



Banking Sector

Education and Training Authority

**CODE OF CONDUCT
AND ETHICS**

September 2009



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1 PURPOSE OF THIS CODE

- 1.1 The Banking Sector Education and Training Authority (BANKSETA), its Council and employees are committed to conducting themselves in accordance with the highest standards of integrity and ethics and in compliance with the Skills Development Act, 1998 (Act No. 97 of 1998) and other State Laws related to objectivity, independence and conflict of interest.
- 1.2 The Code should act as a guideline to Council Members and employees as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationships with others. Compliance with the Code of Conduct can be expected to enhance professionalism and help to ensure service confidence in the sector.
- 1.3 The primary purpose of the Code of Conduct is a positive one, viz. to promote exemplary conduct. Notwithstanding this, a Council Member or an employee shall be guilty of misconduct and may be dealt with in accordance with this Code of Conduct agreement if s/he contravenes any provision of the Code of Conduct or fails to comply with any provision thereof.

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2 STATUS OF THE CODE

- 2.1 Except where otherwise stated, this Code of Conduct is a rule for all Council Members and employees of the BANKSETA, whether on full-time, part-time or contractual basis.
- 2.2 The spirit of this Code of Conduct is at least as important as all the relevant legislation and a breach of, or failure to observe any of the provisions of the Code may be considered as improper conduct. Such behaviour will, for employees, be dealt with in terms of the BANKSETA's Disciplinary Code and Grievance Policy and Procedures. For Council Members a special disciplinary sub-committee will be convened.

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3 GENERAL

- 3.1 The work of a public entity, such as the BANKSETA must not only be fair and equitable, but must be seen to be as such.

- 3.2 The BANKSETA therefore requires its Council Members and employees to display loyalty to the country's Constitution, and all relevant legislation above personal gains.

**4****DEFINITIONS**

- 4.1 “Act” means the Skills Development Act, 1998 (Act No. 97 of 1998);
- 4.2 “Authority” – means the Banking Sector Education and Training Authority established in terms of section 9 of the Act and read with Government Gazette No 27445 of March 2005;
- 4.3 “Basic Conditions of Employment Act” means the Basic Conditions of Employment Act, 1995 (Act No. 55 of 1995);
- 4.4 “Constitution” means the Constitution of the BANKSETA;
- 4.5 “Council” shall mean the members of the Authority as described in clause 9 of the Constitution.
- 4.6 “Council Member” shall mean a member of the Council as described in clause 9 of the Constitution;
- 4.7 “SETA” means a Sector Education and Training Authority established in terms of section 9(1) of the Act
- 4.8 “Employee” includes an employee as defined in the fourth schedule of the Income tax Act and means:
- 4.8.1 any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; or
 - 4.8.2 any other person who in a manner assists in carrying on or conducting the business of an employer;
- 4.9 “Indirect interest” – refers to interest held by a spouse, dependants or immediate family members;
- 4.10 “Labour Relations Act means the Labour Relations Act 1995 (Act No. 55 of 1995).



5 THE BANKSETA's RESPONSIBILITY AS EMPLOYER

5.1 Availability of Code of Conduct and Ethics and Other Conduct Related Regulations

5.1.1 The Authority shall furnish each Council Member or new employee, against signature, on his /her appointment or employment, with copies of the BANKSETA's Code of Conduct and Ethics, the Financial Policy and Procedures Manual and the Constitution.

5.2 Obligations

5.2.1 The Authority, as an employer, shall satisfy, in good faith, all its obligations (especially those such as the payment of, Employee's tax, UIF and any other local and provincial levies).

5.3 Protection of Witnesses

5.3.1 The Authority should, whenever necessary or on request, protect or refuse to disclose the identity of the individual(s) reporting the breach of this Code of Conduct or any other rule or regulation of the Authority.



6 COUNCIL MEMBERS' RESPONSIBILITY

6.1 Duty Against Bias

The Council, as a decision-making body, has a duty to act fairly to all persons or stakeholders who have an interest in all functions relevant to the Authority.

6.2 Integrity of the Decision-making Process

In order to protect the integrity, impartiality and independence of the Authority, all decisions made by the Council or its members should stand up to the closest public scrutiny.

6.3 Making Fair and Equitable Decisions

6.3.1 Acting According to the Law

Council Members need to know and understand any law pertaining to their function as a Sector Education and Training Authority so that they can make sound decisions knowing that they:

- are authorised by law to do so; and
- have complied with procedures required by law.

6.3.2 Council Members must be consistent in their treatment of stakeholders and should not act in a way which is unreasonable or discriminatory. This means that decisions should be made according to natural justice (procedural fairness).

6.3.3 The rules of natural justice require Council Members to:

- Inform people against whom an adverse decision may be made, as fully as possible of any allegations made against them, which could account for the adverse decision.
- Provide a stakeholder or individual with the opportunity to put their case, whether at an oral hearing or otherwise, wherever possible.



