



**ACT**  
Government

Education

# CODE OF CONDUCT

## SCHOOL BASED STAFF



## **CODE OF CONDUCT - SCHOOL BASED STAFF**

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ACT Government  
GPO Box 158, Canberra ACT 2601  
Telephone: 13 22 81  
Website: [www.act.gov.au](http://www.act.gov.au)  
Publication: 191485

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We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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# INTRODUCTION

All Education Directorate (Directorate) employees are expected to achieve and demonstrate high standards of professional conduct and work performance. School based staff members have a significant role in enhancing and supporting the learning experiences and wellbeing of students in ACT public schools.

It is the individual responsibility of all school based staff to ensure that they understand their obligations, that they remain compliant with various legislations relevant to their role, and that they understand and uphold the standards of behaviour expected from them as ACT Public Servants and role models for students in our schools.

The core expectations for all ACT Public Servants are outlined in the ACT Public Service (ACTPS) Code of Conduct, including the ACTPS Values and Signature Behaviours, and section 9, Public Sector Conduct, outlined in the *Public Sector Management Act 1994* (PSM Act). Additional legislation, relevant to working in the school environment with children and young people, is also referenced throughout the document.

The Code of Conduct for School Based Staff (Code of Conduct) is an extension of Section 9 of the PSM Act and a breach of the expected conduct and behaviours outlined in the Code of Conduct may, after having followed the appropriate misconduct and disciplinary procedures, be found to constitute misconduct and result in discipline action up to and including termination of employment or other workplace arrangements.

## What is the Code of Conduct?

The Code of Conduct is the Directorate's statement of the standards of professional conduct and integrity expected of staff in ACT public schools for the purpose of upholding the values (signature behaviours) and principles in sections 7 and 8 of the PSM Act, complying with section 9 of the PSM Act and the ACTPS Code of Conduct. The Code of Conduct also aims to guide staff in identifying and resolving ethical conduct issues that may arise in the course of their work and, in so doing, maintain public trust and confidence in their integrity and professionalism.

The Code of Conduct is an extension of section 9 of the PSM Act and a breach of the expected conduct and behaviours outlined in the Code of Conduct may, after having followed the appropriate misconduct and disciplinary procedures, be found to constitute misconduct and result in discipline action up to and including termination of employment.

The ACTPS values are:

- > Respect
- > Integrity
- > Collaboration
- > Innovation

The ACTPS best-practice principles are for staff members to:

- > work efficiently, effectively and constructively
- > be responsive, collaborative and accountable
- > make fair and reasonable decisions.

Each principle creates obligations for staff. The Code of Conduct expands on these principles by stating expectations for professional conduct that apply to staff.

The Code of Conduct is complemented by Explanatory Guidelines, which explains a number of the mandatory obligations in more detail, and provides examples and guidance regarding expectations.

## Who must comply with the Code of Conduct?

The Code of Conduct applies to and binds all ACT government schools' staff (permanent, casual and temporary).

## When does the Code of Conduct apply?

The obligations of the Code of Conduct may also apply at times when staff members are not performing work-related duties, such as during periods of leave and during a staff member's private life.

## Using the Code of Conduct

The Code of Conduct and Guidelines cannot, of course, cover every situation where staff members must make a decision. In practice, deciding on the right course of action will often involve weighing up competing priorities and responsibilities. In most cases, the answer will be fairly clear.

However, if staff members are unsure of what to do in a particular situation, they should discuss the matter with their manager or supervisor. Where necessary, they can seek further advice, including from an experienced colleague or other appropriate Directorate officer. In certain circumstances, it may be appropriate for staff members to discuss the matter with their union.

Finally, before proceeding, employees should ask themselves these questions:

- > Are my actions within the spirit and letter of the law?
- > Is this the proper thing for me to do?
- > Are my actions consistent with the Directorate's strategic goals, the ACTPS values (signature behaviours) and principles, ACTPS Code of Conduct, this Code of Conduct?
- > Could I adequately defend my action to my manager or supervisor, the Directorate and the community if the situation became publicly known?

- > What will the outcome of my action be for:
  - the school, the Directorate and the public interest?
  - students?
  - parents?
  - my colleagues?
  - others?
  - me?

Remember, ethical behaviour is not just a matter of following the letter of the law or sticking to the obligations of the Code of Conduct. Staff should also act within the spirit of the law and the Code of Conduct. It is not sufficient to think that your behaviour is ethical, it must also be seen to be so. The appearance of unethical behaviour can be just as damaging to public confidence in the profession as unethical conduct itself.

## What happens if I breach the Code of Conduct?

As public servants working with students, you hold special positions of trust, especially regarding children and young adults in our community, and must be accountable for their actions at all times.

If the Directorate considers that the Code of Conduct has been breached, disciplinary action may be taken.

Any disciplinary action shall be taken in accordance with the principles of natural justice and procedural fairness, and in a manner that promotes the ACTPS values and general principles.

In deciding whether the Code of Conduct has been breached, due consideration will be given to the circumstances of the breach and the views of the staff member concerned.





The primary aim of disciplinary action is to maintain proper standards of conduct by staff, to protect the reputation of the ACTPS, the Directorate and its staff, and to maintain public confidence in the integrity of the ACTPS, the Directorate and its staff. The aim is not to punish, even if the consequences of disciplinary action for a staff member is severe.

Disciplinary action may be taken in response to proven breaches of the Code of Conduct as outlined in Section H of the ACTPS Enterprise Agreements.

## **Who determines if the Code of Conduct has been breached?**

As the employing authority, the Director-General (or delegate) will determine whether the Code of Conduct has been breached and what disciplinary action should be taken. Employees will have the opportunity to put their point of view about the breach, and what consequences should follow, before any disciplinary action is imposed.

## **Reporting breaches of the Code of Conduct**

Specific instances of either suspected or actual breaches of the Code of Conduct must be reported to an appropriate officer, such as principal, executive branch manager or Senior Executive Responsible for Business Integrity Risk (SERBIR).

# PART 1

## PROFESSIONAL REQUIREMENTS AND RESPONSIBILITIES



# PROFESSIONAL REQUIREMENTS AND RESPONSIBILITIES

*Staff members based in schools have a responsibility to ensure their contribution to the school supports students to reach their full potential within a safe and supportive learning environment, and to promote learning and the value of education through connections with families and the wider community.*

## Registration requirements

### All staff are covered by the Code of Conduct

All school based staff are required to have and maintain current Working with Vulnerable People (WwVP) registration in accordance with the *Working with Vulnerable People (Background Checking) Act 2011*. National police checks are conducted as part of the application process.

Where WwVP registration has associated restrictions, staff covered by this code must advise their principal or supervisor and the Directorate's People and Performance Branch of the restrictions in place.

A failure to maintain current or WwVP registration may result in termination of employment, or other working arrangements, with the Directorate.

### School psychologists

School psychologists provide a psychological service to enhance student learning, engagement and wellbeing. School psychologists must be registered with the Psychology Board of Australia (PSyBA) or be a provisional psychologist undertaking the PsyBA-approved practice program with additional requirements for supervision and training.

School psychologists must meet their obligations in relation to maintaining their professional registration with the Psychology Board of Australia, which includes compliance with the Australian Psychological Society (APS) Code of Ethics. A failure to comply with the APS Code of Ethics may also be a breach of our Code of Conduct, which may result in discipline action up to and including termination of employment.



## Allied health professionals

### Occupational therapists

Occupational therapists are required to hold and maintain current registration with the Occupational Therapy Board of Australia (OTBA) and continue to meet the OTBA's registration standards, including continued professional development requirements. Occupational therapists must comply with expectations outlined in the OTBA's Code of Conduct, the Australian Health Practitioner Regulation Agency (AHPRA) Code of Conduct in addition to the expectations outlined in our Code of Conduct.

