

Gauteng Community Education and Training College
 Head Office: 100 Northern Parkway Ormonde 2091, P.O. Box 4137, South Gate, 2082
 Tel: 011 494 9040/1
 Email: Wee.C@dhet.gov.za

Debt Management Policy for Gauteng CET College

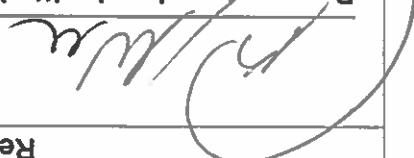

GAUTENG
 Community Education and Training
 CET COLLEGE



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Prepared and submitted by the Accounting Officer to Council		Adopted by Council (Signed by Chairperson obo Council)		Date: 22/5/17	
 Date: 22/5/2017		 Date: 22/5/17		Implementation Date: 22/5/17	

Amendment No.	Amendment description	Originator	Approved By	Date

AMENDMENT AND APPROVAL RECORD

- 3.6 **"Bad Debt Provision"** – is an amount created as a credit balance in the College's balance sheet equal to the sum of all debit balances, the recovery and has not been paid, despite repeated efforts to collect the debt, and is considered to be irrecoverable.
- 3.5 **"Bad Debt"** – is an outstanding amount of money that is owed to the College Financial post reporting to the Deputy Principal: Finance.
- 3.4 **"Assistant Director – Finance or Finance Manager"** – is the most senior Financial post reporting to the Deputy Principal: Finance.
- 3.3 **"ADRA"** – Association of Debt Recovery Agents.
- 3.2 **"Act"** – is the CET Colleges Act No.16 of 2006, as amended.
- 3.1 **"Accounting Officer"** – is the College Principal.

For the purpose of this policy, unless the context indicates otherwise, the following definitions, acronyms and abbreviations are set out for the terms indicated:

3. Definitions, acronyms and abbreviations

This policy enables management to deal effectively with debt management and the associated risk.

The purpose of this policy is to provide a framework that enables the College to manage its exposure to debt and possible subsequent financial loss from non-performing debtors, including student, staff and sundry debtors.

2. Purpose

The following College Codes and DHET recommended policies have a bearing on this policy:

a) Payment of Tuition Fees Policy for Public CET Colleges

b) Public Finance Management Act, 1999 (Act No 1 of 1999, as amended by Act 29 of 1999;

c) National Treasury Regulations of March 2005;

d) National Treasury Regulations Gazetted 30 November 2012;

e) Prescription Act, No. 68 of 1969;

f) National Credit Act No. 34 of 2005; and

g) Division of Revenue Act, 2013.

Key principles contained in the following legislation and best practices were applied to develop this policy:

1. Legislative framework and best practice regulations

- of which is considered to be doubtful; whilst efforts continue to seek payment from the debtor. Normally provided in terms of the College accounting policy.
- 3.7 **"Bad Debt Write off"** – is an amount that is deemed irrecoverable and is written off the College's debtors' account and charged directly to the Statement of Financial Performance.
- 3.8 **"Credit Agreement"** – An agreement will be a credit agreement for the purposes of the National Credit Act if there is a fee, charge or interest imposed for a deferred payment, or a discount is given when prepayments are made.
- 3.9 **"College", "CETC"** – is a Community Education and Training College.
- 3.10 **"Debt"** – is a financial obligation owed to the College by students or a staff member or third party.
- 3.11 **"Debtor"** – is an individual or entity who owes a debt to the College.
- 3.12 **"Department", "DHET"** – is the Department of Higher Education and Training.
- 3.13 **"Employee"** – is any official, employed by the College, or Council, or Department, irrespective of grade, full-time or part-time, or basis of remuneration; whether it be on a monthly, weekly, daily or hourly basis.
- 3.14 **"Finco"** – is the Finance Committee of Council established in terms of Section 12 of the Act.
- 3.15 **"GRAP"** – is Generally recognized accounting principles for the CET colleges
- 3.16 **"Incidental credit agreement"** – is where payment has not been received by the due date and interest is charged on the overdue amount.
- 3.17 **"NCA"** – is the National Credit Act No. 34 of 2005.
- 3.18 **"NCR"** – is the National Credit Regulator.
- 3.19 **"Non-performing Debtor"** – a debtor who has not met his obligations to the College for at least 2 months.
- 3.20 **"Payment Arrangement"** – an agreement whereby the debt is paid at a predefined date or at predefined intervals.

