



ESHEC
ESWATINI HIGHER
EDUCATION COUNCIL

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ESWATINI HIGHER EDUCATION COUNCIL

ANTI FRAUD AND ANTI-CORRUPTION POLICY GUIDELINES

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1. Objective

The objective of this policy is to establish controls to ensure compliance with all applicable anti-fraud and anti-corruption regulations. It is the policy of Eswatini Higher Education Council (ESHEC) to conduct all of its business activities with honesty, integrity and the highest possible ethical standards and vigorously enforce its business practice, wherever it operates, of not engaging in fraud or corruption. This policy aims to support all ESHEC members and employees in preventing and handling issues of fraud and corruption. It provides information on the different forms of corruption and their consequences. This guideline applies to employees and board members at all levels of ESHEC. Responsibilities of individual staff members are laid out, and steps to be taken concerning reporting, investigation and responding to allegations or suspicions are stated. This guideline should be read in conjunction with the ESHEC Code of Conduct and Human Resources Policy.

1.1. What does the law say about bribery and corruption?

Bribery is a criminal offence in Swaziland and penalties can be severe. The Prevention of Corruption Act No.3 of 2006 deals with issues of corruption in public and private enterprises in Swaziland. The offences that are applicable in this organization are stated from sections 21 to 28 and 34 of the Act. Penalties on conviction of these offences shall be a fine not exceeding One Hundred Thousand Emalangenani or imprisonment exceeding Twenty years or both as stated by section 35 (1) of the Act. It is therefore in the interest of the organization that employees act with propriety at all times. Corrupt acts committed abroad, including those by business partners working on ESHEC's behalf, may well result in a prosecution in Swaziland.

2. Purpose and Scope

The purpose of the Anti-Fraud and Anti-Corruption Guideline is to:

- Raise awareness and sensitize board members and co-workers at all levels as to how ESHEC as an organization views and deals with corruption;
- Outline the responsibilities of co-workers at all levels;
- Prescribe the necessary action(s) to be taken in the event that fraud or corruption occurs, or is alleged to have occurred.

This policy applies to all individuals working for ESHEC at all levels, including managers, officers and employees (whether permanent or temporary), consultants, contractors, trainees, interns, volunteers, third parties and any other person associated with ESHEC.

In this policy, "Third Party(ies)" means any individual or organization, who/ which come into contact with ESHEC and also includes all registered and potential higher education institutions, actual and potential clients, suppliers, business contacts, consultants, intermediaries, representatives, subcontractors, agents, advisers, joint ventures and government bodies (including their advisers, representatives and officials).

3. Basic Principles of the Policy:

ESHEC has adopted the following basic principles as the cornerstone for approaching and dealing with fraud and corruption:

- A "zero-tolerance" approach to all forms of fraud and corruption

- Recognition that corruption is not limited solely to illegal acts
- Dealing with allegations in a fair, open and transparent manner
- Reporting suspected illegal and/or criminal activity to the appropriate authorities for investigation and action.
- Acting professionally, fairly and with integrity in all its business dealings and relationships wherever it operates, and endeavours to implement and enforce effective systems to counter fraud and corruption.
- Upholding all laws relevant to countering fraud and corruption in the country and to adhere to international standards in an effort to curb same.

4. Definitions of Relevant Terms

- 4.1. **CORRUPTION** in the context of ESHEC is defined as an act or acts involving the misuse of a person's position or authority in order to further personal interests or the interests of another person or entity. This includes the abuse of power for personal financial and/or non-financial advantages. Examples include accepting bribes or "kickbacks", disclosing confidential information, or misusing organisational resources. Whilst not comprehensive, corruption includes - but is not limited to - the following actions and activities:
- 4.2. **BRIBERY**: a person, organisation or institution improperly provides goods and/or services in return for some form of improper compensation. Bribery involves at least two parties. Included here are KICKBACKS, a form of bribery where someone involved in a purchasing process receives a "reward" from the supplier for placing an order of goods or services.
- 4.3. **CONFLICT OF INTEREST**: occurs when a co-worker has a personal interest that might compromise their actions. The presence of a conflict of interest is independent from the execution of impropriety.
- 4.4. **EMBEZZLEMENT**: the theft of resources for one's own benefit. May involve only one person.
- 4.5. **EXTORTION**: the act of obtaining something by force, threats or undue demands.
- 4.6. **THEFT**: includes the unauthorised removal or use of organisational property or an employee's property or the property of any other person or entity which is located at the organisation's premises.
- 4.7. **FAVOURITISM**: the unfair favouring of one person or group at the expense of others. Included here is also NEPOTISM, which is defined as favouritism shown to relatives (in particular when conferring offices or privileges).
- 4.8. **FRAUD** is a form of corruption, a criminal deception or the use of false representation to gain an unjust advantage. In the context of ESHEC it is described as the wilful or dishonest misuse of organisational resources, including acts of dishonesty, deception, or omission, the improper use of influence or position and/or the improper use of information. Some examples of fraudulent conduct may include:
- Theft of assets
 - Unauthorised and/or illegal use of organisational resources, information or services for personal purposes
 - Misappropriation of funds
 - Falsification of records for improper advantage
 - Taking unrecorded leave
 - Acts of bribery and embezzlement

