

Province of the  
**EASTERN CAPE**  
EDUCATION

**LABOUR RELATIONS**

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**TO:** ALL DDG'S  
CHIEF FINANCIAL OFFICER  
ALL CHIEF DIRECTORS  
ALL DIRECTORS  
EDO'S  
HEADS OF INSTITUTIONS  
ALL EMPLOYEES

**FROM:** SUPERINTENDENT-GENERAL

**DATE:** 9 SEPTEMBER 2014

**RE:** CIRCULAR 12 OF 2014: POLICY ON SEXUAL HARASSMENT IN THE  
WORKPLACE

The above matter has reference.

Please find herewith the Policy on Sexual Harassment for the attention of all staff in the Eastern Cape Department of Education.

The purpose of this policy is to promote a workplace that is free of sexual harassment, sexual favours, intimidation and victimisation, where the employer and employees respect one another's integrity, dignity, privacy and the right to equality in the workplace. It also provides a systematic and consistent approach to managing sexual harassment and steps to be taken when sexual harassment occurs within the course and scope of the Eastern Cape Department of Education.

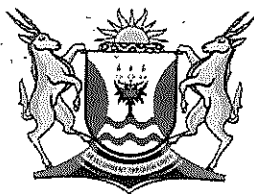
  
**R. TYWAKADI**  
ACTING SUPERINTENDENT-GENERAL

15/09/2014  
**DATE**

building blocks for growth

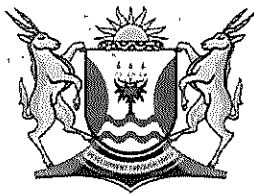


*Ikamva eliqaqambileyo!*



## **Policy on Sexual Harassment in the Workplace**

**Eastern Cape Department of Education**

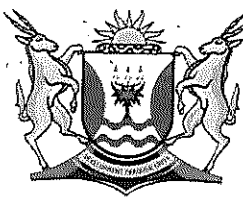


## **Policy Statement**

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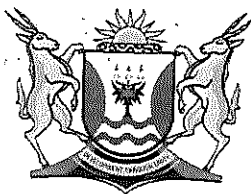
## **PART A: POLICY**

### **1. POLICY STATEMENT**

- 1 1 The Eastern Cape Department of Education (ECDoE) as a workplace is obligated to provide a safe, healthy and amicable working environment and shall take steps to maintain this, either by meeting legal obligations or in terms of what amounts to fair practice, therefore it shall neither permit nor condone sexual harassment.
- 1 2 All employees and other persons, who have dealings with the public service, have the right to be treated with respect and dignity.
- 1 3 Sexual harassment is a form of sex discrimination that violates the rights of individuals and undermines the integrity of the employment relationship.
- 1 4 Allegations and complaints of sexual harassment shall be responded to promptly and dealt with seriously, expeditiously, fairly, sensitively and confidentially.
- 1 5 Complainants shall be protected against victimization and/or retaliation.
- 1 6 False allegations of sexual harassment shall not be tolerated and whoever acts in bad faith will face disciplinary action.
- 1 7 All employees of the ECDoE must be aware that violation of this policy will lead to serious disciplinary action up to and including dismissal.

### **2 INTRODUCTION**

- 2.1. Sexual harassment in the workplace is a worldwide problem recognized as an occupational injury, it is a violation of human rights and it undermines equality of opportunity and treatment between women and men. Sexual harassment manifests as an unequal power relations issue between men and women and has the potential of causing long term negative psychological and physical effects to the affected party,
- 2.2. The Labour Relations Act no. 66 of 1995 (LRA) and the Employment Equity Act no. 55 of 1998 (EEA) are the main acts that deal with sexual harassment in the workplace. Both have Codes of Good Practice on the



handling of cases of sexual harassment that set out appropriate procedures to deal with allegations of sexual harassment. The Codes encourage and promote the development and implementation of policies and procedures that will lead to the creation of a workplace that is free of sexual harassment, where an employer and employee respect one another's integrity, dignity, privacy and the right to equity in the workplace. The policy also finds expression from the Protection from Harassment Act no 17 of 2011.