Once all these avenues have been exhausted the Accounting Officer may recommend that the debtor be written off, refer paragraph 14.

- a) maintaining proper accounts and records for all debtors including amounts received in part payment,
- b) monthly issuing of debtor statements,
- c) conducting monthly age analysis in respect of debtor accounts,
- d) entering into payment arrangements refer paragraph 6.2,
- e) handing the debtor over to a collection agency refer paragraph 11 and 12,
- f) Where it is considered economical; to follow legal proceedings to recover the debt refer paragraph 16.

6.1 The Accounting Officer must ensure that effective and appropriate processes are implemented to timely collect all money due to the institution including but not limited to

6. Debt management process

The Accounting Officer is responsible for ensuring that any actions relating to Debt, including affordability, original approvals, repayment agreements, interest calculations, follow ups and handover all comply with the NCA and other legislation enacted to protect the rights of the consumer/ debtor.

This policy is issued under the authority of the College Council. The College Council will ensure, through delegating the responsibility to the Accounting Officer that internal procedures and internal control measures are in place to record all Debt owing to the College, and for the recovery of such Debt.

5. Responsibility

This Policy applies to all Debtors of the College including Student Debtors, Staff Debtors, Provincial and Local Government Debtors, Corporate Debtors and Sundry Debtors.

4. Scope

3.22 "PFMA" – Public Finance and Management Act 1999 (Act No 1 of 1999, as amended by Act 29 of 1999).

3.21 "Minister" – is the Minister of the Department of Higher Education and Training.

- a) Student debtors arise as a result of the College issuing invoices to students in respect of tuition fees for a course for which a student has registered or has attended but has not paid, either in part or at all.
- b) Where a student has not been awarded a bursary, and has not paid for the fees in full, the student may make an arrangement to pay the outstanding amounts in a maximum of six (6) installments. This excludes students referred to in 6.2.3.
- c) Part time students or students registering for skills programmes must pay the full tuition fee upon enrolment or supply proof of successful application for financial aid or a bursary for all or part of the tuition fees.
- d) The finance department must monitor payments according to the payment plan.
- e) The finance department must compile a monthly debtor's age analysis by campus and submit to the Campus manager and Assistant Director: Finance.
- f) The Assistant Director: Finance must compile a consolidated monthly debtors report identifying non-performing debtors and submit to the Deputy Principal: Finance.
- g) The Deputy Principal: Finance must present the monthly report to the Accounting Officer and to the Finance Committee (Finco) with detailed information on each overdue debtor.
- h) A quarterly consolidated debtors' report with management and Finco comments must be presented by the Chairperson of Finco at each Council meeting.
- i) The College has the right to withhold student results if fees are outstanding. This excludes student who have confirmed bursaries or have been approved for financial aid.
- 6.3 Payment Arrangements
- a) The Payment Agreement
- i. A standardized payment agreement shall be used to formalise the payment arrangement and should specify,
- installment to be paid;
 - installment payment date; and
 - consequences of non-payment
- ii) The payment agreement may not make provision for the charging of any interest on the original debt as the College is not a registered Credit Provider in terms of the National Credit Act.
- iii) The payment agreement should make provision for the charging of any interest on amounts more than 90 days in arrears.
- iv) The payment agreement should also be signed by the person guaranteeing payment of the fees (usually the parent or guardian of the student). This person must have contractual capacity.
- b) Where a student wants to make a payment arrangement, the following

