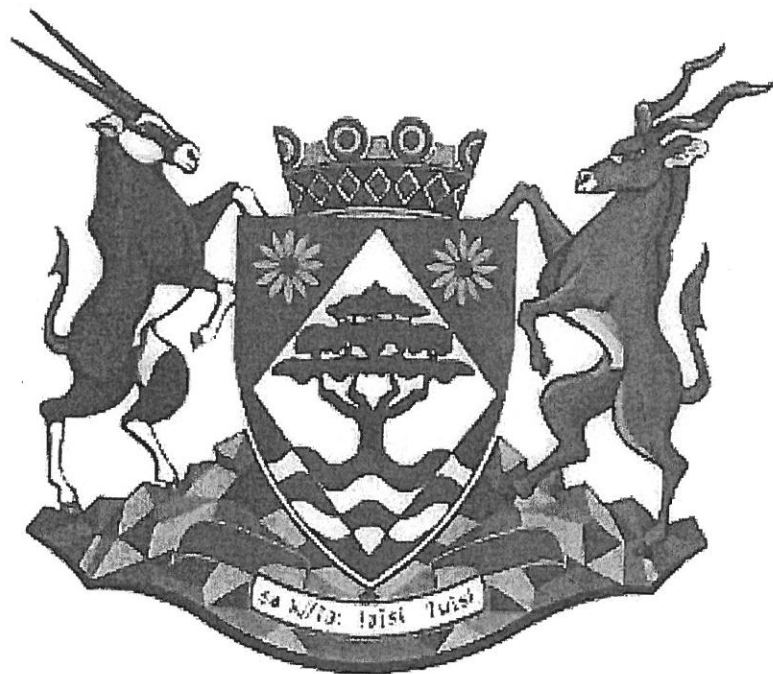


**DEPARTMENT
SPORT ARTS
AND
CULTURE**



**[POLICY ON RECRUITMENT
AND SELECTION]**

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REVIEWED DSAC RECRUITMENT AND SELECTION POLICY

1. PREAMBLE

The Department of Sport, Arts & Culture (hereafter referred to as DSAC) in the Northern Cape is committed to recruiting the best possible staff to fulfill the strategic objectives of the department.

This policy aims to provide guidelines which ensure that its staff is recruited in a fair and transparent manner that complies with legislation, as well as with Public Service prescripts, regulations and procedures.

2. ABBREVIATIONS

- 2.1 DSAC: Department of Sport, Arts and Culture
- 2.2 MEC: Member of the Executive Council
- 2.3 HOD: Head of Department
- 2.4 R&S: Recruitment and Selection Process
- 2.5 SMS: Senior Management Services
- 2.6 HR: Human Resources
- 2.7 EE: Employment Equity
- 2.8 PWD: People with disabilities
- 2.9 CV: Curriculum Vitae
- 2.10 HRM: Human Resources Management
- 2.11 SAQA: South African Qualifications Authority
- 2.12 LRA: Labour Relations Act

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3. PRINCIPLES

The following principles govern the recruitment and selection of staff in the DSAC:

- 3.1 The values of equality, fairness and democracy as enshrined in the Constitution of the Republic of South Africa, 1996 shall be key principles underpinning this policy.
- 3.2 Employment equity and affirmative action shall be used to create a representative workforce for the DSAC.
- 3.3 The delegated authority in terms of recruitment and selection is vested in the Executive Authority (the MEC) and shall be delegable to the HOD of the DSAC.
- 3.4 Recruitment and selection of staff is a line manager's responsibility supported by the HR Directorate.
- 3.5 Applicants shall not be discriminated against in the recruitment and selection process based on race, gender, religion, political affiliation, ethnic or social origin, sexual orientation, age, disability, culture, language, or marital status.
- 3.6 The recruitment and selection process shall be transparent and as efficient as possible.
- 3.7 Complete confidentiality shall be maintained throughout the recruitment and selection process.
- 3.8 When the DSAC invites a candidate for a job interview, all reasonable expenses pertaining to attending the interview shall be covered by the DSAC. In this regard the affected directorate/sub-directorate will bear responsibility to arrange and carry the reasonable costs of candidates invited for an interview within the directorate/sub directorate.
 - 3.8.1 Reasonable costs shall mean:-
 - 3.8.1.1 a return air ticket (for the purpose of the interview – this includes travel by car or bus only) for candidates coming from outside of the borders of the N.C Province and transport to and from the interview venue;
 - 3.8.1.2 expenditure for meals will be reimbursed on submission of documentary proof in accordance with DSAC's S&T Policy and tariffs;
 - 3.8.1.3 Accommodation only for the candidate being interviewed;
 - 3.8.1.4 Any other additional costs will be for the account of the candidate.;
- 3.9 Selection criteria shall be objective, based on the inherent requirements of the advertised position, and shall be consistently applied to all candidates;
- 3.10 Foreigners will be appointed if such expertise are scarce and critical and cannot be found within the Republic. Preference will be considered for South African citizens, and thereafter to foreigners with valid work permits as required by the National Department of Home Affairs will be considered. The departmental scarce and critical skills will be reflected annually in the Departmental Workplace Skills Plan.
- 3.11 Security clearance will be applied to all vacancies;

