

ZAMBIA NATIONAL EDUCATION COALITION (ZANEC)

ZANEC ANTI-FRAUD AND CORRUPTION POLICY 2020

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LIST OF ACRONYMS

AFCP – Anti-Fraud and Corruption Policy

CBOs - Community Based Organizations

CPs - Cooperating Partners

CSOs - Civil Society Organisations

FBOs - Faith Based Organization

GRZ - Government of the Republic of Zambia

NGOs - Non-Government Organization

PID – Public Interest Disclosure

TTUs - Teacher Trade Unions

UNCAC – United Nations Convention against Corruption

ZANEC - Zambia National Educational Coalition

1. INTRODUCTION

1.0. Zambia National Educational Coalition (ZANEC) is an umbrella body for Civil Society Organizations (CSOs) that include Non-Government Organization (NGOs), Faith Based Organization (FBOs), Community Based Organizations (CBOs) and Teacher Trade Unions (TTUs). ZANEC envisages a quality national education system that is accessible, relevant and equitable for human development in Zambia. As a result, the mission of ZANEC is to campaign and advocate for the attainment of Education and Skills Sector goals through promoting interaction with the Government of the Republic of Zambia (GRZ), Cooperating Partners (CPs), communities and other stakeholders.

2. POLICY STATEMENT

2.0. ZANEC has a 'zero tolerance' policy towards fraud, bribery and corruption. We will always investigate and seek to take disciplinary and/or legal action against those who commit, attempt to commit, or assist anyone committing fraud or any other improper activities in our operations.

2.1. ZANEC is committed to:

- Developing an anti-fraud culture across the organisation
- Seeking to minimise the opportunities for fraud, bribery and corruption
- Having effective systems, procedures and controls in place to enable the Prevention and detection of fraud, corruption and bribery
- Ensuring that its staff are aware of the risks of fraud, bribery and Corruption and understand their obligations to report any actual or suspected incidents of fraud, bribery or corruption
- taking all reports of fraud, bribery and corruption seriously, and investigating them proportionately and appropriately
- Meeting its obligations to report any incidents of fraud, bribery and corruption to appropriate external authorities.

We will provide adequate and appropriate resources to implement this policy and will ensure it is communicated and understood.

3. PURPOSE

3.0. The purpose of this policy is to outline what constitutes fraud, bribery and corruption in general, for effective fraud, corruption and bribery prevention, detection, and effective response mechanisms in order to safeguard ZANEC's interests against financial loss and reputational risk, and ineffective program delivery for its beneficiaries, to further establish trusted partnerships and ensuring continued funding.

3.1. This Policy establishes the guiding principles governing ZANEC's transparent and accountable management of resources to achieve its strategic objectives and seeks to prevent, identify and address Fraud, Corruption and Bribery with appropriate internal controls; training, awareness and reporting mechanisms; due diligence in Employee recruitment and Partner and Vendor Selection; and adequate internal and external controls, audits, investigations, and continuous improvement.

3.2. This Policy must be read in conjunction with applicable laws and regulations. ZANEC acts in compliance with local legislation regarding Anti-Fraud, Anti-Corruption, and Anti-Bribery.

4. DEFINITIONS

- 4.0. This part of the policy offers brief but concise conceptual definitions of selected key terms that will be used frequently in this policy. The other definitions with regards forms and types of fraud and corruption will be found in the glossary annexed to this document. The purpose for providing these definitions is to ensure that everyone who reads it has the same understanding of what constitutes the offences which will be outlined herein.
- 4.1. **Bribery** – is a type of corruption referring to an act of offering someone money, services or other inducements to persuade him or her to do something in return for someone to gain undue advantage
- 4.2. **Corruption** – as defined by the Anti-Corruption Act No. 3 of 2012, is “...soliciting, accepting, obtaining, giving promising or offering of gratification by way of a bribe or other personal temptation or inducement or misuse or abuse of public office for advantage or benefit for oneself or other person”
- 4.3. **Facilitation payment** – unofficial payments of small amounts intended to facilitate or ensure the smooth running of simple procedures or necessary acts that the payer is entitled to expect, whether on a legal or other basis.
- 4.4. **Fraud** – encompasses any act or omission whereby an individual or entity knowingly misrepresents or conceals a material fact in order to obtain an undue benefit or advantage for himself, herself, itself or a third party, or to cause another to act to his or her detriment.
- 4.5. **Conflict of interest** – occurs when someone’s personal interests conflict with their responsibility to act in the best interests of their organisation. A conflict of interest in an organisation can involve Responsible Persons, employees, volunteers or third parties working with the organisation. A conflict of interest may be actual, potential or perceived, and may be financial or non-financial
- 4.6. In this document, the following verbal forms are also used:
 - “shall” indicates a requirement;
 - “should” indicates a recommendation;
 - “may” indicates a permission;
 - “can” indicates a possibility or a capability.

