




**PROTECTION OF PERSONAL INFORMATION POLICY**

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		POLICY DOCUMENT
PROTECTION OF PERSONAL INFORMATION POLICY		

**TABLE OF CONTENTS**

1. INTRODUCTION..... 3

2. PURPOSE AND OBJECTIVE (S) .....3

3. ABBREVIATIONS .....5

4. DEFINITIONS .....5


5. SCOPE OF APPLICATION ..... 11

6. LEGISLATIVE AND REGULATORY PRESCRIPTS ..... 11

7. POLICY PROVISIONS AND CONTENT ..... 12

10. POLICY IMPLEMENTATION AND EFFECTIVE DATE .....20

12. APPROVAL OF THE POLICY .....20


		POLICY DOCUMENT
<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>		

## **1. INTRODUCTION**


- 1.1. Section 14 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to privacy. The right to privacy includes a right to protection against the unlawful collection, retention, dissemination and use of personal information.
- 1.2. The right to privacy is protected in the Protection of Personal Information (POPI) Act 4 of 2013. The POPI Act aims to promote the protection of privacy through providing guiding principles that are intended to be applied to the processing of personal information in a context-sensitive manner.
- 1.3. A person's right to privacy entails having control over his or her personal information and being able to conduct his or her affairs relatively free from unwanted intrusions.
- 1.4. In discharging its legislative mandate as a sector education and training authority, the PSETA is involved in the collection, use and disclosure of certain aspects of the personal information of employees, and other stakeholders.
- 1.5. Given the importance of privacy, the PSETA is committed to effectively managing personal information of internal and external data subjects in accordance with the POPI Act's provisions.

## **2. PURPOSE AND OBJECTIVE (S)**

- 2.1. The purpose of this policy is to achieve the following objectives:

		POLICY DOCUMENT
<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>		

- 2.1.1. enable the PSETA to comply with the provisions of the POPI Act and ensure the protection of personal information for external and internal stakeholders of the PSETA;
  - 2.1.2. regulate the manner in which personal information may be processed, by establishing conditions, in harmony with the POPI Act, that prescribe the minimum threshold requirements for the lawful processing of personal information;
  - 2.1.3. provide persons with rights and remedies to protect their personal information from processing that is not in accordance with this Act;
- 2.2. This policy demonstrates the PSETA's commitment to protecting the privacy rights of external and internal stakeholders of PSETA, in the following manner:
- 2.2.1. Through stating desired behaviour and directing compliance with the provisions of POPI Act;
  - 2.2.2. By cultivating an organisational culture that recognises privacy as a constitutional right;
  - 2.2.3. By developing and implementing internal controls for the purpose of managing the compliance risk associated with the protection of personal information;
  - 2.2.4. By creating business practices that will provide reasonable assurance that the rights of data subjects are protected and balanced with the legitimate business needs of PSETA;
  - 2.2.5. By assigning specific duties and responsibilities to PSETA officials, including the appointment of an Information Officer and Deputy Information Officer in order to ensure compliance with the POPI act within PSETA;

		POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY	


- 2.2.6. By raising awareness through training and providing guidance to PSETA employees who process personal information so that they can act in compliance with the prescripts of the POPI Act.

### 3. ABBREVIATIONS


ABBREVIATION	DESCRIPTION
AA	PSETA Accounting Authority
AC	PSETA Audit Committee
CEO	PSETA Chief Executive Officer
CSE	PSETA Corporate Services Specialist
DHET	Department of Higher Education and Training
DOA	Delegation of authority
PAIA	Promotion of Access to Information Act No 2 of 2000
POPI Act	Protection of Personal Information Act No 4 of 2013
PSETA	Public Service Sector Education and Training Authority

### 4. DEFINITIONS


TERM	DESCRIPTION
<b>Accounting Authority'</b>	means PSETA'S Accounting Authority as set out in Sections 49-57 of the Public Finance Management Act (Act 1 of 1999);
<b>Consent</b>	means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;
<b>Constitution</b>	means the Constitution of the Republic of South Africa, 1996.

	POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY

TERM	DESCRIPTION
<b>Data Subject</b>	means a natural or juristic person to whom personal information relates, such as an individual person, external or internal stakeholder or a company that supplies PSETA with products or other goods.
<b>De-identify</b>	in relation to personal information of a data subject, means to delete any information that— (a) identifies the data subject; (b) can be used or manipulated by a reasonably foreseeable method to identify the data subject; or (c) can be linked by a reasonably foreseeable method to other information that identifies the data subject,
<b>Direct marketing</b>	means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of –  (a) promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or (b) requesting the data subject to make a donation of any kind for any reason;
<b>Electronic Communication</b>	means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient;
<b>Filing System</b>	means any structured set of personal information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria.


		POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY	

TERM	DESCRIPTION
<b>Information Officer</b>	means the Chief Executive Officer of PSETA and the Deputy Information Officer means the Legal Services Specialist of PSETA.
<b>Operator</b>	means an official in the employ of PSETA who processes personal information on behalf of PSETA, as part of their duties and responsibilities in the employ of PSETA, without coming under the direct authority of PSETA.
<b>Person</b>	means a natural person or a juristic person.
<b>Personal Information</b>	<p>means any information that can be used to reveal a person's identity. Personal information relates to an identifiable, living, natural person, and where applicable, an identifiable, existing juristic person (such as a company), including, but not limited to information concerning:</p> <ul style="list-style-type: none"> <li>(a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;</li> <li>(b) information relating to the education or the medical, financial, criminal or employment history of the person;</li> <li>(c) any identifying number, symbol, e-mail address, physical address, telephone number, location</li> </ul>


	POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY

TERM	DESCRIPTION
	<p>information, online identifier or other particular assignment to the person;</p> <p>(d) the biometric information of the person;</p> <p>(e) the personal opinions, views or preferences of the person;</p> <p>(f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;</p> <p>(g) the views or opinions of another individual about the person; and</p> <p>(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;</p>
<p><b>Processing</b></p>	<p>means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including —</p> <p>(a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;</p> <p>(b) dissemination by means of transmission, distribution or making available in any other form; or</p>




	POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY

TERM	DESCRIPTION
	(c) merging, linking, as well as restriction, degradation, erasure, or destruction of information;
<b>PAIA Act</b>	means the Promotion of Access to Information Act 2 of 2000.
<b>POPI Act</b>	means the Protection of Personal Information Act 4 of 2013 and the Regulations Relating to the Protection of Personal Information of 2018.
<b>Public body</b>	<p>Public Body means—</p> <p>(a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or</p> <p>(b) any other functionary or institution when—</p> <p>(i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or</p> <p>(ii) exercising a public power or performing a public function in terms of any legislation;</p> <p>For purposes of this Policy, means PSETA.</p>
<b>Public record</b>	means a record that is accessible in the public domain, and which is in the possession of or under the control of a public body, whether or not it was created by that public body;

		POLICY DOCUMENT
	<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>	

TERM	DESCRIPTION
<b>Record</b>	<p>means any recorded information—</p> <p>(a) regardless of form or medium, including any of the following:</p> <ul style="list-style-type: none"> <li>(i) Writing on any material;</li> <li>(ii) information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored;</li> <li>(iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;</li> <li>(iv) book, map, plan, graph or drawing;</li> <li>(v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;</li> </ul> <p>(b) in the possession or under the control of a responsible party;</p> <p>(c) whether or not it was created by a responsible party; and</p> <p>(d) regardless of when it came into existence;</p>
<b>Regulator</b>	<p>means the Information Regulator of the Republic of South Africa.</p>

		POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY	


TERM	DESCRIPTION
<b>Responsible Party</b>	means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information. For purposes of this policy, refers to PSETA.

