the Department’s Attitude to Fraud

Fraud and corruption are recognised as pervasive problems experienced at all institutions within the public sector i.e. national, provincial and local government spheres. Fraud and corruption represent significant risks to the Eastern Cape Department of Education (“the Department or the ECDOE”). The risks of fraud or corruption have the potential of rendering severe negative impact upon the Department’s assets, service delivery, operational efficiency, accountability and reputation.

The ECDOE has adopted a “**zero tolerance**” approach to fraud and corruption and does not tolerate any corrupt or fraudulent activities; whether carried out by internal parties, external parties or a collusion of both parties. The ECDOE vigorously pursues and prosecutes any parties who engage or attempt to engage in fraudulent or corrupt activities, by all the available legal means at its disposal.

The ECDOE has committed to fulfilling its Constitutional, legislative and moral duties, obligations and roles to the people of the Eastern Cape Province and prescribes to **ethical conduct, integrity** and **honesty** whilst doing so.

1.4 The Public Service Anti-Corruption Strategy

During 1997, the Government initiated a national anti-corruption campaign. This led to a National Anti-Corruption Summit which was held in 1999 where all sectors of society (public and private) committed themselves to establishing sector specific anti-corruption strategies. At the same time they also committed to being co-responsible for fighting corruption through the coordination of these strategies. In January 2002 the Public Service Anti-Corruption Strategy came into being.

7/



EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

The Public Service Anti-Corruption Strategy required Departments to address:

- I. Fraud
- II. Bribery
- III. Embezzlement
- IV. Conflict of Interest
- V. Extortion
- VI. Abuse of Power
- VII. Favouritism and Nepotism
- VIII. Insider Trading or Abuse of Privileged Information.

The Public Service Anti-Corruption Strategy is aimed at combating or preventing corruption in a holistic and preventative manner. It also requires all public service departments to have a certain minimum level of anti-corruption capacity.

In addition to the Public Service Anti-Corruption Strategy a number of laws and regulations also regulate, assist or support efforts to prevent, detect, investigate or resolve corrupt activities including:

- i. The Prevention and Combating of Corrupt Activities Act 12 of 2004 – this Act widely defines corruption, reinstates bribery as a common law crime, allows for the “black listing” of persons found guilty of certain offences, and requires senior officials or persons in charge of institutions to report corrupt activities as well as certain other offences including fraud, theft, extortion and forgery.
- ii. The Promotion of Access to Information Act 2 of 2000 allows access to State information thereby promoting transparency.
- iii. The Promotion of Administrative Justice Act 3 of 2000 seeks to ensure that decisions affecting the public are made in a procedurally fair manner.
- iv. The Protected Disclosures Act 26 of 2000 offers protection to employees (whistle blowers) from being subjected to victimisation or occupational detriment if they disclose unlawful or irregular behaviour in the workplace;
- v. The Public Finance Management Act 1 of 1999 and the National Treasury’s Regulations, Circulars and Practice Notes.

1.5 Definition of Fraud and Corruption

In South Africa, the Common Law offence of **fraud** is defined as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The term “fraud” is also used in a wider sense by the general public.

In this regard, the term is used in this policy document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

Fraud can also give rise to a **civil claim** as both intentional and negligent misrepresentations can form the basis of a claim for damages against the person who has made any such misrepresentation. The general requirements for civil liability for damages based upon misrepresentation arises when somebody makes an incorrect or misleading representation in a wrongful and culpable (blameworthy) manner to another person who acts on it to his/her detriment.

Fraud committed by an employee or official of the ECDOE is also recognised as **misconduct** by the Disciplinary Code promulgated in the PSBC Resolution 2 of 1999 and Section 17 of the Employment of Educators Act 76 of 1998. Fraud is also generally regarded as **gross dishonesty** in a labour relations context and is recognised as a serious misconduct which can lead to dismissal even if it is a first offence.

The general offence of **corruption** is contained in Section 3 of The Prevention and Combating of Corrupt Activities Act 12 of 2004. This section provides that any person who gives or accepts or agrees or offers to accept / receive any gratification from another person in order to influence such other person in a manner that amounts to:

- i. The illegal or unauthorised performance of such other person’s powers, duties or functions.
- ii. An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules.