5. SCOPE

- 5.0. This policy shall be applicable to all ZANEC employees, Board of Governors and all ZANEC members, whether with regards to internal or external communications, interactions and transactions.
- 5.1. This policy shall also be applicable to all agents of ZANEC as well as representatives of members.
- 5.2. This policy shall also be applicable to any third party conducting business with ZANEC, including but not limited to: grantees, sub-grantees, partner organizations, project implementing partners, contractors, subcontractors, visitors, outside experts, agents, representatives and any other organization or individual acting on ZANEC’s behalf, at ZANEC’s direction or with ZANEC funding (collectively, “Partners”).

6. FRAUD AND FRAUDULENT PRACTICES.

- 6.0. ZANEC follows the definition and standards of what are considered fraudulent acts adopted by the United Nations (UN) Secretariat, namely “encompasses any act or omission whereby an individual or entity knowingly misrepresents or conceals a material fact in order to obtain an undue benefit or advantage for himself, herself, itself or a third party, or to cause another to act to his or her detriment.” (See Chapter III of the Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat)
- 6.1. **Fraudulent practices defined by ZANEC may include, but are not limited to:**
- Forging documents, preparing false entries in official records (including electronic) or making false statements to obtain financial or other benefits for oneself or other(s);
 - Collusion, kickback, or other anti-competitive schemes between ZANEC and/or suppliers/vendors during a procurement process;
 - Providing known false information about an insurance claim or another entitlement;
 - Forging a signature or signing a document knowingly without authority, for inducing an outsider to act;
 - Misuse of Information Technology (IT) identity or password, or creating false identities/passwords, without consent or authority to manipulate institutional processes or cause the approval or denial of actions;
 - Money Laundering: transactions and activities to generate money from criminal activity, illicit means, drug trafficking, terrorist funding, or illegitimate source. See also the Anti-Money Laundering and Countering Terrorist Financing Policy;
 - Misrepresentation of any fact to obtain a benefit from a public or private sector entity;
 - Misrepresentation of educational credentials or professional qualifications, in the context of a job application; and
 - Deceptive acts, such as falsification of documents, making false statements, preparing false entries in official systems, submitted expense claims using fake invoices or for non-incurred expenses, or other deceptive acts to the detriment of those someone seeks to disfavour or to discredit a person or ZANEC.
- 6.2. This list is non-exhaustive. Acts not mentioned in this list may still constitute a fraudulent act.
- 6.3. Anyone who commits one of the above mentioned acts or one sufficiently construed by law to be fraud, commits an offence

7. CORRUPTION

- 7.0. For purposes of this policy, the definition of corruption shall be confined to the legal definition provided in the Anti-Corruption Act No. 3 of 2012, which defines it as “....soliciting, accepting, obtaining, giving promising or offering of gratification by way of a bribe or other personal temptation or inducement or misuse or abuse of public office for advantage or benefit for oneself or other person”.
- 7.1. It should be noted that there are different types and forms of corruption. Some of these will be provided in the annexed glossary and shall be read together with the above definition of corruption.

- 7.2. Suffice to mention that for purposes of this policy, anyone who commits an act encompassed in the above legal definition of corruption and all its forms and types commits an offense

8. WHISTLE BLOWING/OBLIGATION TO REPORT

- 8.0. A whistle-blower is a person, usually an employee, who exposes information or activity within a private, public, or government organization that is deemed illegal, illicit, unsafe, or a waste, fraud, or abuse of taxpayer funds. Zambia has got legislation specific to whistle blower protection in the “Public Interest Disclosure (Protection of Whistle Blowers) Act No. 4 of 2010”.
- 8.1. It should be noted that this policy is subject to all applicable national anti-corruption laws and the Public Interest Disclosure (PID) Act is one of them. Therefore, whistle Blowers shall be given the protection prescribed by the subject law. It should also be noted that malicious whistle blowing, frivolous, vexatious, false statements/accusations against someone carry penalties for the perpetrator according to the law (Article 13 (1)).
- 8.2. It is imperative that whistleblowing is explicitly mentioned in this policy so that all parties are aware of their duty to report impropriety and most importantly, that they are protected by the law and should not fear victimisation and or reprisal.
- 8.3. It should also be noted that failure to report impropriety that someone is aware of and has an obligation to report, maybe construed as complicity and constitutes an offense as per this policy.