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- 3.12 Verification of qualifications: The DSAC reserves the right to authenticate any qualification certificate, information reference, registration or license of candidates in the recruitment process in a tactful and diplomatic manner. The State Security Agency will be utilized in this regard
- 3.13 The policy should be linked to succession planning and as such, internal recruitment shall take precedence over external recruitment, except if specific qualities are required in line with the transformation of the Department, or in line with the Employment Equity Plan.

4. SCOPE OF APPLICATION

This policy applies to the filling of vacancies (be they appointments, promotions or transfers).

- 4.1 All DSAC employees and candidates for employment in the DSAC;
- 4.2 Filling of all vacancies, except Heads of Departments;
- 4.3 All contract staff including the Library Transformation Conditional Grant and Sport Mass Participation contract posts as funded by the National Departments Sport and Recreation and Arts and Culture.

5. LEGISLATION AND GUIDELINES

- 5.1 The Constitution of the Republic of South Africa, 1996
- 5.2 The Employment Equity Act, 1998
- 5.3 The Public Service Act, 1994, as amended
- 5.4 The Public Service Regulations, 2006
- 5.5 The SMS Handbook.
- 5.6 The White Paper on Human Resource Management in the Public Service.
- 5.7 The Public Service Commission Recruitment and Selection Toolkit.
- 5.8 The DSAC Employment Equity Plan.
- 5.9 The Labour Relation Act, 1995
- 5.10 South African Police Service Act, 1995
- 5.11 Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
- 5.12 Minimum Information Security Standards, 2001.
- 5.13 Ministerial Handbook, 2009;

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5.14 Basic Conditions of Employment Act, 1997.

6. DELEGATIONS

The authority for appointments, transfers, secondments and promotions shall be vested with the Executing Authority of the DSAC:-

6.1 The MEC for all levels in the DSAC.

Whereas the authority to authorise appointments, transfers and promotions is delegable to the Accounting Authority of the DSAC:-

6.2 The Head of Department

The afore going delegations shall be amendable subject to the approval of the DSAC HR Delegations by Executive Authority to Head of Department and further by the Head of Department to performer levels bi-annually.

7. POLICY PROVISIONS

7.1 Advertisements

- 7.1.1 The department shall advertise all vacant posts as a minimum requirement, but may also advertise elsewhere in the Public Service, as well as outside of the Public Service;
- 7.1.2 Jobs shall be advertised to reach the desired pool of applicants for a particular position, especially the historically disadvantaged;
- 7.1.3 Community newspapers shall be used in conjunction with mainstream newspapers
- 7.1.4 HR shall ensure that the advertisement goes to as many organisations for the disabled as possible at the same time that it goes to the newspapers;
- 7.1.5 The DPSA website shall be utilised to advertise positions in the Department;
- 7.1.6 All vacancies shall be advertised internally, and it must be ensured that the requirements for employment do not discriminate against persons historically disadvantaged, and comply with any statutory requirement for appointment of employees;
- 7.1.7 Any advertisement for a post must specify the minimum inherent requirements (competencies) of the job, its job title, key performance areas/core functions, and the duties. Recommendations can be added to filter out unsuitable candidates; this is optional. Additional requirements for health or security clearances, where these are justified by the inherent nature of the position to be filled, should be clearly stated in the advertisement;
- 7.1.8 The line manager shall be responsible for the drafting of the job description, the advertisement and the submission for filling the post;

