



**higher education  
& training**

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Department  
Higher Education and Training  
REPUBLIC OF SOUTH AFRICA

**GUIDELINES ON STUDENT LEADERSHIP AND GOVERNANCE IN  
TECHNICAL VOCATIONAL EDUCATION AND TRAINING  
COLLEGES**

"There are many leaders, not just one. Leadership is distributed. It resides not solely in the individual at the top; but in every person at every level who, in one way or another, acts as a leader to a group of followers – wherever in the organization that person is, whether shop steward, team head, or CEO."

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## ACRONYMS AND ABBREVIATIONS

<b>ADR:</b>	Alternative Dispute Resolution
<b>CET Act:</b>	Continuing Education and Training Act
<b>CoC:</b>	Code of Conduct
<b>DG:</b>	Director-General
<b>DDG:</b>	Deputy Director-General
<b>DHET:</b>	Department of Higher Education and Training
<b>IEC:</b>	Independent Electoral Committee
<b>IEB:</b>	Independent Electoral Body
<b>NC(V):</b>	National Certificate (Vocational)
<b>PR:</b>	Proportional Representative
<b>RM:</b>	Regional Manager
<b>SSS:</b>	Student Support Services
<b>SRC:</b>	Student Representative Council
<b>TVET:</b>	Technical and Vocation Education and Training

## **1. Preface**

- 1.1 The Directorate: Student Development and Support is a crucial unit in the Department of Higher Education and Training (DHET) and is, *inter alia*, responsible for providing support to the Technical and Vocational Education and Training (TVET) colleges. The Directorate is entrusted with the responsibility of ensuring that there is compliance and consistency with legal frameworks by institutions regarding student governance.
- 1.2 The Department acknowledges the inconsistencies in the application of student governance across the TVET College landscape. These inconsistencies are particularly stark in situations of conflict and confrontational behaviors. Whilst acknowledging the efforts of college management to deal with the more turbulent issues emanating from student governance, the Department believes that guidance in this regard will benefit the sector.
- 1.3 In compiling these guidelines, every endeavor has been made to use simple and easily comprehensible language and to provide clear directions to TVET Colleges' officials and students alike who will be utilising it.

## **2. Background**

- 2.1 The Department of Higher Education and Training is among other things, responsible for overseeing student governance in support of quality teaching, learning, and overall student welfare in public colleges. There is recognition within the Technical and Vocational Education and Training (TVET) Branch of the importance of student participation in the institutional governance structures of TVET Colleges. This is in keeping with the overall aims and objectives of South Africa's democracy, which seeks to advance equal and meaningful participation of its citizens in the country's public institutions. Furthermore, and most importantly, the Department must ensure compliance within the *CET Act* of SRCs functionality as an integral part of enhancing participatory and transparent institutional governance as enshrined in the *CET Act*, 2006.
- 2.2 It is against the need for greater institutional compliance with the legislative imperatives that the Directorate undertook an analysis of the provisions of the Act, as well as an in-

depth analysis of the SRC Constitutions currently being used in TVET Colleges. This exercise was specifically aimed at addressing some of the apparent ambiguities and reticences in the Act, which have, to a certain degree, contributed to the perceived levels of non-compliance in public Colleges with the provisions of the CET Act in respect of student governance.

- 2.3 During this exercise it was noted that some SRC Constitutions did not explicitly explain the core responsibility of the SRC in the context of the college. The SRC is not a juristic person, therefore it is not a bearer of its own rights except that it exists as a structure according to the provisions of the Act, with powers delegated to it by the Council. It must be noted that the SRC of TVET colleges is the primary representative body on all issues of student governance whose role shall be to:
- 2.3.1 Promote the vision and mission statement of the college;
  - 2.3.2 Being the umbrella organization for all student committees, clubs, councils and societies, granting or withdrawing recognition of such student committees, clubs, councils, and societies as it considers appropriate;
  - 2.3.3 Coordination and supervision of the use of student facilities and all matters pertaining thereto, in conjunction with management;
  - 2.3.4 Strive for social redress, increased access and active transformation within its college and the broader society;
  - 2.3.5 To contribute to maintaining an appropriate educational environment; academic excellence and high standard of education in the college and its activities;
  - 2.3.6 The SRC shall promote extramural activities among students;
  - 2.3.7 Uphold the principles of transparency, accountability, responsiveness and participation in the student community; and
  - 2.3.8 To strive to build and maintain improved relationships with the community and local stakeholders in the areas in which each campus is located.
- 2.4 The right to assembly, demonstration, picket and petition peacefully and unarmed practices are fundamental rights enshrined in Section 17 of the Constitution.<sup>1</sup> There are, however, a number of alternative dispute resolution (ADRs) mechanism to deal with altercation and the management thereof, which range from least to most coercive.