- 2.3. The Department of Public Service and Administration (DPSA) Gender Equality Strategic Framework for the Public Service provides a wide set of options for the transformation of the workplace premised on the promotion and protection of human dignity and the rights of women. It recognises the role of government in promoting non-sexism and non-discrimination for employees in the ECDoE.

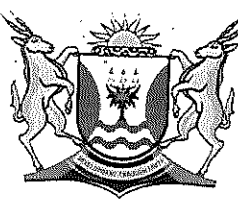
### **3. PURPOSE**

- 3.1. The purpose of this policy is to promote a workplace that is free of sexual harassment, sexual favours, intimidation and victimisation, where the employer and employees respect one another's integrity, dignity, privacy and the right to equality in the workplace. It also provides a systematic and consistent approach to managing sexual harassment and steps to be taken when sexual harassment occurs within the course and scope of the ECDoE.

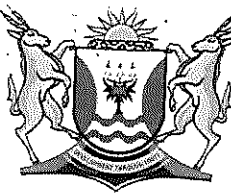
### **4. OBJECTIVES**

- 4.1. To educate ECDoE employees on sexual harassment in the workplace;
- 4.2. To provide guidelines and procedures on the effective management of sexual harassment complaints within the ECDoE;
- 4.3. To ensure that all employees and clients of the ECDoE are treated with respect and dignity;
- 4.4. To create an enabling and barrier free workplace that is non- sexist and non-discriminatory.

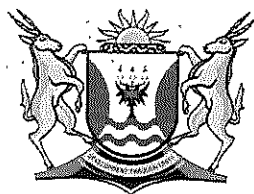
### **5. MANDATING FRAMEWORKS**



- 5.1. Constitution of the Republic of South Africa Act no108 of 1996
- 5.2. Employment of Educators Act no 76 of 1998 as amended (E of EA)
- 5.3. Public Service Act no 103 of 1994, as amended (PSA)
- 5.4. White Paper on the Transformation of the Public Service, 1995
- 5.5. Labour Relations Act no 66 of 1995 as amended (LRA)
- 5.6. Employment Equity Act no 55 of 1998 as amended (EEA)
- 5.7. White Paper on Affirmative Action in the Public Service, 1998
- 5.8. Code of Good Practice on the Handling of Sexual Harassment Cases, Notice 1367 of 1998
- 5.9. Promotion of Equality and Prevention of Unfair Discrimination Act no 4 of 2000 (PEPUD)
- 5.10. National Policy Framework for Women's Empowerment and Gender Equality, 2000
- 5.11. Criminal Sexual Offences and Related Matters Amendment Act no 32, 2007
- 5.12. Gender Equality Strategic Framework for the Public Service, 2008
- 5.13. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1995
- 5.14. Beijing Platform for Action, 1995
- 5.15. The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003
- 5.16. Protection from Harassment Act no 17, 2011.
- 5.17. Public Service Coordinating Bargaining Council (PSCBC) Res 7 of 2000 as amended by Res 5 of 2001.



- 5.18. Compensation for Occupational Injuries and Diseases Act no. 130 of 1993 (COIDA)
- 5.19. Policy and Procedure on Incapacity Leave and Ill Health Retirement (PILIR), 2009
- 5.20. Disciplinary Code and Procedure for the Public Service (PSCBC Resolution 1 of 2003).
- 5.21. Disciplinary Code and Procedure of Educators (Schedule 2 of the Employment of Educators Act no 76 of 1998).
- 5.22. Disciplinary Code for SMS members (SMS Handbook 2003, Chapter 7)
- 5.23. PSCBC Resolution 14 of 2002: Grievance rules for the Public Service
- 5.24. Chapter H of the Personnel Administration Matters (PAM): Grievance Procedure for Educators
- 6. SCOPE OF APPLICATION**
- 61. The policy applies to all employees employed under the Public Service Act No 103 of 1994 (as amended) and the Employment of Educators Act no. 76 of 1998 (as amended).
- 7. DEFINITION**
- 7.1. This policy uses the definition of the Protection from Harassment Act no 17 of 2011 which defines sexual harassment as any:
  - 7.7.1 Unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
  - 7.7.2 Unwelcome explicit or implicit behavior, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or related person would be offended, humiliated or intimidated;
  - 7.7.3 Implied or expressed promise of reward for complying with a sexually oriented request; or
  - 7.7.4 Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.