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- 7.1.9 All advertisements shall specify clearly that DSAC is an Equal Opportunity Affirmative Action Employer.
- 7.1.10 Notwithstanding rider indicating the closing date, all advertisement shall include the following rider to which employees are obliged to comply: **NB: No late, faxed, or e-mailed applications will not be accepted or considered. The Department reserves the right not to fill the post. Correspondence will be limited to short-listed candidates only. Short-listed candidates should avail themselves for the interviews at the specified time and venue as determined by the Department otherwise they will forfeit the opportunity. Short-listed candidates may be required to complete competency assessments.**
CLOSING DATE:
Candidates may be subjected to employment vetting, including criminal record checking. Unspent convictions (i.e. persons with a suspension record or released from prison prior to the completion of their full term) will not bar applicants from consideration for employment. Applicants are obliged to report their criminal records to the department on the Z.83 form any misrepresentation or concealment of a criminal record by applicants to the department will result in the application not being considered for shortlisting or interview.
- 7.1.11 The advertisement is the foundation of the recruitment and selection process. Therefore advertisements shall only be placed once these have been signed off by both Line Manager/ Senior Manager and the Senior Manager Human Resources Management and Development / Manager HR;
- 7.1.12 Vacancies on the Senior Management level (SMS) will be advertised nationally, both inside and outside of the Public Service;
- 7.1.13 All vacancies , from level 7 and upwards shall be advertised externally and all vacancies from level 1 – 6 shall be advertised internally; or otherwise if so motivated and appropriate approval is received in this regard from the relevant authority;
- 7.1.14 All vacancies may be subjected to job evaluation before advertising them. All new vacancies, from level 9 and above shall be job evaluated before they are advertised;
- 7.1.15 All vacancies shall be advertised only once. Should no suitable candidate be found during the shortlisting/interviewing process, the selection/interviewing panel shall recommend headhunting as an alternative recruitment method; the sourcing of additional suitable applicants will be the responsibility of that respective line manager.
- 7.1.16 Head-hunting shall only be used to recruit suitably qualified, skilled and competent persons, after the labour market has been tested and the pool of applicants is proven to not adequately meet the set job requirements.
- 7.1.17 Interview questions should be discussed by the panel at the commencement of the interviewing process.

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- 7.1.18 Communication will only be limit to candidates who have been interviewed.
- 7.1.19 For all other candidates the following disclaimer shall apply **“Should you not hear from the department within three calendar months your application is unsuccessful.”**

7.2 Disposal of applications

- 7.2.1 Disposal authority shall be obtained from Manager Archives to destroy all application forms older than six months.

8. THE SELECTION PROCESS

8.1 Selection Principles

8.1.1 Merit

Selection on merit is fundamental to ensure that the public service recruits and promotes employees of the highest caliber. It should also ensure that the person selected is best suited for the job in terms of skills, abilities, personal attributes and the need to achieve a representative diverse workforce.

8.1.2 Job related selection criteria

The criteria must relate only to the inherent requirements of the job, but it must also take into consideration the following:-

- 8.1.2.1 Competencies acquired through past experience;
- 8.1.2.2 Training and development received;
- 8.1.2.3 Learning potential;
- 8.1.2.4 Educational qualifications;

8.2 Short listing of Candidates with Criminal Records

The short listing of employees with a criminal record shall be dealt with under the ***Practice Note HRM 01/04/2012***, which is attached below as ***“Annexure A”***

8.3 Timeframes

- 8.3.1 Shortlisting shall take place **within** (30) thirty days of the closing date of the advertisement;
- 8.3.2 Candidates for an interview shall be invited telephonically within (5) five working days before the date of the interview;
- 8.3.3 Approval of nominations for appointment by the Executing Authority should be done within (10) ten working days after the interview;
- 8.3.4 The HR scribe will notify the successful candidate once official approval by the executing authority has been provided;

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- 8.3.5 The HR scribe will send regret letters only to shortlisted unsuccessful candidates not later than (5) working days after the successful candidate has accepted the offer of employment in writing.