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<sup>1</sup> The Constitution of the Republic of South Africa, 1996

Conflicts or disputes may be avoided by mediation, negotiation, conciliation or arbitration, in terms of various applicable legislation.

- 2.5 The guidelines for lodging grievances attempt to provide clear directives to TVET Colleges on how and when to report and request the Department's intervention should a need arise. This should be done after all internal processes have been exhausted. The current status at most public colleges indicate that there is an overwhelming need for support in colleges. However, protocol and/or procedure needs to be followed and observed in this regard.

### 3. Principles

- 3.1 The values, which underpin these guidelines, are transparency, accountability, provision of credible information, effective and efficient and proper management of conflicts, human dignity, equality and advancement of human rights and freedoms, non-racialism and non-sexism as envisaged by the Constitution.

### 4. Purpose of the Guidelines

- 4.1 The rationale for the development of this set of practical guidelines and a protocol framework on student governance, is therefore to ensure homogeneous application of student governance practices in TVET Colleges. The guidelines are aimed at the overall promotion of transparency, accountability, efficient and effective management of student matters in TVET colleges. Furthermore, they are intended to cover procedural and related policy matters of the SRC that are not covered in the *Continuing Education and Training (CET) Act, 2006 (Act No. 16 of 2006)*.
- 4.2 These guidelines are also intended to promote greater consistency in dealing with conflicts or disputes resolution. It is also meant to prevent unnecessary conflicts between the students and college management without sacrificing the flexibility that may be required to respond fairly and effectively to contretemps. As much, these guidelines serve as directives for all students and officials, particularly the management in TVET colleges. It is with the view of ensuring greater institutional compliance with this legislative provision that the Department undertook an analysis of the provisions of the Act as well as in-depth analysis of the SRC Constitutions currently being used in TVET Colleges. Specifically this

exercise was aimed at addressing some of the seeming ambiguities or silences in the Act, which have in part contributed to the perceived levels of non-compliance in colleges with the requirements of the Act for the establishment of SRCs.

- 4.3 These guidelines seek to initiate a sector-wide discussion that may lead to possible legislative reform. These include the following:

- 4.3.1 SRC Terms of office;
- 4.3.2 Details and prescriptions on the conduct of election process;
- 4.3.3 Clarity on full and part time students;
- 4.3.4 Privileges of the members of the SRC;
- 4.3.5 Formation and inclusion of politically aligned organisations and the acknowledgement therefore or otherwise; and
- 4.3.6 Freedom of association of interest groups/structures.

## 5. Legal Framework

- 5.1 These guidelines are primarily informed by amongst others, the following statutory and regulatory frameworks and documents:

- 5.1.1 The Constitution of the Republic of South Africa;
- 5.1.2 The CET Act 16 of 2006 and the Standard College Statute;
- 5.1.3 Regulation of Gatherings Act (Act 205 of 1993); and
- 5.1.4 All relevant Departmental policies.

- 5.2 TVET colleges are regulated by the *Continuing Education and Training Act, 2006* read with the *Standard College Statute*.<sup>2</sup> Section 10 of the *CET Act* read with section 5(1) of the *Standard College Statute* which provides as follows, "Subject to the Act and this statute the council governs the college." In terms of sections 30(2) and 31(1) of the *Standard College Statute* read with section 13 of the *CET Act*, the Principal is the chief executive and accounting officer of the public college, responsible for the day-to-day management and administration of the college and has all the powers necessary to perform this function.

