



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

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To: **Heads of Provincial Education Departments**
CC: **Heads of Provincial Institutional Management and Governance**
Chief Financial Officers
District and Circuit Managers
School Principals and School Governing Bodies

CIRCULAR M4 OF 2017

MEASURES TO STRENGTHEN COMPLIANCE WITH SECTION 30 (1) OF THE PUBLIC SERVICE ACT AND SECTION 43 (3) OF THE SOUTH AFRICAN SCHOOLS ACT RELATING TO DISCLOSURE OF INTEREST

In accordance with Section 4 of the National Education Policy Act, No 27 of 1996, the Department of Basic Education (DBE) is legislated to determine, and develop national policies for the planning, provision, financing, co-ordination, management, governance and monitoring of the education sector. Monitoring also includes compliance with education and public service laws such as the South African Schools Act (SASA) and the Public Service Act.

Section 30 of the Public Service Act, 1994 regulates that “no employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department”. Section 43 (3) of the SASA further requires that when appointing and auditor or accounting officer to examine the financial records, no person who has a financial interest in the affairs of the public school may be appointed under this section.

The Auditor-General of South Africa (AGSA) raised a number of findings with regard to non-compliance with Section 30(1) of the Public Service Act, 1994 and Regulation 11 (c) of the Public Service Regulations of 2016 and non-compliance with Section 43 (3) of the SASA within various Provinces. Some examples of the findings raised by the AGSA are as follows, but not limited to the following:

- (a) Employees possess ongoing contracts within the Department awarded before 1 August 2016, where no action was taken to dispose of the interest;
- (b) Employees are doing business with organs of the state;
- (c) Suppliers submitted false declaration of interest;

- (d) Suppliers did not submit declaration of interest;
- (e) Officials failed to disclose their own interest or that of close family members, partners, or associates in contracts;
- (f) Conflict of interest between School Governing Bodies (SGBs), Principals, Accounting Officers or Registered Auditors; and
- (g) Lack of internal systems to identify state employees or bidders connected to state employees who are performing remunerative work outside their employment.

This circular aims to provide guidance on the utilisation of the Companies and Intellectual Property Commission (CIPC) tool to reduce the AGSA's audit findings on disclosure of interest.

In pursuit to improve findings raised by the AGSA, it has become imperative to recommend measures to strengthen Public Service by encouraging adequate and complete disclosure of interest by public servants and schools. The following measure is recommended to be implemented:

1. Access tool to utilise when disclosing interest

Public servants should utilise the CIPC to adequately make disclosures of interest. Access to the CIPC website is free and CIPC is registered as a government organisation. The objective of the software is to proactively aim to validate and identify any discrepancies that may exist when monitoring progress by Provinces and Schools. The CIPC database will allow Provinces to validate the following, but not limited to:

- (a) Verification of registration of Implementing Agencies;
- (b) BEE Certificate;
- (c) Registration of Accounting Officers; and
- (d) Directors of Companies.

It is recommended that the following Directorates obtain access to CIPC:

- (a) Internal Audit;
- (b) Internal Control;
- (c) Compliance unit;
- (d) Supply Chain Management;
- (e) Investigations units; and
- (f) Human Resource Management.

Should Provinces require access or assistance in obtaining access to the software, Provinces are requested to address their requests to the contact details as indicated above.

You are kindly requested to bring Circular M4 of 2017 to the attention of all District Directors, Heads of Provincial Institutional Management and Governance, Chief Financial Officers, School Principals and School Governing Bodies.

All enquiries related to this circular should be directed to the contact details as indicated above. Circular M4 of 2017 is effective immediately upon the date of signature by the Director-General of the Department of Basic Education.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'G' followed by a horizontal line.

DR G WHITTLE
ACTING DIRECTOR-GENERAL

DATE: 06/11/17.