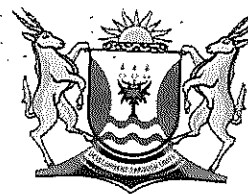
## 8. FORMS OF SEXUAL HARASSMENT

- 8.1 Physical conduct of a sexual nature, which includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
- 8.2 Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances; comments with sexual overtones; sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them; unwelcome and inappropriate enquiries about a person's sex life and unwelcome whistling directed at a person or group of persons.
- 8.3 Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- 8.4 Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating, salary increases or other forms of recognition.
- 8.5 *Quid pro quo* harassment occurs where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.

(N.B. *Quid pro quo* is an intentional act of harassment, which is an abuse of authority by supervisor or any member of management, and or employees who have the power to employ/dismiss or change the working conditions of an employee.)

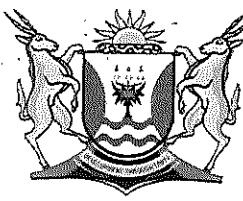
## 8.6 Type of Conduct that may be construed as Sexual Harassment

- 8.6.1 Sexual advances;
- 8.6.2 Requests for sexual favours in return for employment and or employment benefits (*quid pro quo*);

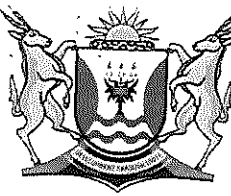


- 8.6.3 Verbal abuse or non-verbal conduct with sexual overtones;
- 8.6.4 Innuendoes, including remarks or insinuations about a person's sex life or private life; which has sexual overtones;
- 8.6.5 Suggestive remarks about a person's appearance, body or clothing;
- 8.6.6 Physical contact and or conduct;
- 8.6.7 Obscene gestures, indecent exposure;
- 8.6.8 Staring, leering, and whistling of a sexual nature;
- 8.6.9 Display of, or sending by electronic means or any other means which include but not limited to, short message service, multimedia message service or otherwise sexually offensive or explicit material, including posters, magazines, pictures or objects;
- 8.6.10. Direct sexual proposition;
- 8.6.11 Victimation with sexual undertones or in connection therewith;
- 8.6.12 Persistent request for dates and sexual favours;
- 8.6.13 Any communication of a sexual nature;
- 8.6.14 Any of the above as a form of coercion or blackmail for employment and or advancement, or lack of same or dismissal or any other occupational detriments if recipient refuses;
- 8.6.15 Any other unwelcome form of physical or verbal behavior that has sexual overtones;
- 8.6.16 Persistent dress codes of an offensive nature;
- 8.6.17 Sex related jokes and or insults.

**9. EMPLOYER'S LIABILITY FOR SEXUAL HARASSMENT CASES**



- 9.1. Section 60 of the Employment Equity Act no. 55 of 1998 deals with the liability of the employer. The Head of Department will be liable for the actions of an employee, if the Head of Department fails to take corrective measures after an incident of sexual harassment has been reported or came to the employer's attention.
- 9.2. The Head of Department is liable for medical expenses, assessment and treatment of an employee who has experienced sexual harassment as it is categorised as an occupational injury by the Compensation for Occupational Injuries and Diseases Act no. 130 of 1993.
- 9.3. The Head of Department is obliged to take reasonable steps to assist a complainant of sexual harassment to claim compensation accordingly if the incident has resulted in the employee developing a medical condition, e.g. a post traumatic stress disorder.
- 10. TIME FRAMES**
- 10.1. Prompt reporting of sexual harassment is in the best interest of all parties and enables the Head of Department to address and correct unacceptable behaviour and provide support to the complainant. Complainants of sexual harassment are therefore encouraged to report the case as soon as it has occurred.
- 10.2. The Head of Department has an obligation to report any case of sexual harassment to the Compensation Commissioner within seven days of receipt of the complaint or becoming aware of the incident (Compensation for Occupational Injuries and Diseases Act no 130 of 1993, section 38).
- 10.3. The Head of Department shall ensure that a reported sexual harassment complaint is investigated and resolved within 30 working days, i.e. from reporting to conclusion of investigation and feedback.
- 10.4. In the event that 30 days expire before the investigation of the sexual harassment case is concluded, the Head of Department shall consult the complainant with a written request for an extension of up to a maximum of 14 days to conclude the case. Consent should not be unreasonably withheld and should be in writing.



