



# **LEARNER ADMINISTRATION POLICY**

## **2019/20**

LAPOL\_LP\_001

Version 1.0

**Version Control and Approval****Document Name** Learner Administration Policy**Document Number/Version** Version 1.0**Status/Revision History**

Rev #	Revision Update	Revised By	Date
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**Approval****Date Approved** 01 August 2019**Date Last Amended****Date of Next Review** 31 July 2020**Related Policies** Discretionary Grant Policy;  
Learner Administration Standard Operating Procedure**Authored By****Name** Linda Nxumalo**Position** Manager: Learning Programmes**Signature** **Date** 01.08.2019**Recommended By****Name** Juwayria Amod**Position** Executive Manager: Learning Programs**Signature** **Date** 1/8/19**Approved By****Name** Yulani Memela**Position** Acting Chief Executive Officer**Signature** **Date** 01/08/2019

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## 1. TERMS AND DEFINITIONS

Term/Acronym	Definition
<b>Accounting Authority</b>	The Board constituted in terms of section 49(2) (a) of the PFMA as appointed by the DHET; as identified as the Accounting Authority and shall be accountable for the purposes of that Act
<b>Accounting Officer</b>	The Chief Executive Officer, designated to act as accounting officer within the framework of formal delegations by the Accounting Authority, in terms of section 56 of the PFMA
<b>Act</b>	Means the skills Development Act 1998 (Act 97 of 1998 as amended).
<b>AQP</b>	Means assessment quality partner delegated by the QCTO to develop assessment instruments and manage the external integrated summative assessment of specific NQF registered occupational qualifications and part qualifications
<b>Board</b>	Board constituted by the Minister from the organisational structures of the trade unions, employer organisations and government in terms of section 9(2)(d) of the Act. Also known as the Accounting Authority
<b>Candidacy</b>	Means a period of workplace based learning undertaken by a graduate as part of the requirements for registration as a professional in the required professional designation as stipulated by a Professional Body
<b>DHET</b>	Department of Higher Education and Training
<b>Employer</b>	Means the employer party to an agreement or a group of such employers;
<b>HET</b>	Higher Education and Training
<b>Internship</b>	Workplace-based experiential learning opportunity that is generally offered as a supervised programme to supplement formal study completed and to enhance competence and/or employability. This may include academic staff with existing qualifications that need sector specific experience.
<b>Learner</b>	means the learner party to an agreement as contemplated in s. 17(1) (a) of the Act;
<b>Learnership</b>	Structured learning process for gaining theoretical knowledge and practical skills in the workplace leading to a qualification registered on the NQF. A learnership is outcomes-based and not time-based and allows for recognition of prior learning.
<b>Learning programme</b>	Any structured educational program, formed from a set of unit standards or modules from any other registered qualification; based on learning activities intended to give a learner particular knowledge and skills.
<b>Learnership Regulations</b>	Means the Learnership Regulations, 2007 published in Notice R519 ( <i>Government Gazette</i> No. 30010) dated 29 June 2007.
<b>LPERC</b>	Learning Programmes: Evaluation and Recommendation Committee that will evaluate and make recommendation to the Accounting Officer, EXCO with regard to Discretionary Grants
<b>Non-Pivotal</b>	Non-Pivotal Programmes are programmes which do not lead to credit bearing qualification, however address key objectives and priorities of the SETA or the country
<b>NQF</b>	National Qualifications Framework