9. RISKS/OPPORTUNITIES FOR FRAUD AND CORRUPTION

- 9.0. When it comes to fraud and corruption, there is any given number of risks or opportunities for fraud and corruption. Most of the risks occur around financial management as well as at procurement of goods and services. Procurement of services extends to matters employment/recruitment (procurement of labour services).
- 9.1. The risks of fraud and corruption occur at points of making decisions; handling information; managing and using funds; managing property and other assets; engaging services/ procuring goods and services. These vulnerability points manifest during staff to staff interaction, organisation to organisation, organisation to vendors and vice versa, etc. they are prevalent at almost every operational turn of the organisation.
- 9.2. There are guidelines contained in various manuals and policies on how all those concerned should conduct themselves. Outlining those guidelines here would be duplicating other manuals and policies. As such, this policy will only go as far as referencing those manuals and policies for guidance on courses of action. These manuals and policies that cover the identified risk points or areas include but are not limited to;

The Human Resource manual

The Financial Management manual

The Procurement manual

The Staff Procedure and Operations manual

The Code of Conduct and Code of Ethics

Grievance and Disciplinary Procedure Code.....Among others.

- 9.3. All affected parties as per scope of this policy shall strictly abide by the provisions of the said manuals and policies as well as related laws.
- 9.4. It should be noted that all the above mentioned manuals and policies are understood to be formulated in relation to the pieces of legislation that underpin them, e.g. Human Resource manual – the Employment Code Act 2019; The Procurement manual - the Public Procurement Act; the Financial Management manual – The public Finance Management Act, etc. There are other laws that inform the content of these manuals. Where the manual departs from or contradicts the provisions of the law, the provisions in the law will supersede the policy or manual.

10. GIFTS

- 10.0. Another risky area worth explicitly mentioning in this policy is that of gifts, particularly so considering that that ZANEC does not have a 'gift policy'.
- 10.1. To this effect, ZANEC Team members must ensure that any gifts received or given do not exceed a value of **10 USD** or its equivalent in the local currency. Exceptions to the monetary limit may be granted if not accepting the gift would cause serious offense or negatively impact on the achievement of the ZANEC goals. In these circumstances, Team Members must inform their supervisor / ZANEC management. All gifts exceeding **10 USD** must be registered in the gift registry through the responsible Officer and stored adequately within ZANEC premises. Where appropriate, the gift can be used for charity and other general initiatives.
- 10.2. Offers of hospitality may only be accepted when there is a legitimate business interest in doing so to work towards achieving ZANEC's mission, and any excessive offers must be rejected. Hospitality includes the provision of food, beverages, activities, or events for the purpose of promoting and furthering the mission of the organization. ZANEC may only receive or offer hospitality if there is an explicit and legitimate business interest in doing so and must keep any such hospitality within reasonable financial limits.
- 10.3. ZANEC, at all times, aims to prevent the appearance of impropriety or influence over the objectivity of decision-making

11. GUIDING PRINCIPLES

- 11.0. In these Guiding Principles, ZANEC reflects the principles underlying the values of its funders, the laws of the republic of Zambia, and considering the diverse nature of its partners, also those of the United Nations Convention against Corruption (UNCAC).
- 11.1. In particular, these principles include measures to prevent fraud, bribery and corruption, including roles, and responsibilities of Team Members and Partners, training and disclosure program, reporting, investigation, and disciplinary action procedures.
- 11.2. The ZANEC Board of Governors and Management are committed to cultivating a culture that supports and strengthens the commitment to the policy statement.
- 11.3. ZANEC Team Members and Partners adhere to the highest standards of accountability, which require honest and ethical conduct.
- 11.4. Team Members and Partners who participate in any bribery, fraudulent or corrupt act are subject to corrective or disciplinary measures, up to and including

termination (of employment, consultant, supplier, or partner agreement); ZANEC may pursue civil remedies, and authorities may determine to pursue criminal prosecution.

- 11.5. ZANEC Team Members and Partners must immediately report suspected bribery or fraudulent or corrupt activities. ZANEC reviews all such reports to determine their credibility, investigates credible evidence of corruption, fraud or bribery and addresses appropriate resolution.
- 11.6. ZANEC does not tolerate any form of retaliation against Team Members who report suspected corruption, fraud or bribery in good faith. See the Public Interest Disclosure (Protection of Whistle Blowers) Act No. 4 of 2010.
- 11.7. ZANEC will report credible evidence of fraudulent or corrupt behaviour to the appropriate legal authorities and the donor as required within the donor agreement or policies or, if not required, as ZANEC determines appropriate per its internal procedures and based on the outcome of internal or external investigations. ZANEC will cooperate with investigators and law enforcement to seek accountability of responsible parties.