A failure to maintain registration or breaching the OTBA or AHPRA Codes may also constitute a breach of our Code of Conduct and result in termination of employment.

### Physiotherapists

Physiotherapists are required to have and maintain current registration with the Physiotherapy Board of Australia (PBA) and continue to meet the PBA's registration standards, including continued professional development requirements and compliance with AHPRA's Code of Conduct.

A failure to maintain registration or breaching the AHPRA Code may also constitute a breach of our Code of Conduct and result in termination of employment.

## Professional learning and development

All permanent, school based staff and those engaged on temporary contracts of 12 weeks or more are required to have a Performance and Development Plan (PDP) in place. School based staff must ensure their PDP supports their development against the expectations of the ACTPS Standards, any professional requirements where necessary, and their career aspirations.

# PART 2

## CODE OF CONDUCT FOR SCHOOL BASED STAFF



# CODE OF CONDUCT FOR SCHOOL BASED STAFF

## Principle 1. Works efficiently, effectively and constructively

### 1.1 Work effectively and productively

Staff members work effectively and productively by:

- > acting in a manner which promotes confidence in the integrity of the public service and the profession
- > being committed to students and their learning
- > working to assist in the implementation of high-quality education services
- > encouraging students to strive for high standards and to value learning
- > complying with and applying the policies of the Directorate following appropriate training and support
- > using school property and resources appropriately
- > avoiding waste and extravagance in using school resources
- > not taking, or seeking to take, improper advantage of their position in order to obtain a benefit for themselves or any other person.

### 1.2 Demonstrate high standards of professional practice

Staff members demonstrate high standards of professional practice by:

- > engaging in reflective practice and developing their professional knowledge and skills
- > supporting the personal and professional development of others where appropriate
- > providing constructive feedback to colleagues that is considered and helpful
- > working cooperatively and collaboratively with others to achieve school and system goals
- > accepting responsibility for their own professional learning and development.

### 1.3 Exercise efficient and effective resource management

Staff members exercise efficient and effective resource management by:

- > acting professionally and honestly at all times
- > using school resources for official purposes (or approved exemptions) and ensuring that they are not wasted or used extravagantly
- > ensuring that any claims for expense payments are made in accordance with Directorate policy and procedures, and only for costs incurred to carry out school business
- > using all electronic communication systems in accordance with Government and Directorate policies

- > ensuring that they do not breach copyright law or licensing arrangements when copying any school property such as software, library and reference materials, or other school property
- > ensuring that Directorate equipment is used in accordance with the manufacturer's requirements, and that all use is both safe and legal
- > responding appropriately to known or suspected breaches of the law or breaches of Directorate policies on acceptable conduct and administration.

## Principle 2. Responsive, collaborative and accountable

### 2.1 Responsive to the government

Staff are responsive to the government by:

- > respecting the rule of law and our system of democracy by upholding:
  - Commonwealth and Territory laws and regulations
  - Government and Directorate policies
  - relevant professional codes of practice
  - relevant industrial agreements
- > assistance in the implementation the policies of the elected government
- > compliance with lawful and reasonable directions from their manager or supervisor
- > familiarity with legislation, regulations and professional codes that are relevant to their employment
- > no disclosure without lawful authority any information obtained as a consequence of their employment
- > consideration students' best interest

- > cooperation with colleagues
- > acceptance of responsibility for developing their own professional knowledge and skills
- > maintenance of high standards of professionalism, probity and performance.

### 2.2 Ensure child safety

Staff members ensure child safety by:

- > recognising that students have a right to a safe and secure learning environment
- > complying with reporting requirements, including:
  - mandatory reporting
  - reportable conduct
  - restrictive practices
- > preschool requirements under the Education and Care Services National Law
- > reporting any reasonable suspicion of harm caused to students
- > supporting students who have been harmed
- > refraining from conduct that could assault or harm a student
- > refraining from conduct that could cause psychological damage to a student
- > refraining from sexual conduct with a student or conduct that raises an apprehension that sexual conduct has occurred or may occur with a student.

### 2.3 Respect the dignity, rights and opinions of others

Staff members respect the dignity, rights and opinions of others by:

- > valuing diversity and respecting cultural, ethnic and religious differences
- > valuing and acknowledging the contributions made by others in meeting school and Directorate goals.

## 2.4 Support colleagues

Staff members exercise support for colleagues by:

- > acting as positive role models
- > being open and accepting of differing views and perspectives that may better achieve Directorate and school goals
- > exercising their responsibilities conscientiously and prudently
- > ensuring that all staff is made aware of their reporting responsibilities as managers and supervisors
- > engaging in participatory decision making through genuine consultation
- > promoting equity and diversity in the workplace
- > identifying and supporting colleagues who may be experiencing difficulty
- > seeking support for colleagues who may be experiencing difficulty
- > responding appropriately to issues of inefficiency
- > managing and reporting perceived misconduct appropriately.
- > acting against any form of harassment or unlawful discrimination
- > respecting the rights and dignity of students, their colleagues and others
- > observing confidentiality in a manner consistent with legal requirements, the interests of students and the wider public interest
- > making decisions and giving directions within their authority
- > refraining from making unauthorised public comments where the comment may be perceived as official comment
- > avoiding conflicts between their private interests and professional responsibilities
- > acting with impartiality.

## Principle 3. Makes fair and reasonable decisions

### 3.1 Act with integrity

Staff members act with integrity by:

- > exercising reasonable care and skill
- > treating students and colleagues with courtesy and sensitivity to their rights, duties and aspirations
- > reporting knowledge of suspected fraud, misconduct, negligent management or any perceived risk to health or safety to an appropriate person

### 3.2 Discourage any form of discrimination or harassment in the workplace

Staff members act to help discourage any form of discrimination or harassment in the workplace by:

- > promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment
- > refraining from harassing behaviour including sexual harassment
- > refraining from unlawfully discriminating against any person.



### 3.3 Act with probity

Staff members act with probity by:

- > identifying, declaring and avoiding any apparent or actual conflict of interest
- > not accepting any private or additional payment for services that could reasonably be expected to be provided as part of their normal employment
- > managing private relationships in a way that does not adversely impact on the work or reputation of the Directorate or school, or create an apparent or real conflict of interest
- > refraining from using their position to pursue private interests to gain private benefit for themselves or others
- > not accepting inappropriate gifts or benefits
- > using copyright material for official purposes only
- > acting professionally and with probity by complying with the Directorate and government policy in regard to the internet and electronic mail system
- > not being under the influence of drugs or possessing illegal drugs
- > not consuming alcohol when they are responsible for students
- > seeking approval to undertake secondary private employment
- > observing procedural fairness in their decision-making processes.



# PART 3

## CODE OF CONDUCT FOR SCHOOL BASED STAFF – EXPLANATORY GUIDELINES

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# CODE OF CONDUCT FOR SCHOOL BASED STAFF – EXPLANATORY GUIDELINES

The Explanatory Guidelines should be read in conjunction with the Code of Conduct.

The Guidelines will assist staff members to perform their professional duties in a manner consistent with the best practice principles and their obligations.

Where examples are provided, staff must always be mindful of their reporting obligations.

**A reminder (🔔) will be added to examples where one or more reporting obligation/s must be considered.**

## 1. Attendance and absence

- 1.1 School staff members are required to record their daily attendance using a format agreed to at the workplace. A hard copy must be retained for two years by the workplace.
- 1.2 School staff must follow the Mandatory Procedures for Managing Employee Absences when absent from work.