<b>Term/Acronym</b>	<b>Definition</b>
<b>Participating Employers</b>	Refers to the employers partnering with training providers in delivering a project, whether it be a learnership, internship or other programme.
<b>Pivotal</b>	Professional, vocational, technical and academic learning programmes that result in qualifications or part qualifications on the National Qualifications Framework as contemplated in regulation 3 (6) and (7) as read with regulation 6 (11) to (15)
<b>Professional body</b>	Means anybody of expert practitioners in an occupational field recognised by SAQA in terms of s. 29 of the NQF Act, and includes an occupational body;
<b>Professional designation</b>	means a title or status conferred by a professional body in recognition of a person's expertise and right to practise in an occupational field and registered on the NQF in terms of s. 30 of the NQF Act;
<b>QCTO</b>	Quality Council for Trades and Occupations
<b>Qualification</b>	includes a part qualification as defined in section 1 of NQF Act;
<b>Quality Council</b>	means a quality council contemplated in s. 1 of the NQF Act;
<b>RPL</b>	Recognition of Prior Learning
<b>SDA</b>	Skills Development Act No.97 of 1998
<b>SETA</b>	Sector Education and Training Authority
<b>SDLA</b>	Skills Development Levies Act No.9 of 1999
<b>Skills Programme</b>	Occupation-based learning programme aimed at building skills that have economic value, and which incorporates at least one unit standard. It is registered by a SETA and delivered by an accredited training provider
<b>Submit</b>	Means to deliver a document by hand or registered post or by courier to SASSETA
<b>Suspend</b>	Means to formally interrupt an agreement for a specified period of time without terminating it;
<b>Terminate</b>	Means to dissolve an agreement before all the terms of agreement have been fulfilled;
<b>TVET</b>	Technical, Vocation, Education and Training
<b>Workplace based learning</b>	Means an educational component of an occupational qualification that provides students with real life work experiences where they can apply academic and technical skills and increase the prospect of employability.
<b>Workplace based learning programme</b>	Means an intervention as contemplated in an occupational qualification which a person internalizes knowledge, skills and competencies and gain insights through exposure to work by achieving specific outcomes to enhance employability.



## **2. PURPOSE**

The purpose of this policy is to provide guidance on the administration of learning programmes to ensure compliance with all legislation and reporting requirements of the SETA.

## **3. SCOPE**

This policy applies to all Learning Programmes, whether SETA-funded or Self-funded, excluding Artisans.

## **4. OVERSIGHT**

Administration of Learning Programmes shall fall within the operational mandate.

## **5. POLICY OBJECTIVES**

The primary objective of this policy is to provide for the preparation, submission, registration and management of work base learning programme agreements and the management of disputes and administrative arrangements.

## **6. BACKGROUND**

The Skills Development Act, 1998 (Act 97 of 1998 as amended) requires that a SETA, in accordance with any requirements that may be prescribed, to establish and promote learning programmes, assist in the conclusion of agreements for learning programmes and register agreements for learning programmes. The Learnership Regulations, 2007 published in Government Notice R519 in Government Gazette No. 30010 dated 29 June 2007 provided a mechanism to give effect to this SETA requirement.

On 16 November 2018, the Minister of Higher Education and Training gazetted the Workplace Based Learning Programmes Regulations, 2018 (Government Gazette Notice No. 42037) which came into effect from 01 April 2019, repealing the Learnership Regulations, 2007 published in Government Notice R519 in Government Gazette No. 30010 dated 29 June 2007 in whole.

## **7. LEGISLATIVE FRAMEWORK**

On 16 November 2018, the Workplace Based Learning Programme Agreement Regulation was gazetted (Government Gazette Notice No. 42037), which impacts on the administration of learning programmes.

7.1 Other pieces of legislation that guide the implementation of projects are:



Source	Requirement
Basic Conditions of Employment Act 77 of 1997	Set the guidelines for the basic work conditions for the learners, apprentices and interns.
National Qualification Framework Act 37 of 2008	Sets the guidelines for qualification development and implementation.
Sectoral Determination Act no 5 Learnerships	Governs the employment of learner workers; which includes all learnership agreements and skills development programmes

## 8. REQUIREMENTS FOR REGISTRATION OF AGREEMENTS

In order for SASSETA to register a learning programme agreement, the following must be in place:

- 8.1 It has received a completed and signed agreement form referred to in regulation 5(1) within 30 working days of the date on which the learner has signed the agreement;
- 8.2 In the case of a Learnership, it has been registered with the Director-General in terms of chapter 4 of these Regulations;
- 8.3 The employer falls within the SETA as established or re-established by the Minister in terms of s. 9 of the Act;
- 8.4 The employer enters into a contract of employment with the learner (covering the full duration of the training) if the learner is not employed at the start of the workplace based learning programme agreement;
- 8.5 The provider is accredited by the relevant Quality Council (QC), Professional Body or SETA for the relevant curriculum components associated with the learning programme; and
- 8.6 The latest prescribed template is used.