- Signature forgery
- Information forgery on documents.

5. Gifts

- 5.1. The acceptance of gifts of a symbolic nature and value, given as a token of gratitude or local custom, are not seen as corruption within the context of these guidelines.
- 5.2. This policy does not prohibit normal and appropriate gifts, hospitality, entertainment and promotional or other similar business expenditure, such as calendars, diaries, pens, meals and invitations to theatre and sporting events (given and received), to and from third parties. However, the key determining factor for appropriateness of the gifts of hospitality and/or its value would be based on facts and circumstances under which such gift or hospitality is provided.
- 5.3. The practice of giving gifts and hospitality is recognized as an established and an important part of doing business. However, it is prohibited when they are used as bribes. Giving gifts and hospitality varies between countries and sectors and what may be normal and acceptable in one country may not be so in another. To avoid committing a bribery offence, the gift or hospitality must be reasonable and justifiable in all circumstances and must be intended to improve the image of ESHEC, better present its services or establish cordial relations.
 - 5.3.1. Examples of Token Gifts: Corporate calendar, pens, mugs, books, T-shirts, wine bottles, bouquet of flowers or pack of sweets or dry fruits.

5.4. What is acceptable?

The giving or receiving of gifts or hospitality is acceptable under this policy if all the following requirements are met:

- It is not made with the intention of influencing a third party to obtain/ retain business advantage or to reward the provision of a business advantage or in explicit exchange of favours/ benefits or for any other corrupt purpose.
- It complies with local laws and customs.
- It does not include cash or equivalent (such as gift certificates or vouchers).
- It is appropriate in the circumstances. (For example it is customary for small gifts to be given at Christmas time.)
- Taking into account the reasons for the gift or hospitality, it is of an appropriate type and value and given at an appropriate time.
- It is given openly, not secretly and in a manner that avoids the appearance of impropriety.

5.5. What is not acceptable?

- It is not acceptable for any employee of ESHEC (or someone on his/ her behalf) to accept an offer or gift of any size from any third party which is in negotiation with, or is submitting a proposal with ESHEC.
- Give or promise to give or offer any payment, gift, hospitality or advantage with the expectation or hope that a business advantage will be given or received or to reward a business advantage already given.
- Give, promise to give or offer any payment, gift, or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure.

- Accept or solicit any payment, advantage, gift or hospitality from a Third Party that you know or suspect is being offered with the expectation that it will obtain a business advantage for them.
- Threaten or retaliate against, another employee who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in any activity that might lead to a breach of this policy.

5.6. Conditions of Gifts:

- Nothing should be accepted, nor should the employee have any outside involvement, that could impair, or give the appearance of impairing, an employee's ability to perform his/ her duties or to exercise business judgement in a fair and unbiased manner.
- In order to avoid the perception of a conflict of interest, all gifts received by all ESHEC employees as a result of their duties must be reported to the receiver's manager.
- If the gifts or hospitality given is more than a token gift or modest meal/ entertainment in the ordinary course of business, you must obtain prior written approval from your vertical head.
- Gifts of a significant monetary amount can only be accepted on behalf of the organisation and never as personal gifts. An indicative figure for a significant amount about Five Hundred Emalangeni (E500). Secretariat will continue to review and benchmark this amount with similar entities locally.