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<sup>2</sup> Standard College Statute



5.3 The powers vested in the principal to perform his or her functions are further fortified by the provisions of section 50(4) of the Act read with section 31(3) of the *Standard College Statute*, which provides that the council may assign additional functions and grant additional powers to the principal on such conditions as the council may determine. By virtue of the powers, functions and status accorded to the council in terms of the *CET Act* and the *Standard College Statute*, the management of a public college (which consists of the Principal and/or Deputy-principals), is responsible for the day-to-day management and administration of the college and has all the powers necessary to perform these functions.

5.4 In terms of section 5(2)(e) of the *Standard College Statute*, the Council determines and provides support services after consultation with the SRC. Furthermore, section 10(4) of the *CET Act* read in conjunction with section 6(1) of the *Standard College Statute* stipulates that, the Council consists of two SRC members elected to sit on Council by the Student Representative Council of the public college. It is against this backdrop that the student matters which stand in the way of student achievement and success, must be given the necessary attention it deserves and be resolved as speedily as possible and where appropriate be escalated and tabled before a college council for discussion, after College protocol has been observed, to prevent disruption of teaching and learning.

## 6. Authority and Status of the Student Representative Council

- 6.1 The SRC shall be the highest student representative body in Council and Management Committees of the TVET colleges, regarding all student matters and student interests.
- 6.2 The SRC shall be in constant interaction with the college management through the Student Support Services Office.
- 6.3 The SRC must focus on issues that improve the learning experience of students thus enhances their graduateness upon completion of their studies.
- 6.4 In accordance with section 23 (2) (b) of the *Standard College Statute* the SRC being the umbrella body for all student committees, clubs, councils, and societies, should take responsibility for granting or withdrawing recognition of such student committees, clubs, councils and societies as it considers appropriate.

## **7. Establishment of the SRC**

- 7.1 The SRC is the statutory body of the college established in terms of section 14 of the *CET Act* read with sections 23 to 26 of the *Standard College Statute*.
- 7.2 The establishment, composition, manner of election, term of office, functions and privileges of the SRC shall be determined by the college Council after consultation with the students, subject to policy determined by the Minister.
- 7.3 The election of SRC members must be democratic, transparent, free and fair.
- 7.4 The SRCs of colleges that are to be merged must have a meeting before the merger to constitute a single interim SRC comprising all members concerned for a period not exceeding six (6) months, after which a new SRC must be elected.
- 7.5 The SRC shall operate at both the college and campus levels.

## **8. Nomination and Eligibility of Candidates to the SRC**

- 8.1 The nomination of candidates as members of the SRC shall be lodged with the appointed Independent Electoral Committee (IEC) or Independent Electoral Body (IEB), which shall be appointed by Council in accordance with section 14 of the *CET Act*.
- 8.2 To be eligible for nomination as a candidate for the SRC Election, a candidate must meet the following eligibility criteria:
  - 8.2.1 The nominee must be a registered student of the TVET College concerned.
  - 8.2.2 The nominee must have successfully passed or progressed to the next level.
  - 8.2.3 An ability to demonstrate potential for academic success and/or proven academic performance and have maintained such up until the latest examinations prior to the SRC Elections.
  - 8.2.4 Only students who have achieved 60% per subject on all Ministerially-funded programmes are eligible to stand for election. Only students who pass 7 out of 7 NC(V) subjects and 4 out of 4 Report 191 subjects.
  - 8.2.5 The attendance of the student nominee must be assessed using the attendance and punctuality policy / registers. A candidate must have attended 80% of his / her classes in the year preceding the elections, and this is

mandatory. Both the criteria for academic excellence and attendance policy must be applied.