8.4 The selection committee

- 8.4.1 The executing authority shall approve and appoint a panel to select and recruit staff;
- 8.4.2 The interviewing panel shall be comprised of a maximum of seven members, constituted as follows:-
- 8.4.2.1. The chairperson (who shall be the line manager in the function/unit where the vacancy exists)
 - 8.4.2.2. The scribe (who shall be an official from HR responsible for developing the submission and offering a support function to the panel)
 - 8.4.2.3. The panel members, shall be on a grading / level equal to that of the position being filled.
- 8.4.3. In exceptional cases where the line manager cannot chair the interview panel, such a manager shall request another manager of equal or higher grading, to chair the panel. HR shall be informed of this in writing by the affected line manager.
- 8.4.4. The panel shall be representative in terms of race, gender and disability (designated groups) as far as possible. In cases where a panel is not representative, an explanation for this shall be provided in the submission.

8.5. The shortlisting process

- 8.5.1 The chairperson of the panel shall determine the shortlisting date once the submission for approval of the interviewing panel has been sanctioned by the Executing Authority;
- 8.5.2 The chairperson of the panel shall inform the Manager HR of the shortlisting date, whereupon the Manager HR shall nominate an HR scribe to organize the shortlisting process for the line manager (including the venue confirming panel members and secretariat duties);
- 8.5.3 The line manager may not access or request any applications from HR before the shortlisting meeting. All applications remain with the HR scribe in the HR office until the shortlisting meeting;
- 8.5.4 Line managers shall advise any candidate who wishes to submit an application to her/him, to submit it to the central registry instead;
- 8.5.5 ¹No late applications (received after the closing date cited on the advertisement) shall be accepted or considered for shortlisting. HR shall mark all late applications clearly, and shall inform the panel which applications were late;

¹ Note: Late applications may, however, be accepted on the merits of such cases, provided that sound and valid motivation is provided in writing and that this is approved by the executing authority or his or her delegate.

REVIEWED DSAC RECRUITMENT AND SELECTION POLICY

- 8.5.6 The criteria to screen out applicants will be based on the following standardized criteria :
- i. **Criterion 1:** Closing date for applications should be met;
 - ii. **Criterion 2:** Certain conditions should be met in relation to the format and content of application forms, *Curricula Vitae* (CV's); and all other relevant documentation;
 - iii. **Criterion 3:** requirements should be met in terms of citizenship; age; character; and health;
 - iv. **Criterion 4:** Minimum requirements should be met in terms of qualifications; and competencies (knowledge, skills and where required, experience).
- 8.5.7 All qualifications shall be verified with SAQA during the shortlisting process;
- 8.5.8 A shortlist shall only be between a minimum of six (6) and maximum of eight (8) candidates. However, where two vacancies exists for the same post, these shall be increased to 12;
- 8.5.9 The chairperson shall ensure that all panel members sign the shortlisting form at the end of the shortlisting process. The HR scribe will keep all records of the shortlisting process in the S 4.1.2 file, including the shortlisting form of shortlisted candidates.
- 8.5.10 The HR Scribe shall be responsible for compiling the submission to gain approval for interview of the shortlisted candidates from the relevant authority.
- 8.6 The interview panel shall:-**
- 8.6.1 Invite (i) those candidates for an interview that comply with the inherent requirements of the post (ii) meet the equity distribution that is being sourced as advertised, and as approved through the short listing process;
- 8.5.1 Before the interview, the Assistant Manager Recruitment and Selection shall contact at least two referees of the shortlisted candidates and request written, confidential references from the referees. The references shall be sent directly to the Assistant Manager Recruitment and Selection, who shall present them to the panel at the interview meeting for consideration when making their recommendation for a suitable candidate;
- 8.5.2 The panel shall use the prescribed evaluation/scoring sheet, which shall be linked to the key performance areas of the post and will be rated on a scale of 1-5;
- 8.5.3 No discrimination direct on indirect, should be present in questions posed to the candidates. The principles of the LRA of 1995 and the Bill of Rights and the *Employment Equity Act* should be adhered to;
- 8.5.4 The HR scribe shall keep accurate minutes of the interview meeting, including evaluation/scoring sheets, to justify the panel's decision;

² Note: DSAC shall, facilitate screening, in the prescribed manner, format, content and supportive documents to be included in applications. Where this is not met, applicants are disqualified. These (if specified in (the) advertisement(s)) may include the following:

a. Whether the application form is -• legible; • complete; • signed; and • dated.

b. Whether a CV is included, is legible and contains clear information on issues highlighted in the advertisement.

