

# QUALITY MANAGEMENT SYSTEM

## PL-003A-FIN Fraud Prevention Policy

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## FRAUD PREVENTION POLICY

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### 1. APPLICABLE LEGISLATIVE FRAMEWORK AND BEST PRACTICES

Key principles contained in the following legislation were applied to develop this policy:

- 1.1 CET Act 16 of 2006 (as amended) (the “Act”);
- 1.2 Public Finance Management Act, 1999 (as amended) (PFMA);
- 1.3 National Treasury Regulations of March 2005;
- 1.4 National Treasury Public Sector Risk Framework, April 2010;
- 1.5 The King IV Report on Corporate Governance for South Africa, 2016;
- 1.6 Prevention and Combating of Corrupt Activities Act 12 of 2004
- 1.7 Public Sector Integrity Management Framework; and
- 1.8 Code of Conduct for Public Servants in National and Provincial Departments (Chapter 2 of Public Service Regulations, 2001, as amended)

## 2. DEFINITIONS, ACRONYMS AND ABBREVIATIONS

For the purpose of this policy, unless the context indicates otherwise, the following definitions acronyms and abbreviations are set out for the terms indicated:

- 2.1 “Accounting Officer” – is the College Principal and Chief Executive Officer (“CEO”).
- 2.2 “Act” means: The Continuing Education and Training (CET) Act, 2006 (as amended).
- 2.3 “Action Owner” – is the person named to ensure that action(s) agreed to be implemented in order to reduce Residual Risk are put in place within the agreed timeline.
- 2.4 “Agent” - A Person who has received the power to act on behalf of the College or a third party, binding the College or other party as if he or she were the College or other party.
- 2.5 “Audit Committee” – a body currently established in accordance with the College terms of reference with the responsibility of ensuring that the Council and the Accounting Officer meet their obligations regarding risk management and governance process.
- 2.6 “Auditor General” (“A-G”) is the Auditor-General of South Africa
- 2.7 “College” – is the College of Cape Town for TVET
- 2.8 “Conflict of Interest” - A term used to describe the situation that arises when an official potentially has an opportunity to exploit his or her relationship with the College for personal benefit, typically monetary, contrary to the obligation and absolute duty to act for the benefit of the College.
- 2.9 “Council” – is the governing body of the College established in terms of the Act.
- 2.10 “Department” (“DHET”) – is the Department of Higher Education and Training.
- 2.11 “Employee” – is any official, employed by the College, Council, or Department, irrespective of rank, or whether full-time or part-time, or basis of remuneration, be it salaried (i.e. monthly) or on a weekly, hourly or daily basis.
- 2.12 “Executive Committee” (“EXCO”) - means a sub-committee established by Terms of Reference approved by Council, to assist the Accounting Officer with discharging his or her responsibilities under the Act;
- 2.13 “Framework” - means the Risk Management Framework based on the requirements of the Public Sector Risk Management Framework guidelines issued by the National Treasury of the Republic of South Africa;
- 2.14 “Fraud and Corruption Prevention Plan” – a document created by the College in response to specific as well as generic risks identified in the Risk Management process and from other sources and approved by Council to reduce the opportunities for Fraud and / or Corruption within the College environment.
- 2.15 “Internal Audit” - means an independent, objective assurance and consulting activity designed to add value and improve a College’s operations. It helps a College accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of Risk Management, control, and governance processes;
- 2.16 “Judicial Official” - Any officer of the court; specifically, a justice for the peace, magistrate, or judge.
- 2.17 “King IV” means: The King IV Report on Corporate Governance for South Africa, 2016;

- 2.18 “Manager” – is any Employee who is responsible for the direction and supervision of one or more Employees;
- 2.19 “Other Official” means: an official of the College other than any Manager, the Accounting Officer and members of Council;
- 2.20 “PFMA” means: Public Finance Management Act (Act No. 1 of 1999 as amended by Act No. 29 of 1999);
- 2.21 “Person” - An individual, agency, association, branch, corporation, estate, group, partnership, or other entity or organization having legal rights.
- 2.22 “Prevention of Fraud and Corruption Policy” - means this document, approved and adopted by Council, detailing the steps to be taken to prevent opportunities for fraud and corruption in functions within the College’s control.
- 2.23 “Private Interest” – exists when a Person has an interest in an enterprise, asset, project, course of action and the like that may possibly bring a benefit to that Person.
- 2.24 “Public Official” - an official who is involved in public administration within the structure of an organ of the South African government.
- 2.25 “Residual Risk” – is the remaining exposure after the mitigating effects of deliberate management intervention(s) to control such exposure (the risk remaining after Management has put in place measures to control the inherent risk).
- 2.26 “Risk” – is an unwanted outcome, actual or potential, to the detriment of the College’s service delivery and other performance objectives, caused by the presence of Risk Factors. Some Risk Factors also present in opportunities with upside potential, which Management must be aware of and be prepared to exploit. This definition of “Risk” also encompasses such opportunities.
- 2.27 “Risk Factor” – is any threat or event which creates, or has the potential to create risk.
- 2.28 “Risk Management” – is a systematic and formalised process to identify, assess, manage and monitor risks.
- 2.29 “Risk Owner” - is the person named to ensure that action(s) agreed to be implemented in order to reduce Residual Risk are put in place within the agreed timeline.
- 2.30 “Risk Register” – a document that records identified Risks, their probabilities of occurring, the likely impact on the College, existing controls and recommended actions to mitigate the effects of such Risks.