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

- iii. The achievement of an unjustified result.
- iv. Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of Corruption.

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

Theft is defined as the unlawful and intentional appropriation of movable, corporeal property which either:

- i. Belongs to and is in the possession of, another;
- ii. Belongs to another but is in the perpetrator's own possession; and
- iii. Belongs to the perpetrator but is in another's possession and such other person has a right to possess it which legally prevails against the perpetrator's own right of possession.

Provided that the intention to appropriate the property includes an intention to permanently deprive the person entitled to the possession of the property, of such property.

Embezzlement is a form of theft which involves the theft of assets or resources by persons who control such assets or resources.

1.5.1 Examples and Forms of Fraud and Corruption

Fraud and corruption take various forms in the public service and elsewhere in society. The following are examples of different types of fraud or corruption.

Bribery

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.

Extortion

Extortion usually entails the coercion of a person or entity to provide a benefit to a public servant, another person or an entity, in exchange for acting (or failing to act) in a particular manner. Extortion is committed when a person unlawfully and intentionally obtains some advantage, which may be of either a patrimonial or a non-patrimonial nature, from another person by subjecting the other person to pressure which induces him/her to hand over the advantage.

Abuse of power

The abuse of power is the use by a public servant of his or her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity).

Conflict of interest

The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationship with the public servant has an interest.

Abuse of privileged information

This involves the use, by a public servant of privileged information and knowledge that a public servant possesses as a result of his/ her office to provide unfair advantage to another person or entity to obtain a benefit.

Favouritism

Favouritism is the provision of services or resources according to personal affiliation (for example cultural or religious) of a public servant.

Nepotism

A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the state, is regarded as nepotism. Family member is not defined in the Public Service Act, Public Service Regulations, PSCBC's Resolutions on misconduct, or in the PFMA. For the purposes of this Policy a family member includes an official's: wife, husband, spouse or life partner (whether recognised by way of customary, religious or civil union); parents; grandparents; children; adopted children; siblings (brothers or sisters); uncles; aunts; nephews; nieces; cousins; parents in law (i.e. the spouse's parents); siblings in law (i.e. the spouse's brothers or sisters); stepfather; stepmother; stepbrother or stepsister.

Theft by False Pretense

The unlawful and intentional obtaining of moveable, corporeal property belonging to another with the consent of the person from whom such property has been obtained, where such consent has been given as a result of an intentional misrepresentation made by the person committing the crime with the intent to appropriate the property.

Forgery

Forgery is committed by unlawfully making a false document with intent to defraud to the actual or potential prejudice of another.

Uttering (a forged document)

Uttering is the unlawful offering, passing off, or communicating of a forged document, with the intent to defraud, to the actual or potential prejudice of another.

Computer Fraud, Extortion and Forgery

The use of computers and the internet to commit offences is becoming prevalent and is generally referred to as cybercrime. Section 86 of the Electronic Communications and Transactions Act 25 of 2002 (ECTA) makes it a criminal offence to access, intercept or interfere with data. This includes:



EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

- Intentionally accessing or intercepting any data without authority or permission to do so (subject to the Interception and Monitoring Prohibition Act 127 of 1992)
- Intentionally interfering with data in a way that causes it to be modified, destroyed or otherwise rendered ineffective without authority to do so
- Unlawfully and intentionally producing, selling, offering to sell, procuring for use, designing, adapting for use, distributing or possessing any device, including a computer program or a component, which is designed primarily to overcome security measures for the protection of data, or performs any of those acts with regard to a password, access code or any other similar kind of data
- Utilising any device, computer program or component mentioned above to overcome security measures designed to protect data or access thereto
- Committing any of the afore-mentioned acts with intent to interfere with access to an information system so as to constitute a denial, including a partial denial, of service to legitimate users

Section 87 of the ECTA makes specific reference to computer-related extortion, fraud and forgery as criminal offences. This section states:

“(1) A person who performs or threatens to perform any of the acts described in section 86, for the purpose of obtaining any unlawful proprietary advantage by undertaking to cease or desist from such action, or by undertaking to restore any damage caused as a result of those actions, is guilty of an offence.