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- 8.5.5 An Employment Equity profile(i.e. race, gender, disability, etc.) of the section/unit in which the vacancy occurs, and the unit's equity preference shall be provided by the line manager, and be attached to the submission for appointment;
- 8.5.6 The HR scribe shall ensure that all panel members sign the nomination form at the end of the interview, and shall be attached to the submission for appointment that will be sent to the Executing Authority for final approval;
- 8.5.7 The responsibility to arrange refreshments for the panel rests with the line manager.

8.6 Competency Assessment

- 8.6.1 A panel may decide to include a competency assessment/ exercises in the interview process. The competency assessment exercise shall be directly related to the requirements of the vacancy. The responsibility to arrange the logistics attached to such an exercise will be the responsibility of the HR scribe.

8.7 Nomination for Appointment

- 8.7.1 The recommendation for appointment shall be written in the DSAC submission format.
- 8.7.2 Full motivation for the preference of a candidate or candidates shall be provided in the submission.
- 8.7.3 The Executive Authority shall approve the offer of employment as provided for on the submission, in the event that s/he disagrees with the nomination(s) of the panel, s/he shall provide reasons in writing.

8.8 Appointments

- 8.8.1 The DSAC reserves the right to fill or not fill a vacancy the process of recruitment and selection;
- 8.8.2 The HR scribe shall make an offer of appointment in writing only after the Executing Authority has approved such a nomination for appointment;
- 8.8.3 The candidate shall accept/decline an offer of employment in writing within 7 working days of receipt of the offer;

8.9 Offers of employment

An offer of employment shall only be offered to another candidate/s:-

- 8.9.1 in order of preference as per recommendation of the panel and subject to the approval of the Executive Authority;
- 8.9.2 should the preferred candidate negotiate for an unreasonable offer which is inconsistent with the requirements of Resolution 3 of 2009;
- 8.9.3 only in cases where a preference was shown by the panel for more than one suitable candidate, and shall be approved by the Executive Authority;

REVIEWED DSAC RECRUITMENT AND SELECTION POLICY

- 8.9.4 The new appointee must provide proof of qualification (certified documents) on his/her first day of reporting for duty;
- 8.9.5 The Appointment - Section shall ensure that the appointment is implemented onto the PERSAL system within five 5 working days after assumption of duty;
- 8.9.6 Within 5 working days after the Appointment - Section has finalized the appointment, a Personal File (SP) must be opened for the new employee, with the Registry – Section.
- 8.9.7 All appointments will be done in line with the Public Service Act read in conjunction with the Public Service Regulations and the Code of Remuneration.
- 8.9.7 All appointment letters shall indicate that in the event of any false information being provided, or the concealment of a criminal record, such appointment will be regarded as null and void.

9. Dispute Resolution

All grievances and disputes regarding employment shall be dealt with in terms of the Labour Relations Act, 1995 and the Public Service Grievance and Disciplinary Code and Procedures.

10. Conditions of Employment

Attached to the letter of appointment for all new appointees, an annexure stipulating the conditions of service offered by DSAC.

11. Administrative Justice:

The Department acknowledges that all administrative processes relating Recruitment and Selection must be underpinned by the Promotion of Administrative Justice Act, 2000. In this regard all R&S submissions shall include under the "**Heading: Legislative Compliance**": **confirmation that the processes followed in the advertisement, short listing and interview of candidates was in compliance with the PAJA-Promotion of Administrative Justice Act, 2000.**

Where a recommendation and decision is taken which deviated from the recommendations of either, short listing or interview, such recommendation/ decision will be registered in the "Register of Delegation Decisions-RDD"

12. Monitoring and Evaluation

The DSAC will monitor and evaluate the application of this policy on an annual basis.

REVIEWED DSAC RECRUITMENT AND SELECTION POLICY

13. Date of Adoption

Adopted by:.....

Signature :
Head of Department

Date: 20/02/2013

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DEPARTMENT OF SPORT, ARTS AND CULTURE
Northern Cape

Recruitment and Selection Circular 001/2012: Management of Candidates with Criminal Record and/or Disciplinary Action as a result of misconduct for Shortlisting and Appointment

1. Purpose of the Circular

Section 10, Public Service Act, 1994 as amended requires that *"no person shall be appointed permanently, whether on probation or not, to any post on the establishment of a department unless he or she is a fit and proper person"*. In this regard the Public Service is charged to employ persons of good character.