### 3. INTRODUCTION

The provisions of Section 38(1)(a)(i) of the Public Finance Management Act stipulate that the Accounting Officer / Authority is responsible for ensuring that the department, trading entity or constitutional Institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control. In the context of TVET Colleges, this is reinforced by Section 25 (1) of the CET Act of 2006 (as amended) which requires Colleges to implement a risk management system no less effective than that prescribed to other state entities in the Public Finance and Management Act.

Furthermore, sections 3.2.1 and 27.2.1 of Treasury Regulations require that a risk assessment is conducted on a regular basis and a risk management strategy, which includes a fraud prevention plan, be used to direct internal audit effort. The strategy must be clearly communicated to all employees to

ensure that risk management, including the College's approach to the prevention of fraud and corruption, is incorporated into the language and culture of the department or entity.

#### 4. PURPOSE AND OBJECTIVES

The purpose of this Policy is to articulate the College's philosophy towards the prevention and detection of Fraud and Corruption and to recommend a fraud identification and prevention plan as part of the overall approach to Risk Management.

#### 5. SCOPE

This policy applies to all Employees and all Students and, as far as allowed by law, to all other stakeholders in the College, including Council members, suppliers, other government and provincial departments and their employees.

#### 6. FRAUD AND CORRUPTION – KEY RISKS FACING THE TVET SECTOR

Fraud and Corruption includes but is not limited to the following:

- 6.1.1 Fraud - an unlawful and intentional representation by a party resulting in actual or potential prejudice to another party;
- 6.1.2 Corruption - directly or indirectly accepting or agreeing to accept any gratification from another Person or giving or agreeing to give any other Person any benefit or gratification in order to influence that Person directly or indirectly to exercise his, her or its powers, duties or legal obligations in a manner which is or amounts to an act which is or could be deemed to be:
  - 6.1.2.1 illegal, dishonest, unauthorised, incomplete, or biased;
  - 6.1.2.2 misuse or selling of information or material acquired;
  - 6.1.2.3 abuse of a position of authority;
  - 6.1.2.4 breach of trust;
  - 6.1.2.5 violation of legal duties or set of rules;
  - 6.1.2.6 achievement of an unjustified result; or
  - 6.1.2.7 any other unauthorised or improper inducement to do or not to do anything; and
  - 6.1.2.8 Non-compliance to delegated authority limits.
- 6.1.3 Parties that may wittingly or otherwise be the beneficiaries or victims of a fraudulent or corrupt act, and who should take particular care to avoid same, could include but not be limited to:
  - 6.1.3.1 Public Officials;
  - 6.1.3.2 Foreign Public Officials;
  - 6.1.3.3 Agents;
  - 6.1.3.4 Judicial Officials;
  - 6.1.3.5 Members of the National Prosecuting Authority;
  - 6.1.3.6 College Employees;
  - 6.1.3.7 Witnesses during certain legal proceedings;
  - 6.1.3.8 Drafters of contracts and agreements;
  - 6.1.3.9 Those involved in the preparation, adjudication and / or withdrawal of tenders;
  - 6.1.3.10 Auctioneers; and
  - 6.1.3.11 Organisers of and participants in sporting events, gambling and games of chance.