(2) A person who performs any of the acts described in section 86 for the purpose of obtaining any unlawful advantage by causing fake data to be produced with the intent that it be considered or acted upon as if it were authentic, is guilty of an offence.”

Attempting to commit any of the offences mentioned in sections 86 and 87, or aiding and abetting another person in such commission is also a criminal offence (section 88 of the ECTA).

Failure to Report Fraudulent or Criminal Conduct

Failure to report offences falling under the definitions of corrupt activities in the Prevention and Combating of Corrupt Activities Act 12 of 2004 or the other specified offences if they involve amounts of R100 000 or more, or the reasonable suspicion of such offences having been committed, to the South African Police Service (SAPS) is a criminal offence in itself.

The Public Service Regulations (Regulation C.4.10) also require a public servant in the course of her or his official duties, to report fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest to the appropriate authorities.

From a labour relations perspective, supervisors who have not personally been involved in theft or acts of gross dishonesty, but who have been aware of their subordinates or colleagues committing such acts, have been dismissed themselves and these dismissals have been upheld by the relevant Labour Courts.

Other Actions Constituting Fraud or Corruption

- Unauthorised private use of the Department's assets, including vehicles, telephones, etc.
- Falsifying travel and subsistence claims
- Conspiring unfairly with others to obtain a tender;
- Disclosing proprietary information relating to a tender to outside parties;
- Accepting inappropriate gifts from suppliers;
- Employing family members or close friends;
- Operating a private business during working hours;
- Stealing equipment or supplies from work;
- Accepting bribes or favours to process requests;
- Accepting bribes or favours for turning a blind eye to a service provider who does not provide an appropriate service;
- Submitting or processing false invoices from contractors or other service providers; and
- Misappropriating fees received from customers, and avoiding detection by not issuing receipts to those customers.

These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.

2 POLICY ON FRAUD AND CORRUPTRION

2.1 Background

This policy is established to facilitate the development of controls which assist in the prevention, detection and investigation of fraud and corruption; as well as provide guidelines as to how to respond should instances of fraud and corruption be identified. This policy is also established to give effect to the various legislative instruments as described in the previous section.

2.2 Scope of Application of the Policy

This policy applies to and is binding on all managers, employees, officials, stakeholders, contractors, vendors / suppliers, business partners and any other party doing business with the ECDOE.

2.3 Date of Adoption of the Policy

The ECDOE has adopted this Fraud Prevention and Anti-Corruption policy with effect from 01 April 2016.

2.4 Policy

It is the policy of the ECDOE that fraud, corruption, maladministration or any other dishonest activities of a similar nature is not tolerated. Such activities are investigated and actions instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative actions and the institution of recoveries where applicable.

Prevention, detection, response and investigative strategies are designed and implemented. These include any existing controls (system controls and manual

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the Institution.

All managers, employees, officials, stakeholders, contractors, vendors / suppliers, business partners and any other party doing business with the ECDOE are required to:

- i. Refrain from committing fraud, corruption and other acts of dishonesty against the ECDOE
- ii. Assist in the nurturing of an ethical and fraud free working environment
- iii. Maintain absolute integrity in all dealings with the ECDOE
- iv. Comply with internal controls
- v. Adhere to principles, prescripts and directives of the Department's Code of Conduct, policies and procedures and any applicable laws or regulations

It is the responsibility of all employees to report all incidents of fraud and corruption, as well as any irregularities, and dishonest, illegal, unlawful or unethical conduct that may come to his / her attention to his / her supervisor. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanism or to the parties or agencies determined in the Protected Disclosures Act 26 of 2000. Reports can be made to the following agencies:

- i. The National Anti-Corruption Hotline – **0800 701 701**
- ii. The Department's fraud line – **040 608 4685**

All reports received will be treated confidentially and will not be disclosed or discussed with parties other than those tasked to investigate such reports.

All Managers are responsible for the detection, prevention and investigation of fraud and corruption, within their areas of responsibility.