6. Definitions of Stakeholders (take it to the section of definitions)

6.1. BOARD MEMBERS being members of the governing board of ESHEC.

6.2. EMPLOYEE includes all employees of ESHEC.

6.3. MANAGER means any employee assigned to a position in at ESHEC in which they are responsible for the direct supervision of other employees, or for the management of a project.

6.4. CHIEF EXECUTIVE OFFICER means the head of the organization.

7. Consequences of Corruption

Corruption impacts negatively on both the organisation and the individuals involved.

Potential impacts on the organisation are:

- Loss of reputation and goodwill from stakeholders
- Decrease in available funds due to a lack of trust and confidence from donors.
- Increased costs of carrying out activities and doing business.
- Exclusion from various activities, and/or reduced cooperation with key external partners, including governments, institutional funding partners and other agencies.
- Negative impact on the working environment of co-workers within the organisation.
- Reduction in the quality of work provided by suppliers in cases where corruption instead of performance has been the basis for the awarding of a project or contract.

7.1. Potential impacts on the individuals involved:

- Destruction of career and reputation.
- Employment sanction such as loss of job.
- Criminal and/or civil action being taken by the organisation.
- Embarrassment and shame amongst friends and family.
- Reduction in direct services and support to beneficiaries.

8. Responsibilities

In accordance with ESHEC (the organization), the board is responsible for governing the organization and makes key policy and strategy decisions that shape its overall direction and development. It leads the CEO and ensures sound and ethical management of the organization's affairs. By definition, this includes ensuring that the appropriate checks and balances have been put in place to prevent, detect, and deter fraud and corruption.

The CEO, as appointed by the board, leads all functions of ESHEC including management and they (management) in turn, lead their different sectors. Together they make plans and take actions, ensuring the continuous development of the organisation. In cooperation with the board, the CEO sets the direction of the organisation within the organisation's policy and strategy frameworks.

Therefore, it is both the board's and management's responsibility to design and implement systems and processes for the prevention and detection of fraud and corruption. This includes fostering a culture and environment that promotes honesty and ethical behaviour at all times.

8.1. The CEO

In consultation with the board, the CEO has responsibility for the following:

- To provide adequate security for the prevention of fraud and corruption. This includes the provision of secure facilities for the storage of property, and procedures to deter corrupt activity or theft from occurring.
- To provide mechanisms for receiving information from co-workers, stakeholders, and members of the general public, regarding alleged fraud or corrupt activities within the member association.
- To introduce and enforce the whistle blowing procedures to protect informants who provide information about fraud or corruption, against discrimination or victimisation.
- To conduct a proper investigation of all complaints received regarding actual or suspected fraud or corruption. In cases where there is a conflict of interest, or were the allegations may involve the CEO, they should be reported directly to the Board Chair and the respective Finance Committee Chairperson.
- To report all matters related to potential/suspected fraud and corruption to the respective Finance Chairperson and or Board Chairperson.
- To report information in relation to fraud or corruption to the anti-corruption branch of the local police service (or its equivalent), and to fully cooperate with any investigation that may be carried out by them.
- To ensure that Board members, managers and co-workers are aware of their responsibility in relation to fraud and corruption.
- To promote a culture and environment in which fraud and corrupt activity is discouraged and is readily reported, and to promote good practices and prevention mechanisms against fraud and corruption.

8.2. Managers

Managers are responsible for the following:

- Leading by example, in order to create an environment in which fraud and corruption are discouraged, and employees feel comfortable reporting allegations (including suspected cases of fraud and corruption). This environment is fostered by the manager's own attitude towards fraud and corruption, and their ability to encourage accountability and integrity among their supervisors and co-workers. A manager's performance in relation to the control of fraud and corruption will be assessed as a part of their performance evaluation.
- The conduct of the co-workers they supervise and protection of property within their control.
- Reporting any cases of suspected fraud or corruption to the National Director. Such reports should be made regardless of whether the activity is occurring within or outside their area of responsibility.
- Ensuring that new employees are aware of their responsibilities in relation to fraud and corruption and follow the code of conduct.