## 9. SUBMISSION AND RECEIPT OF LEARNING PROGRAMME AGREEMENTS

In order to register learning programme agreements, the following must be in place:

- 9.1 The agreement must be delivered in duplicate – an original and a copy - by hand or registered mail or by courier to the registered address of SASSETA
- 9.2 The agreement must be in the latest, prescribed template (obtainable from the SASSETA website)
- 9.3 All the parties to the agreement must complete, initial each page and sign in full where required
- 9.4 If the learner is a minor, the learner's parent or guardian must sign on behalf of the learner.
- 9.5 If the learner is unemployed, a contract of employment comes into effect when the learner is placed on the learning programme.
- 9.6 The employer or the provider must submit the duly completed and signed agreements forms to SASSETA within 30 working days of the date on which the learner signed the agreement

- 9.7 Should all the submission meet all the requirements as set out in the Learner Administration Standard Operating Procedures, SASSETA will acknowledge receipt of the agreements in writing
- 9.8 In the event that clause 8.6 above is not fully met, SASSETA will return the submission to the Employer / Provider with a memo clearly indicating the requirements not met and allow the Employer / Provider to comply and re-submit when all the requirements have been met.
- 9.9 If in terms of regulation 10(2) SASSETA declines to register the agreement of an unemployed learner, the employer must forthwith terminate the learner's placement and contract of employment whether or not funding has been secured.

## **10. REGISTRATION DECISION BY SETA**

- 10.1 If within 30 working days of receiving an agreement, SASSETA has verified that the relevant requirements in regulations 7 and 9 have been complied with, it will -
  - 10.1.1 Register the agreement within 60 days, record the date of registration and generate a number for the agreement;
  - 10.1.2 Submit proof that the agreement has been registered;
  - 10.1.3 Submit or request for collection a copy of the registered and numbered agreement to the Employer / Provider.
- 10.2 Should SASSETA be unable to register the agreement, the SETA will notify the Employer / Provider, providing reasons for its decision considering relevant facts within 14 working days.

## **11. AMENDMENT TO THE AGREEMENT**

The learner agreements are governed by the respective legislation and regulations and are audited both internally and externally to confirm their authenticity and validity. To protect all parties and the SETA;

- 11.1 The use of correction pens / fluids is strictly prohibited, all amendments to the agreement must be initialled by all parties.
- 11.2 SASSETA employees may not be requested to amend or witness documents on behalf of the parties to the agreement.
- 11.3 The parties to an agreement may, by mutual agreement and subject to the SETA's prior approval, amend the terms of a registered agreement within the legislated requirements.

## **12. TERMINATION OF THE AGREEMENT**

- 12.1 SASSETA may approve the request for termination of an agreement if -
  - 12.1.1 an employer or learner has made a written request to terminate and provides documentation to confirm that the other party / parties have had an opportunity to make representations;
  - 12.1.2 a learner has terminated a contract of employment with the employer; or





- 12.1.3 a provider has requested on good cause to terminate and the other parties have had an opportunity to make representations; or
- 12.1.4 the employer has not been able to arrange for another provider to be substituted for the existing provider in terms of regulation 12.
- 12.2 An application to terminate an agreement in terms of sub-regulation 1 must be submitted to SASSETA in writing, on the prescribed template and with the relevant supporting documents attached.
- 12.3 In the case of a termination request only signed by one party, the request to terminate must be accompanied by a letter signed by the employer setting out the reasons for the termination and the process followed before arriving at the decision to terminate.
- 12.4 The SETA's decision will be communicated back in writing.
- 12.5 If SASSETA approves the request for the termination of an agreement, SASSETA will return the duly signed approval and de-register the agreement.