- Hear all parties and consider arguments where a decision involves a choice between competing applicants.
- Ensure that no Council Member judges a case in which s/he has, or appears to have, any interest.
- Act fairly and without bias in making decisions.
- Deal with similar cases in the same way.

6.4 Properly Exercising Powers

6.4.1 Council Members make decisions using delegated powers provided by the Act. Any discretionary powers provided under this Act, must be used for the purpose for which they were intended and to make decisions on the basis of merit.

6.4.2 In particular, Council Members should not:

- take account of any irrelevant consideration in exercising power
- fail to take account of any relevant consideration in exercising power
- exercise power in bad faith
- exercise power in a way that constitutes or could be seen to constitute an abuse of power
- exercise power at the direction of another person
- exercise power in accordance with any rule or policy without regard to the merits of the particular case
- exercise power in a way that would be regarded as unreasonable by most people
- exercise a rigid interpretation of their mandate
- delegate any power unless sanctioned by law
- exercise powers outside the ambit of their jurisdiction.

6.5 Explaining the Reasons for Decisions

6.5.1 The general responsibility to be fair and equitable in making decisions is complemented by a specific duty which requires Council Members to be reasonable and to consider only the merits of a particular case or application in making decisions.

6.5.2 This means that:

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- the decision must be justifiable in relation to the reasons
- a written record of all decisions should be kept
- the facts and evidence in relation to decisions made should be systematically recorded
- the facts and evidence should be objectively evaluated or assessed and should lead reasonably to the decision.

6.6 Conflict of Interest and Enforcement of the Act

6.6.1 Council Members may not have any direct or indirect financial interest in any provision of any service that is regulated by the BANKSETA. Also, Council Members may not participate personally and substantially in an official capacity in any matter, which to his/her knowledge would result in some financial gain whether directly or indirectly.

6.6.2 If a Council Member has any doubts about the existence of a conflict of interest, the matter should be resolved at a meeting of the full Council.

Note: It is necessary that the extent of the possible gain or loss to the Council Member be known.

6.6.3 If at any stage during the course of any case before the Council, it appears that any Council Member has or may have an interest, which may cause such conflict of interest to arise on his/her part:

- such Council Member shall forthwith and fully disclose the nature of his/her interest and leave the meeting so as to enable the remaining Council Members to discuss the matter
- Such disclosure and the decision taken by the remaining Council Members regarding such determination shall be recorded in the minutes of the meeting.



6.6.4 If any Council Member fails to disclose any interest or contravenes the Act as required by Section 32 and 33 of the Act or, subject to the provisions of that section, and if s/he is present at a venue where a meeting of the Council is held or in any manner whatsoever participates in the proceedings of the Council, the relevant proceedings of the Council shall be null and void.



7 COUNCIL MEMBERS AND EMPLOYEES RESPONSIBILITY AND CONDUCT

7.1 Acceptance of Gifts

7.1.1 The Basic Rule

Council Members or employees of the Authority must not accept or solicit any gift, hospitality or other benefit that could influence, be seen to influence his/her judgement, integrity and independence.

7.1.2 Usually this will pertain if the gift/benefit comes from any person or organisation that:

- seeks official action by the Authority
- conducts business regulated by the Authority
- has an interest that may be substantially influenced by the performance or non-performance of the Council Members or the employees
- gives the gift/benefit because of the Council Member's or employee's position.

7.1.3 A Council Member or employee may not accept gifts from the same source or different sources on a basis so frequent that a reasonable person could be led to believe that the Council Member or the employee is using his/her position for private gain.

7.1.4 Exception to the Basic Rule

Acceptance of gifts, hospitality or other benefits is not prohibited if they are incidental to a Council Member or employee's official duties and:

- are a normal expression of courtesy or within the normal standards of hospitality
- are not such as to cause suspicion of the Council Member or employee's independence and integrity
- would not compromise the independence and integrity of the Authority



7.1.5 Where there is doubt as to the appropriateness of a gift, hospitality or other benefit, the Council Member or employee concerned should discuss the matter with the full Council in consultation with the Audit Committee.

7.2 Gifts Register

7.2.1 Gifts in excess of the value of R100 must be declared and registered in the Gifts Register, to be kept in the Office of the CEO.

7.3 Confidentiality of Employer Information

A Council Member or employee should –

7.3.1 honour the confidentiality of matters, documents and discussions, classified by any stakeholder as being confidential or secret

7.3.2 not use or disclose any official information for personal gain or the gain of a third party

7.3.3 not use or allow to be used privileged BANKSETA information to further their own private interests or the private interests of others. (If any Council Member or employee has doubts about the privileged status of any information, this should be discussed at a meeting of a full Council).

