



higher education
& training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

DHET TERMINATION OF SERVICE POLICY

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1. INTRODUCTION

1.1 Acronyms

ACRONYMS	DEFINITION
CET	Community Education and Training
BCEA	Basic Conditions of Employment Act, 1998 as amended
CET ACT	Continuing Education and Training Act
TVET	Public Technical and Vocational Education and Training

1.2 Glossary of Terms

TERMS	DEFINITION
DELEGATED AUTHORITY	An incumbent of a post to whom power has been delegated or who has been authorised to perform a duty in terms of a formal delegation. This includes an employee who lawfully acts in the capacity of the Delegated Authority
DEPARTMENT	Department of Higher Education and Training
COLLEGE	A Public College including CET and TVET
COMPONENT	A part that makes up the Department at various levels- i.e. Head Office Branches, Regional Offices and Colleges
EMPLOYEE	A person appointed in terms of the Public Service Act, 1994 as amended, excluding an Independent Contractor, who works for another person or for the State and receives, or is entitled to receive remuneration
EMPLOYER	Department of Higher Education and Training
EXECUTIVE AUTHORITY	The Minister of Higher Education and Training

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LECTURER	Any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons who provides professional educational services, including professional therapy and education psychological services, at a College
LINE MANAGER	An immediate Superior to whom an employee reports
RESPONSIBLE HR UNIT	An HR Unit that may be based at either the Head Office, Regional Office or a Public College depending on the authority given in terms of the DHET delegations from time to time
SUB-COMPONENT	A part of a Component, e.g. a Branch within Head Office, or College HR Unit in a Regional Office or College

1.3 Policy Statement

The employer is committed in ensuring that termination of service is well administered and that provision of relevant legal frameworks are adhered to at all times.

1.4 Legislative Framework

- 1.4.1 Employment of Educators Act of 1988, as amended
- 1.4.2 Public Service Act of 1994, as amended
- 1.4.3 Labour Relations Act of 1995, as amended
- 1.4.4 Basic Conditions of Employment Act of 1997, as amended
- 1.4.5 PSCBC Resolution No. 2 of 1999
- 1.4.6 Public Service Regulations, 2016
- 1.4.7 Continuing Education and Training Act 16 of 2006, as amended
- 1.4.8 DHET Delegations of Authority according to the Public Service Act 103 of 1994 and Public Service Regulations of 2016

1.4.9 DHET Labour Relations Manual

- * Where this Policy and the Delegations of Authority of the DHET differ the Delegations shall take precedence.

1.5 Purpose

To provide guidelines on circumstances on which the employee's service may be terminated either voluntarily by the employee or by the employer.

1.6 Objectives

- 1.6.1 To provide guidelines under which the Executing/Delegated Authority shall approve/disapprove termination of service of employees.
- 1.6.2 To provide measures to ensure that employees who served the Department are treated with respect and due consideration upon their service termination.
- 1.6.3 To provide guidelines to ensure optimal use of information through exit interviews in order to take appropriate corrective action where required.

1.7 Principles

- 1.7.1 Fairness and transparency;
- 1.7.2 Professionalism;
- 1.7.3 Integrity; and
- 1.7.4 Empathy.

1.8 Scope of Application

This policy is applicable to all employees of the Employer whether such employees are permanent on fixed term, or Interns.

2. POLICY PROVISIONS

2.1 Types of termination

The services of an employee may be terminated under the following circumstances:

- 2.1.1 Resignation;
- 2.1.2 Compulsory Retirement;
- 2.1.3 Early Retirement;
- 2.1.4 Voluntary Retirement;
- 2.1.5 Ill health Retirement;
- 2.1.6 Discharge/Dismissal; and
- 2.1.7 Death.

2.2 Resignation

2.2.1 An employee may on his/her own free will resign from the Department subject to the following conditions:

- (a) The employee submits his/her resignation letter in writing to his/her Line Manager upon which the receipt of such a letter is regarded as a formal acceptance of resignation.
- (b) Provides a notice period as stipulated by the relevant legislation or by the Delegated Authority subject to consideration of service delivery requirements.
- (c) A shortened period of notice must only be approved by the Delegated Authority in writing.
- (d) In cases where a shorter period is not approved and the employee leaves without approval, such employee will be deemed to have absconded.

- 2.2.2 A Lecturer whose name has been struck off the South African Council for Educators register will be deemed to have resigned from the day immediately after his/her name was struck off the register.
- 2.2.3 In cases where an employee wishes to withdraw his/her resignation, the request must be made in writing, recommended by the Line Manager and subject to the written approval by the Delegated Authority which shall be made no later than the intended last working day.
- 2.2.4 In cases where an employee resigns without serving his/her notice, the Line Manager must immediately report such to the responsible HR unit in order to stop the employee's salary and avoid overpayments.
- 2.2.5 An employee elected as a member of the National Assembly or Provincial Legislature or a full-time member of a Municipal Council shall be deemed to have resigned from the Public Service with effect from the date immediately before the date he/she assumes office as such member.
- 2.2.6 An employee appointed as a permanent delegate of the National Council of Provinces shall be deemed to have resigned from the Public Service with effect from the date immediately before the date he/she assumes office as such delegate.
- 2.2.7 An employee elected as a member of a Municipal Council may only remain an employee in the Public Service if he/she serves as part-time member of the Council and shall comply with section 30 of the Public Service Regulations, 2016 regarding other remunerative work by employees.

2.3 Compulsory Retirement

- 2.3.1 The compulsory retirement age in the Public Service is 65 years. An employee must be retired on the date that he/she reaches this age.
- 2.3.2 If it is in the interest of the Public Service/Department to retain an employee in his/her post beyond the age of 65 years, due to scarce skills such retention may be with his/her consent with the approval by the

Delegated Authority for further period not exceeding two years and a succession plan must be in place.

2.4 Early Retirement

- 2.4.1 An employee between the ages 55–59 years may exercise the option to retire earlier than the compulsory retirement age as stipulated above.
- 2.4.2 All applications for early retirement must be submitted to the Delegated Authority for his/her approval at least 3 months from the period of request to exit the Department.
- 2.4.3 An employee that applies for early retirement must be aware that such an application will result in the pension fund benefit being penalised.

2.5 Voluntary Retirement

An employee between the ages 60–64 years may opt for voluntary retirement which will be granted upon approval by the Delegated Authority.

2.6 Ill Health Retirement

- 2.6.1 The Delegated Authority may on the basis of medical evidence consider the discharge of an employee on account of ill health if it prevents the proper performance of the employee's duties.
- 2.6.2 A discharge on account of ill health must occur with due regard to item 10 of schedule 8 of the Labour Relations Act, 1995.
- 2.6.3 Where the Delegated Authority deviates from the recommendations or decisions made by the Health Risk Manager he/she must:
 - (a) Record the reason/s for his/her deviation in writing;
 - (b) Inform the Health Risk Manager as well as the Department of Public Service and Administration in writing of his/her reasons for deviation.

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2.7 Discharge/Dismissal

2.7.1 An employee may be discharged from the Department given the following circumstances:

- (a) On account of continued ill-health.
- (b) As a result of an outcome of a disciplinary hearing due to misconduct.
- (c) Owing to the abolition of his/her post, any reduction in or re-organisation or readjustments of offices as per the operational requirements of the Department.
- (d) If for reasons other than his/her own unfitness or incapacity, his/her discharge/dismissal will promote efficiency or economy in the Department and will be in the interest of the State.
- (e) On account of unfitness for his/her duties or incapacity to carry them out efficiently.
- (f) If in the case of an employee appointed on probation, his/her appointment is not confirmed due to poor work performance.
- (g) On account of misrepresentation of his/her position on his/her previous employment record status in relation to a condition for permanent or contract appointment.
- (h) If his/her continued employment constitutes a security risk for the State and the Department.
- (i) If the Executing Authority appoints him/her in the Public interest under any law to an office to which the Provision of the Act does not apply.
- (j) An employee who absents himself/herself from his/her official duties without permission of the Delegated Authority exceeding one calendar month for Support Staff and 14 Working Days for Lecturing Staff, shall be deemed to have been discharged from the Department on account of misconduct with effect from the date immediately succeeding his/her last day of attendance at the work place.

2.8 Completion of fixed-term contract

- 2.8.1 The services of an employee who is appointed on a fixed-term contract will automatically cease at the end of the contract period stipulated on their appointment letter.
- 2.8.2 In circumstances where a contract is terminated before the date set on the letter of appointment, notice shall be given with fair reasons for termination in line with the relevant legislation.

2.9 Death

- 2.9.1 Line Managers must immediately report the death of an employee in their unit to the Responsible HR Unit.
- 2.9.2 Death certificate must be submitted to HR as soon as it is received.

3. OUTSTANDING DEBTS

All outstanding debts owed by the employee and not settled on the last working day, must be recovered from the employee's leave gratuity first and pension benefits if leave gratuity is not adequate. If the pension benefits are not adequate, other arrangements must be made to recover any outstanding debts.

4. PROPERTY OF THE DEPARTMENT

- 4.1 The employee must ensure that the Department's property issued to him/her is returned to the Line Manager on his/her last day of service.
- 4.2 If the employee fails to return such property, the value thereof shall be calculated and be deducted from the employee's leave gratuity or pension benefits on resignation, termination or transfer or by way of salary deduction if he/she is transferred to another Department.

5. EXIT INTERVIEWS

- 5.1 Exit interviews must be conducted by the Responsible HR Unit in the event of an employee who is voluntarily leaving the Department, or on account of incapacity due to ill health or injury or retirement.
- 5.2 Exit interviews are to enable the employer to gather useful information from employees exiting the Department, in order to understand reasons behind exit and also to put in place corrective measures, where possible.
- 5.3 They also provide an exiting employee an opportunity to share his/her views with the Department.
- 5.4 All employee information should be kept confidential and only the use of the information regarding the job, Line Manager and the Employer is to be used for exit analysis. Demographical information may be used from time to time for record and statistical purposes, e.g. Employment Equity Report; and
- 5.5 Information gathered as per item 5.1 to 5.3 may only be made available to Line Management once the employee has left the Employer.

6. BENEFITS PAYABLE

Payable benefits should be aligned with the employee's contract of employment and relevant legislation.

7. REAPPOINTMENT OF FORMER EMPLOYEES

A former employee may be reappointed in the Public Service on conditions stipulated in Regulations 60 and 61 of the Public Service Regulations, 2016.

8. DISPUTE RESOLUTION

All disputes and grievances will be dealt with in accordance with the provisions of the DHET Labour Relations Manual.

9. POLICY MONITORING

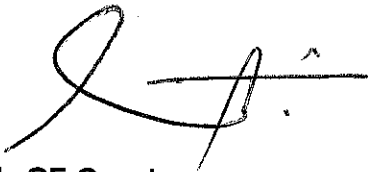
This Policy shall be monitored by the Directorate responsible for HRM.

10. POLICY REVIEW

This Policy will be reviewed every three years, unless changes in Legislation and Ministerial Directives dictate otherwise.

11. POLICY APPROVAL

Signed at Pretoria on this 12 day of MAY 20 19



Mr GF Qonde

Director-General: Department of Higher Education and Training