## 5. SCOPE OF APPLICATION

- 5.1. This policy applies to all PSETA employees on a fixed term contract including learners, and any person, excluding an independent contractor, who works for PSETA and who receives, or is entitled to receive, any remuneration; and any person who in any manner assists in carrying out or conducting the functions of PSETA, who are processing personal information of external and internal stakeholders within PSETA.
- 5.2. For purposes of this Policy, stakeholders include service providers who provide goods and/or services for PSETA, Skills Development Providers and Learners on various Skills Development Programmes within PSETA's sector.
- 5.3. The policy's guiding principles must be read in conjunction with the POPI Act as well as the PAIA manual prepared in terms of ss14 and 51 of the PAIA Act.

## 6. LEGISLATIVE AND REGULATORY PRESCRIPTS

- 6.1. Constitution of the Republic of South Africa, 1996;
- 6.2. Protection of Personal Information Act No. 4 of 2013;
- 6.3. Promotion of Access to Information Act No. 2 of 2000;

		POLICY DOCUMENT
<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>		


- 6.4. Regulations relating to the Protection of Personal Information, R1383 of 2018;
- 6.5. Practice Notes or Directives issued by the Information Regulator.

*The highlighted legislation and prescripts are not meant to be an exhaustive list.*


## **7. POLICY PROVISIONS AND CONTENT**

### **7.1. PSETA Employees**

- 7.1.1 Employees and other responsible parties acting on behalf of PSETA will, during the course of the performance of their duties, gain access to and become acquainted with the personal information of external and internal stakeholders and other PSETA employees.
- 7.1.2 Employees and other responsible parties acting on behalf of PSETA are required to treat personal information as confidential and to comply with the privacy of data subjects.
- 7.1.3 Personal information of data subjects will only be processed where the data subject:
  - 7.1.3.1 Clearly understands for what purpose his, her or its personal information is being collected;
  - 7.1.3.2 Has granted the PSETA official processing the information, with explicit written or verbal consent to process his, her or its personal information.
  - 7.1.3.3 Consent given should preferably in written form.

		POLICY DOCUMENT
<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>		

- 7.1.4 Employees and other persons acting on behalf of PSETA will consequently, prior to processing any personal information, obtain a specific and informed consent from the data subject, in terms of which permission is given for the processing of personal information.
- 7.1.5 Informed consent is where the data subject clearly understands for what purpose his, her or its personal information is needed and who it will be shared with.
- 7.1.6 Consent should preferably be obtained in written form which includes any appropriate electronic medium that is accurately and readily reducible to printed form.
- 7.1.7 Where the data subject objects to the processing of their personal information, then in such circumstances, PSETA will give due consideration to the request and the requirements for objection, as contained in POPI Act.
- 7.1.8 Subject to the requirements of objection as contained in the POPI Act, PSETA may cease to use or disclose the data subject's personal information and may, subject to any statutory and contractual record keeping requirements, also approve the destruction of the personal information.
- 7.1.9 Consent to process a data subject's personal information will be obtained directly from the data subject, except where:
- 7.1.9.1. the personal information has already been made public or forms part of a public record;
  - 7.1.9.2. valid consent has already been given for collection of personal information from another source, or a third party;

		POLICY DOCUMENT
<b>PROTECTION OF PERSONAL INFORMATION POLICY</b>		

7.1.9.3. the processing of such personal information is necessary for effective law enforcement.

7.1.9.4. the reason for not-collecting directly from the data subject is based on any of the grounds set out in section 12 of the POPI Act.

7.1.10. PSETA employees and other persons acting on behalf of PSETA will under no circumstances:


7.1.10.1 process or have access to personal information where such processing or access is not a requirement to perform their respective work-related tasks or duties.

7.1.10.2 process personal information where the data subject has not given consent to such processing of personal information;

7.1.10.3 share personal information informally. Where access to personal information is required, this must be requested or verified with the relevant line manager or the Deputy Information Officer of PSETA.