## 2. Assault

- 2.1 Assault generally involves the deliberate or reckless application of force or the threat of force regardless of whether harm is caused. A threat of force can be verbal or non-verbal. Restraint or the severity of restraint of a student can constitute assault. Similarly, a student's actions can constitute assault of a staff member. Both students and staff can pursue criminal or civil proceedings against the other for assault.

- 2.2 A staff member who is observing a student assaulting, or threatening to assault, another individual should attempt to verbally de-escalate the situation, if possible, before physically defending others. A staff member can defend themselves, so long as the action taken is proportionate to the assault or the threat of an assault.

### Example: Managing assault – appropriate response

While walking around on the playground, a staff member observes an altercation between two students. A student, who appears to have lost their temper, has picked up a stick and is threatening to use it as a spear against the other student. They are waving the stick around in front of the face of the other student and shouting at the student. As the staff member moves towards the two students, the staff member sees that the stick is sharp and makes a judgment that the stick could do some damage to the students.

The staff member also makes an assessment that there is not time to enlist the help of another staff member to prevent a possible injury to either student. The staff member grabs the arm of the student waving the stick and removes the stick from the student's grasp. The student wrenches away their arm and, in doing so, complains that the staff member has hurt their wrist.

In this circumstance, this is an appropriate action by the staff member.



For further advice refer to **20. Reporting Obligations.**

### Example: Managing assault – inappropriate response

In attempting to resolve a student management issue, a Learning Support Officer asks a year 3 student to leave their desk and to go to the back of the classroom. The student refuses to leave their desk. The request and refusal are repeated several times. The Learning Support Officer takes the student by the elbow and attempts to escort them to the back of the classroom.

This is an inappropriate response by the Learning Support Officer.



For further advice refer to  
**20. Reporting Obligations.**

- 3.4 If attempts at informal resolution are unsuccessful or inappropriate to use in the circumstances, staff members may elect to use the Internal Review Procedures.
- 3.5 These procedures are established to review management actions or decisions that have or may have an adverse impact on the individual staff member. These procedures are not to be used for resolving general complaints or disputes. People and Performance Branch should be contacted for assistance with general complaints.

## 3. Challenging official decisions or directions

- 3.1 A staff member may challenge or question a decision or direction if they believe it to be unlawful, unethical or unreasonable.
- 3.2 However, before questioning a decision or direction, staff members should seek to discuss the matter with their manager or supervisor and attempt to understand the basis for the direction. Staff members should only then express the reasons for their concerns about the decisions or direction. Trivial and vexatious complaints should be avoided.
- 3.3 The person whose decision or direction is challenged should listen to the concerns raised and review their decision in light of these concerns. The decision maker should explain the facts giving rise to the decision or direction and give their reasons for the decision or direction. If the concerns remain unresolved, staff members concerned may raise their objection with a more senior officer at the school or a more senior officer in the Directorate.

### Example: Challenging a decision – appropriate challenge, response and action

A staff member disagrees with the principal's decision not to suspend a student for inappropriate language. The staff member approaches the principal in private and asks the principal to explain the reasons for not suspending the student and describes their concerns about the decision. The principal listens to and acknowledges the staff member's concerns, and explains their decision. The staff member listens, acknowledges and accepts the right of the principal to make a decision even though they may disagree.

This is an appropriate response.



## 4. Conflict of interest

- 4.1 An apparent conflict of interest exists when a reasonable person, in possession of the relevant facts, may perceive that a staff member's private interests have the potential to interfere with the proper performance of their work duties.
- 4.2 An actual conflict of interest exists when the staff member's private interests interfere or are likely to interfere with the proper performance of their duties.
- 4.3 An apparent or actual conflict of interest must be identified, declared to the principal and avoided or resolved in the public interest.
- 4.4 Staff should be aware that an apparent or actual conflict of interest might arise in many circumstances. For example, it might arise because their private financial or business interests, or personal and family relationships in some way conflict with, or may be perceived to conflict with, the impartial and proper performance of their work duties.
- 4.5 Working in a second job is a situation where a conflict of interest may arise. A second job means employment outside of someone's ACTPS position and includes paid employment, voluntary work, business involvement and company positions.
- 4.6 An employee may not work in a second job without approval.
- 4.7 The PSM Act sets out conditions applying to second jobs. While this applies only to officers, temporary employees are also expected to meet the same standards.

- 4.8 In circumstances where a conflict of interest does arise, the conflict should be resolved by:
  - a. declaring the conflict and then altering one's personal interest to resolve the conflict, or
  - b. declaring the conflict and, in conjunction with their manager, supervisor or principal, making arrangements to resolve the conflict.

### Example: Proper resolution of a conflict of interest

A Business Manager who is a member of a school selection panel learns that their best friend's partner has applied for the vacancy. Because of the close personal relationship with the applicant, the Business Manager declares the conflict of interest to the other selection panel members and withdraws from the panel. They are replaced by another staff member.

This is an appropriate response.

### Example: Conflict between private interests and public duty and improper conduct by manager/supervisor

A School Assistant has special expertise in using information technology in teaching and learning. With the school's approval, they work part-time for a computer business that sells teaching and learning software. The principal of the school asks the School Assistant to recommend software the school should purchase.

The School Assistant should not assist. There is an apparent conflict between the interests of the school and the interests of the company where he works, even though the school approved of the School Assistant's part-time work.



### **Example: Conflict between private interests and public duty**

A staff member operates a taxi to supplement their income with the approval of the Directorate. They employ a driver to drive the taxi. The staff member learns of a student at the school with a physical disability who is entitled to a taxi to drive him to and from school. The staff member arranges for the driver to drive the student to and from school each day.

This is inappropriate conduct.

## **5. Copyright**

- 5.1 When a staff member develops material during the course of their duties with the Directorate, copyright and intellectual-property rights in that material will belong to the Australian Capital Territory.
- 5.2 School staff must ensure they do not breach copyright law or licensing arrangements when copying any school property, such as software, library and reference materials.

## **6. Corruption**

- 6.1 Corruption in relation to a staff member covers a wide range of behaviours but includes any behaviour contrary to the trust, powers and responsibilities placed with the staff member. It can involve misuse of those powers to obtain a benefit or with the intention of obtaining a benefit. It can involve conferring benefits on others that they would not receive if the powers were properly used. It can involve not using powers, when they should have been used, to benefit another person.
- 6.2 Whether behaviour is corrupt is always a matter of judgment and degree. In many ways, corrupt behaviour is synonymous with unethical behaviour. If concerns arise about a staff member's use of their powers or responsibilities, the staff member should ask the question: "Would I mind if the principal or my manager or supervisor knew what I was doing?" If the answer is "yes", the staff member should discuss the situation immediately with their principal, manager or supervisor.

## 7. Drugs, alcohol and tobacco

- 7.1 The Directorate is committed to fulfilling its Occupational Health and Safety responsibilities to provide a safe and healthy working environment for its employees and students. Drugs, alcohol and tobacco misuse can adversely affect the health, safety and work performance of its employees and affect the health and safety of students.
- 7.2 Consistent with the Alcohol Policy and their responsibilities as professionals, staff members on duty must not:
- a. be under the influence or in possession of illegal drugs
  - b. be under the influence of alcohol
  - c. supply students with alcohol, illicit drugs or tobacco
  - d. supply students with prescribed or over-the-counter medications unless authority from the parents or carers is held
  - e. consume alcohol on school premises during normal school hours of 8.30 am and 4.51 pm on Monday to Friday, except where the principal has given an exemption for special occasions at times when students are not present on the school premises
  - f. carry or consume alcohol in government vehicles except where prior approval in writing has been given for a special occasion by the principal
  - g. allow students, regardless of age, to consume or possess alcohol at any school activity including excursions, outdoor adventure activities and camps
  - h. consume alcohol during hours of duty or when they have a continuing responsibility for students. This includes school excursions and outdoor adventure activities, and any other school activity held outside ordinary school hours.
- 7.3 Staff should notify their principal, manager or supervisor if they suspect another employee of being under the influence of alcohol or illicit drugs.



