



**arts, culture,  
sports & recreation**

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North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

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**POLICY TITLE : INTERNAL PRECAUTIONARY SUSPENSION POLICY**

**POLICY NUMBER : 03/2018 (4<sup>th</sup> VERSION)**

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## 1. DEFINITIONS

- LRA,1995 means Labour Relations Act, 66 Of 1995
- EEA,1998 means Employment Equity Act, 55 of 1998
- BCEA,1997 means Basic Conditions of Employment Act,75 of 1997
- SMS handbook, means Senior Management Service Handbook 2003 edition
- PSCBC, means Public Service Coordinating Bargaining Council

## 2. PREAMBLE

The Department of Arts, Culture, Sports and Recreation is committed to ensuring that labour relations management and practices are based on objectivity, fairness and Transparency.

The Department therefore recognizes the need to develop a policy framework on issues relating to precautionary suspension in an endeavor to promote fair and consistent labour relations within the Department.

## 3. PURPOSE

The purpose of this policy is to :-

- Provide guidelines on precautionary suspension.
- Provide the managers and employees with a precautionary suspension tool that will assist fair employment relationship.
- Promote a consistent approach thereby creating procedural certainty in the broader context as far as issues relating to precautionary suspension are concerned.
- Promote impartial and equitable precautionary suspension administration.

## 4. SCOPE OF APPLICATION

The policy applies only to precautionary suspension and specifically excludes Suspension as a sanction.



The policy applies to all employees in the Department including Senior Management Service.

## **5. LEGISLATIVE FRAMEWORK**

The following Labour Legislations provide for a framework and authorization of this policy.

5.1.1 The Constitution of South Africa Act no. 108 of 1996.

5.1.2 The Labour Relations Act no. 66 of 1995 as amended.

5.1.3 Employment Equity Act no. 55 of 1998 as amended

5.1.4 Basic Conditions of Employment Act no. 75 of 1997 as amended

5.1.5 The PSCBC Resolution No 1 of 2003. The Disciplinary Code and Procedure in the Public Service.

5.1.6 The Department of Public Service and Administration guide on Discipline and Incapacity.

5.1.7 Resolution no 14 of 2002 (as amended): Grievance Rules in the Public Service.

5.1.8 Chapter 7 of SMS handbook on Misconduct and Incapacity

## **6. ROLE PLAYERS AND THEIR RESPONSIBILITIES**

### **6.1 Managers**

6.1.1 The immediate manager of the employee against whom precautionary suspension is to be instituted shall initiate precautionary suspension if the alleged misconduct is serious and warrants precautionary suspension.

6.1.2 The immediate manager shall also inform and consult the registered recognized Trade Union if precautionary suspension in respect of a Shop Steward is contemplated.



## **6.2 Labour Relations Unit or Human Capital Management Directorate**

### **6.2.1 Human Capital Management Directorate And/or Labour Relations officers shall be responsible to:-**

6.2.1.1 Manage precautionary suspensions by ensuring consistent procedural and substantive fairness in the employment relationship.

6.2.1.2 Monitor proper implementation of this policy within the Department.

6.2.1.3 Ensure that managers and supervisors are continuously trained on precautionary suspension policy

## **6.3 Head of Department**

6.3.1 The power to suspend an employee shall rest upon the Head of the Department or his/her delegate.

6.3.2 The Head of the Department may, on good cause shown, **uplift** the employee who is on precautionary suspension.

## **7. FORMS OF SUSPENSION**

### **7.1 Suspension with full emoluments**

In this form of suspension an employee is not allowed to take up his/her normal duties until the suspension is lifted, but must be available at a location acceptable and accessible to the employer for the purpose of completing the investigation.

### **7.2 Transfer or reassignment of duties**

Here the employee is temporarily transferred to another work location, as a precautionary measure. This may also entail that the employee is re-assigned to other duties. The transfer will be on the same or similar level. Transfer or reassignment of duties should be given priority over suspension in order to curb expenditure.



## **8. GROUNDS FOR PRECAUTIONARY SUSPENSION**

### **8.1 Essential elements to be considered when considering Precautionary Suspension/transfer**

#### **8.1.1 Reasonable suspicion of misconduct**

Transfer/suspension may be appropriate once an initial investigation has established at least a reasonable basis for suspicion that alleged serious misconduct may have occurred.