- 6.4 College staff debtors
- a. The College is not a registered credit provider and may not make loans of any kind to staff members.
 - b. However, where the College has suffered a loss or damage through the act of an Employee (whether that person is still in the employ of the College or not), or where a salary, wage or allowance was erroneously or inadvertently paid to an employee, then a staff debtor has to be raised.
 - c. Where staff members receive services from the College such as parking rental or other services, the staff member should be invoiced monthly in advance. Where the staff member is still in the employ of the College the amount invoiced should be submitted to the payroll department for deduction from the employee's salary via the Payroll system. The Payroll department must ensure that the employee has provided written authorization for the Payroll deduction.
 - d. Where the College has advanced money to staff in the past, and this money is still outstanding, the Finance department in consultation with Campus managers should ensure that there is a payment plan in place to recover the money as soon as possible noting that new loans are not permitted.

- c) Any student who is in arrears on his/her payment plan will not be permitted to re-register until the outstanding balance has been settled and interest will be charged on all amounts older than 90 days.
 - v) The Campus manager must forward the details of the payment plan to the finance department. Where students default on the repayment plan and are in arrears by more than three months without a revised repayment plan, the full debt becomes due and payable and should be addressed in terms of the College Council's approved debt collection procedures (Refer paragraph 11).
 - iii) All fees for year courses should be fully paid in a maximum of six (6) installments with the final payment not being later than September of that year.
 - iv) All fees for semester courses must be fully paid over three months with the final payment being May; to enable the student to progress to the next level.
 - v) The Campus manager must forward the details of the payment plan to the finance department. Where students default on the repayment plan and are in arrears by more than three months without a revised repayment plan, the full debt becomes due and payable and should be addressed in terms of the College Council's approved debt collection procedures (Refer paragraph 11).
 - ii) Before making payment arrangements, the Campus manager must investigate the payment history on the students account and confirm the income of the person responsible for the payment of the fees. If a previous arrangement has been made, but not adhered to, no additional arrangements can be made
 - iii) All fees for year courses should be fully paid in a maximum of six (6) installments with the final payment not being later than September of that year.
 - iv) All fees for semester courses must be fully paid over three months with the final payment being May; to enable the student to progress to the next level.
 - v) The Campus manager must forward the details of the payment plan to the finance department. Where students default on the repayment plan and are in arrears by more than three months without a revised repayment plan, the full debt becomes due and payable and should be addressed in terms of the College Council's approved debt collection procedures (Refer paragraph 11).
- process must be followed.
- i) Parents or the person responsible for the payment of fees must schedule a meeting with the Campus manager (or a duly authorised person at the campus or Central Office).
 - ii) Before making payment arrangements, the Campus manager must investigate the payment history on the students account and confirm the income of the person responsible for the payment of the fees. If a previous arrangement has been made, but not adhered to, no additional arrangements can be made
 - iii) All fees for year courses should be fully paid in a maximum of six (6) installments with the final payment not being later than September of that year.
 - iv) All fees for semester courses must be fully paid over three months with the final payment being May; to enable the student to progress to the next level.
 - v) The Campus manager must forward the details of the payment plan to the finance department. Where students default on the repayment plan and are in arrears by more than three months without a revised repayment plan, the full debt becomes due and payable and should be addressed in terms of the College Council's approved debt collection procedures (Refer paragraph 11).