## 8. Electronic communication with students

- 8.1 All telephone, e-mail, SMS and MMS, and all social media applications (and alike) contact by staff members with students must be authorised by the principal prior to any contact being made. Records of the approval and nature of the contact must be kept on file by the principal, who will advise the parents of such contact as appropriate.

## 9. Ensuring child safety

- 9.1 Harm to a student is defined as any detrimental effect on the student's physical, psychological or emotional wellbeing through any cause, other than unintended harm not involving negligence or misconduct.
- 9.2 Conduct that could cause physical or psychological harm to students includes:
- discipline outside of Directorate guidelines
  - handling or touching students inappropriately
  - unreasonable criticism, sarcasm or teasing
  - excessive or unreasonable demands
  - persistent hostility, verbal abuse or rejection
  - sending a student to inappropriate locations or imposing social isolation as punishment.
- 9.3 The Directorate has an obligation to report allegations, offences or convictions that involve child-related misconduct by an employee that arise in their professional or private capacity to the ACT Ombudsman in accordance with the requirements of the ACT Reportable Conduct Scheme. Directorate employees should refer to the Directorate's Reportable Conduct Scheme Policy and Procedures.

- 9.4 Physical restraint of a child or young person in an educational setting must not be used to maintain order at school or as a response to non-compliance or verbal threats. Unless there is serious threat to a child or others, physical restraint must not be used to prevent damage to property.

- 9.5 Use of a restrictive practice, such as physical restraint, to prevent harm is regulated by the *Senior Practitioner Act (2018)*. The following are examples of restrictive practice:
- blocking a child from leaving a room by standing in the doorway
  - preventing free movement
  - restricting a child's ability to communicate
  - confining a child in a room or a space where the child perceives they cannot leave
  - picking up a child, grabbing a child by their limb, other body part, item of clothing or school bag and moving the child or preventing the child from moving.

- 9.6 Communication and contact with children and students should be guided by and comply with legislative requirements, Directorate policies and procedures, including the Safe and Supportive Schools Policy.

- 9.7 There may be times where physical contact with a student is appropriate. In all school settings, situations can arise during the routine work of staff where appropriate physical contact may be utilised to assist or encourage a student. For example:
- implementing a Positive Behaviour Support Plan
  - administering first aid
  - physical therapy
  - demonstrating some physical activities, such as gymnastics, to ensure the safety of a student
  - gestures to encourage or congratulate a student, such as a high-five or handshake.

## 10. Gifts

- 10.1 Staff must not ask for or encourage the giving of gifts or benefits in connection with their work duties. They must not accept a monetary gift in this regard under any circumstances. Staff must exercise sound judgement when offered a gift or benefit by following the ACTPS Gifts, Benefits and Hospitality Policy and Directorate procedures.
- 10.2 A staff member must not accept for private use, any gift or benefit offered by a seller of goods or services purchased for school use.
- 10.3 Staff must not offer another public service officer a gift or benefit with the intent of seeking to alter the honest and impartial performance of that officer.
- 10.4 Staff members may, however, accept gifts of nominal value from students or parents as an expression of appreciation for their work efforts, such as at the end of the school year.

### Example: Gifts of nominal value – appropriate action taken

At the end of the school year a student gives a staff member a vase. The staff member estimates its value at approximately \$40. The staff member approaches their manager/supervisor and discusses what actions should be taken. The staff member and manager/supervisor agree the item is of nominal value and the staff member keeps the vase.

This is an appropriate response.

- 10.5 Generally, staff members should not accept gifts in circumstances other than outlined above. If placed in a position where it would be inappropriate to refuse a gift of more than a nominal value of about \$40, the gift should be declared to the staff member's supervisor within 7 days of receipt and given to the supervisor or principal within 14 days of receipt. The gift will become official Directorate property.

### Example: Gifts of above nominal value – appropriate action taken

A visiting Japanese dignitary presents a silk kimono to a staff member at a school assembly as part of our Canberra-Nara sister city celebrations. The gift is clearly not of nominal value. The staff member graciously accepts the gift on behalf of the school/Directorate. Within the next 14 days, the gift is declared and provided to the staff member's manager/supervisor.

The gift becomes official property and is displayed in the school foyer. This is an appropriate response.

## 11. Impartiality

- 11.1 This means that whatever staff members' personal beliefs and preferences, and whatever their personal relationships with other employees or members of the community, staff members must carry out their duties and treat students, other staff, parents, members of the general public and other public employees fairly and in an unprejudiced manner.

## 12. Intellectual property

- 12.1 School staff must not misuse the intellectual property of others, including the inappropriate use of documents, publications, manuscripts, audio-visual presentations, inventions, original research, and any other materials developed for school, Directorate or Government use.

## 13. Maladministration

- 13.1 Maladministration by staff members, including supervisors and managers, refers to poor administrative practices including:
- incorrect action or failure to take any action that should reasonably have been taken
  - failure to follow correct legal procedures and compliance
  - excessive delay in process
  - failure to properly investigate or reply to concerns raised with them
  - failure to provide information that should reasonably have been provided where it does not breach privacy principles
  - inadequate record keeping
  - making misleading or inaccurate statements
  - failure to follow an appropriate consultative process
  - any action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose.

## 14. Misconduct

- 14.1 As ACTPS employees, all staff members have a responsibility to uphold and ensure that workplace behaviours are consistent with the ACTPS Values, Signature Behaviours and section 9 of the PSM Act. As outlined in section H of the ACTPS Enterprise Agreements, misconduct includes any of the following:
- failing to meet the obligations set out in section 9 of the PSM Act and this Code of Conduct
  - engaging in conduct that may bring, or has brought, the Directorate into disrepute
  - a period of unauthorised absence without any satisfactory reason on return to work
  - being found guilty of, or conviction of, a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the circumstances and seriousness of the offence, the duties of the employee and the interests of the ACTPS and/or the Directorate;
  - failing to notify the Directorate of criminal charges, a conviction or a non-conviction order
  - making vexatious or knowingly false allegation against another employee.



- 14.2 Staff must advise the Executive Branch Manager, People and Performance as soon as practicable, but no longer than 7 calendar days, of any criminal charges laid against the employee in circumstances where the interests of the Directorate or of the ACTPS may be adversely affected, taking into account:
- the circumstances and seriousness of the alleged criminal offence
  - the employee's obligations under section 9 of the PSM Act
  - the effective management of the employee's work area
  - the integrity and good reputation of the ACTPS and the Directorate
  - the relevance of the offence to the employee's duties.
- 14.3 Staff members must not behave in a way that brings discredit upon the reputation of the teaching profession. In this regard, it is important for all staff members to be mindful that their actions in a private capacity may adversely impact on their reputation and that of the profession. Staff conduct must at all times maintain and build community trust and confidence.

#### Example: Reporting official misconduct – appropriate response

A supervisor/manager directs a staff member to change official school data. The supervisor/manager provides no justification or evidence that would support the change in data.

The staff member reports the matter to a higher level supervising officer. This is an appropriate response.

#### Example: Reporting official misconduct – appropriate response

A staff member witnesses an employee pick up a student and push him into a "time out" room. The staff member believes this was excessive force and reports the matter to an appropriate supervising officer.

This is an appropriate response.