#### **8.1.2 Reasonable belief that the employee may interfere**

If there is a reasonable basis for believing that the presence of the employee at the workplace might interfere with the investigation, the witnesses and evidence, the transfer/suspension of the employee should be a last resort to ensure the continued progress of the disciplinary procedure.

##### **8.1.2.1 Transfer/ Suspension should only be considered a precautionary measure, where the continued presence in the work area is inappropriate due to one or more of the following reasons:**

8.1.2.2 The effective operation of the Department

8.1.2.3 The interest of the public

8.1.2.4 The interest of the employee

8.1.2.5 The interest of his/her fellow employees

8.1.2.6 A reasonable and objective apprehension that there is a real possibility of the misconduct being repeated

## **9 PRECAUTIONARY SUSPENSION PROCEDURE**

9.1 In the event of serious misconduct that justifies precautionary suspension, the immediate manager shall initiate the suspension procedure.

9.1.1 As the first step, the manager should apply his/her mind as to whether there are grounds for suspending an employee (refer to paragraph 7 above), based on the seriousness of the transgression, and whether the employee should be allowed to continue his/her substantive duties.



- 9.1.2 If there are grounds for suspension, the manager should, as the next step, based on the unique circumstances around each case, consider the forms of suspensions referred to in paragraph 7 above.
  - 9.1.3 Once a final decision has been made, the decision should be conveyed to the employee in writing.
  - 9.1.4 The employer must ensure that a suspended employee leaves the premises of the department.
- 9.2 When implementing the precautionary suspension, the following employee rights must be respected:
- 9.2.1 The right to be given reasons in writing for the precautionary suspension.
  - 9.2.2 The right to lodge a formal grievance in terms of the applicable grievance rules even if the grievance is not related to precautionary suspension or if the suspension is invoked because the employee has made a protected disclosure as defined by the Promotion of Protected Disclosure Act Number No 26 of 2000.
- 9.3 The precautionary suspension may only be invoked if any of the following elements are prevalent:
- 9.3.1 If the employee is alleged to have committed a serious offence.
  - 9.3.2 If the presence of the employee in the workplace might jeopardize any investigation into the alleged misconduct.
  - 9.3.3 If the presence of the employee might endanger the well-being or safety of any person or state.
  - 9.3.4 If the employee is likely to repeat the same offence.
- 9.4 If the employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month or 60 days, depending on the complexity of the case and the length of investigation.





- 9.5 The chairperson of the disciplinary hearing must then decide on any further postponement.
- 9.6 The employee who has been precautionary suspended may lodge a grievance and declare a dispute if he has a reason to believe that the suspension constitutes an unfair labour practice as defined by the Labour Relations Act, 1995.
- 9.7 The precautionary suspended employee must first exhaust the internal grievance procedure before referring the dispute to the relevant sectoral bargaining council.
- 9.8 The suspension should be lifted when the employer no longer believes that the transfer/suspension is in the public interest or in the employer's interest, or when the reasons for the suspension have ceased to exist.
- 9.9 Where the investigation into alleged misconduct finds no grounds for a charge of misconduct, it is desirable to give written notice of termination of suspension, effective from a specified date, which may indicate that no grounds for a charge of misconduct were found and that no further steps will be proceeded with
- 9.10 Where the transfer/suspension has been properly lifted before the finalization of the disciplinary proceedings, should be continued with and finalized notwithstanding the decision to lift the transfer/suspension

## **10 LIMITATIONS AND PRINCIPLES OF THE POLICY**

- 10.1 The employee on precautionary suspension and all role players shall observe the following limitations and principles:
- 10.1.1 The precautionarily transferred/suspended employee shall not render any other services within or outside the public service.
- 10.1.2 The employee suspended should submit his/her contact details to the employer during the period of his/her suspension.
- 10.1.3 The suspension shall remain valid unless the Head of Department or Delegated Authority decides otherwise.





10.1.4 The suspension shall be fair and consistent to all employees in the Department.

10.1.5 The suspended employee shall not travel outside the borders of the Republic of South Africa without informing the Head of Department.

10.1.6 The suspended employee should not be prejudiced on matters relating to Performance Management and Development System and other related benefits.