## **9. Elections and By-elections of the SRC**

- 9.1 The SRC elections and/or by-elections shall be conducted and supervised by an Independent Electoral Body (IEB) or Independent Electoral Committee (IEC). The Council or (College Management as the case may be, if delegated by Council), shall appoint the IEB or IEC after consultation with the SRC Executive of the college.
- 9.2 SRC elections shall be held annually before the end of the third quarter of the calendar year (July – September). The new SRC can take office in the following year while the old SRC can complete their duties and start to prepare a handover report in the last term.
- 9.3 If the elections could not be held as expected, the outgoing SRC shall continue serving to avoid a vacuum in various committees for a period not exceeding two (2) months until a new SRC is elected.
- 9.4 The outgoing SRC shall perform its responsibilities and assist the college management in respect of the handing over processes.
- 9.5 The election management team and the dispute resolution committee shall be established.
- 9.6 Both structures shall have membership from the outgoing SRC student formations, the independent candidates, and elections management body and college management.
- 9.7 An Independent Electoral Body shall be approached to conduct the elections.
- 9.8 The IEB shall appoint the Chief Electoral Officer who shall in collaboration with the election management team coordinate the electoral process.
- 9.9 The Student Support Services (SSS) Manager at the college shall spearhead the election process.

- 9.10 During the elections, either the Proportional Representative (PR) system or the First Past the post (winner takes all) system shall be implemented.
- 9.11 All nominees must provide all necessary documents to the IEC/IEB so that they can register with the IEB/IEC in order to participate in the elections.
- 9.12 All elections and bi-elections shall be by secret ballot and must be free, fair, transparent and democratic. The ballot boxes must be sealed.
- 9.13 In the event a member or members of the SRC resigns or can no longer continue serving in the SRC due to unforeseen circumstances and the SRC Constitution is silent on the process to be followed bi-elections shall be held to fill the particular vacancy or vacancies.
- 9.14 Provision of paragraph 7 above shall apply "*mutatis mutandis*"- meaning once the necessary changes have been made within 1 month.

## **10. Term of Office**

- 10.1 The term of office of the SRC shall be one (1) academic year (i.e. 12 months).
- 10.2 No SRC member may serve in the college or campus respectively for more than two terms, whether consecutively or separately.
- 10.3 The term of office shall commence at the beginning of each academic year in which the election is held.
- 10.4 SRC members must:
- 10.4.1 be inducted immediately after the election.
  - 10.4.2 be briefed (handing over process) by the outgoing SRC.

## **11. Termination of Membership of the SRC**

- 11.1 The membership of the SRC shall be terminated if:

- 11.1.1 the term of which a member was elected for expires;
- 11.1.2 a member resigns in writing from the SRC;
- 11.1.3 he/she ceases to be a student at the college;
- 11.1.4 he/she fails to meet the academic criteria to hold membership;
- 11.1.5 he/she is found guilty of a serious misconduct in terms of the college students Code of Conduct and/or SRC Code of Conduct;
- 11.1.6 he/she fails to attend three (3) consecutive SRC meetings without giving valid reasons;
- 11.1.7 he/she is convicted for any criminal activity and imprisoned for at least six months without an option of a fine by the court of law;
- 11.1.8 a vote of no confidence is passed by the general student body of at least 50 plus 1 majority of registered students. The objection shall be done by means of a written letter accompanied by signatures of registered students; or
- 11.1.9 If, after due processes, Council takes a decision to dissolve the SRC.

## **12. Replacement or Reshuffling**

- 12.1 No student organisation or formation may replace the SRC member with another member of the student organisation. When replacing SRC member/s the students who elected them into office should follow a legitimate, reasonable and fair process that allows for appeal and that has been adopted by the entire student body. With regard to such a replacement or reshuffling the following process shall apply:
  - 12.1.1 If the SRC Constitution of the college does not cover the replacement process to remove the SRC members through passing the motion of no confidence, the office bearers of the SRC (SRC Executive Committee) should hold an urgent special meeting to table the matter before the entire student population of the Campus as they are the ones who voted in the SRC but not the minority of students. It has become a common practise that a member of the SRC or the SRC in its entirety may be removed from its executive office by resolution approved by a two-thirds majority of the total number of members of the SRC at an ordinary meeting or at a special meeting called for this purpose; in each case a special notice of the motion must be given.