Every other employee or official of the ECDOE is in terms of this policy responsible for the prevention or reporting of fraud, corruption or similar irregular or unethical conduct which he/she is aware of whether it falls within their area of responsibility or not.

Section 45 of the PFMA furthermore requires officials of the ECDOE to take effective and appropriate steps to:

- i. Prevent, within his/her area of responsibility, the incurring of any unauthorised, irregular or fruitless and wasteful expenditure;
- ii. Safeguard the State's assets; and
- iii. Prevent losses resulting from criminal conduct.

Section 45 of the PFMA also requires ECDOE officials to:

- i. Ensure that the system of financial management and internal control in the Department is carried out within his/her area of responsibility; and
- ii. Be responsible for effective, efficient, economical and transparent use of the financial and other resources within his/her area of responsibility.

Failure by any manager, employee or official of the Department to comply with the provisions of this Policy is regarded as misconduct in terms of the Public Service Code of Conduct and the PSCBC Disciplinary Code and/or the Employment of Educators Act (and could also result in criminal liability in terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004) and results in disciplinary and (where applicable) criminal action being instituted against the relevant person.

3 FRAUD AND CORRUPTION STRATEGIES

The approach in controlling fraud and corruption is focused into 3 areas, namely; the structural strategies, the operational strategies and the maintenance strategies.

3.1 Structural Strategies

Structural Strategies represent the actions to be undertaken in order to address fraud and corruption at the Structural level.



Responsibility for the Management of Fraud and Corruption Risks

The following section outlines the fraud and corruption risk management responsibilities associated with different roles within the ECDOE.

Accounting Officer

The Accounting Officer bears the ultimate responsibility for fraud and corruption risk management within the ECDOE. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption, and facilitation for the reporting of such instances.

The Risk Management Committee (Fraud Prevention Committee)

One of the roles of the Risk Management Committee (RMC) is to oversee the ECDOE's approach to fraud prevention, fraud detection strategies and response to fraud and corruption incidents reported by employees or other external parties. This committee will be chaired by one of the independent members of the Audit Committee. The various directorates or divisions of the ECDOE should have representation on this committee. The Head of Internal Audit and the Head of Risk Management shall be compulsory members.

The Fraud Prevention Committee shall meet at least once every quarter to discuss the following issues:

- i. Progress made in respect of implementing the Anti-Fraud and Corruption Strategies and Fraud Prevention Plans;
- ii. Reports received by the ECDOE regarding fraud and corruption incidents with the view to making any recommendations to the Accounting Officer and Chairman of the Audit Committee;
- iii. Reports on all investigations initiated and concluded;
- iv. All allegations received *via* the hotline; and
- v. Any other relevant matters.

This Risk Management Committee will be constituted by terms of reference as properly described in the committee charter.

3.1.2 An Ethical Culture

The ECDOE is required to conduct itself in an ethical and moral way.

Ethics are concerned with human character and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitutes good or evil. Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all the individual employees of an Institution reflects the Institution's ethical conduct. In this regard, the highest standards of ethics are required by employees when fulfilling their duties.

Good governance indicates that institutions should develop codes of conduct (ethics) as part of their corporate governance frameworks. All employees are expected to abide by the Code of Conduct and the Ethics policy for the institution

3.1.3 Role of Management in Maintaining Discipline

Senior management is committed to eradicating fraud and corruption and ensuring that the ECDOE strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, senior management, under the guidance of the Accounting Officer, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure the ECDOE's overall anti-fraud and anti-corruption strategy is reviewed and updated regularly, but as a minimum on an annual basis. Furthermore, senior management will ensure that all employees and stakeholders are made aware of its overall anti-fraud and corruption strategies through various initiatives of awareness and training.

It is the employer's duty and function to ensure that discipline is maintained in the workplace. The direct application and enforcement of discipline is in the hands of the ECDOE's management; which constitutes of Deputy Directors, Directors, Chief Directors, Deputy Directors-General and the Accounting Officer (these officials

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

perform managerial functions within the ECDOE and are referred to in this document as “line managers”).