**11. STRUCTURES REQUIRED FOR POLICY IMPLEMENTATION**

11.1. The Head of Department is responsible for the management of all sexual harassment cases.

**11.2. Sexual Harassment Advisor (SHA)**

11.2.1 The Head of Department shall appoint a Sexual Harassment Advisor to deal with sexual harassment complaints in the department. This appointment may be per case or for a fixed period.

11.2.2 The Head of Department shall be guided by the following criteria in the appointment of a sexual harassment advisor:

- a. Knowledge and understanding of general policy development and its implementation and knowledge of department policies;
- b. Psychological and emotional stability
- c. Integrity
- d. Compassion
- e. Ability to maintain confidentiality
- f. Objectivity
- g. Good communication skills (verbal and writing)
- h. Good listening skills
- i. Investigative skills

**12. THE SEXUAL HARASSMENT COMMITTEE:**

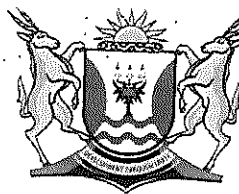
12.1. Members are nominated by the Head of Department.

12.2. This Committee is a support structure and is not mandatory.

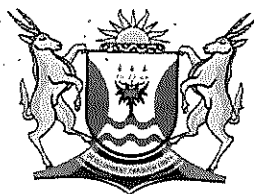
12.3. The committee is bound by the same rules of confidentiality as the Sexual Harassment Advisor.

12.4. The Committee should be equitably reflective of the demography of the department.

**13. ROLES AND RESPONSIBILITIES**

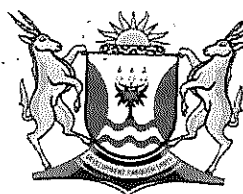


- 13.1. The Head of Department's Responsibilities are to:**
- 13.1.1 Communicate this policy to all employees, through regular awareness raising, training and education programmes;
  - 13.1.2 Appoint a Sexual Harassment Advisor and announce this to the department through all communication channels.
  - 13.1.3 Ensure training of managers, specific staff that are nominated and those appointed to handle sexual harassment cases;
  - 13.1.4 Submit a report on sexual harassment cases dealt with to the DPSA on a half yearly basis, using the template attached to this policy;
  - 13.1.5 Encourage staff to report violations of the policy;
  - 13.1.6 Allocate resources (human and financial) to ensure that awareness raising and training programs for employees on sexual harassment are implemented;
  - 13.1.7 Ensure that disciplinary measures applied are in accordance with the Disciplinary Code and Procedures as mentioned in paragraph 5 above;
  - 13.1.8 Ensure implementation of recommendations within five (5) working days after conclusion of investigations of sexual harassment complaints;
  - 13.1.9 Treat all complaints as confidential;
  - 13.1.10 Continuously monitor compliance with the policy;
  - 13.1.11 Encourage all Trade Unions within the employ of the department to include sexual harassment in their education and training programmes of members and shop stewards.
  - 13.1.12 Report cases of sexual harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act (No 130 of 1993)
- 13.2 Role of Sexual Harassment Advisor**

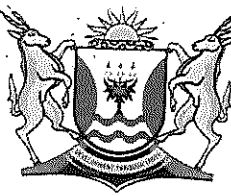


The Sexual Harassment Advisor serves as the first line of contact to complainants of alleged sexual harassment. Her/his role is to:

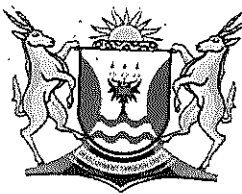
- 13.2.1 Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures;
- 13.2.2 Advise the complainant on the appropriate course of action and support available;
- 13.2.3 Advise the complainant on the two procedures available to follow, namely the informal and formal route;
- 13.2.4 Provide guidance (if necessary) on how to complete the appropriate grievance form;
- 13.2.5 Issue a written notice of the complaint to the respondent and explain the protective measures available to the complainant;
- 13.2.6 Provide the respondent with a copy of this policy and any relevant document on disciplinary rules and procedures of the Public Service and the department;
- 13.2.7 Once appointed, investigate the complaint and bring to the attention of the Head of Department;
- 13.2.8 Maintain confidential statistics and narrative reports on all sexual harassment cases reported and handled;
- 13.2.9 Avoid unreasonable delays during the investigation and conclusion of any sexual harassment complaint;
- 13.2.10 Provide a neutral, confidential and supportive environment for employees who report to have been sexually harassed;
- 13.2.11 Protect the complainant from victimization as a result of reporting the matter;
- 13.2.12 Monitor and submit quarterly reports on all cases reported, resolved and pending to the Head of Department. Such reports should use non-identifying statistical information to maintain confidentiality;



- 13.2.13 Contribute to the development, coordination, implementation of educational programs and awareness raising activities for prevention and management of sexual harassment in the department;
- 13.2.14 Advocate for research and other resources on sexual harassment to improve expertise on this issue.
- 13.3 Role of the Sexual Harassment Committee:**
- 13.3.1 Promote a safe work environment that is free of sexual harassment;
- 13.3.2 Advocate for protection of the rights of sexual harassment complainants;
- 13.3.3 Create an atmosphere that promotes equality and gender justice;
- 13.3.4 Work with the gender directorate to ensure that programmes for gender sensitisation and sexual harassment are implemented;
- 13.3.5 Support the Sexual Harassment Advisor where necessary with investigation of complaints;
- 13.3.6 Design/develop, with the Sexual Harassment Advisor mechanisms for registering complaints that are safe and accessible to all employees;
- 13.3.7 Develop programmes that educate all employees about sexual harassment and its consequences in the workplace; and
- 13.3.8 Together with the Sexual Harassment Advisor, actively promote the provisions of the policy through the development and distribution of multimedia education materials.
- 13.4 Role of Managers / Supervisors:**
- 13.4.1 Refrain from sexual harassment in the workplace;
- 13.4.2. Take all reasonable steps to create and maintain an environment that is free from sexual harassment;
- 13.4.3. Know and understand this policy, and assume responsibility for its implementation;



- 13.4.4. Communicate the policy to all employees, including newly appointed employees;
  - 13.4.5. Undergo training on the sexual harassment policy and related topics;
  - 13.4.6. Respond appropriately to a complaint of sexual harassment from employees;
  - 13.4.7. Take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary procedures of this policy;
  - 13.4.8. Prevent retaliation against any employee making a sexual harassment complaint; and
  - 13.4.9. Treat all complaints seriously, impartially and with confidentiality.
- 13.5 Role of Employee Health and Wellness Unit shall:**
- 13.5.1 Provide relevant counseling and support when required;
  - 13.5.2 Encourage employees who may report incidents of sexual harassment to them, to report such complaints to the Head of Department immediately verbally or in writing.
  - 13.5.3 Maintain confidentiality for all sexual harassment matters reported to them.
- 13.6 Role of Employees:**
- 13.6.1 All employees should refrain from sexual harassment of others in the workplace;
  - 13.6.2 If you are sexually harassed, say **NO** to the harasser and tell him/her that their attention is unwanted and the behavior is offensive. If able to, also do so in writing and keep a record of this correspondence.
  - 13.6.3 If the behaviour persists, report the harassment immediately;
  - 13.6.4 Treat fellow employees with respect and dignity; and



13.6.5 Know and understand this policy.

**14. EDUCATION AND TRAINING**

14.1 Continuous education and training is necessary to ensure that employees and third parties know and understand this policy and are able to prevent and report sexual harassment when it occurs.