7.4 Outside Employment

An employee should not –

7.4.1 undertake remunerative work outside his/her official duties; or use office equipment for such work, without the approval of the Chairperson of the Council. This should also be done with the knowledge of the CEO;

7.4.2 use office equipment for any activity outside the Authority, whether or not for compensation.

7.5 Financial Interest

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A Council Member or employee should not –

- 7.5.1 engage in any transaction that is in conflict with or infringes on the execution of his/her duties
- 7.5.2 involve him/herself with an official action or decision-making process which may result in improper personal gain. This should be properly declared by the employee
- 7.5.3 use his/her official position to obtain private gifts or benefits for him/herself or a third party
- 7.5.4 accept gifts of benefits when offered, that may be construed as bribes
- 7.5.5 have direct or indirect financial interest, nor should s/he perform any management to any of the Authority's stakeholders or its subsidiaries
- 7.5.6 be dishonest in dealing with the funds of the Authority
- 7.5.7 be involved in relationships or interests, whether direct or indirect, which could adversely influence, impair or threaten his/her capacity to act with integrity and objectivity
- 7.5.8 use the Authority's property and other resources ineffectively or for personal gain
- 7.5.9 withhold the submission of a "Conflict of Interest" questionnaire, when required to do so
- 7.5.10 use Authority funding to pay for any accommodation or travel of anyone not directly involved in an authorised Authority purpose, including a spouse or an immediate family member.

7.6 Personal Conduct

A Council Member or employee should:

- 7.6.1 dress and behave (during official duties) in a manner that enhances the reputation of the Authority
- 7.6.2 act responsibly (during working hours) as far as the use of alcoholic beverages or any other substance with intoxicating effect is concerned
- 7.6.3 be honest, truthful and conscientious in his/her approach to and in the performance of his/her duties
- 7.6.4 conduct him/herself with courtesy and consideration towards all with whom s/he comes into contact during his/her official duties.

7.7 Relations with other Legislature and Sector Role Players

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A Council Member or employee should-

- 7.7.1 put the sector's interests first in the execution of his/her duties
- 7.7.2 strive to be familiar with and abide by all statutory and other instructions applicable to his/her conduct and duties
- 7.7.3 co-operate with public institutions established under legislation and the Constitution in promoting the sector's interests
- 7.7.4 serve the sector in an unbiased and impartial manner in order to create confidence in the work of the Authority
- 7.7.5 be committed to the development and upliftment of all South Africans
- 7.7.6 not discriminate unfairly against any member in the sector on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, culture, belief or language
- 7.7.7 not abuse his/her position in the Authority to promote or prejudice the interest of any political party or interest group
- 7.7.8 respect and protect every person's dignity and his/her rights as contained in the Constitution and
- 7.7.9 recognise the sector's rights of access to information, excluding information that is specifically protected and designated as such.

7.8 Relationship with a Council Member or Employee

A Council Member or employee must-

- 7.8.1 co-operate fully with other employees to meet the goals of the Authority
- 7.8.2 conduct him/herself in a manner which will promote co-operation and good relations between the employees of the Authority
- 7.8.3 assist his/her colleagues in complying with this code of conduct and co-operate with appropriate disciplinary authorities in applying this code
- 7.8.4 not irresponsibly criticise the professional work or attainments of other employees



- 7.8.5 execute all reasonable instructions by persons in their official capacity provided that these are not contrary to the provisions of the Constitution, this Code and/or any other law
- 7.8.6 refrain from favouring relatives and friends in work-related activities
- 7.8.7 never abuse his/her authority to influence another employee, nor allow him/herself to be influenced to abuse his/her authority
- 7.8.8 use the appropriate channels to air his/her grievances or to direct representations
- 7.8.9 commit to the optimum development, motivation and utilisation of his/her staff and the promotion of sound labour and interpersonal relations
- 7.8.10 deal fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, culture, belief or language and
- 7.8.11 refrain from party political and religious activities in the workplace.

7.9 Performance of Duties

A Council Member or employee must-

- 7.9.1 strive to achieve the objectives of the Authority cost-effectively and in the sector's interests
- 7.9.2 be creative in thought and in the execution of his/her duties, seeking innovative ways to solve problems, and enhancing effectiveness and efficiency within the context of the law
- 7.9.3 be punctual in the execution of his/her duties
- 7.9.4 execute his/her duties in a professional and competent manner
- 7.9.5 accept responsibility to avail him/herself of ongoing training and self development throughout his/her career with the Authority
- 7.9.6 promote sound, efficient, effective, transparent and accountable administration
- 7.9.7 in the course of his/her official duties, report to the appropriate authorities, any corruption, fraud, nepotism, misadministration or any other act, which constitutes an offence
- 7.9.8 not permit others to carry out on his/her behalf either with or without remuneration, acts which if carried out by him/herself, would constitute a contravention of this code



7.9.9 make no unauthorised commitments or promises of any kind purporting to bind the Authority.