For further advice refer to **20. Reporting Obligations.**

## 15. Official information and public comment

- 15.1 Official information is contained within the Directorate or school records or imparted in an official capacity.
- 15.2 Official information obtained through work must not be disclosed without lawful authority.
- 15.3 It is inappropriate to make any public comment where a staff member's statement could reasonably be taken as official comment.
- 15.4 You must only use official information for the work-related purpose it was intended. Such information needs to be appropriately stored and managed in accordance with the Records Management Policy.
- 15.5 Requests for information must be managed in accordance with the relevant Directorate policies and procedures.

#### Example: Inappropriate use of official information

A staff member who is a member of a political organisation receives confidential information in the course of their work about a government policy proposal that they know would be unpopular. The staff member discloses the information to their political organisation.

This action is inappropriate.

## 16. Privacy

- 16.1 School staff members have access to the private information about students, their families and colleagues. Information relating to health records, personal information including personal address and email address, or legal information such as custodial arrangements must not be provided to an outside party without appropriate approval. Inquiries for the provision of personal information from other agencies such as the police must be directed to the Governance and Community Liaison Branch.
- 16.2 All school staff members are bound by the provisions of the Directorate's Privacy Policy, the *ACT Information Privacy Act 2014* and the *Health Records (Privacy and Access) Act 1997*.

## 17. Political activity

- 17.1 School staff members have the same rights as everyone else to express their political views and to make public comment.
- 17.2 However, staff must be sensitive about how they exercise these rights. Staff members need to ensure that there is no reasonable perception of conflict of interest between their private political opinions or activities and their official responsibilities.
- 17.3 School staff need to be careful about expressions of political opinion in the workplace and the appropriateness of sharing their views with students.

### Example: Inappropriate political activity

A staff member holds very strong political beliefs and attends school wearing badges and t-shirts with slogans that are potentially offensive to others. The staff member uses class time to encourage students to take action in support of the staff member's views.

This action is inappropriate.

### Example: Appropriate political activity

Staff members wear their union t-shirts every Friday in school to promote union membership and invite other school staff to the staff room during their break to learn more about the union and their work.

This action is appropriate.

## 18. Procedural fairness

- 18.1 This involves the manner in which staff or other people make decisions. In particular, it means that:
- decisions must be made without bias or an apprehension of bias
  - decisions must be based on the evidence available
  - the person or persons who may be adversely affected by the decision are told why the person intends to make the decision with sufficient detail to enable them to respond
  - the person or persons who may be adversely affected have a reasonable opportunity to provide their views before the decision is made
  - the person making the decision gives reasons for the decision if requested or is otherwise appropriate.

## 19. Professional relationship

- 19.1 A professional relationship is a fiduciary relationship where one person entrusts confidence and trust in another. The relationship between school staff and student is fiduciary and as such requires the school staff to exercise their rights and powers in good faith and for the benefit of the student.
- 19.2 The Code of Conduct also requires an employee to treat their colleagues with courtesy and sensitivity to their rights, duties and aspirations. This requirement must be observed on several levels.
- 19.3 The *Discrimination Act 1991* (ACT) and other legislation prohibits unlawful discrimination in employment. This means that a staff member must not discriminate in their work-related decisions or in their relations with their work colleagues, students, parents, or caretakers on grounds that include sex, sexuality, transsexuality, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability or age.
- 19.4 School staff must treat all colleagues and others courteously and fairly, giving them the opportunity to express their views on work-related issues, making allowances for differences in working style, respecting their working spaces and avoiding displaying or distributing material, or using language that may cause offence.
- 19.5 School staff have protected workplace rights in accordance with the *Fair Work Act 2009*. 'Adverse action' must not be taken against a teacher because the teacher has a workplace right, has exercised a workplace right or proposes to exercise that workplace right such as engaging in industrial activity.

## 20. Reporting obligations

### 20.1 Australian Federal Police (AFP)

The Directorate will report allegations of criminal offences to the AFP and assist any police investigation with the provision of relevant information.

### 20.2 Fraud and maladministration

Under the Code of Conduct, all staff members are obliged to report any fraud or suspicion of fraud that comes to their attention or any reasonable suspicion they may have of maladministration.

Fraud or any other wrongdoing may be reported to the manager or supervisor at school, to the Directorate, to the SERBIR, to the fraud prevention manager in the Chief Minister's Directorate, to the ACT Ombudsman, or to the ACT Auditor-General.

The *Public Interest Disclosure Act 2012* (ACT) regulates the manner in which government agencies should respond to reports of wrongdoing and provides protection to people who make such reports.

### 20.3 Mandatory reporting

Specific school staff are defined as mandated reporters under the *Children and Young People Act 2008* (C&YP Act). It is an offence for a mandated reporter not to report a belief on reasonable grounds that a child is experiencing or has experienced sexual abuse or non-accidental physical injury. Reports are made online through the Access Canberra website: [www.acesscanberra.act.gov.au](http://www.acesscanberra.act.gov.au).

Further information about reporting child abuse can be found in the Directorate's Child Protection and Reporting Child Abuse and Neglect Policy and Guidelines and the Community Services Directorate Keeping Children and Young People Safe Guide.

## 20.4 Preschool requirements under the *Education and Care Services National Law 2010*

Directors of school improvement and principals with responsibility for preschools and preschool educators have a range of responsibilities under the *Education and Care Services National Law 2010*, the *Education and Care Services Regulations* and the *National Quality Standard*, known collectively as the *National Quality Framework (NQF)*. The NQF includes requirements for minimum staffing numbers and qualifications, the supervision and safety of children, the physical environment of the preschool, educational programs, policies and procedures and record keeping and reporting. Further details of these requirements can be found in the NQF Handbook for Nominated Supervisors and Educators in ACT Public Preschools.

Children's Education and Care Assurance Branch (CECA) is the ACT Regulatory Authority for the NQF. If the Regulatory Authority considers that any person who is involved in the provision of education and care poses an unacceptable risk of harm to children, the authority may prohibit that person from working in an education and care service including preschools.



Under the *Education and Care Services National Law 2010*, preschools must notify the Regulatory Authority of any serious incidents and complaints, and any incident or allegation that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service as soon as possible and within 24 hours. Other circumstances which pose a risk to the health, safety or wellbeing of children must be notified within 7 days. Preschools must also advise the Regulatory Authority of any incident that requires the preschool to close or reduce the number of children attending and the attendance of additional children in an emergency. Notifications to CECA by School Operations must be made through the National Quality Agenda IT System (NQAITS) portal. <https://www.acecqa.gov.au/resources/national-quality-agenda-it-system>.

## 20.5 Reporting child abuse to police

In accordance with the *Crimes Act 1900*, it is a criminal offence for an adult who obtains information that leads to the belief that a sexual offence has been committed against a child and does not give the information to a police officer.

Note: An exemption is for persons who have already reported information as a mandatory reporter under the C&YP Act.

## 20.6 Reportable Conduct Scheme

Staff must: immediately notify their principal, of any reportable conduct allegation or conviction. Where the matter involves the principal, it would then be appropriate to report the matter to the relevant Director for School Improvement (DSI).

Principals must: in receipt of a reportable conduct allegation or conviction, notify the People and Performance HR Business Partner Case Team as soon as possible after receiving the allegation or notification of conviction.

Staff should follow the Directorate's Reportable Conduct Scheme Policy and Procedure in reporting all allegations regardless of personal impulse to resolve the problem without escalating the matter.

The Directorate must report allegations, whether or not the employee engaged in the conduct in the course of employment or whether the child consents to the conduct as long as the person was an employee at the time the employer became aware of the allegation.

Staff should understand that before a finding of Reportable Conduct is made, a process following the principles of natural justice and procedural fairness is undertaken.

The Directorate may, in accordance with section 863C of the C&YP Act, provide unsolicited reportable conduct information to another entity if the Directorate believes it is relevant to the safety, welfare or wellbeing of a child.