12.1.2 Following the above, the campus SRC members must be given a reasonable written notice not less than five full working days before the date of the meeting, delivered to the latest address furnished by the SRC to the college. At this meeting the SRC may be removed following a recommendation of a two-thirds majority of SRC students who are of the opinion that they have brought the SRC into disrepute. In the event the campus SRC is removed from office, the students must elect an interim SRC, subject to the provisions of the SRC Constitution, every appointment and election and decision or resolution of the SRC is by a simple majority of the students present and voting at a meeting and must be recorded in the SRC minutes. A meeting of students is quorate if at least 500 students are present at such a meeting.

### **13. SRC Privileges/Benefits**

13.1 Privileges of the SRC members of a public college shall be determined by the Council after consultation with the students of the college, subject to policy determined by the Minister. The SRC shall, through the allocated budget of the college approved by the Council, be accorded the following standard privileges:

13.1.1 The college shall provide the SRC Executive with an office, computer(s) with access to internet, telephone where possible with cell phone (s) and all other necessary resources to enable it to execute its duties and functions, within the affordability of the college;

13.1.2 The college shall, in accordance with its policies, avail transportation to the SRC when attending meetings and workshops that are related to its duties and functions and which have official communication endorsement;

13.1.3 The SRC members shall receive training through workshops and continuous student leadership development training until their term of office expires;

13.1.4 The college shall provide the SRC with an identifiable uniform to be used by members when attending meetings and workshops (such as T-shirts, pants, ties and blazers);

13.1.5 The SRC members may be exempted from paying registration and tuition fees subject to proven academic performance of individual members; and

13.1.6 The above listed SRC privileges shall subsist for the duration of the term of office of the members or until such time a member or members' term of office expires or terminated on any grounds listed in paragraph 10 above.

13.2 It is worth noting that these privileges shall remain the property of the college and shall be made available during office term only. Should a member cease to belong to the SRC due to any circumstances, these privileges will be forfeited immediately and returned to the college. Privileges afforded to SRC members must be transparent and shared with the student body.

#### **14. Code of Conduct**

14.1 The College Council shall determine a Student Code of Conduct that shall apply equally to all students and members of the SRC.

14.2 The college shall establish a disciplinary committee to deal with any matter of misconduct of any of the SRC members and students.

14.3 Notwithstanding 13.1 above, the SRC must in terms of its constitution, determine its own Code of Conduct and establish a disciplinary committee responsible for the discipline of any members of the SRC and members of the student structure affiliated to the SRC.

14.4 Notwithstanding 13.3 above, the college Student Code of Conduct shall prevail over the SRC Code of Conduct.

14.5 The college can direct the SRC or may on its own accord suspend a member who is under investigation for misconduct.

#### **15. Accountability of the SRC**

15.1 Hold meetings and provide minutes to students, management and Council.

15.2 Develop programme of action which is costed with key deliverables.

- 15.3 Being accountable for all money allocated to the SRC by Council as indicated in the approved budget and any other moneys which may accrue to the SRC in its capacity as representative of the students.
- 15.4 Remain faithful to the students who have entrusted SRC members to their portfolios.
- 15.5 Remain faithful to the college by representing the college with pride and commitment.
- 15.6 Exercise discipline with regard to its own members.
- 15.7 Inform and report to students with regard to its activities by means of meetings, posters, newsletters, and any other appropriate means of communications.
- 15.8 Seek approval of all notices for display on campus notice boards.
- 15.9 Submit an annual report to the college student parliament and council.

#### **16. Dissolution of the SRC**

- 16.1 The SRC may be dissolved by a resolution of the College Council after following due processes and on good cause shown or by college students not student political formations. The resolution will succeed by no less than two-thirds majority. This must be done in the form of signing a memorandum.
- 16.2 It is significant that the SRC Constitution and Electoral system gives an opportunity for all students at the college to be involved or consulted when such a decision has to be taken.