- 6.2 Actual or potential Conflicts of Interest and / or other questionable practices, may give rise to the appearance, if not actual, fraudulent or corrupt acts, e.g;
  - 6.2.1 Acquisition of Private Interests in contracts and / or agreements between the College or any entity controlled by the College and another Person;
  - 6.2.2 Any Private Interest in a property or other investment in which the College has an interest;
  - 6.2.3 Unacceptable conduct relating to witnesses, for example in a College or Departmental disciplinary hearing;
  - 6.2.4 Intentional interference with, hindering or obstruction of an investigation of an offence, including a breach of any College policy;
  - 6.2.5 Other offences relating to corrupt activities, viz;
    - 6.2.5.1 Accessory to or after an offence;
    - 6.2.5.2 Attempt, conspiracy and inducing another person to commit offence; and
    - 6.2.5.3 Failure to report corrupt transactions;
- 6.3 Irregularities relating to the following may also fall under the broad definition of fraud or corruption as well as being in breach of certain criminal legislation:
  - 6.3.1 Abuse by Employees, members of the public or other parties of College systems that have intentionally or inadvertently become prone to abuse, for example:
    - 6.3.1.1 HR employment practices:
      - 6.3.1.1.1 Inadequate vetting of employees;
      - 6.3.1.1.2 Abuse of the system of overtime;
      - 6.3.1.1.3 Ghost employees;
      - 6.3.1.1.4 Irregular appointment of staff for undue benefits; and
      - 6.3.1.1.5 Non-disclosure of outside interests that may cause a conflict of interest.
    - 6.3.1.2 Procurement:
      - 6.3.1.2.1 Non-compliance to tender procedures;
      - 6.3.1.2.2 Procurement fraud, e.g. collusion between employees and suppliers;
      - 6.3.1.2.3 Fraudulent information submitted by suppliers when tendering for work;
      - 6.3.1.2.4 Suppliers invoicing for work not done;
      - 6.3.1.2.5 Service providers double invoicing;
      - 6.3.1.2.6 Contractor "fronting";
      - 6.3.1.2.7 Non-disclosure of a Conflict of Interest; and
      - 6.3.1.2.8 Favouritism by one party on favour of another during the procurement process.
    - 6.3.1.3 Financial and other systems and controls:
      - 6.3.1.3.1 Theft of blank cheques;
      - 6.3.1.3.2 Abuse of the system of travel claims;
      - 6.3.1.3.3 Fraudulent payment certificates submitted for payment;
      - 6.3.1.3.4 Theft, e.g. petty cash, etc;
      - 6.3.1.3.5 Fraudulent cashing of cheques;
      - 6.3.1.3.6 Processing of fraudulent travel claims by Employees;
      - 6.3.1.3.7 Theft of assets;
      - 6.3.1.3.8 Abuse of assets;
      - 6.3.1.3.9 Deliberate destruction of property;
      - 6.3.1.3.10 Use of the College's resources and equipment for private gain; and
      - 6.3.1.3.11 Other issues: i.e activities undertaken by employees of the College which may be against policies or fall below established ethical standards

6.3.2 In summary, Fraud and Corruption may be defined very widely. Ultimately the TVET sector aspires to employ, and have business relationships with, only those individuals and entities that have high moral and ethical standards, can tell the difference between right and wrong and if, in doubt as to the legality or morality of a certain set of circumstances, will raise the matter with the appropriately experienced or qualified superior Manager.

## 7. LIMITING OPPORTUNITIES FOR FRAUD AND CORRUPTION

- 7.1 Fraud and Corruption represent significant potential Risks to the College's assets, service delivery, efficiency and reputation. The College will not tolerate fraudulent or corrupt activities, whether originating from internal or external factors, and will vigorously pursue and prosecute, by all available legal means, any parties that involve the College in such practices or attempt to do so.
- 7.2 Fraud prevention is a process that is derived from, and is part of, the College's Risk Management process. Said process is intended to identify all Risks and potential Risks to the College and then initiate the appropriate action(s) to mitigate the effect of such Risks. Such actions are designed, inter alia, to prevent, detect and deter fraud.
- 7.3 As part of the College Risk Management process, it is the responsibility of the Accounting Officer to ensure the adequacy and efficacy of the measures adopted to address the threat of Fraud and Corruption.

## 8. FRAUD AND CORRUPTION PREVENTION PLAN

If an actual or potential risk recorded in the Risk Register relates to fraud or corruption, an action will have been recommended and allocated to a Risk Owner who will be obliged to ensure that the mitigating control is put in place by the agreed date. By utilising the data sort facility of the Risk Register, all risks and mitigating actions may be extracted, forming the basis of the Fraud and Corruption Prevention Plan.