14.2 Sexual Harassment Advisor and members of the Sexual Harassment Committee should undergo regular training to increase their knowledge on sexual harassment, to enhance their skills in investigation, communication, conflict resolution, mediation and legal developments related to sexual harassment.

**15. COMMUNICATION**

15.1 The Head of Department shall take all reasonable steps to communicate this policy to all employees and other persons who have dealings with the public service on a regular basis. This is to raise awareness and to prevent sexual harassment.

15.2 The names and contact details of Sexual Harassment Advisor and committee must be widely publicized in the department.

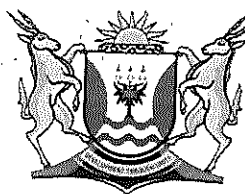
15.3 This policy must be distributed to all employees within the department and to new staff members during induction.

**16. MONITORING AND EVALUATION**

16.1 The Head of Department is responsible for policy monitoring and implementation.

16.2 The provincial Head of Administration in the Office of the Premier shall coordinate all provincial reports and submit these to the DPSA annually on or before 30 April.

16.3 The DPSA will collate one report on the implementation of the Policy across the Public Service and report annually through the Annual Performance Report.



**17 POLICY IMPLEMENTATION AND REVIEW**

- 17.1 The implementation date of the policy shall be the date on which the Head of Department approves the policy.
- 17.2 The policy will be subject to periodic review by the DPSA to ensure that it remains aligned to prevailing Acts, regulations and resolutions.

**PART B: PROCEDURES**

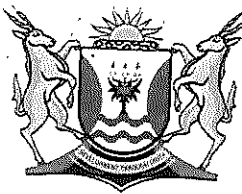
**18 LODGING A SEXUAL HARASSMENT COMPLAINT:**

- 18.1 An employee who experiences sexual harassment, she/he must immediately report this to the Head of Department either in writing or verbally.
- 18.2 The Head of Department shall then appoint a Sexual Harassment Advisor to conduct an investigation into the complaint. On appointment, the Sexual Harassment Advisor shall commence with the investigation and report back within the set time frames.
- 18.3 It might be advisable to separate the respondent and complainant to reduce the risk of tension, unpleasantness or victimization.
- 18.4 If a false allegation is established, the Head of Department should immediately institute disciplinary processes against the accuser.

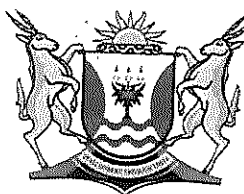
**19 PROCEDURES**

**19.1 Informal Procedure**

- 19.1.1 The informal procedure involves discussion and/or mediation after the matter has been brought to the attention of the sexual harassment advisor.
- 19.1.2 If the complaint cannot be resolved and/or it is found through discussion that the incident warrants more serious action, the formal disciplinary procedure may be instituted against the respondent.



- 19.1.3 The informal procedure should provide the complainant with an opportunity to explain to the respondent that the behavior in question is not welcome, that it offends the complainant or makes him/her uncomfortable and/or it also interferes with her/his work.
- 19.1.4 If the complainant is not satisfied with the outcomes of the informal approach, he/she may then follow a formal procedure.
- 19.2 Formal Procedure**
- 19.2.1 The complainant can take the option of formal proceedings to resolve a sexual harassment complaint if the harassment could not be resolved through an informal procedure.
- 19.2.2 The complainant can also choose to resolve the complaint through this process without firstly using the informal route.
- 19.2.3 In dealing with the matter the complainant must first lodge a formal grievance according to the relevant Grievance Procedures in the ECDoE mentioned in paragraph 5 above.
- 19.2.4 The complainant must ensure that the provisions of the grievance procedure are exhausted before triggering the next process.
- 19.3 Lodging a Formal Complaint/Grievance**
- 19.3.1 The sexual harassment complaint must be reported to the Head of Department or Sexual Harassment Advisor in writing, and the statement must include:
- a. The name of the respondent
  - b. Date when incident occurred
  - c. Where it occurred
  - d. Details of how the actual sexual harassment occurred.
- 19.3.2 In the event where the grievance procedure has been finalized, and prima facie case against the respondent, disciplinary steps must be instituted as per the provisions of the relevant Disciplinary Codes and Procedures in the ECDoE as mentioned in paragraph 5 above.



