



## higher education & training

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Higher Education and Training  
**REPUBLIC OF SOUTH AFRICA**

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Dear Ms O'Connor

Your request for access to information pursuant to the Promotion of Access to Information Act, 2000 (Act 2 of 2000) refers.

It is important to note that there is a broad spectrum of legislative and policy instruments which guarantees human rights in the country which directly affects Universities, FET Colleges and institutions under the Department of Higher Education and Training's sphere of control or influence. The primary instrument which guides us in this regard has to be the Constitution which guarantees human rights and the right to education.

Furthermore is important to note that in the higher education and training milieu discrimination may come in many different forms and it is imperative that all students across all walks of life are given the platform wherein the atmosphere of learning and skills development are achieved optimally. Issues such as sports for the disabled, facilities to accommodate the disabled, the structure of learning halls, language usages in learning, and other issues that may hinder some categories of students from learning optimally are addressed and handled sufficiently.

**Information pertaining to the Department of Higher Education and Training's (DHET) most recent Employment Equity Plan prepared in accordance with section 24 of the Regulation Relating to the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 (PEPUDA).**

The DHET is a relatively new Department and is in the process of formulating its own Employment Equity Plan. It has formulated and adopted the Employment Equity Policy (**Annexure A**). On the 22<sup>nd</sup> September 2011, employees of the DHET elected its Employment Equity Forum Members, which consist of 4 members. Due to the fact that DHET's Employment Equity Plan has not been finalized, there is no annual report prepared.

**Information with regard to any public entities within the DHET's control or influence which are required to comply with the DHET's Equity Plan and any annual progress report thereto.**

The Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) defines public entities as national or provincial entities. Schedule 2 and 3 of the PFMA goes on to list all the public entities. Section 47(4) of the PFMA list the institutions that may not be listed in schedule 3 of the PFMA and section 47(4)(c) provides that any institution of higher learning may not be listed in schedule 3. Public entities under the sphere of influence of the DHET such as FET Colleges and Universities, SETAs, NSF, NSFAS etc are not bound or required to comply with the DHET's Equity Plan or policy. They are bound and required by law to uphold the fundamental human rights mentioned in the Constitution of the country. Be that as it may, there are a number of instruments or policy documents which the institution of higher learning subscribe to or have adopted when dealing with issues of discrimination in the higher education sector. Such instruments are:

- ***Higher Education Act, 101 of 1997***

Though it does not contain principles that address issues of discrimination in the higher education sector, the Higher Education Act is an instrument which governs the institutions of

higher education and as principle it should be administered and applied in line with the Constitution which is the supreme law of the country. Every provision of this Act should be read to conform to the Constitution and applied in a manner that does not contravene any provision of the Bill of Rights.

- ***The Language Policy Framework for Higher Education (Annexure B)***

This framework facilitate individual empowerment and national development by promoting the equitable use of the official languages and thus ensuring that all South Africans have the freedom to exercise their language rights by using the official language of their choice in a range of context; including in higher education sector.

- ***The Education White Paper 3: A Programme for the Transformation of Higher Education (Annexure C)***

The White Paper promotes a transformed, democratic, non-racial, non-sexist system of higher education that will: promote equality of access and fair chances of success and supports a democratic ethos and a culture of human rights by educational programmes and a non-racist and non-sexist society. The White Paper elaborates on principles and goals that should guide the system.

- ***Report of the Ministerial Committee on Transformation and Social Cohesion and Elimination of Discrimination in Public Higher Education Institution (Annexure D)***

This document gives direction in achieving equality and social cohesion in the higher education sector.

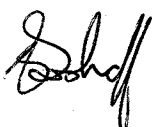
**Whether the DHET has in place a policy with regard to the equitable treatment of it clients**

**The Preferential Procurement Policy Framework Act, 5 of 2000** guides the DHET when dealing with their clients. The Act itself utilized in conjunction with the Treasury Regulations

issued in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) are the reference tools when ensuring that discrimination is eradicated in the procurement of services and goods by the DHET.

Hope you find the above in order.

Yours sincerely



**Adv. E Boshoff**

**Deputy Information Officer**

**Date:** 11/10/2011