### Example: Allegation of reportable conduct

A year 6 student approaches a Learning Support Assistant and says that they are upset because their classroom teacher hit them on the head to get their attention.

The Learning Support Assistant then reports the allegation to the Principal so the Directorate's Reportable Conduct Policy and Procedures can be followed in reporting the allegation to the ACT Ombudsman Office.

This is an appropriate response.



For further advice refer to  
**20. Reporting Obligations.**

## 20.7 Restrictive practices

The *Senior Practitioner Act 2018* (SP Act) provides a formal framework for the reduction and elimination of restrictive practices by service providers in the ACT. Under the SP Act, the Education Directorate is considered a service provider. In accordance with the SP Act, the Directorate must report the use of restrictive practices to the Senior Practitioner.

The use of restrictive practices will not be a breach of the Code of Conduct where it is in accordance with the law and any applicable positive behaviour support plan. However, school staff must report the use of a restrictive practice whether it is part of a Positive Behaviour Support Plan or not. The report must be made in accordance with section 12 Reporting, recording and follow-up for incidents involving Restrictive Practices, of the Safe and Supportive Schools Procedure B.

As defined in the SP Act, restrictive practices can include chemical (drug) restraint, mechanical restraint, physical restraint or seclusion from others. Restrictive practices do not include taking reasonable action to protect a child from harm, such as fencing a school or holding a child's hand while crossing the road.

The use of a restrictive practice must be used only as a last resort and must be justifiable in the circumstances. Further information or advice about the use of restrictive practices should be directed through the Student Engagement Team.



## 20.8 Working with Vulnerable People (WwVP) registration

All school staff must hold a WwVP registration. The office of the Commissioner for Fair Trading may conduct its own investigations into the suitability of individuals to hold WwVP registration. This may result in a suspension, cancellation or the imposition of conditions on an individual's registration.

All school staff must notify the Directorate's People and Performance Branch and TQI in writing, if:

- > they are given a negative notice under the WwVP Act
- > their WwVP registration:
  - lapses
  - is made subject to a condition
  - is suspended or cancelled
  - is surrendered.

The Directorate may provide information to the Commissioner for Fair Trading under the WwVP Act, including personal health information, personal information or protected information if there are reasonable grounds to believe that the information is relevant to preventing harm or risk of harm to a child.

## 21. Sexual harassment and misconduct

21.1 Sexual harassment is any unwanted attention of a sexual nature. It is inappropriate and unprofessional.

21.2 Sexual harassment happens if a person:

- a. subjects another person to an unsolicited act of physical intimacy
- b. makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person

- c. makes a remark with sexual connotations relating to the other person
- d. engages in any other unwelcome conduct of a sexual nature in relation to the other person in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

21.3 Sexual misconduct is defined as:

- a. conduct towards any person that would constitute a criminal offence of a sexual nature
- b. conduct that is sexual harassment as defined in the Directorate's policy on sexual harassment
- c. any other sexual conduct by a staff member directed towards or involving any school student.

21.4 Sexual misconduct includes a range of behaviours or a pattern of behaviour suggestive of involving students or colleagues in sexual acts. Some of these behaviours may include:

- a. inappropriate conversations of a sexual nature
- b. comments that express a desire to act in a sexual manner
- c. unwarranted and inappropriate touching
- d. sexual exhibitionism
- e. personal correspondence, including electronic communication, concerning the staff member's feeling for a student
- f. unwanted personal correspondence or electronic communication to a colleague
- g. deliberate exposure of students to sexual behaviour including images or text that are of a sexual nature (except as part of an approved educational program) or pornography.

- 21.5 All school staff must discourage and reject any advances of a sexual nature initiated by a student.
- 21.6 School staff must not engage in behaviour that raises a reasonable suspicion that they have engaged in or will engage in sexual misconduct, or that the standards applying to professional school staff-student relations have or will be breached. A staff member's interactions with students, including those over 16 years of age must be, and be seen to be, professional at all times including 'out of school' hours.

### Example: Sexual misconduct

A school staff member who has regular contact with a 16-year-old student within the school sees the student on the weekend at an event. At this event, the school staff member was making unwanted sexual advances by inappropriately touching and grabbing the student.

This is unprofessional conduct and also constitutes sexual misconduct.



For further advice refer to  
**20. Reporting Obligations.**



## Maintaining professional boundaries

- 21.7 School staff members hold a unique position of trust and must understand there are limits or boundaries to their relationships with students that should not be breached.
- 21.8 Examples of behaviour that may breach or raise a reasonable suspicion that the standards applying to the professional school staff/student relationship have or will be breached include:
- flirtatious behaviour directed at a student
  - dating a student
  - spending significant time alone with a student other than to perform one's professional duties or without other reasonable explanation
  - expressing romantic feelings towards a student in written or other forms
  - live chat conversations on the internet with students
  - providing mobile and home telephone numbers to students
  - attendance at private social functions with students outside school hours such as private parties
  - taking students to coffee, the movies or other social events whether alone or in company
  - providing students with money and/or gifts.
- 21.9 School staff must also maintain professional boundaries at all times with their colleagues through respectful and professional behaviours in working with others.

### Example: Raising a reasonable suspicion of misconduct of a sexual nature

A staff member invites a 17-year-old student to spend the weekend at their farm. The invitation does not comply with the Directorate's Excursion Policy and will only involve the staff and the student.

This is unprofessional conduct.

While more context may change this assessment, it may be a reportable conduct or misconduct matter, as there does not appear to be any legitimate reason for the student to spend the weekend at the staff member's farm.



For further advice refer to  
**20. Reporting Obligations.**

- 21.10 Staff members can develop strong bonds with children within a school. It is critical that the balance between care and support for the child in the school context is not confused with behaviours that may constitute a relationship that is beyond an appropriate and professional relationship.
- 21.11 Physical interaction with students should be age appropriate, limited to professional school staff- student relationships and be appropriate to the staff member's position. Physical contact must not raise concern of exploitation of vulnerability.
- 21.12 All staff must discourage, reject and report to a manager, supervisor or principal any advances of a sexual nature initiated by a student as soon as practicable.

- 21.13 School staff must not provide personal contact details to parents and students. Staff members place their privacy at risk when they provide personal contact details to students and parents. For excursions where students and parents may need to contact the organising staff member, a school mobile phone should be provided to the staff member leading the excursion.
- 21.14 Engaging in conduct to satisfy a staff member's own needs over the needs of a student is never acceptable.

### Example: Crossing professional boundaries

A Learning Support Assistant is concerned about the behaviour of one of their year 8 students. The student spends lunch breaks in the classroom with the Learning Support Assistant, initially seeking assistance with assignments. The student bought the Learning Support Assistant a gift for their birthday (a book of poems) with a message in the front cover stating how the student feels about the Learning Support Assistant. The Learning Support Assistant has become uncomfortable with the attention from the student and is concerned about where it could lead.


The Learning Support Assistant raises the concerns with their supervisor, and together they consult the school psychologist and develop a range of strategies to sensitively manage the situation.

This action is appropriate.

### Example: Crossing professional boundaries

A Youth Worker is seen on more than one occasion poking a year 5 student. The same witness has also seen the same staff member hugging the same student. The witness reports the behaviour to the principal.

The response of the witness is appropriate.

 For further advice refer to **20. Reporting Obligations.**

## 22. Supervision and duty of care

- 22.1 The Directorate's Supervision of Students on School Sites Policy provides detailed information about the duty of care of all employees and the supervisory responsibilities of staff.
- 22.2 Supervision is where staff members use their training and professional judgement to engage with students. Supervision involves active monitoring and appropriate correction of student behaviour to maintain the safety and wellbeing of children.
- 22.3 Duty of care is a duty to take reasonable measures to protect students against risks of injury that could reasonably have been foreseen. The duty is not to ensure that there is no injury but to take reasonable care to prevent injury that could reasonably be foreseen.