**19.4. Sanctions**

19.4.1. Should the respondent be found guilty of the offence, the Head of Department will impose a disciplinary sanction which may include any of the following or a combination of them:

- a. Counseling
- b. Verbal warning
- c. Written warning
- d. Final written warning
- e. Suspension/fine
- f. Demotion (as an alternative to dismissal)
- g. Dismissal

**20. THE HEAD OF DEPARTMENT IS A PERPETRATOR**

20.1 Where the Head of Department is the perpetrator, the Executive Authority becomes the authority that appoints the Sexual Harassment Advisor and makes decisions on the case.

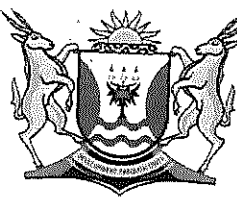
20.2 Once the Sexual Harassment Advisor has been appointed, all terms and procedures set out in this policy for subsequent action shall apply without exception, read with the necessary changes.

**21. CRIMINAL CHARGES AND/OR CIVIL CLAIMS**

21.1 A complainant of sexual harassment has the right to press separate criminal charges and/or civil claims against the respondent if they so wish. The legal rights of the complainant are in no way limited by this policy.

**22. DISPUTE RESOLUTION**

22.1 Should a complaint of alleged sexual harassment not be resolved through the departmental internal procedures, the complainant may within 30 (thirty) days of the dispute having arisen, refer the matter to the Commission for Conciliation Mediation and Arbitration (CCMA) for conciliation in accordance with the provisions of the Labour Relations Act no 66 of 1995.

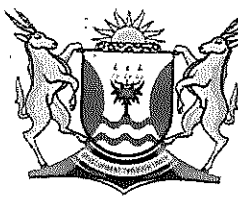


**23. LEAVE OF ABSENCE**

- 23.4. The ECDoE may give due consideration to the granting of special leave in cases of sexual harassment where the complainant, upon medical advice from a registered medical practitioner, requires leave for medical or related reasons.

  
R TYWAKADI  
ACTING SUPERINTENDENT-GENERAL

DATE: 03/09/2014



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## 24. GLOSSARY

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**Allegation** - a statement by a complainant that he or she believes an act of sexual harassment has occurred. An allegation is handled through the informal resolution process.

**Behaviour** - includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.

**Complaint** - a formal notification, either orally or in writing, of the belief that sexual harassment has occurred. A complaint is handled through either the informal or formal process for resolving claims of harassment.

**Complainant** - any person who alleges that he or she is being subjected to harassment; an employee, applicant for employment, or intern who believes that he or she has been the victim of unlawful discrimination or sexual harassment, and submits a complaint.

**Discrimination** - any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women and men, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

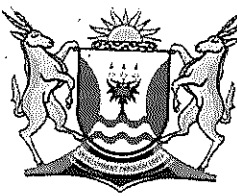
**Nonverbal harassment** - Sexual gestures, e.g., licking lips or teeth, holding or eating food provocatively, and lewd gestures such as hand or sign language to denote sexual activity; sexual looks such as leering and ogling with suggestive overtones; looking up and down a person's body; derogatory gestures or facial expressions of a sexual nature; following a person

**Physical harassment** - sexual innuendoes; cornering, impeding or blocking movement, or any physical interference with normal work or movement; touching that is inappropriate in the workplace such as patting, pinching, stroking, or brushing up against the body, mauling, attempted or actual kissing or fondling; assault, coerced sexual intercourse, attempted rape or rape.

**Principles of natural justice:** These are the rules about the right to a fair hearing and against bias and. They are:

- The right to a fair hearing : *audi alteram partem* rule
- The rule against bias : *nemo iudex in causa sua* rule.