In view of the afore mentioned legislative prescript, when bringing a new employee on board, the department assesses competence, skills and whether the person is of good character, but must also assess the potential risks that such person poses to the institution by indicating whether they have a criminal record and/or disciplinary action as a result of misconduct.

The seeming intention with such disclosure is not necessarily to ban employment of people with a criminal record and/or disciplinary action as a result of misconduct, but for the department as a prospective employer to assess the potential impact this may have on the job requirement and on the organisation as a whole.

The department acknowledges that currently, there are limited policy guidelines on the employment of persons with criminal record and/or disciplinary action as a result of misconducts in the Public Service. Managers may therefore not be clear as to the process to be followed in the case of an applicant with a criminal record and/or disciplinary action as a result of misconduct, and could unwittingly, through their actions create legal difficulties for the department if challenged. Furthermore the process of conducting criminal record and/or disciplinary action as a result of misconduct checks may not be clear.

In view of the above, this circular serves as guidelines to managers and chairpersons of panels in the management of candidates with criminal record and/or disciplinary action as a result of misconducts.

For all intents and purposes this circular must always be read in conjunction with the departmental Recruitment and Selection Policy. Where in consistencies may arise, the necessary legislative prescripts will take precedence in this regard

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	<ul style="list-style-type: none"> • affirm under oath or by way of a solemn declaration that the particulars furnished in the application form are the truth and correct; and • have no previous criminal convictions, and shall allow his or her fingerprints to be taken and background enquiries to be made.
<i>White Paper on Human Resource Management in the Public Service, 1995</i>	<p>Chapter 5 of the <i>White Paper on Human Resource Management in the Public Service</i> deals with human resource management in practice. Specifically paragraph 5.2 states that one of the minimum entry requirements for employment in the Public Service is "Good character". The White Paper elaborates on the latter as follows:</p> <p><i>"Applicants for employment should be of good character, law abiding and prepared to conform with the high standards required by the Code of Conduct for Public Servants. It is essential to protect the public interest. Potential employees may therefore be required to provide information about past convictions or misdemeanours which could have a bearing on their suitability for employment in the Public Service. However, such incidents will not necessarily be a bar to employment, if it can be demonstrated that the nature of the incident poses no threat to the public interest, or the incident was sufficiently long ago, and the person's subsequent behaviour indicates that he or she is now rehabilitated".</i></p>
<i>Employment Equity Act, 1998</i>	<p>The purpose of the Act is to provide for employment equity and for matters related thereto. Hence, section 5 of the Act requires employers to take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice. However, in terms of section 6(2) of the Act it is not unfair discrimination to –</p> <ul style="list-style-type: none"> • take affirmative action measures consistent with the purpose of this Act; or • distinguish, exclude or prefer any person on the basis of an inherent requirement of a job (e.g. a fraudster may not be suitable to occupy a post with financial responsibilities, a convicted rapist or child molester may not be suitable to be employed as an educator, etc.).
<i>Employment of Educators Act, 1998</i>	<p>Whilst the <i>Employment of Educators Act, 1998</i>, provides for, amongst others, the employment of educators by the State, the provisions of the Act does not apply only to educators at public schools. The Act regulates the employment of educators also at further education and training institutions, departmental offices and adult basic education centers. Since educators are regarded as role-models by learners, and therefore have to set a good example at all times, their actions and deeds should always be beyond doubt. However, the Act does not address the issue of job applicants (i.e. educators) with a criminal record and/or disciplinary action as a result of misconduct <i>per se</i>, but merely states the following:</p> <ul style="list-style-type: none"> • Section 6(3): Any appointment to a post on the educator establishment of a public school may only be made on the recommendation of the governing body of the school. • Section 7(1): The filling of any post on any educator establishment under this Act shall take place with due regard to equality, equity and the other democratic values and principles contemplated in section 195(1) of the <i>Constitution of the Republic of South Africa, 1996</i>. <p>In the event that an educator was appointed in a post on the grounds of a misrepresentation (e.g. if an educator did not disclose that he/she has a criminal record and/or disciplinary action as a result of misconduct), the employer may in terms of section 11 of the Act discharge such a person on account of misconduct.</p>
<i>Promotion of Equality and Prevention of Unfair Discrimination</i>	<p>The objectives of the Act are to give effect to the spirit of the <i>Constitution of the Republic of South Africa, 1996</i>, in so far as the equal enjoyment of all rights and freedoms by every person, as well as the promotion of equality, are concerned. An illustrative list of unfair labour and employment practices is contained in Schedule 1 of the Act. First on this list is "Creating artificial barriers to equal access to employment opportunities by using certain recruitment and selection procedures".</p>