## 9. INTEGRATION WITH THE INTERNAL AUDIT PLAN

- 9.1 The Risk-based Internal Audit Plan is developed from the Risk Register that includes Risks arising from opportunities to abuse the College through Fraud and Corruption.
- 9.2 Internal Audit will develop a plan in response to such threats, essentially confirming that the controls agreed to be put in place per the Risk Register are indeed in place and effective.
- 9.3 However, should Fraud or Corruption be encountered or suspected as a result of the implementation of the Internal Audit Plan, the Internal Audit Officials may develop and recommend certain extraordinary procedures such as:
- 9.3.1 Investigation procedures to ensure uniformity in the reporting and investigation of incidents of fraud and corruption
  - 9.3.2 Initiating the reporting of suspicious acts;
  - 9.3.3 Preliminary investigation of incidents reported
  - 9.3.4 Involvement of other law enforcements agencies
  - 9.3.5 Recommending changes to policies and procedures; and
  - 9.3.6 Initiating action to recover losses

9.4 Further actions to be recommended to the Audit Committee may include a review of:

- 9.4.1 Recruitment policy;
- 9.4.2 Accounting and operational policies;
- 9.4.3 Fraud awareness training (indicators of fraud);
- 9.4.4 Dysfunctional environment assessment;
- 9.4.5 Fraud awareness audit;
- 9.4.6 Fraud risk assessment;
- 9.4.7 Automated alerts;
- 9.4.8 Code of ethics and conduct;
- 9.4.9 Investigation policy / procedure; and
- 9.4.10 Fraud response plans.

## 10. RISK MANAGEMENT AND ASSURANCE PROVIDERS

### **10.1 Internal Audit**

The role of Internal Audit in fraud Risk Management is to provide an independent, objective assurance on the effectiveness of the College's system of fraud Risk Management. Internal Audit must evaluate the effectiveness of the entire system of fraud Risk Management and provide recommendations for improvement where necessary.

### **10.2. External Audit**

The external auditor, whether the Auditor-General or an external service provider, reports on the effectiveness of fraud Risk Management as part of its overall assessment of compliance with policies and legislation.

## 11. ROLE PLAYERS

### **11.1 Council**

Council takes an interest in fraud risk management to the extent necessary to obtain comfort that properly established and functioning systems of Risk Management are in place to protect the College against significant fraud risks.

### **11.2 Audit Committee**

The Audit Committee is an independent committee responsible for oversight of the College's control, governance and Risk Management. The responsibilities of the Audit Committee with regard to fraud risk management are formally defined in its terms of reference in as much that Fraud and Corruption are to be addressed in the same way as any other threat to the College's strategy, assets and reputation. The Audit Committee provides an independent and objective view of the College's fraud Risk Management effectiveness.

## **11.3 Management**

Management is responsible for executing their responsibilities outlined in the fraud risk management strategy and for integrating risk management into the operational routines.

## **11.4 Other Officials**

Other officials are responsible for integrating fraud risk management into their day-to-day activities. They must ensure that their delegated risk management responsibilities are executed and continuously report on progress.

# 12. REPORTING OF AND RESPONDING TO SUSPECTED FRAUD

## **12.1 Whistle blowing, reporting mechanisms and policies**

The College of Cape Town acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity, but encourages staff to put their names to allegations. Concerns expressed anonymously are difficult to investigate.

Those who often do “blow the whistle” end up being victimised and intimidated.

The College will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. Any act of harassment or victimisation should be reported to a Deputy Principal. This does not mean that if a staff member is already subject to disciplinary or other actions, he/she will be halted as a result of their whistle blowing. For this reason, the College will adopt 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 will be designed to comply with the provisions of the Protected Disclosures Act. Any employee who has been adversely affected by the disclosure of protected information may:

- Approach any court having jurisdiction, including the Labour Court established by Section 115 of the Labour Relations Act, 1995 (Act No. 66 of 1995), for appropriate relief;
- Pursue any other process allowed or prescribed by law

The fundamental objective of the Protected Disclosure Act, No 26 of 2000 is to protect workers from detrimental treatment or victimisation from their employer if in the public interest; they blow the whistle on wrongdoing. An employee who reports suspected fraud and corruption may remain anonymous should he / she so desire. Information received as a protected disclosure is strictly confidential, and includes the identity of the person making the disclosure, nature of the disclosure and also the identity of the person or persons against whom the disclosure has been made. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the College.

All managers should discourage employees or other persons from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, a person who made the allegations must be subjected to firm disciplinary, or other appropriate action.

Any person who is involved with the College in any way and who discovers or suspects fraud, malpractice or other impropriety must report it immediately as per the Whistle Blowing Policy.

## ***12.2 Other reporting requirements***

All fraud allegations must be reported to the Principal. The Principal report all fraud allegations to the Chairperson of the Council who in turn will report it to the Audit Committee.