7.1.11 PSETA employees should take reasonable steps to ensure that personal information is stored only for as long as it is needed or required in terms of the purpose for which it was originally collected or for any other reason as set out in section 14 of the POPI Act.

7.1.12 Where personal information is no longer required, then the PSETA official processing such information, must dispose of such personal information, as required by Section 14(4) of the POPI Act.

		POLICY DOCUMENT
PROTECTION OF PERSONAL INFORMATION POLICY		

**7.2. Procedure for a data subject requesting access to Personal Information:**

**7.2.1 A data subject, within the employ of PSETA or an external stakeholder, having provided adequate proof of identity, has the right to –**


**7.2.1.1. request a responsible party within the employ of PSETA, to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and**

**7.2.1.2 request from a responsible party, within the employ of PSETA, the record or a description of the personal information about the data subject held by the responsible party. This includes information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information, where such information about third parties or categories, is available.**

**7.2.1.3 Such request from the data subject, must be attended to by the responsible party:**

- (a) within a reasonable time;**
- (b) at a prescribed fee, if any;**
- (c) in a reasonable manner and format; and**
- (d) in a form that is generally understandable.**

**7.2.1.4 If, in response to a request in terms of item 7.2.1.2 – 7.2.1.3 above, personal information is communicated to a data subject, then the data subject must be advised of the right in terms of section 24 of the POPI Act, to request the correction of information.**

		POLICY DOCUMENT
	PROTECTION OF PERSONAL INFORMATION POLICY	

7.2.1.5 If a data subject is required by a responsible party in the employ of PSETA, to pay a fee for services provided to the data subject in terms of item 7.2.1.2 – 7.2.1.3 above, to enable the responsible party to respond to a request, the responsible party —

- (a) must give the applicant a written estimate of the fee before providing the services; and
- (b) may require the applicant to pay a deposit for all or part of the fee.

7.2.1.6 A responsible party in the employ of PSETA, may or must refuse to, as the case may be, disclose any information requested in terms of item 7.2.1. 2 to which the grounds for refusal of access to records set out in the applicable provisions of the POPI Act and the PAIA Act.


7.2.1.7 The provisions of sections 30 and 61 of the PAIA Act are applicable in respect of access to health or other records.

7.2.1.8 If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of section 23(4)(a) of the POPI Act, every other part must be disclosed.

### 7.3. POPI complaints procedure

7.3.1 Data subjects have the right to lodge a complaint in instances where any of their rights under POPIA have been infringed upon. PSETA will address all POPI related complaints in accordance with the following procedure:




		POLICY DOCUMENT
PROTECTION OF PERSONAL INFORMATION POLICY		

- 7.3.1.1 All complaints regarding any alleged infringements of the POPI Act within PSETA, must be submitted to the PSETA Deputy Information Officer in writing.
- 7.3.1.2 The PSETA Deputy Information Officer will carefully consider the complaint and address the complainant's concerns.
- 7.3.1.3 In considering the complaint, the PSETA Deputy Information Officer will endeavour to resolve the complaint in a fair manner and in accordance with the principles outlined in POPI Act.
- 7.3.1.4 The PSETA Deputy Information Officer's response to the data subject may comprise any of the following:
  - (a) A suggested remedy for the complaint;
  - (b) A dismissal of the complaint and the reasons as to why it was dismissed;
  - (c) An apology (if applicable) and any disciplinary action that it recommended to be taken against any PSETA employees involved.
- 7.4.1.5 Where the data subject is not satisfied with the Deputy Information Officer's suggested remedies, then the data subject has the right to complain to the regulatory body which exercises oversight on personal information, with is the office of the Information Regulator of South Africa.

## 8. ROLES AND RESPONSIBILITIES

### PSETA Accounting Authority:

- 8.1. The PSETA Accounting Authority ("PSETA AA"), or its duly delegated officials in its subcommittees, shall ensure that PSETA appoints an Information Officer, and a Deputy Information Officer.