Line managers of the ECDOE are required to apply the following principles in maintaining discipline in the workplace:

- i. Discipline must be corrective in nature and not punitive; and
- ii. Discipline must be applied in a prompt, fair (materially and procedurally) consistent and progressive manner.

Line managers will also be required to ensure that disciplinary measures are carried out in compliance with the applicable legislative prescripts including:

- i. The Constitution of the Republic of South Africa (Act 108 of 1996)
- ii. The Public Service Act (Proclamation of 1994) and Regulations
- iii. The Labour Relations Act 66 of 1995
- iv. Resolutions providing for disciplinary processes issued by the PSCBC
- v. Chapter 7 of the Handbook for the SMS (where applicable)
- vi. The Treasury Regulations pertaining to Financial Misconduct proceedings
- vii. Any functional specific codes of conduct such as the Code of Conduct for Supply Chain Practitioners and the Code of Conduct for Bid Adjudication Committee Members issued by the National Treasury
- viii. The Employment of Educators Act 76 of 1998

If an employee commits misconduct that is also a criminal offence, the criminal proceedings and disciplinary proceedings will continue as separate and different proceedings. All criminal offences should be reported to the Heads of Labour Relations Unit at the ECDOE’s head office, the Fraud Risk Management Unit (where the offence amounts to fraud or a crime of dishonesty) as well as to the SAPS.

3.1.4 Assessment of fraud and corruption risk

The ECDOE, under the guidance of the Accounting Officer and the Chairperson of the Fraud Prevention Committee, conducts annual fraud and corruption risk assessments to identify potential fraud and corruption risk exposures to the ECDOE. This process will ensure that actions to address the identified fraud and corruption risk exposures will be implemented to mitigate these exposures.

The above is formulated into a "Fraud Risk Assessment" and provides an indication of how fraud and corruption risks are manifested and, a "Fraud and Corruption Risk Register" which prioritises the fraud and corruption risks and indicate actions to mitigate these risks.

3.1.5 Employee awareness

The main purpose of fraud and corruption awareness workshops / training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption is manifested in the workplace. In this regard, all employees receive training on the following:

- i. Fraud Prevention and Anti-Corruption policy
- ii. Code of Conduct for employees
- iii. Whistle blowing policy
- iv. Fraud Corruption Investigation - Escalation Policy
- v. Ethics policy

The ECDOE identifies who is responsible for employee fraud prevention awareness and schedule awareness sessions throughout the year.

In addition to workshops and training, the ECDOE (subject to budget considerations and the practicality of the relevant solution) uses media and other forms of communication to raise fraud awareness within the Department.

3.2 Operational Strategies

3.2.1 Internal controls

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the ECDOE against fraud and corruption, they are essential elements in the overall Anti-Fraud and Corruption Strategy.

All areas of operations require internal controls, for example:

- i. Physical controls (e.g. securing of assets)
- ii. Authorisation controls (e.g. approval of expenditure)
- iii. Supervisory controls (e.g. supervising day-to-day issues)
- iv. Analysis of data
- v. Monthly and annual financial statements
- vi. Reconciliation of bank statements, monthly
- vii. Reconciliation of vote accounts, monthly

The Department's Internal Audit component is be responsible for implementing an internal audit program which will incorporate steps to evaluate adherence to internal controls.

3.2.2 Prevention Strategies

A number of combined initiatives result in an overall preventative environment in respect of fraud and corruption. These include the following:

Employee awareness

Employee awareness of the ECDOE's Fraud Prevention and Anti-Corruption Policy or Code of Conduct will be executed through scheduled workshops and other forms of communication. Whistle blowing through the National Anti-Corruption Hotline policy or through the Provincial Anti-Corruption Unit located in the Office of the Premier all

21

assist in the creation of an environment which may be considered hostile to a would-be transgressor.

Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening is maintained by the Human Resources Department. Consideration is to be given to the following pre-employment screening:

- i. Verification of identity
- ii. Police criminal history.
- iii. Reference checks with the two most recent employers – this will normally require telephone contact.
- iv. A consideration of any gaps in employment history and the reasons for those gaps.
- v. Verification of formal qualifications claimed.
- vi. State Security Agency clearance of senior managers or officials in key positions.