10.1.7 The suspended employee should not be prejudiced or be discriminated against on the basis of their status when applying for a job within the Public Service.

10.1.8 Either party should not construe precautionary suspension of employees as a sanction.

10.1.9 Suspended employees shall be treated with dignity as they remain innocent until proven guilty.

10.1.10 The employee who is suspended must be informed of the employer's decision to suspend him or her as soon as possible and should be the first recipient of the letter of suspension.

10.1.11 The suspended employee shall not be allowed to enter any premises of the Department or partake in any activity connected to his/her work without prior approval. The employee will normally be granted access to the site in order to meet with his/her representative and the manager should be contacted about such an arrangement in advance.

## **11. MONITORING, EVALUATION AND IMPLEMENTATION**

11.1 This policy shall be communicated to all employees by Labour Relations Officials /Human Capital Management components within the Department through briefing sessions, workshops or intranet.



- 11.2 The effectiveness of this policy shall be monitored and evaluated continuously by the Human Capital Management/Labour Relations Office.
- 11.3 Implementation of this policy shall rest upon Labour Relations office.
- 11.4 This policy shall be reviewed as and when a need arises to reflect the current Human Resource trends or labour legislation by the Labour Relations Office/Human Capital Management.
- 11.5 This policy shall be consulted to all stakeholders within the Department.

## **12. DISPUTE RESOLUTION**

Any dispute that arises on the application or interpretation of this policy shall be handled in terms of the Public Service Dispute Resolution Process.

## **13. POLICY ANNEXURES**

- 13.1 Annexure A is an example of notification of precautionary suspension that would be completed by the manager when the process is undertaken.
- 13.2 Annexure B is an example of notification of a transfer from one unit to the other as a precautionary measure.

## **14. POLICY REVIEW**

This policy will be reviewed on a two-year basis or /and when necessary.

## **15. DECLARATION**

The Department through the office of the Head of Department hereby declares that this policy is adopted and will ensure that it is implemented within the Department as of the ..... 9<sup>th</sup> ..... Day of ..... December ..... 20..... 25.....

  
**MR. I. S. MOGOROSI**  
**HEAD OF DEPARTMENT**



## ANNEXURE A

1. A meeting of \_\_\_\_\_ between yourself and your manager -----  
----- refers.
2. I am of the opinion that your continued presence in the workplace might be prejudicial to the investigation into the alleged misconduct/might endanger the well-being or safety of staff of this department/might endanger the safety of the property of the state. You are therefore suspended, with full emoluments, with immediate effect pending the outcome of the investigation
3. To avoid possible interference with the investigator and potential witnesses, you are not allowed to enter the premises of the department or offices thereof. You are also directed to hand in the following items to \_\_\_\_\_ before you leave the premises today:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Please note that this suspension does not in any way constitute a judgment on my part. It is merely a precautionary suspension in terms of the disciplinary code and procedure for the public service.  
\_\_\_\_\_

**SIGNATURE OF HEAD OF DEPARTMENT/DELEGATE**

DATE:

\_\_\_\_\_

**SIGNATURE OF EMPLOYEE**

DATE:

\_\_\_\_\_

**SIGNATURE OF WITNESS (IF APPLICABLE)**

DATE:



## ANNEXURE B

NAME OF EMPLOYEE \_\_\_\_\_

PERSONAL DETAILS OF EMPLOYEE \_\_\_\_\_

1. A meeting of \_\_\_\_\_ between yourself and your manager \_\_\_\_\_, during which you were given the opportunity to make representations as to why you should not be transferred from \_\_\_\_\_ to \_\_\_\_\_, refers.
2. I am of the opinion that your continued presence in your current unit/workplace might be prejudicial to the investigation into the alleged misconduct.
3. You are therefore transferred from \_\_\_\_\_ to \_\_\_\_\_, with full emoluments, with immediate effect pending the outcome of the investigation.
4. Please note that this transfer does not in any way constitute a judgment on my part. It is merely a precautionary transfer in terms of the disciplinary code and procedure for the public service.

\_\_\_\_\_  
**SIGNATURE OF HEAD OF DEPARTMENT/DELEGATE**

DATE:

\_\_\_\_\_

**SIGNATURE OF EMPLOYEE**

DATE:

\_\_\_\_\_

**SIGNATURE OF WITNESS**

DATE:

