**Report of the Portfolio Committee on Higher Education, Science and Innovation on the Commission for Gender Equality (CGE) Report on Gender Transformation Investigations in Technical and Vocational Education and Training (TVET) Colleges, Dated 15 June 2022**

**1. INTRODUCTION AND BACKGROUND**

The Portfolio Committee on Higher Education, Science and Innovation (“Committee”), having considered the Commission for Gender Equality’s (“Commission”) Report on Gender Transformation Investigations in TVET colleges on 16 March 2022, reports as follows:

**1.1 Background**

Transformation remains an important aspect of the Post-School Education and Training (PSET) system in general. The White Paper for Post-School Education and Training aims to have a post-school system that can assist in building a fair, equitable, non-racial, non-sexist and democratic South Africa.

The TVET sector is central to the provision of post-school education and training (PSET) given that it trains the young people and adults, and providing them with skills, knowledge and attitudes necessary for employment in the labour market. Unlike the university sector, TVET colleges have fewer students in terms of enrolments and outputs. Moreover, much of the work of transformation in public higher education and training institutions has focused mainly on universities, as opposed to other PSET institutions such as TVET colleges.

The CGE, as part of its mandate, has been undertaking gender transformation hearings in higher education with a view to stimulate dialogue and commitment to gender transformation in the sector. The hearings were also aimed at sensitising universities on gender inequality and to raise awareness of the need and importance of gender transformation in line with the legislation and relevant framework that seek to promote gender equality. Given that the PSET also comprises TVET colleges, the CGE embarked on gender transformation investigation hearings in the TVET sector with a similar mandate. The inclusion of TVET colleges aimed to assist these institutions with feasible recommendations for possible solutions to the barriers that impede gender equality in the sector, and to forge a way to a more inclusive and gender-sensitive TVET sector.

**1.2 Mandate of the Committee**

Section 55(2) of the Constitution of the Republic of South Africa stipulates that “the National Assembly (NA) must provide for mechanisms (a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and (b) to maintain oversight of (i) national executive authority, including the implementation of the legislation; and (ii) any organ of state.” Rule 227 of the Rules of the National Assembly (9th edition) provides for mechanisms contemplated in section 55(2) of the Constitution.

The Committee plays an oversight role over the Department of Higher Education and Training and the Post-School Education and Training (PSET) institutions to monitor progress towards the achievement of the transformation goals, including the implementation of Employment Equity Plans and policies to address gender-based violence (GBV) and related matters.

**1.3. Mandate of the Commission for Gender Equality (CGE)**

The CGE is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996. The Commission’s mandate is to promote respect for, and the protection, development and attainment of gender equality. To this end, the Commission for Gender Equality Act, 1996 (Act No. 39 of 1996), as amended, gives the Commission the power to monitor and evaluate policies and practices of organs of State at any level; statutory bodies and functionaries; public bodies and authorities and private businesses, enterprises; research and make any recommendations to Parliament. Furthermore, the CGE receives and investigates complaints of gender discrimination; and conducts public awareness and education on gender equality. The CGE has powers to subpoena and to institute litigation

**1.4. Purpose of the Report**

This report aims to account in accordance with Rule 166 of the National Assembly (NA) for the work done by the Committee in considering the CGE Report on Gender Transformation Investigations in TVET colleges as referred to it for consideration in terms of Rule 338 by the Speaker of the National Assembly on 9 June 2021.

**2. SUMMARY OF THE PRESENTATION**

**2.1 Background**

The CGE was represented by its Chief Executive Officer (CEO), Ms J Robertson. In her opening remarks, Ms Robertson outlined the mandate of the CGE as per section 187 of the Constitution and the CGE Act, 1996 (Act No. 39 of 1996), including the legal framework that the CGE ascribed to as part of its work.

She noted that during the financial year 2019/2020, the Commission embarked on transformation hearings with specific focus on technical and vocational education and training (TVET) Colleges. The four (4) colleges that were selected and subpoenaed to appear before the Commission included: Nkangala TVET college; Northern Cape Urban TVET college; South West Gauteng TVET college and Waterberg TVET college.

Ms Robertson said the investigative hearings were held in terms of Section 11(1) (a), (c), (d) and (e) of the CGE Act,1996, as amended, and the objectives were to ascertain the following amongst others:

* Funding for students and colleges as a need to improve education and skills development;
* The vulnerabilities and risks experienced by women in TVET colleges both as employees and as students;
* The general level of non-compliance of employers with obligations flowing out of specific provisions in labour legislation aimed at promoting equality or affirming the rights of women; and
* Reasons why employers fail to comply with obligations aimed at promoting gender equality in the workplace.