The ECDOE's policy of pre-employment screening covers all new and promoted employees including those with administrative responsibilities or computer access. The screening is performed by an official(s) nominated by the Human Resources Directorate in conjunction with the Accounting Officer, to ensure that screening is consistent and appropriately resourced throughout the Department. Screening is conducted in accordance with the classification of the employee or the levels of screening outlined below.

Where an employee is promoted into a management position and has not been screened during the course of the previous three years, the applicant is re-screened. The levels of screening is based on the Eastern Cape Provincial Treasury's practice notes regarding the screening of SCM practitioners in conjunction with the SMS Handbook which also covers the screening of senior managers.

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

Level 1 – All employees (including those with administrative functions or computer access)

- i. Verification of claimed educational qualifications
- ii. An independent reference check directly with two referees nominated by the applicant or previous employers
- iii. Criminal history checks (after authorisation has been obtained from the prospective employee).

Level 2 – All Managers and above, IT and Finance staff

- i. All Level 1 checks;
- ii. Employment history checks;
- iii. Directorship and membership searches; and
- iv. Insolvency/credit search.

Recruitment procedures

Recruitment is conducted in accordance with the requisite recruitment procedure. It is a transparent process and all appointments is confirmed only after due recommendation. Any person, involved in any decision-making process, who may have a conflict of interest, must declare such a conflict in writing to the Human Resources Department and withdraw from any further procedures.

Internal audit plan

A robust Internal Audit plan, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit component compiles such a plan on an annual basis, and such a plan also includes "surprise audits".

Fraud Prevention and Anti-Corruption Policy

The actions set out in this plan are all focused at mitigating the risk of fraud and corruption in the ECDOE.

Disclosure of interests

All senior managers of the ECDOE are required to disclose their specific personal assets and business interests on an annual basis. This register is kept with the Accounting Officer. This requirement is in addition to annual declarations required of SMS level officials in terms of the Public Service Regulations. All employees of the ECDOE are required to request and obtain permission in writing from the Head of the Department to perform any additional remunerated work. SCM Practitioners and any employees of the ECDOE serving on Bid Evaluation or Bid Adjudication Committees or performing any SCM related role are required to disclose any conflict of interest they may have and to recuse themselves from further participation.

Detection strategies

Detection of fraud and corruption may occur through:

- i. Vigilance on the part of employees, including line management
- ii. The Internal Audit function
- iii. *Ad hoc* management reviews
- iv. Anonymous whistle-blower reports
- v. The application of detection techniques

The individual identified at the Department as being responsible for Fraud Management is responsible for developing detection strategies, and works closely with line management and the Internal Audit function for this purpose.

The ECDOE embarks on a number of initiatives to detect fraud and corruption in the workplace.



Internal Audit

Similar to the prevention strategies, a robust Internal Audit plan which focuses on the prevalent high Fraud and Corruption risks also serves as an effective detection measure. As part of the detection strategy, the Internal Audit plan covers the following:

- i. Surprise audits: Unplanned audits conducted on specific business processes throughout the year;
- ii. Post-transaction reviews: A review of transactions after they have been processed and completed can be effective in identifying fraudulent or corrupt activity. In addition to the possibility of detecting fraudulent transactions, such a strategy can also have a significant fraud prevention effect as the threat of detection may be enough to deter a staff member who would otherwise be motivated to engage in fraud and corruption;
- iii. Forensic data analysis: The ECDOE's computer system is an important source of information on fraudulent and sometimes corrupt conduct. Software applications will be used during internal audits, surprise audits and post-transaction reviews to assist in detecting any possible fraud and corruption; and
- iv. Management accounting reporting review: Using relatively straightforward techniques in analysing the ECDOE's management accounting reports, trends can be examined and investigated which may be indicative of fraudulent conduct. Some examples of the types of management accounting reports that can be utilised on a compare and contrasting basis are:
 - a. Budget reports for each department / section/ programme;
 - b. Reports comparing expenditure against public sector benchmarks; and
 - c. Reports highlighting unusual trends in bad or doubtful debts.

The ECDOE implements a strategy to ensure appropriate management accounting report reviews are conducted.