#### **17. Application**

- 17.1 The application of these guidelines shall be limited to coordination, regulation and governance of student matters in TVET Colleges.
- 17.2 These guidelines shall be applicable to all decisions and actions taken relating to student matters and student interests.
- 17.3 In the event of a dispute amongst members of the SRC or students in general, these guidelines shall be the point of departure.
- 17.4 These guidelines apply to all grievances that might arise within the scope of the student representative council in the event of there being a dispute or grievance pertaining to:



- 17.4.1 the interpretation and/or application of Department of Higher Education and Training policies;
- 17.4.2 the interpretation and/or application of the Continuing Education and Training Act, 2006;
- 17.4.3 the interpretation and/or application of the College rules and regulations; and
- 17.4.4 the interpretation or application of the Department of Higher Education and Training's *Rules and Guidelines for the Administration and Management of the TVET College Bursary Scheme*.

**18. Amendments to the SRC Constitution**

**18.1 The following procedure shall be followed in amending the SRC Constitution:**

- 18.1.1 The Constitution may be reviewed/ amended every 3 years after the election of the SRC.
- 18.1.2 Any member of the SRC or an ordinary college student may make submissions for consideration by the college student meeting/parliament as proposals for constitutional amendments.
- 18.1.3 Any submission must be submitted in writing and signed.
- 18.1.4 Proposed amendments to the constitution must be submitted to the college student SRC Secretary General who shall make recommendations to the college SRC.
- 18.1.5 Amendments to the constitution must be endorsed by the college SRC.
- 18.1.6 The college SRC shall, after consultation with the management, submit the proposed amendments to the constitution to the Council for ratification and approval.

**19. Procedure for Reporting and Dealing with Unresolved Grievances of Students at College Level**

- 19.1 The procedure outlined will apply to all grievances, which might arise within the scope of the SRC. In the event of a misunderstanding or dispute/grievance, the following guidelines should be taken into account:

- 19.1.1 An individual student or SRC can submit the grievance to the Student Support Services (SSS) Manager at the college to resolve the matter. The SSS office must create a reference number and log the grievance into the system;
- 19.1.2 The SSS Manager or Student Liaison Officer (SLO) must tag all grievances with a case file number and the college name and sequential number allocated;
- 19.1.3 The student must be issued with a reference number and advised on the procedures and period to be undertaken to resolve the matter;
- 19.1.4 In an instance where the Campus Manager and SSS Manager fails to resolve the matter it should be referred with a written report to the Principal of the college to further advise and resolve. However, a student as a complainant must be informed about the escalation of the matter to the Principal. The person receiving the case must communicate with the complainant that the matter has been brought to the Principal's attention;
- 19.1.5 Should the Principal fail to resolve the matter, it must be referred by the Principal to the College Council;
- 19.1.6 If this referral fails the College Council refers it to the Regional Manager, accompanied by a report;
- 19.1.7 If this the Regional Manager must refer the matter to the Deputy Director-General (DDG: T) c/o The Director: Student Development and Support accompanied by a written report of his/her intervention. The Department will only attempt to respond or address any grievance from college students if it is referred by the Regional Office, after the Regional officials have exhausted all other effort to resolve the concerned grievance;
- 19.1.8 If the DDG: T is unable to resolve the grievance, the matter must be referred with a written report to the Director-General (DG);and
- 19.1.9 All grievances or demands sent directly to the Minister, DG, DDG, or any other Departmental official without going through proper procedure/protocol set out above will be referred back to the SSS Manager at the college to follow due processes.

## **20. Managing Student Protest Action**

- 20.1 No protest action is or shall be permitted on the TVET college property. The right to protest is restricted to public space and is governed by the Regulation of Gathering Act (Act 205

of 1993). Any protest not in full compliance with the Act is illegal and will not be permitted. Therefore all student grievances must be raised via the SRC alone.