- e. Interest is not levied on amounts arising from the employment relationship where the staff member is still in the employ of the College except in the following instances:
 - i. where the debt has arisen as a result of the employees' fraudulent action, breach of contract, default on loan agreements or payment plans; and
 - ii. debts which originate due to mala fides ("with evil intentions"); actions of employees.
 - iii. Interest will be charged at a rate referred to in paragraph 9 and is payable from the date that the debt is due and payable.
- 6.5 Debtors: Ex-employees of the College
 - 6.5.1 Amounts owing by staff members who have resigned from the College must be treated as follows:
 - a) Recovered in full from their final salary/benefit payment; where the Employee is on the College payroll; or
 - b) Request the Employee to settle the outstanding debt in full prior to exit; or
 - c) A new payment agreement should be entered into allowing for interest to be charged on the outstanding debt.
 - 6.5.2 As a last resort the employer may recover the money owed from the employee's pension fund benefits. However, the deduction must comply with section 37D of the Pension Funds Act. If a debt is for damage caused by the employee's "theft, dishonesty, fraud or misconduct", the employer may ask the fund to deduct the amount of the debt and pay it over. However, the employee must have admitted liability in writing; otherwise the employer would need to get a court judgment against the employee. Without the written acknowledgement of liability or a court judgment, it would be illegal to withhold the proceeds of the employee's pension fund benefits.
- 6.6 Debtors: DHEAT appointed staff
 - 6.6.1 The College must notify the DHEAT Human Resources department of any amounts owing by the DHEAT appointed staff member as soon as the debt arises, to enable the DHEAT HR department to recover the amounts from the employee.
 - 6.6.2 The College will invoice the DHEAT for the amounts to be recovered from the employee.
- 6.7 Partnership or contribution debt
 - 6.7.1 Where an individual or a company has breached a contract with the College or where an erroneous or overpayment was made to a creditor, institution or private body, then monthly follow ups to

ensure payment is received should be made by the College Debtors Department and reported to the Deputy Principal: Finance.

7. National Credit Act (NCA)

7.1. The NCA applies to all credit agreements between parties whereby the transaction is one that is between relative strangers during the normal course of events.

7.2. An agreement will be a credit agreement for the purposes of the NCA if there is a fee, charge or interest imposed for a deferred payment, or a discount is given when prepayments are made.

7.3. Entering into a payment arrangement with a student, employee or third party where the extension of credit is not subject to interest or other charges does not constitute a credit agreement in terms of the NCA and as such the College does not have to register with the NCR or comply with the NCA by reason of such transactions.

7.4. An incidental agreement arises where no payment has been received by the payment due date and the College charges interest on the overdue amount. As a consequence the College is not required to register with the NCR, however specific sections of the NCA relating to the debtors rights will be applicable and must be complied with. Refer to Section 17 for details.

7.5. This policy recommends that interest be charged on student or employee debtors who have defaulted on their payment plan for three consecutive months; or the debt is older than 90 days; and that every effort is made to ensure that the debtor re-instates and adheres to the payment plan:

8. Classification of Debtors

In order to comply with GRAP, a debt must be recorded in the College's general ledger as soon as the debt arises.

For the purposes of clarification this policy refers to three types of Debt.

8.1 Current Debt:

8.1.1 where a payment arrangement is entered into between the College and the student, employee or third party which gives rise to a debtor in the accounting records of the College;

8.1.2 the payment arrangement is normally for a period of between 30 days and 12 months;

8.1.3 by default and in compliance with the best practice, the initial debt does not bear interest; and

8.1.4 the debt therefore does not fall into the definition of a credit

10.4 The formula when calculating interest on debts raised through the applicable management information system is as follows:

10.3 Once the debtor is in breach of his payment agreement, the College may start charging interest when the debtor has defaulted on the payment plan for 3 consecutive months provided the payment agreement makes provisions for interest to be charged. In this situation the debtor is already aware of the debt and no further communication is required in terms of the NCA. The NCA refers to this as an incidental credit agreement and does not require an institution to register as a credit service provider prior to charging interest

10.2 The debtor must be informed of the debt and given an opportunity to settle the debt. Once a payment agreement has been signed and the debtor honours the payment agreement, interest may not be charged except for amounts owing by staff members who have resigned from the College and have not settled their outstanding debt.

10.1 Interest is calculated on the decreasing balance of the debt outstanding and the amount of interest charged since the debt became overdue may not exceed the capital amount outstanding.

10. Interest calculations

Where it has been identified that a debt is interest bearing, the debt bears interest at the prevailing repo rate which is currently 5.75%. Interest will be levied on all debtors older than 90 days or where the debtor has defaulted on the payment plan for three consecutive months.