### **13 SUBSTITUTION OF A PARTY**

SASSETA may approve an application from an employer for the substitution of the employer or the provider if a written application in the form of an annexure setting out the terms of the substitution and signed by each party is submitted to the SETA.

### **14 LEARNER REPLACEMENT**

SASSETA may approve an application from an employer / provider to replace a learner that has dropped out of SETA funded programmes if;

- 14.1 the request is received prior to the actual replacement of the learner
- 14.2 the related funding agreement makes provision for such replacement. In the event of funding agreements that are silent on learner replacement, the following will apply;
  - 14.2.1 not more than 30% of the programme has been implemented and a clear catch-up plan is submitted and approved by SASSETA to ensure that the learner is not unduly disadvantaged
  - 14.2.2 the replacement will not have the effect of automatically extending funded projects
  - 14.2.3 funds already disbursed towards the learner that has dropped out will not be paid again for the replacement learner
  - 14.2.4 learner replacement is strictly at the discretion of SASSETA

### **15 DEDUCTIONS FROM LEARNER STIPENDS**

Where a learner is placed on a workplace based programme and is earning a stipend, whether from SASSETA, the Employer or other sources, only UIF may be deducted from the stipend.



## **16 CERTIFICATION OF LEARNER ACHIEVEMENTS**

When the learners have successfully met the certification requirements, where applicable, the certificates will be issued within 40 days of the submission of the relevant forms and supporting documents

## **17 COMPLETION OF INTERNSHIPS**

When the end date specified in an internship agreement has been reached, the Employer must:

- 17.1 Complete and provide the learner with a Service Certificate; and
- 17.2 Conduct and document an Exit Interview

## **18 DISPUTES**

- 18.1 A party referring a dispute in terms of section 19(2) of the Act must submit a completed Form 7.11 published in terms of the Labour Relations Act 66 of 1995 to the Commission for Conciliation, Mediation and Arbitration (CCMA).
- 18.2 A party to a dispute regarding the quality and delivery of education and training or assessment provided by a party to the agreement may refer the dispute in writing to the SETA that accredited the party (copies to be sent to SASSETA in the event that this is another SETA who is responsible for the Quality Assurance).
- 18.3 If the dispute is not settled by the relevant SETA within 30 working days of the written submission being received, then the matter must be referred to the Department of Higher Education and Training or QCTO respectively for resolution in accordance with the applicable policies and Procedures of the Department or QCTO.

## **19 APPEALS**

SASSETA subscribes to principles of transparency, equity and fairness and subscribes to the Promotion of Administrative Justice Act (PAJA). As such, parties who feel their learning programme and/or agreement has been unfairly declined registration, are invited to submit a letter of appeal stating factors they feel were overlooked in the evaluation process to the Executive Manager's office within seven days (7) of receipt of a letter declining the application. The Executive Manager will review the appeal and make a decision in consultation with the Chief Executive Officer. This decision is final.

## **20 SUPPORT, MONITORING AND EVALUATION**

SASSETA may conduct Support, monitoring and evaluation visits or calls to support the implementation of learning programmes. The recommendations and remedial actions raised are binding and must be implemented by the parties to ensure full compliance with all applicable laws.



## **21 REPORTING**

As part of its mandate, SASSETA is required to report on all learning that takes place in the sector, irrespective of funding source. Stakeholders are requested to comply with all reasonable requests from the SETA for reporting purposes.

## **22 POLICY IMPEMENTATION**

The implementation of this policy lies in the office of the Executive Manager: Learning Programmes, and will apply from 01 August 2019.

## **23 POLICY VALIDITY**

This policy will be subject to review annually, unless major changes occur in the regulatory / legal environment. The policy will remain in force until the reviewed policy has been signed off.