**Respondent** - an individual or entity that answers in a complaint alleging unlawful discrimination or harassment or the person(s) accused of alleged unlawful discrimination or harassment.

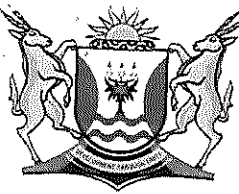


**25. ANNEXURE A:**

TEMPLATE FOR REPORTING SEXUAL HARASSMENT CASES TO DPSA-DUE ON  
OR BEFORE 30 APRIL ANNUALLY AS FROM 2015

**PART 1: ADMINISTRATIVE DETAILS OF DEPARTMENT**

|   |                              |
|---|------------------------------|
| <b>Name of the Department</b>   |                              |
| <b>Please state name of the Province if it is a Provincial Department</b> |                              |
| <b>Name of Person who Completed the Report</b>                            |                              |
| <b>Position of the Person who Completed the Report</b>                    |                              |
| <b>Contact Details of the Person who Completed the Report</b>             | <b>Tel:</b><br><b>Email:</b> |
| <b>Signature of the HOD.....</b>  |                              |
| <b>Date: .....</b>  |                              |



## PART 2: INSTITUTIONAL MECHANISMS

|   |        |    |  |   |      |   |       |   |
|---|--------|----|--|---|------|---|-------|---|
| Is there a Sexual Harassment policy in the department?                    | Yes    | No | Draft                                    |   |      |   |       |   |
| When was it approved?   |        |    |  |   |      |   |       |   |
| Is the policy aligned to the Public Service Policy?                       | Yes    |    | No                                       |   |      |   |       |   |
| If not aligned, when will the review be done?                             |        |    |  |   |      |   |       |   |
| How was the policy communicated to employees?                             |        |    |  |   |      |   |       |   |
| Has there been any sensitivity awareness session conducted on the policy? | Yes    | No | If yes, how many people were sensitized? |   |      |   |       |   |
|   |        |    | F  | M | AF   | C | AS    | W |
|   | Levels |    | 1-8                                      |   | 9-12 |   | 13-16 |   |
|   |        |    |  |   |      |   |       |   |

Part 3: Information on sexual harassment cases in the Department

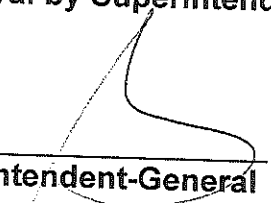
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
|---------------------------------------|----------------------------------|--|----------------|------------|----|--|----|--------|---------------|---------------------------|------|-------|
| Number of employees in the Department | Total                            |  | Male           |            |    | Female   |    |        |               |                           |      |       |
|                                       |                                  |  | AF             | C          | AS | W  | AF | C      | AS            | W                         |      |       |
| Number of cases reported              | April-June                       |  | July-September |            |    | October-December                                     |    |        | January-March |                           |      |       |
| Disaggregation of Complainants        | Age                              | Gender   |                | Disability |    | Race   |    | Levels |               |                           |      |       |
|                                       |                                  | F  | M              | Yes        | No | AF   | C  | AS     | W             | 1-8                       | 9-12 | 13-16 |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
| Disaggregation of perpetrators        | Age                              | Gender   |                | Disability |    | Race   |    | Levels |               |                           |      |       |
|                                       |                                  | F  | M              | Yes        | No | AF   | C  | AS     | W             | 1-8                       | 9-12 | 13-16 |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |
| Number of cases resolved              | Number of cases not yet resolved | What are the problems that hinder the conclusion of cases? |                |            |    | On average, how long does it take to resolve a case? |    |        |               | Sanctions that were taken |      |       |
|                                       |                                  |  |                |            |    |  |    |        |               |                           |      |       |



Province of the  
**EASTERN CAPE**  
EDUCATION

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Approval by Superintendent-General:

  
\_\_\_\_\_  
Superintendent-General

28/09/2014  
\_\_\_\_\_  
Date