9. Interest Payable on Debts

- 8.2.1 the debtor has defaulted on a payment arrangement and has fallen into arrears;
- 8.2.2 the full debt becomes due and payable until a new payment arrangement is entered into;
- 8.2.3 the payment agreement provides for interest and charges should the debtor fall into arrears;
- 8.2.4 interest may be levied on the full debt if the debtor has defaulted on the payment plan for 3 consecutive months
- 8.2.5 the debt falls into the definition of an incidental credit agreement and the College is required to comply with various provisions of the NCA relevant to incidental credit agreement; and
- 8.2.6 the College is not required to register with the NCR.

agreement as defined by the NCA and the College is not required to be registered as a credit provider in terms of the NCA.

Interest = outstanding debt amount x rate of interest per annum x number of days ÷ 365

Where:

Debt amount = outstanding capital
 Rate of interest per annum = prevailing repo rate currently 5.75%
 Number of days = number of days from the interest date entered on the debt take-on sheet, up to the date prior to the receipt date
 365 = number of days per annum

11. Student debt handover process

- 11.1 The Assistant Director: Finance, should prepare a listing of all debtors who have not reflected any payments for 60 days, and forward the list to the Deputy-Principal: Finance.
- 11.2 The Assistant Director: Finance shall check with Campus managers if any payment plan is in place or has been revised. The Campus Manager shall contact the student and request a revised payment plan to be signed.
- 11.3 In the month following, if no amounts or revised payment plan has been received from the student, the account shall be handed over to debt collectors for collection and interest will be charged on any amounts overdue in excess of 90 days of the original payment plan.
- 11.4 Only debt collectors registered with ADRA may be utilized

12. Staff debt handover process

- 12.1 Where a staff member defaults on a payment plan, a letter shall be issued advising him/her of the default and requesting that immediate restitution be made
- 12.2 A copy of this letter will be supplied to the staff member's senior and to the Accounting Officer and a copy placed on the employees personnel file.
- 12.3 Where the payment plan is in arrears for three months, the debtor shall be handed over to a debt collection agency and interest will be charged on any amounts overdue in excess of 90 days of the original payment plan.
- 12.4 Debt collection fees shall be for the account of the staff member.

- 13.1 Best practice in terms of paragraph 11.2.1(b) of the Treasury Regulations requires, in cases where it is necessary and economical to enforce the recovery of a debt by means of legal steps, the Accounting Officer can pursue legal steps to recover the debt. The College can approach the State Attorney for assistance.
- 13.2 A handbook containing directives regarding the performance of work by the State Attorney, which must be adhered to, is available from the Office of the State Attorney.
- 13.3 The physical address of a Debtor must be available when matters involving the recovery of Debt are handed to the State Attorney for collection.
- 14. Bad debt provision and Write off of Debts**
- 14.1 The College may if deemed necessary raise a provision for student debtors who are still enrolled at the College or employees who are still in the employment of the College or the Department; and who have not met their obligation to the College for at least three months. The College may apply the recommended provisions in para 14.3 below or such lower provision as the College deems fit.
- 14.2 A provision should be raised for all debtors (whether student or staff) who have not met their obligation to the College for three months and who are no longer registered as students or in the employment of the college
- 14.3 The provision should be raised as follows
- a) Debtors who are in arrears for 3 months - Provision of 25%
 - b) Debtors who are in arrears for 6 months - Provision of 50%
 - c) Debtors in arrears for 9 months - Provision of 75%
 - d) Debtors in arrears for 12 months - Provision of 100%
- 14.4 The Deputy Principal: Finance shall consider all economically viable avenues for debt recovery, including the use of tracing agents where the address of the debtor is not known, factoring of debts, recourse against sureties or guarantors etc.
- 14.5 Should all efforts prove to be unsuccessful and/or the debtor cannot be traced, only then must a submission be made to the College Council requesting the write-off of the debt. The submission must detail all steps taken to trace the debtor and must show that it would be uneconomical to take the matter any further
- 14.6 Any debts written off must be disclosed in the Annual Financial Statements of the College with full disclosure regarding the Colleges policy for writing off debts.