## 23. Standards of dress

- 23.1 As a general guide, the appearance and dress of school staff should be in accordance with the standards appropriate to their duties and the people with whom they are dealing. A staff member's obligation is to dress appropriately in a way that upholds the good reputation of the ACTPS and the teaching profession. Wearing thongs, singlets, revealing clothes, or clothes with offensive slogans are examples of inappropriate dress in a school environment.

## 24. Unlawful discrimination

- 24.1 School staff must not unlawfully discriminate against any person. It is unlawful to directly or indirectly discriminate against a person on the basis of the following attributes:
  - a. race
  - b. sex
  - c. sexuality
  - d. transsexuality
  - e. status as a parent or carer
  - f. disability
  - g. pregnancy
  - h. breastfeeding
  - i. religious or political conviction
  - j. age
  - k. membership or non-membership of an industrial union.

### Example: Unlawful discrimination

A parent complains that a staff member should not be allowed to work with their child because the staff member is homosexual. The principal removes the staff member from the child's class on the basis of the parent's complaint. The staff member concerned always performs their duties professionally.

The principal's decision to remove the staff member in these circumstances amounts to unlawful discrimination.

## 25. Use of school resources

- 25.1 School staff should use public resources effectively and efficiently, avoiding waste, extravagance and misuse.
- 25.2 Providing it does not adversely affect the performance of staff's work, the work of others or the reputation of the school, the following limited and occasional private use of school resources and equipment may occur:
  - a. limited, occasional and brief telephone calls and faxes
  - b. limited and occasional use of the school email and the internet subject to the Directorate policy on the use of the internet and email.
- 25.3 It is a breach of the Code of Conduct to use the school's internet or electronic mail system to access, store, or transmit words or images that are sexually explicit, violent or contain other offensive material. Unless material is part of a complaint, report or notification about alleged improper conduct of a person made in accordance with an authorised procedure, material shall be considered offensive if:
  - a. it shows lack of respect for people
  - b. a reasonable person finds the material offensive

### Example: Inappropriate use of school email

A staff member who alleges that they are the subject of workplace bullying by their manager/supervisor, details allegations via the school email to a number of people inside and outside the school who have no authority to intervene in the matter. The staff member's action has left them open to legitimate complaint by their manager/supervisor.

The appropriate action would have been for the staff member to convey their allegations to people who are authorised to receive it and to take steps to address it, such as their school principal, union, a Directorate officer, or to use the Directorate's internal review procedures.

- 25.4 School staff members must take extreme care when using their own personal devices for school-related purposes to ensure any materials prohibited by the Acceptable ICT Use Policy are safely secured and cannot be accessed accidentally by others.
- 25.5 The Directorate requires all employees to sign an 'Acceptable Use Policy' form to acknowledge they have read and understood the Directorate's 'Acceptable use of ICT' Policy prior to employment.

## 26. Verbal interactions with students

- 26.1 All school staff must communicate verbally with students in a respectful manner at all times. It is accepted that school staff may have cause on occasions to raise their voice to gain the attention of a class or individual student. However, yelling, screaming or using an excessively loud voice that intimidates or threatens a student, whether intended or not, is not acceptable.
- 26.2 Language that is offensive, indecent, threatening or violent is inconsistent with the ACTPS values and may constitute misconduct.
- 26.3 School staff members must be mindful of the language they use and the way they speak to children, colleagues, parents and the wider school community.

## 27. Vexatious complaints

- 27.1 A vexatious complaint is a written or verbal complaint of alleged improper conduct made to an authority where there are no reasonable grounds for suspecting the improper conduct.

### Example: Making a vexatious complaint

A staff member's behaviour is the subject of a grievance properly lodged by their colleague. Upset at being the subject of a grievance, the staff member decides to cause their colleague some grief by lodging a grievance against them in which they make allegations of improper conduct without any reasonable basis for the complaint.

This is inappropriate and unprofessional.

## 28. Workplace harassment

- 28.1 Workplace harassment is repeated behaviour by an employee that:
- a. is directed at an individual worker or group of workers and
  - b. is offensive, intimidating, humiliating or threatening and
  - c. is unwelcome and unsolicited and where
  - d. a reasonable person would consider the behaviour to be offensive, intimidating or threatening for the individual worker or group of workers in the circumstances.
- 28.2 Workplace harassment should not be confused with advice or counselling on work performance or work-related behaviour of an individual or group, which might contain critical comments about work performance. Feedback or counselling on work performance or work-related behaviour differs from harassment in that it is intended to assist in improving work performance or changing behaviour. Feedback or counselling should always be constructive, not humiliating or threatening.

### Example: Workplace harassment and inappropriate supervisory behaviour

A supervising manager is constantly critical in a negative way of a staff member's work performance but fails to implement a supportive measure in consultation with the staff member. The supervising manager isolates the staff member and seeks to have them transferred to another school.

This is inappropriate and unprofessional.



## 29. Workplace health and safety

29.1 The Directorate is committed to taking all reasonable and practical steps to provide a safe, respectful and healthy work environment for employees, students, visitors and others. All staff members are responsible for ensuring that their workplace is maintained in a safe and healthy manner. This is done by:

- a. being aware of and complying with workplace health and safety (WHS) instructions, training, policies and procedures
- b. immediately reporting any workplace hazards, incidents, accidents or near misses to their manager, supervisor or Health Safety Representative (HSR) and ensuring that an Accident and Incident Report form is submitted within the required time frames
- c. maintaining their workplace in a safe and healthy manner for themselves, their colleagues, students and visitors
- d. using equipment in accordance with Safe Operating Procedures (SOPs) and Safe Work Methods (SWMs), and wearing appropriate Personal Protective Equipment (PPE)
- e. actively participating in the development and implementation of workplace health and safety, risk-identification and risk-management processes
- f. contributing to audits, inspections and reviews
- g. actively participating in WHS prevention and early intervention strategies, both with respect to physical and psychological health and safety
- h. taking reasonable care for their own personal health and wellbeing
- i. identifying, sharing and supporting ideas for promoting health and wellbeing in the workplace.

29.2 Occupational violence (also referred to as workplace violence) is defined as ‘any action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, injured in the course of, or as a direct result of, their work’.

29.3 Occupational violence may include personal intimidation, verbal abuse, physical assault, sexual harassment, threatening behaviour, abuse through texts, emails, social media and phone calls, making vexatious complaints, and making derogatory, slanderous or threatening statements to or about another person. Behaviours such as yelling, blocking an exit and harassment, when directed towards another employee, can also constitute occupational violence.

29.4 At times, members of the community may act in an aggressive manner. In these circumstances, the employee is entitled to suspend further contact with the person until it can be agreed that there will not be a repeat of the behaviour.

29.5 Aggressive behaviour by students directed at staff must be managed in accordance with the Managing Occupational Violence Policy and Management Plan. Any decision taken by an employee to respond with force during a physical attack must be justifiable in the circumstances.

- 29.6 All incidents of occupational violence must be recorded via Riskman in addition to any other school- based records management procedures.
- 29.7 If a risk-assessment plan is put in place, the controls identified in the plan must be implemented and followed by all staff.

### **Example: Managing aggressive behaviour – appropriate response**

A parent arrives at a school to complain about the inability to enrol their child at the school. The enrolment officer explains the background and the reasons for the decision. The parent becomes verbally abusive and the enrolment officer asks the parent to stop using abusive language. The parent continues to use abusive language and the enrolment officer tells the parent that they will not continue the conversation until they stop using such language.