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	<ul style="list-style-type: none"> • all information will be treated with the strictest confidentiality and will not be disclosed or used for any other purpose than to assess the suitability of a person, except in so far as it may be required and permitted by law; and • information pertaining to previous conviction of criminal offences will only be taken into account if it directly relates to the requirements of the position. <p>In order to assist in processing applications fairly, job applicants are also requested on the first page of the Z83 form to complete all sections of the form in an accurate and legible manner. The last part of the Z83 form provides for the job applicant to sign a declaration that all the information provided is complete and correct. To this end, the job applicant also declares that he/ she understands that any false information supplied could lead to the application being disqualified or his/her discharge from the Public Service.</p>
<p><i>National Vetting Strategy In The Public Service, 2006</i></p>	<p>Public servants are continuously at risk of being targeted for acts of espionage, sabotage, subversion, corruption and a range of other criminal and unconstitutional activities. Hence, the DPSA regarded it as imperative that adequate processes concerning the screening and security vetting of candidates and employees be put in place.</p> <p>Following a study undertaken by the NIA, a national vetting strategy was formulated that, amongst others, addresses the need of the State as employer to determine the suitability of persons for employment. The Strategy was approved by Cabinet during December 2006 and entails the following human resource management related interventions:</p> <ul style="list-style-type: none"> • The implementation of personnel suitability checks in respect of all candidates selected for appointment, Including criminal record and/or disciplinary action as a result of misconduct checks by the NIA. • The establishment of VFUs in selected departments that will be responsible for the collection of fieldwork information, whilst the evaluation of such information and the issuing/denial of security clearances are done by the NIA. <p>In accordance with the above-mentioned Strategy, the MPSA has issued a directive determining that one of the areas to be covered during the verification process prior to appointing a person in the Public Service, is criminal record and/or disciplinary action as a result of misconduct checks. The latter directive took effect on 1 January 2008 and was circulated to all departments by means of the DPSA's circular minute 14/1/1/P, dated 23 November 2007.</p>

3. Application of the Policy Prescriptions

This circular is applicable to all employees of the department categorized as follows:

- 3.1 Employees on S/L 1-12 and
- 3.2 Senior Management Service
- 3.3 Applicants (both internally and externally) who apply for any post within the department;
- 3.4 Former and or current employees of the department who resigned from the department after disciplinary charges were given but were yet to have these charges tested by a competent Presiding Officer.

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5.2 Role and Responsibility of the Human Resources Management Function

The Manager HRM shall be responsible for the liaising with the Security Manager and feeding the Security Manager with all the base documents for verification.

The Manager HRM or his nominee will collate all the following documents in order to process verification:

- i. R&S post shortlist;
- ii. Identity documents of the applicant;
- iii. Qualification of the applicant;

The Manager HRM shall be responsible for the verification of qualifications with the South African Qualifications Authority-SAQA.

6. Grounds for Not Appointing a Candidate with a Criminal record and/or disciplinary action as a result of misconduct or Taking Action Against a Former Member of Staff with a Criminal record and/or disciplinary action as a result of misconduct

The test the department will use in considering whether to accept a candidate with a criminal record and/or disciplinary action as a result of misconduct is whether that record gives reasonable grounds for considering the appointment: In this regard the following factors will be taken into account when determining the suitability of a job applicant with a criminal record and/or disciplinary action as a result of misconduct for appointment:

- i. Misrepresentation of criminal status or withholding of information;
- ii. Nature of transgressions/criminal acts committed;
- iii. The risk posed by the transgression in relation to the requirements and nature of the job to be performed;
- iv. Age of the person at the time of the transgression.
- v. Frequency of similar/correlating transgressions;
- vi. Time that has elapsed since the job applicant was convicted;
- vii. Educational qualifications of the job applicant;
- viii. Employment history and previous performance assessments of the job applicant;
- ix. Will the candidate pose a real threat to departmental property, or the safety or property of staff, or others who are likely to come into contact with the person whilst employed on departmental business;
- x. Would the appointment be contrary to the law or to the requirements of any relevant professional or other regulatory body applicable to the post concerned; or
- xi. For some other reason practically would prevent the person from completing, with confidence any of their duties;

7. Grounds for Taking Action Against an Existing Staff Member with a Criminal record and/or disciplinary action as a result of misconduct

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As soon as the Senior Manager HRA & D has reached a decision the candidate will be advised if their application to the department has not been allowed to proceed. Such confirmation will always be in writing and will be included in the submission for either short listing or appointment.

A candidate may appeal to the department's Head of Department against a decision of the Senior Manager HRA & D through the normal grievance procedure.

7. Adhering To Criteria For Criminal record and/or disciplinary action as a result of misconduct Checks

The department acknowledges that criminal record and/or disciplinary action as a result of misconduct checks may be undertaken in an inconsistent manner across shortlisting panels and this may further lead to litigation against the managers and the department. The department therefore recognises the criteria provided by the State Security Agency (SSA) in its guidelines on personnel suitability checks as the basis for the management of candidates with criminal record and/or disciplinary action as a result of misconducts. These criteria inform the development of this circular, and/or any future amendments of existing policy and circulars, and include the following:

- i. Criminal record and/or disciplinary action as a result of misconducts relating to the struggle, i.e. with a political motive, prior to the suspension of the armed struggle must not be considered;
- ii. The criminal record and/or disciplinary action as a result of misconduct should have a direct threat to the security competency of the person;
- iii. Juvenile offences must not be considered unless it indicates a tendency to criminality.
- iv. Minor offences, e.g. drunken driving, must not be considered unless the crime had an impact on the person's ability to function, or indicates a tendency to criminality;
- v. Offences committed that are listed in Schedule One of the *Criminal Procedure Act, 1977*, and that are younger than 10 years from the date of conviction, is a disqualifying factor (the reason for this is that Schedule One offences, e.g. murder, rape, sodomy, bestiality and child abduction, are usually associated with non-rational behaviour and long term jail sentences);
- vi. A person who continues with so called "*lesser crimes*", i.e. common theft, must be considered a habitual criminal and this must be measured against the duties and responsibilities of the post;
- vii. Criminal record and/or disciplinary action as a result of misconducts relating to substance dependency should be carefully reviewed (whilst the possession of dagga is illegal, trading with addictive substances is for instance regarded as more serious than mere possession).
- viii. Only printouts received from the SAPS or the SSA, i.e. criminal record and/or disciplinary action as a result of misconduct check results, marked as "**Guilty**" may be used to disqualify a job applicant. Printouts marked as "**Not guilty**" or "**Withdrawn**" may not be used as a disqualifying factor;
- ix. Only printouts received from the SAPS or the SSA marked as "**In process**" must be followed up to determine the details of the charge.

8. Ongoing Obligations

If a member of staff obtains a criminal record and/or disciplinary action as a result of misconduct after commencement of their employment in the department then the staff member shall report the matter to the Senior Manager HRA & D. The matter may then be passed on further to the respective Senior Manager to deal with only where the Senior Manager HRA & D considers that there is a potential need to take further action, before any action against the employee is taken by

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11. Administrative Justice:

The Department acknowledges that all administrative processes relating Recruitment and Selection must be underpinned by the Promotion of Administrative Justice Act, 2000. In this regard all R&S submissions shall include under the "**Heading: Legislative Compliance**": **confirmation that the processes followed in the advertisement, short listing and interview of candidates was in compliance with the PAJA- Promotion of Administrative Justice Act, 2000.**

Where a recommendation and decision is taken which deviated from the recommendations of the either, short listing or interview with regard to the **Circular on the Management of Candidates with Criminal record and/or disciplinary action as a result of misconduct 001/2012**, such recommendation/ decision will be registered in the "Register of Delegation Decisions-RDD"

12. Monitoring and Evaluation

The DSAC will review the application of this policy circular annually.

13. Date of Adoption

Adopted by:.....

Signature :
Head of Department

Date: 20/02/2013

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