		POLICY DOCUMENT
PROTECTION OF PERSONAL INFORMATION POLICY		

**PSETA Executive Management:**

8.2. PSETA Executive Management or its duly delegated officials, shall ensure that all PSETA officials that are responsible for the processing of personal information on behalf of the organisation:


- 8.2.1 are appropriately trained and supervised to do so;
- 8.2.2 understand that they are legally obligated to protect the personal information they come into contact with.
- 8.2.3. are aware that a wilful or negligent breach of this policy's processes and procedures may lead to disciplinary action being taken against them, in terms of PSETA's disciplinary policy.
- 8.2.4. That data subjects who want to make enquires about their personal information are made aware of the procedure that needs to be followed should they wish to do so.

**PSETA Deputy Information Officer:**

8.3. The PSETA Deputy Information Officer is designated as the main official responsible for implementing the prescripts of the POPI Act, within PSETA.

8.4. The PSETA Deputy Information Officer's duties in this regard, include the following:

- 8.4.1. Dealing with requests made to the PSETA on all issues pertaining to personal information, from external and internal stakeholders, pursuant to the POPI Act;
- 8.4.2. Ensuring compliance by PSETA with the provisions of the POPI Act; and as may be prescribed by the Office of the Information Regulator or any other Regulations pertaining to personal information;

		POLICY DOCUMENT
<p style="text-align: center;"><b>PROTECTION OF PERSONAL INFORMATION POLICY</b></p>		

- 8.4.3. Encouraging the compliance with the prescripts of the POPI Act, within PSETA, and with the eight conditions for the lawful processing of personal information as set out in the POPI Act;
- 8.4.4. working with the Office of the Information Regulator in relation to investigations conducted pursuant to the prescripts of the POPI Act, in relation to PSETA;
- 8.4.5. Fulfilling responsibilities of Deputy Information Officers as set out in the POPI Act and Regulation 4 of the Regulations relating to the POPI Act. These include, amongst other working on and updating the POPI compliance framework.


8.5. The PSETA Deputy Information Officer may procure external service providers or external expertise to assist the PSETA in complying with technical aspects of compliance with the POPI Act, where necessary.

8.6. The PSETA Deputy Information Officer must take up their duties in terms of the POPI Act, only after he/she has received a letter of appointment and has been registered with the Office of the Information Regulator, as prescribed in the POPI Act.

8.7. The PSETA Deputy Information Officer may liaise with other PSETA officials who process or are involved in the processing of personal information, in order to ensure that the PSETA officials comply with the prescripts of the POPI Act, in their line of duty.

## **9. NON-COMPLIANCE**

Non-compliance with this Policy or any applicable regulatory requirements, will be considered serious and be dealt with in terms of PSETA's disciplinary policies and procedures.

		POLICY DOCUMENT
PROTECTION OF PERSONAL INFORMATION POLICY		

**10. POLICY IMPLEMENTATION AND EFFECTIVE DATE**

10.1. This Policy comes into effect on the date of signature, as per the provisions of the PSETA Policy Development Framework and the relevant owner shall ensure that it is communicated to staff using various modes, not limited to email, intranet and others.

10.2. However, such communication or delays thereof, shall not have any bearing on the effective date for implementation.

**11. MONITORING, REVIEWING AND UPDATING OF THE POLICY**

11.1. This policy shall be reviewed no sooner than twelve (12) months and no later than thirty-six (36) months after the approval date unless changes in Legislation and Ministerial Directives dictate otherwise.

11.2. The outcome of such process may either require the author to maintain the status quo or update/amend however the author shall further ensure that it is aligned to prevailing resolutions, regulations, and market conditions.

**12. APPROVAL OF THE POLICY**

12.1. This Policy shall be approved by the AA and signed by the Chairperson subsequent to the Resolution taken.

12.2. The approval dates and signatures shall appear on the cover page of the document.