14.7. In addition to the above-mentioned criteria, the College will consider debts for write-off in the following circumstances:

- a) debts not recovered from institutions or service providers that have been liquidated and the claims against the assets finalized;
- b) debts not recovered from deceased employees, where their estates have been finalised, and recovery of the debts from the heirs is not possible;
- c) debts owed by Debtors that cannot be traced, notwithstanding compliance with the provisions in paragraph 14.2 above;
- d) where no source documentation is available to substantiate or prove the claims, provided that the Accounting Officer must have satisfied him/herself that all reasonable steps have been taken to locate the source documents;
- e) debts where the debtors have emigrated without paying the debts, leaving no assets available for claiming from and the debtors' whereabouts are unknown;
- f) debts owed by employees who have left the service, and are now destitute, provided that the Accounting Officer must have satisfied him/herself that the debtors are in fact destitute;

14.8. The Assistant Director: Finance must compile a report identifying the debtors for which provision is to be made; and a separate report of debtors to be written off; and submit to the Deputy Principal: Finance.

14.9. The Deputy Principal: Finance must present these reports to the Accounting Officer and to the Finance Committee (Finco) with recommendations for the raising of the Provision and for the Bad Debt write-off.

14.10. The chairperson of Finco should report to Exco detailing the efforts made by the College to collect the outstanding debt including recommendations for provisions to be raised or debts to be written off.

14.11. These reports with Finco comments and recommendations must be presented by the Chairperson of Finco to Council on a quarterly basis for approval.

14.12. Noting of the Council's approval for the write-off of the debts must be recorded in the Council minutes.

15. **Incidental Credit Agreements - Additional Requirements in terms of the NCA**

17. Availability of debt management policy

This Policy is effective from the date on which it is adopted by the Council.

16. Adoption of policy

- 15.9. The College must at its own cost issue the debtor with a Statement of the Settlement amount if requested by the debtor.
- 15.8. The debtor has a right to query any amounts charged to his account and the College is required to provide the debtor with the required information.
- 15.7. The College must at its own cost, issue the debtor with a monthly statement of account reflecting the movement on the account for the month.
- 15.6. Incidental credit agreements are excluded from the requirement to be placed on the National Register of Credit Agreements.
- 15.5. The debtor has the right to the confidential treatment of his/her information and that the information may only be used for the purpose intended.
- 15.4. The debtor has the right to receive documents relating to the agreement.
- 15.3. The debtor has the right to receive information in plain and understandable language.
- 15.2. The debtor has a right to receive information in his/her official language.
- 15.1. The debtor has a right to be informed in writing of the new payment agreement including the interest charges

It is strongly advised that any College that enters into a credit agreement or an incidental credit agreement familiarizes themselves with the requirements of the NCA. In terms of best practice Colleges should not be charging interest and other charges on the initial debt. This therefore excludes the College from the need to register as a Credit Provider with the NCR. While incidental credit agreements can arise once a debtor's account is overdue, there is still no requirement for the College to register with the NCR, however certain sections of the NCA become applicable to that transaction and the College needs therefore to be familiar with the NCA. The points below provide the key clauses in the NCA applicable to incidental credit agreements. It is not intended to be an exhaustive list of all the applicable clauses. Relative to all other debtors, no person may be unfairly discriminated against when determining the repayment terms of the overdue account.

This Policy will be subject to an annual review by College management to ensure its relevance. Colleges should forward any inputs and recommendations to the CET Branch of the DHET for possible consideration during the annual review process.

Any recommended changes agreed to by the CET Branch of the DHET to the Debt Management Policy should be presented to the College Council for adoption.

18. Annual review of policy

A copy of this Policy and other relevant documentation should be made available on the College website and it should be communicated to all incumbent staff. Arrangements should be made for communicating this policy to all new recruits.