In terms of the methodology used to collect data, the CEO said that the Commission dispatched a questionnaire to all four colleges, and gave them an opportunity to respond during the investigative hearing process. The data received from colleges was analysed taking into consideration factors such as gender representation at all occupational categories, race and disability, student safety and reasonable accommodation. The CEO mentioned that the hearings took place on 25 – 26 November 2020.

The CEO presented the findings and recommendations of the hearings for each institution that was investigated by the Commission as follows:

**2.2 Nkangala TVET college**

**2.2.1 Findings**

* There was a poor representation of persons with disabilities in academic and administrative positions. Just 10 percent of administrative positions are filled by persons with disabilities and no academic positions were filled by persons with disabilities.
* Nkangala TVET College lacked mechanisms to track and manage cases of gender-based violence within and outside campus.
* The college did not have the resources to support gender transformation because the function is a national competency.

**2.2.2 Recommendations**

* The college must ensure that it implements employment equity, with a plan in place to recruit persons with disabilities. The college should work with disability organisations in Mpumalanga.
* The colleges must develop mechanisms to track and manage cases of GBV within and outside campus.
* The DHET, together with the Department of Employment and Labour, must play an active role in monitoring the implementation of employment equity plans by TVET colleges

**2.3 Northern Cape Urban TVET college**

**2.3.1 Findings**

* The college functions under the auspices of DHET, which is part of the Department of Public Service and Administration (DPSA) rules and regulations. As such, it did not have disaggregated data on remuneration of employees.
* The college did not have the resources to support gender transformation because it is a national competency.
* The sexual harassment definition of the college was not in line with the Code of Good Practice on Handling Sexual Harassment Cases in the Workplace, 2005.
* The college did not offer subjects for dead or visually impaired students.
* The college lacked representation of persons with disability in the top and senior management.
* The college lacked essential employment policies that are aimed at addressing transformation in the workplace.
* The college demonstrated a lack of training and education on gender-based violence (GBV) and related topics.

**2.3.2 Recommendations**

* The college should consult the DHET to compile gender and race disaggregated data for the remuneration of employees to adhere to the requirement of equal pay for work of equal value.
* The college should liaise with DHET regarding the allocation of resources to address transformation.
* The college should ensure that its sexual harassment policy is reviewed and aligned with the Code of Good Practice, 2005.
* The college must offer subjects for deaf and visually impaired students.
* The college should include a representation of persons with disability in its top and senior management levels.
* The college must introduce and improve all employment policies.
* The college should undertake a training and education drives to train all staff on GBV and related topics.

**2.4 South West Gauteng TVET college**

During the public investigative hearing, a representative from the college appeared before the commission to account for the state of transformation at the workplace. The Commission expressed its displeasure at the lack of preparedness by the representatives of the college, including the lack of a detailed presentation to the commission.The college submitted handwritten notes to the Commission. It was expressed that the conduct of the college representatives undermined the constitutional mandate of the Commission. The college further lacked supporting documents and as such the Commission resolved that it cannot engage the college fruitfully. Thus, the college was dismissed from the hearing and requested to resubmit the information to the Commission.

**2.5 Waterberg TVET college**

**2.5.1 Findings**

* The sexual harassment policy of the college was not aligned to the Code of Good Practice, 2005.
* The college policies were not gender sensitive.
* The college did not conduct adequate trainings on sexual harassment for students and staff members.
* The employment equity (EE) of the college had lapsed, and a new EE needs to be submitted.
* Persons with disabilities were not under-represented at various occupational levels.
* The college’s disciplinary processes were not adequate.
* There was no uniform structure to deal with the transformation programmes initiated by the college.
* There were no policy frameworks that ensured continuity, accountability and transparency in the implementation of equality and non-discrimination transformation initiatives.
* The college did not offer childcare facilities nor breastfeeding policy.

**2.5.2 Recommendations**

* The sexual harassment policy of the college must be adopted by June 2021 and be aligned to the 2005 Code of Good Practice.
* The college to review its policies to be gender-sensitive.
* The college to conduct trainings on sexual harassment and the CGE to be invited to the trainings.
* The disaggregated data demonstrating employees who were promoted at various levels in the past three years should be submitted.
* The college to submit a new EE Plan, dress code policy, HIV & AIDS Policy, and disability policy.
* The college shares examples of advertisements that target persons with disability.
* The college to develop a policy framework that ensures continuity, accountability, and transparency in the implementation of equality and non-discrimination.