12. POLICY RECOMMENDATIONS

- 12.0. It is very important that this (the AFC) policy and related policies and manuals are constantly reviewed and revised if necessary because:
 - In the anti-fraud and anti-corruption sector, the perpetrators (fraudsters and the corrupt) are always devising new ways and means to defraud and corrupt, thus the practice is always morphing and evolving, there are always emerging issues in the anti-fraud and anti-corruption sector (e.g. use of crypto currencies and mobile money transfers in paying bribes). For this reason, anti-fraud and anti-corruption fighters are constantly having to change their strategies and tactics to identify and deal with the practices to cope with the changes and stay ahead of the game. Changes may include but not limited to new legislation or amendment thereof, which may include new definitions of forms of fraud and corruption.
 - There is a constant need of strengthening governance systems which necessitates changes in legal, policy and administrative frameworks. Changes in legislation that underpins particular policies and manuals entail changes in the said policies and manuals so they are aligned to the legal provisions. For example, there is need to revise the Human Resource manual to align it to the obtaining labour laws, in this case, the Employment Code Act No. 3 of 2019. Once the Public Procurement Act is amended (of which it is in the process), there will be need to amend the Procurement manual.
- 12.1. There will be need for constant engagement with Law Enforcement Agencies that are responsible for implementation and enforcement of the laws that are incidental to Anti-Fraud and Corruption Policy. This is in order to stay up to date with relevant changes, to seek their intervention in event of an issue as well as engaging their services for training staff, the Board and members.
- 12.2. There will be need for constant training of staff, the Board and members so as to keep them abreast with any changes and generally well informed on the policy provisions as a reminder and emphasis on the need for adherence to its provisions.
- 12.3. There is need for the board to have an ethics and standards/integrity committee dedicated to dealing with ethical issues and particularly anti-fraud and corruption issues. In the same vein, there will be need to set up an office dedicated to dealing with issues relating to ethics, integrity and standards. This means that

there has to be an officer assigned to dealing with the said issues. This may involve employing new person from outside with the relevant experience and expertise in the same field or delegating duties of such an officer to an already existing portfolio (though issues of familiarity may arise).

- 12.4. There will be need to allocate resources specific to this task, financial, human, material, equipment, time, etc.
- 12.5. Every employee of ZANEC, Board Member, Member or their representative shall sign off on the policy as having read and understood it, as well as pledging to abide by its provisions.
- 12.6. ZANEC shall maintain and update a gift register where all gifts given to employees, board and members in the execution of their duties or in their official capacity will be registered

13. GLOSSARY

CORRUPTION - The abuse of entrusted power for private gain. Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs (TI glossary – www.transparency.org)

GRAND CORRUPTION - The abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society

PETTY CORRUPTION - Everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.

POLITICAL CORRUPTION - Manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth

STATE CAPTURE – Where private interests begin to shape national policy. Policy is either formed, defeated or scraped off to serve the interest of a powerful few individuals at the detriment of/against public interest.

Zambian Anti-Corruption Act No. 3 (2012): A corrupt practice is “....soliciting, accepting, obtaining, giving promising or offering of gratification by way of a bribe or other personal temptation or inducement or misuse or abuse of public office for advantage or benefit for oneself or other person.

Bribery refers to the act of offering someone money, services or other inducements to persuade him or her to do something in return. Bribes can also be referred to as kickbacks, hush money, or protection money.

Cronyism and **Clientelism** refer to the favourable treatment of friends and associates in the distribution of resources and positions, regardless of their objective qualification.

Nepotism is a form of favouritism that involves family relationships. Its most usual form is when a person exploits his or her power and authority to procure jobs or other favours for relatives.

Collusion refers to secret agreements between two parties.

Embezzlement is the misappropriation of property or funds legally entrusted to someone in their formal position as an agent or guardian.

Extortion is the unlawful demand or receipt of property, money or sensitive information to induce cooperation through coercion or the use of force or threat.

Sextortion is the kind of corruption where sex is the currency. Sex is used as an inducement for one to do a favour or as tool for blackmail to compel people to do what one desires.

Fraud refers to an intentional misrepresentation which is done to obtain an unfair advantage by giving or receiving false or misleading information.

Patronage refers to the support or sponsorship by a patron (a wealthy or influential guardian), e.g. to make appointments to government jobs, or to distribute contracts for work.

Influence Peddling or Trading in Influence is a form of bribery. For example, a person promises to exert an improper influence over the decision-making process of a public official or private sector actor in return for an undue advantage.

Abuse of Public Property or Improper use of Public Resources refers to the inappropriate use of public financial, human or infrastructure resources.

Money laundering involves the depositing and transferring of money and other proceeds of illegal activities to legitimize these proceeds.

Insider trading involves the use of information secured by an agent during the course of duty for personal gain.