External audit

The ECDOE recognises that the external audit function is an important control in the detection of fraud. The Chief Financial Officer, with the Auditor-General ensures that due consideration is given by the auditors; ISA 240 *"The Auditors' Responsibility to Consider Fraud in the Audit of a Financial Statement"*.

3.2.3 Response Strategies

Reporting fraud and corruption – Whistle-Blowing

One of the key obstacles to fighting fraud and corruption is the fear by employees or other parties of being intimidated to identify or "blow the whistle" on fraudulent, corrupt or unethical practices witnessed in the work place. Those who often do "blow the whistle" end up being victimised and intimidated. For this reason, the ECDOE has adopted a Whistle Blowing Policy setting out the detailed procedure which must be followed in order to report any incidents of fraud and / or corruption. This policy is designed to comply with the provisions of the Protected Disclosures Act.

Any suspicion of fraud and corruption is treated seriously and is reviewed, analysed, and if warranted, investigated. If an employee becomes aware of a suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported in terms of a Whistle Blowing.

Investigating fraud and corruption

Dealing with suspected fraud and corruption

In the event that fraud or corruption is detected or suspected, investigations is initiated, and if warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses is initiated.

Investigations

Any reports of incidents of fraud and / or corruption is confirmed by an independent investigation. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

Investigations is undertaken by appropriately qualified and experienced persons who are independent of the department / section where investigations are required. This may be a senior manager within the ECDOE itself, an external consultant or a law enforcement agency. All investigations performed and evidence obtained is in accordance with acceptable practices and legal requirements. Independence and objectivity of investigations are paramount.

Any investigation initiated must be concluded by the issue of a report by the person/s appointed to conduct such investigations. Such reports is only disseminated to those persons required to have access thereto in order to implement whatever action is deemed appropriate as a result of the investigation.

Investigations may involve one or more of the following activities:

- i. Interviewing of relevant witnesses, internal and external; including obtaining statements where appropriate
- ii. Reviewing and collating documentary evidence
- iii. Forensic examination of computer systems
- iv. Examination of telephone records
- v. Enquiries from banks and other financial institutions (subject to the granting of appropriate approval/Court orders)
- vi. Enquiries with other third parties
- vii. Data search and seizure
- viii. Expert witness and specialist testimony
- ix. Tracing funds / assets / goods
- x. Liaison with the police or other law enforcement or regulatory agencies
- xi. Interviewing persons suspected of involvement in fraud and corruption
- xii. Report preparation

EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

Any investigation into improper conduct within the ECDOE is subject to an appropriate level of supervision by a responsible committee, having regard to the seriousness of the matter under investigation.

Disciplinary proceedings

The ultimate outcome of disciplinary proceedings may involve a person(s) receiving written warnings or the termination of their services. All disciplinary proceedings take place in accordance with the procedures as set out in the relevant legislation and policies dealing with disciplinary procedures.

Prosecution

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the ECDOE will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecution. Such reports must be submitted to the South African Police Service (SAPS) in accordance with the requirements of all applicable acts. The ECDOE will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

Recovery action

Where there is clear evidence of fraud or corruption and there has been a financial loss to the ECDOE, recovery action, criminal, civil and/or administrative, is instituted to recover any such losses. This may include the involvement of the Assets Forfeiture Unit.

In respect of civil recoveries, costs involved is determined to ensure that the cost of recovery is financially beneficial.

7.



Internal control review after discovery of fraud

In each instance where fraud is detected, Line Management reassesses the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvements.

The responsibility for ensuring that the internal control environment is re-assessed and for ensuring that the recommendations arising out of this assessment are implemented depends on Line Management of the department / section concerned.

3.3 Maintenance and Review Strategies

3.3.1 Review of the Effectiveness of the Fraud Prevention and Anti-Corruption Policy

The ECDOE conducts a review of the Fraud Prevention and Anti-Corruption Policy annually to determine the effectiveness thereof. The Accounting Officer is ultimately accountable for this review and may appoint a person to take responsibility for this.