The parent persists in using abusive language and the enrolment officer's supervisor intervenes and asks the parent to leave the school premises.

This is an appropriate response.

### **Example: Managing aggressive behaviour – inappropriate response**

A Building Service Officer encounters a student bouncing a ball in a corridor of the school. The Building Service Officer tells the student that their behaviour is not acceptable inside the school and tells the student to leave the corridor and go outside. The student replies that it is raining outside. The Building Service Officer takes the student's ball and insists that the student must leave the corridor. The student steps towards the Building Service Officer and shouts. The Building Service Officer grabs the student's arm and uses some force to manoeuvre the student through the door that leads out of the corridor.

This is an inappropriate response by the Building Service Officer.



For further advice refer to  
**20. Reporting Obligations.**

# REFERENCES



# REFERENCES

## Legislation

*ACT Information Privacy Act 2014*

*Administrative Appeals Tribunal Act 2008*

*Administrative Decisions (Judicial Review) Act 1989*

*Board of Senior Secondary Studies Act 1997*

*Children and Young People Act 2008*

*Crimes Act 1900*

*Disability Services Act 1991*

*Discrimination Act 1991*

*Education Act 2004*

*Education and Care Services National Law 2010*

*Enclosed Lands Protection Act 1943*

*Freedom of Information Act 2016*

*Health Records (Privacy and Access) Act 1997*

*Human Rights Act 2004*

*Ombudsman Act 1989*

*Public Interest Disclosure Act 2012*

*Public Sector Management Act 1994*

*Royal Commission Criminal Justice Legislation Amendment Act 2019*

*Spent Convictions Act 2000*

*Territory Records Act 2002*

*The Senior Practitioner Act 2018*

*Trespass on Territory Land Act 1932*

*Work Health and Safety Act 2011*

*Working with Vulnerable People (Background Checking) Act 2011*

*Vocational Education and Training Act 2003*

Legislation can be located at <http://www.legislation.act.gov.au>.

## Codes and related publications

Resources available on the ACTPS Employment Portal  
<https://www.cmtedd.act.gov.au/employment-framework/home>

- > ACT Public Service Code of Conduct Acceptable ICT Use Policy
- > Gifts, Benefits & Hospitality Policy
- > Managing Occupational Violence
- > ACT Public Service Health, Safety & Injury Management Policies Resolving Workplace Issues Resources
- > Respect, Equity and Diversity Framework 2010
- > Whole of Government Mobile Devices Policy
- > ACTPS Use of Social Media Policy and Guidelines

Keeping Children and Young People Safe  
<https://www.communityservices.act.gov.au/ocyfs/keeping-children-and-young-people-safe>

Education and Care Services Regulations and National Quality Standards  
<https://www.acecqa.gov.au/nqf/national-law-regulations/national-regulations>

## Industrial agreements

ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021

ACT Public Sector Health Professionals Enterprise Agreement 2018-2021

ACT Public Sector Infrastructure Services Enterprise Agreement 2018-2021

ACT Public Sector Support Services Enterprise Agreement 2018-2021

ACT Public Sector Technical and Other Professional Enterprise Agreement 2018-2021

or replacements

## Directorate policy and resources

The following Directorate Policy resources are at:

[https://www.education.act.gov.au/publications\\_and\\_policies/policies/A-Z](https://www.education.act.gov.au/publications_and_policies/policies/A-Z)

- > Alcohol Policy
- > Working with Vulnerable People (WWVP) Registration
- > Access Student Records Policy
- > Child Protection and Reporting Child Abuse and Neglect Policy
- > Excursions Policy
- > Family Law Policy
- > Managing Employee Absences Policy
- > Managing Occupational Violence Policy
- > Privacy Policy
- > Records Management Policy
- > Reportable Conduct Scheme Policy
- > Safe and Supportive Schools Policy
- > Sensitive Information Handling Policy
- > Supervision of Students on School Sites Policy

## Legal information

<https://index.ed.act.edu.au/handbooks/school-legal-information.html>

- > Duty of Care
- > Privacy
- > Unwelcome Visitors to Schools Handbook
- > Working with Children and young People – Volunteer and Visitor (Interim) Policy

## People and performance advice

[https://index.ed.act.edu.au/our-people/hr-advice/hr\\_advice\\_workplace-values-behaviours.html](https://index.ed.act.edu.au/our-people/hr-advice/hr_advice_workplace-values-behaviours.html)

- > Advice for Employees Using Social Media
- > Privacy and Handling of Personal Information

## Student engagement

- > Further information about Safe and Supportive Schools

<https://index.ed.act.edu.au/teaching-and-engagement/programs-and-services/inclusion-and-wellbeing.html>

- > Further information or advice about the use of restrictive practices should be directed through the Student Engagement team [EDUDEOffice@act.gov.au](mailto:EDUDEOffice@act.gov.au)

## Governance and Community Liaison Branch

Email [edulegalliaison@act.gov.au](mailto:edulegalliaison@act.gov.au)

## School management manual

<https://index.ed.act.edu.au/handbooks/school-management-manual/module-6-financial-management/accounting-for-moneys>

- > Gifts and Expressions of Sympathy

## Other

Internal Review Procedures

Performance and Development Framework

Mandatory Procedures for Managing Employee Absences Reportable Conduct Scheme Procedures

Supervision of Students on School Sites Procedures  
Safe and Supportive Schools Procedure B

Child Protection and Reporting Child Abuse and Neglect Guidelines



# ANNEX A

## SECTION 9 PUBLIC SECTOR MANAGEMENT ACT 1994

### Public sector conduct

1. A public servant must—
  - a. take all reasonable steps to avoid a conflict of interest; and
  - b. declare or manage a conflict of interest that cannot reasonably be avoided; and
  - c. when acting in connection with the public servant's job—
    - i. comply with laws applying in the Territory; and
    - ii. comply with any lawful and reasonable direction given by a person with the authority to give the direction; and
    - iii. if dealing with a member of the public—make all reasonable efforts to help the person to understand the person's entitlements, and any requirement the person is obliged to meet, under a territory law; and
    - iv. treat all people with courtesy and sensitivity to their rights and aspirations; and
  - d. do the public servant's job with reasonable care and diligence, impartiality and honesty.
2. A public servant must not—
  - a. behave in a way that—
    - i. is inconsistent with the public sector values; or
    - ii. undermines the integrity and reputation of the service; or
  - b. take improper advantage of the public servant's job or information gained through the public servant's job; or
  - c. improperly use a Territory resource, including information, accessed through the public servant's job; or
  - d. without lawful authority—
    - i. disclose confidential information gained through the public servant's job; or

**Note:** *The Crimes Act 1900*, s 153 (1) makes it an offence for a public servant to disclose information that it is the public servant's duty not to disclose.

    - ii. make a comment that reasonably appears to be an official comment; or
  - e. when acting in connection with the public servant's job—bully, harass or intimidate anyone; or
  - f. when doing the public servant's job—apply improper influence, favouritism or patronage.

3. For a misconduct procedure, failing to act in a way that is consistent with subsection (1) or (2) may be misconduct.

**Note:** A **misconduct procedure** means a procedure set out in an industrial instrument or prescribed by regulation (see dictionary, def **misconduct procedure**).

4. A public servant (a **discloser**) must tell the following person about any maladministration or corrupt or fraudulent conduct by a public servant or a public sector member of which the discloser becomes aware:
  - a. the head of service;
  - b. if the alleged maladministration or corrupt or fraudulent conduct is by the head of service—
    - i. the director-general of the administrative unit in which the public servant is employed; or
    - ii. if the head of service is the director-general of the administrative unit in which the public servant is employed—another director-general.
5. This section does not—
  - a. affect the operation of any other Act; or
  - b. create or affect any other legal right.