**3. OBSERVATIONS**

The Committee, having considered and deliberated on the report on Gender Transformation Investigations in TVET colleges, made the following observations:

* The Committee commended the work of the CGE in its quest to promote and protect gender equality, as the Constitution demands. The Committee further welcomed the first-ever Gender Transformation Investigations in the TVET sector. It was further noted that these investigations need to be extended to the Sector Education and Training Authorities (SETAs).
* Notwithstanding the good initiative by the CGE to include TVET colleges as part of its investigation, the Committee was concerned that only four out of 50 TVET colleges were sampled for the gender transformation hearings.
* The under-representation of women in senior management positions at TVET colleges was noted as a concern.
* The Committee raised concern about the poor communication and collaboration between the CGE and DHET on areas of common interest. The Committee was also surprised that the Minister was not aware of the CGE’s report on Gender Transformation Investigations in TVET colleges.
* The Committee expressed concern over non-compliance by some TVET colleges with the CGE’s requests. Compounding the situation was that the CGE resolved to open a criminal case against the Principal of the Northern Cape Rural TVET college, due to non-compliance of the college with the CGE’s recommendations. On the contrary, the DHET was adamant that there is no need for the CGE to open criminal cases against colleges since it will intervene to ensure compliance from these colleges.
* The Committee raised concern on the suitability of TVET colleges infrastructure to cater for the needs of persons with disabilities (PWDs), in particular student accommodation.
* The Committee raised concern about the capacity and accessibility of the CGE in dealing with sexual harassment and GBVF cases.

**4. SUMMARY**

The Commission had been undertaking Gender Transformation Investigation in higher education for the past four years. As part of its endeavour to promote and protect gender equality rights, in line with its mandate, the Commission expanded these investigations and hearings to the TVET sector. It has been the Committee’s position that these hearings be extended to the entire PSET sector, as the sector plays a critical role in the promotion of women’s rights in general. The Committee welcomed the report of the investigations undertaken at the four TVET colleges as it gave members insight into the level of compliance/non-compliance to the relevant legislation that seeks to promote gender equality in the workplace.

The Committee expressed an overall concern with the inadequate implementation of the human resource (HR) policies, sought to promote gender equality and transformation in the TVET sector in general. Some colleges appeared to have been ill-prepared for the CGE hearings, with some even resisting to appear before the Commission, thereby undermining the role of the CGE as a Chapter 9 institution, which promotes and supports constitutional democracy. Moreover, the colleges also shifted blame to the DHET in the number of areas where there was non-compliance with statutory obligations.

The Committee was also concerned that the TVET sector is generally underfunded, and most of the CGE’s findings were not relatively new to the sector. For example, the TVET infrastructure was found to be unsuitable for persons with disabilities. Even more, the student accommodation offered by TVETs was inadequate, and students with disabilities have to daily commute to access education and training at the colleges. The capacity of the TVET colleges to develop and implement gender and transformation-related policies was found to be lacking. The Committee was hopeful that the TVET sector would embrace the CGE’s work with positivity and that the Department would work closely with the TVET sector to assist them in developing the necessary capacity needed to implement gender transformation policies.

**5. RECOMMENDATIONS**

The Committee having considered the CGE Report on Gender Transformation Investigations in TVET colleges, recommends the following:

* The CGE considers undertaking gender transformation investigations in the Sector Education and Training Authorities (SETAs).
* The CGE, working closely with DHET, assists TVET colleges with the necessary capacity required to develop their own sexual harassment and GBVF-related policies.
* The CGE presents its report on Gender Transformation Investigations in TVET colleges at the DHET TVET Summit to be held in May 2022.
* The CGE forges a close working relationship with DHET to improve communication between the two parties on areas of common interest.
* The Department takes strong action against TVET colleges that refuse to comply with the CGE’s directives.
* The colleges expedite the establishment of Transformation Offices, and such they be capacitated to oversee implementation of gender transformation policies and programmes.
* The Department includes in its 2022/23 Annual Performance Plan (APP) the performance indicators and targets on the monitoring of the implementation of gender transformation and GBVF policies in the PSET system.
* The Department sets up a dedicated unit that will monitor the implementation of gender transformation and the National Policy Framework on GBVF in the PSET system.

Report to be noted.