8 ENFORCEMENT OF THE CODE OF CONDUCT AND ETHICS

- 8.1 This code applies to the Council and all employees of the Authority and is supplementary to the Skills Development Act, 1998 (Act No. 97 of 1998) the Labour Relations Act 1995 (Act No. 55 of 1995), the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and all other applicable legislation. All persons subject to this Code of Conduct are expected to comply fully and promptly with it.
- 8.2 The Council, as the supreme body of the Authority must approve the Code of Conduct and Ethics. Once approved, it is enforceable on all Council Members and employees with immediate effect.



9 REMEDIAL ACTION

9.1 Employees

9.1.1 Any violation of any part of this Code of Conduct may be cause for appropriate disciplinary action.

9.1.2 The employee concerned shall be provided with the opportunity to explain the alleged misconduct.

9.1.3 After consideration of the employee's explanation, the CEO will decide what remedial action is required. S/he shall then take appropriate remedial action.

9.1.4 The CEO will designate an Internal Auditor or Council Member who will promptly investigate all incidents or situations in which it appears that employee(s) may have engaged in improper conduct. The Internal Auditor or Council Member will conduct such investigations in all cases where complaints are brought to the attention of the CEO or Chairperson including adverse comments appearing in publications, complaints from members of the sector and formal complaints referred to the CEO.

9.1.5 Remedial action may include, but is not limited to:

- 9.1.5.1 Changes in assigned duties
- 9.1.5.2 Disclosure of his/her conflicting interest
- 9.1.5.3 Written warning
- 9.1.5.4 Disqualification for a particular assignment
- 9.1.5.5 Suspension, and/or
- 9.1.5.6 Dismissal.

9.1.6 Remedial action, whether disciplinary or otherwise, shall be effected in accordance with all the applicable laws of the country e.g. the Labour Relations Act, 1995(Act No. 55 of 1995) and the Basic Conditions of Employment Act, 1997 (Act No.75 of 1997).

9.1.7 Other issues of conflict that may arise must be dealt with in accordance with Section 24, Dispute Resolution in the BANKSETA's Constitution.

9.2 Council Members



- 9.2.1 Any violation of any part of this Code of Conduct may be cause for appropriate disciplinary action.
- 9.2.2 The Council Member concerned shall be provided with the opportunity to explain the alleged misconduct.
- 9.2.3 After consideration of the Council Member's explanation, the Council Chairperson will decide what remedial action is required. S/he shall then take appropriate remedial action.
- 9.2.4 The Council Chairperson will designate an Internal Auditor or Council sub-committee to promptly investigate all incidents or situations in which it appears that Council Member(s) may have engaged in improper conduct. The Internal Auditor or Council sub-committee will conduct such investigations in all cases where complaints are brought to the attention of the CEO or Chairperson including adverse comments appearing in publications, complaints from members of the sector and formal complaints referred to the Chairperson or CEO.
- 9.2.5 Remedial action may include, but is not limited to:
- 9.2.5.1 Changes in assigned duties
 - 9.2.5.2 Disclosure of his/her conflicting interest
 - 9.1.5.3 Written warning
 - 9.1.5.4 Disqualification for a particular assignment
 - 9.1.5.5 Suspension, and/or
 - 9.1.5.6 Dismissal.
- 9.2.6 Remedial action, whether disciplinary or otherwise, shall be effected in accordance with all the applicable laws of the country e.g. the Labour Relations Act, 1995 (Act No. 55 of 1995) and the Basic Conditions of Employment Act, 1997 (Act 75 of 1997).
- 9.2.7 Other issues of conflict that may arise must be dealt with in accordance with Section 24, Dispute Resolution in the BANKSETA's Constitution.



10 REFERENCE SOURCES

In drawing up this Code of Conduct, the following documents were consulted:

- 10.1 CG Guidelines on Official Conduct of Commonwealth Public Servants Canberra 1995.
- 10.2 Report of the Rules Committee of the National Assembly and Senate on CODE OF CONDUCT IN REGARD TO FINANCIAL INTEREST. (Printed by order of the Speaker of the National Assembly and the President of the Senate) 1996.
- 10.3 Code of Personal Conduct ITC, May 1991.
- 10.4 US Ethics for Executive Branch Employees, 1992.
- 10.5 Ethical Code of Conduct, CRTC.
- 10.6 FCC Handbook on Ethical Conduct.
- 10.7 Public Accountants and Auditors Council-Code of Professional Conduct, 1999.
- 10.8 Government Gazette No. 18065 Chapter M – Code of Conduct for the Public Service, 1997.
- 10.9 BANKSETA Constitution, September 2009.