8.3. Employees' Responsibilities

All employees are responsible for the following:

- Conducting their functions and duties with honesty and integrity. Situations where such principles may be breached, or could be seen to be breached, should be referred immediately to the employee's supervisor for resolution. This includes any potential conflict of interest or perception of a conflict of interest.
- Adhering to these guidelines and other ESHEC procedures that are put in place to deter and manage fraud or corruption. A breach of the guideline could result in ESHEC taking disciplinary action against the employee.
- Exercising due care for the resources that are under their control, and reporting to their supervisor situations they are aware of, in which property is at risk of theft.
- Immediately advising their supervisor of any fraudulent or corrupt conduct they have become aware of.
Reporting other co-workers or third parties involved in fraud or corruption in accordance with these guidelines.
- Reporting any potential conflicts of interest they may be aware of to the direct supervisor, regardless of whether there has been an act of impropriety or not. The supervisor can then make a decision in consultation with the CEO, on how to address the situation. The same procedure applies to potential cases of nepotism. If a co-worker transparently reports a relationship (falling under the definition) before a decision is made, then any accusations of inappropriate behaviour can be avoided.

9. Reporting and Investigation

All board members, managers and employees have a clear responsibility to react as soon as corruption is reasonably suspected. A suspicious course of events is reason enough to react. This means if one believes, in good faith, that uncovered or observed evidence indicates a case of fraud or corruption. In all actions taken, appropriate recognition must be given to national (anti-fraud and anti-corruption) laws and regulations. Note the following guidelines:

- 9.1. Managers or employees who are aware of fraudulent or corrupt conduct, or who suspect fraudulent or corrupt conduct has taken place, are responsible to report the incident to either their supervisor, the CEO
- 9.2. If deemed appropriate, the incident can be reported directly to a board member.
- 9.3. Reports of corrupt activity received are to be forwarded to the CEO. In the event of allegations that are supported by factual indications, the CEO should immediately advise the Finance Board Committee in writing within one week, who will in turn report the matter to the Board.
- 9.4. All allegations of fraudulent or corrupt acts received (whether anonymous or not) will be investigated by the CEO within one month of being made aware of them. Where appropriate or necessary the CEO will seek assistance of a Human Resource or legal consultant.
- 9.5. Individuals involved in making the original allegation should not be included as part of the investigation team. The fact that an allegation has been made anonymously shall not influence the decision to investigate. The prime criterion is whether the allegation contains sufficient information to justify an investigation being carried out. In this context, an assessment by a competent person constitutes part of the investigation. All decisions made, including a decision not to take an investigation further, must be clearly documented.
- 9.6. Investigations will be conducted in such a way as to protect the identity of the person/s making the allegation.
- 9.7. The investigative processes followed and the findings made will be clearly documented, with a report being forwarded to the CEO.
- 9.8. Dependent on the findings of the investigation, a decision will be made by the CEO and the respective Finance Committee to what further steps may be required. This may include an external investigation and/or audit. In the case that irregularities are identified, the matter should also be reported to the Board Chair.
- 9.9. Any employee found to be involved in fraudulent and/or corrupt activities, or who has been negligent in the exercise of their supervisory duties will be subject to disciplinary action, including the potential termination of their employment. If warranted, ESHEC will also initiate civil and/or criminal proceedings against those individuals involved.
- 9.10. Any disciplinary action taken against an employee will be done so in accordance with the ESHEC' conditions of service and/or code of conduct and HR Policy, and should be in accordance with all relevant local employment and labour laws.
- 9.11. Any employee who is aware of potential corruption within the organisation, but does not report it in accordance with this guideline, will be viewed as being in breach of their obligations, and subject to disciplinary action.
- 9.12. Any employee who makes a disclosure knowing it to be false, or being reckless about whether it is false, may leave themselves open to disciplinary action under most national laws.

9.13. The CEO will conduct a review of the area in which the fraud or corruption is alleged to have occurred to determine the cause of any breakdown in controls, and will effect changes to systems and procedures if necessary.

9.14. It is the responsibility of the relevant manager to implement any recommendations made by the CEO.

10. Disclosures

It is encouraged that all appropriate disclosures of a serious nature that involve fraud or corruption will be reported to the anti-corruption branch of the local police service (or equivalent) by the CEO. If possible, the consultation of a legal advisor is recommended.

11. Frequency of Review and Update

This is the measure of time during which the policy must be reviewed and updated. The policy will be reviewed in the first year of implementation and then within the three years of its life cycle unless changes in laws or ESHEC business requires a different review/revision schedule.