3.3.2 Review and Updating the Fraud Prevention and Anti-Corruption Policy

A central part of any fraud and corruption control programme should involve an on-going review of fraud and corruption risk exposures. Fraud and Corruption risk assessments is conducted annually at the same time as the review of the Fraud Prevention and Anti-Corruption Policy. As with the review, the Accounting Officer is ultimately accountable for this and may delegate a person to take responsibility.

7



OTHER RELEVANT LEGISLATIONS AND POLICIES

This Policy document is to be read in conjunction with any other relevant legislation and existing policy documents or procedures of the ECDOE including but not limited to:

- i. The Eastern Cape Provincial Government – Provincial Fraud Prevention Plan.
- ii. Constitution of the Republic of South Africa (Act 108 of 1996).
- iii. Public Service Act 1994 and Public Service Regulations.
- iv. PFMA Act 1 of 1999 (and applicable Treasury Regulations, guidelines, circulars and practice notes).
- v. Labour Relations Act 66 of 1995.
- vi. Promotion of Access to Information Act 2 of 2000.
- vii. Promotion of Administrative Justice Act 3 of 2000.
- viii. Preferential Procurement Policy Framework Act 5 of 2000.
- ix. Protected Disclosures Act 26 of 2000.
- x. ECTA Act 25 of 200.
- xi. Prevention and Combating of Corrupt Activities Act 12 of 2004;
- xii. The Code of Conduct for the Public Service.
- xiii. The applicable Disciplinary Code as provided for by the appropriate PSCBC Resolutions.
- xiv. Criminal Procedure Act 51 of 1977.
- xv. Civil Procedure Act.
- xvi. Civil Proceedings Evidence Act 25 of 1965.
- xvii. Computer Evidence Act 57 of 1983.
- xviii. Regulation of Interception of Communications and Provision of Communication-related information Act, 70 of 2002 (and the 2008 Amendment Act).
- xix. The Employment of Educators Act 76 of 1998.
- xx. The Department's Finance Policies.
- xxi. The Department's Supply Chain Management Policies.
- xxii. The Department's Information Technology Policies.
- xxiii. The Department's Asset Management and Disposal Policies.
- xxiv. The Department's Human Resources Policies.
- xxv. Applicable annual Division of Revenue Act.

4. CONCLUSION

The ECDOE commits itself to dealing honestly and openly with incidents of fraud and corruption by encouraging prevention, promoting detection, and creating an environment conducive to the effective investigation of allegations and to the reporting of incidents (“whistle blowing”).

The ECDOE dedicates itself to compliance with laws, regulations and prescripts governing the administration and rendering of Education services. The ECDOE also strives to achieve the objectives of the Batho Pele principles by providing effective education services to the people of the Eastern Cape and placing the interests of those people first.

The fraud prevention and anti-corruption measures and systems implemented by the Department is monitored and subjected to regular review. Adaptations or amendments are made where necessary to ensure that the ECDOE’s Fraud Prevention & Anti-Corruption Policy remains effective and relevant. The Policy is also communicated to all officials and employees of the ECDOE to ensure that its principles are put into practice and adhered to at all time.

Guided by the principles of integrity, honesty and the provision of quality services to the public, the ECDOE continues in its quest for a clean and accountable governance.

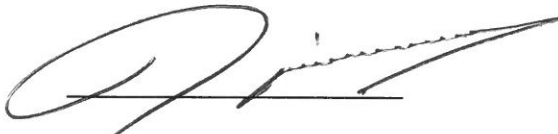


EASTERN CAPE DEPARTMENT OF EDUCATION
FRAUD PREVENTION AND ANTI-CORRUPTION POLICY

5. ADOPTION OF THE POLICY

Compiled by:
S Govind.

Reviewed by:

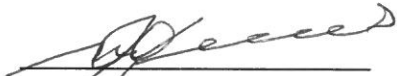


Mr L Njobe
Acting Director: Enterprise Risk and Integrity Management

2020.06.13

Date

Recommended by:



Mr S Ngqwala
Chairperson Risk Committee

2020.06.19

Date

Approved by:



Mr T Kojana:
Accounting Officer
Eastern Cape Department of Education

2020.06.19

Date

2