- 20.2 The college will not indemnify any student organisation or its officers from the consequences of the behaviour or actions of the members. The college must specifically disclaim any legal liability caused by any student organisation.
- 20.3 The SRC, student organisations/bodies (including individual students) will be held responsible for any damage to private or college property during a protest, whether in compliance with the Regulation of Gatherings Act or not as there is no right in law to damage property.
- 20.4 A student organisation undertakes in terms of its recognition at a particular college to indemnify the college, students and staff, and the public against any damages howsoever caused, that occur during such a protest, irrespective of whether or not the person responsible is affiliated with the student organisation/body responsible for the protest.
- 20.5 The college will discipline students who are in breach of the Code of Conduct irrespective of whether they are members of a student organisation or body. In cases of breaches of the law, the college will lay criminal charges against transgressors. The college should further reserve the right to recover damages from any person or group in the event of the breach of the student disciplinary procedure.
- 20.6 The student organisation/body may not intimidate any student or staff of a college, or any member of a public, and will be held liable for any legal consequence.
- 20.7 It is important to note that students of a TVET College who are members of any student organisation/body including the SRC, must understand that the college student Code of Conduct and student disciplinary procedure will be applicable at all times, even when meetings, demonstrations or protests are held off-site.

## **21. Recognition of Student Organisations in TVET Colleges**

- 21.1 It is the view of the Department that students are admitted and enrolled in colleges as citizens of this country and not by virtue of their political affiliations. It therefore stands to reason that every registered student has a right to participate in the process of the Student Representative Council (SRC) elections, by virtue of being a student at a college, irrespective of political affiliation.

## **22. Legal Framework**

- 22.1 TVET Colleges are regulated by the Continuing Education and Training Act (Act no. 16 of 2006, as amended, read with the schedule 1 (standard college statute).
- 22.2 Section 52 of the Act provides that "This Act prevails over other laws dealing with continuing education and training other than the Constitution of the Republic of South Africa, 1996".
- 22.3 In concurrence with paragraph 21.2 above, section 2 read with section 8(1) of the Constitution of the Republic of South Africa, Act No. 108 of 1996, provides that the Constitution is the supreme law of the Republic of South Africa and any conduct that is inconsistent with it is invalid, and the Constitution therefore applies to all, including the TVET Colleges.

## **23. Application and Interpretation of the Bill of Rights**

- 23.1 Section 16 of the Constitution deals with freedom of expression. It provides that "Everyone has the right to freedom of expression, which includes – (b) freedom to receive or impart information or ideas..." has a right to freedom of religion, belief and opinion, freedom of expression, freedom of assembly, freedom of association and political rights. The term "everyone" is inclusive of students registered in all TVET Colleges. Section 18 provides that everyone has the right to freedom of association whilst section 19 accords every citizen freedom to make a political choice, which includes the right – to participate in the activities of, or recruit members for, a political party and to campaign for a political party or cause. However, SRC members are elected to serve the interests of all students and

as such they may not in their capacity as SRC members participate in the activities of or recruit members for a political party and campaign for a political party or cause.

- 23.2 According to section 9(2) of the Constitution, equality includes the full and equal enjoyment of rights and freedoms. Section 9(4) stipulates that no person may unfairly discriminate directly or indirectly against anyone on one or more grounds set out in subsection (3). Amongst the grounds listed in subsection (3) are conscience and belief which are also specifically covered in section 15 of the Constitution. Subsection (1) of the latter section inter alia states that everyone has the right to freedom of conscience, thought, belief and opinion.
- 23.3 In applying and interpreting the above rights in the Bill of Rights, we are guided by the provisions of sections 7, 8 and 39 of the Constitution. Therefore, these rights must be read in conjunction with the latter sections. Section 8 inter alia provided that the Bill of Rights applies to all law and binds all organs of state.
- 23.4 Furthermore, in terms of item 24(2) of the college statute, the SRC must be representative of the student body. The term "student body" is not defined in the Act. In the light of the Constitutional provisions cited above, association to a student body may not be limited by any resolution, conduct, regulation or Act.
- 23.5 Student politics at higher education and technical and vocational education and training institutions are certainly not a new phenomenon. It is also common knowledge that student life and activities at these institutions are influenced by party politics, including SRC elections, notwithstanding the fact that the SRC itself is not a party political structure. However, it is important to note that all registered students of the college are represented by the SRC in all matters that may affect them as stipulated by the Act.
- 23.6 The role of the SRC in institutions of higher learning are encapsulated and elucidated in the Act, SRC Constitutions and Code of Conduct. The functions of the SRCs are contemplated in schedule 1 of section 23 of the standard college statute.

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