



ACT
Government

Education

CODE OF CONDUCT

TEACHERS, SCHOOL
LEADERS AND
PRINCIPALS



CODE OF CONDUCT - Teachers, School Leaders and Principals

© Australian Capital Territory, Canberra 2020

This work is copyrighted. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without written permission from:

ACT Government
GPO Box 158, Canberra ACT 2601
Telephone: 13 22 81
Website: www.act.gov.au
Publication: 191485

ACCESSIBILITY

The ACT Government is committed to making its information, services, events and venues as accessible as possible.

If you have difficulty reading a standard printed document and would like to receive this publication in an alternative format, such as large print, please phone Access Canberra on 13 22 81.

If English is not your first language and you require a translating and interpreting service, please phone 13 14 50. If you are deaf, or have a speech or hearing impairment, and need the teletypewriter service, please phone 13 36 77 and ask for Access Canberra on 13 22 81.

For speak and listen users, please phone 1300 555 727 and ask for Access Canberra on 13 22 81. For more information on these services visit www.relayservice.com.au

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.

CONTENTS

Introduction	1
What is the Code of Conduct?	1
Who must comply with the Code of Conduct?	2
When does the Code of Conduct apply?	2
Using the Code of Conduct	2
What happens if I breach the Code of Conduct?	3
Who determines if the Code of Conduct has been breached?	3
Reporting breaches of the Code of Conduct	3
Part 1 Teaching as a Profession	4
Professional registration	5
Professional responsibilities	6
Professional standards	6
Professional learning and development	7
Part 2 Code of Conduct for Teachers, School Leaders and Principals	8
Principle 1. Works efficiently, effectively and constructively	9
Principle 2. Responsive, collaborative and accountable	11
Principle 3. Makes fair and reasonable decisions	13
Part 3 Code of Conduct - Explanatory Guidelines	14
References	38

INTRODUCTION

All Education Directorate (Directorate) employees, including teachers, are expected to achieve and demonstrate high standards of professional conduct and work performance. Teachers have a significant role in the teaching, learning and wellbeing of students in ACT public schools and additional obligations in relation to maintaining professional registration, which includes professional development and professional practice.

The Code of Conduct for Teachers, School Leaders and Principals (Code of Conduct) is important for all teachers, school leaders and principals employed by the Directorate. As public service employees, teachers hold a special position of trust. In their respective roles, teachers exercise powers that have a significant impact on the lives of children and young people, and consequently there is a community expectation that these powers will be properly and prudently used.

Given the profession of teaching is becoming even more complex and important, society and teachers themselves need to ensure that the professional practice of teaching meets the highest possible standards. In achieving these high standards, teachers need to be committed to their own professional learning, seeking to deepen their knowledge, expand their teaching skills and adapt their teaching to developments in research and scholarship.

The Code of Conduct is the Directorate's statement of the standards of professional conduct and integrity expected of teachers in ACT Public Schools for the purpose of upholding the values outlined in the ACT Public Service (ACTPS) Code of Conduct, including the ACTPS Values and Signature Behaviours, and section 9 - Public Sector Conduct, *Public Sector Management Act 1994* (PSM Act). Additional legislation, relevant to teachers' roles working with children and young people, are referenced throughout the document.

The Code of Conduct also aims to guide teachers 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. It is the individual responsibility of all teachers to ensure that they understand their obligations, that they remain compliant with various legislation 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 schools.

This document includes three separate parts to ensure teachers understand their responsibilities:

- > Teaching as a Profession
- > The Code of Conduct for Teachers, School Leaders and Principals (Code of Conduct)
- > Explanatory Guidelines – Code of Conduct for Teachers, School Leaders and Principals

NOTE: Where the term “teacher” is used throughout this document, the reference is taken to mean all teachers, school leaders and principals, unless otherwise articulated.

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 teachers 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 teachers 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 teachers. The Code of Conduct expands on these principles by stating expectations for professional conduct that apply to teachers, school leaders and principals in ACT public schools.

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 public schools' teachers, school leaders and principals (permanent, casual and temporary).

When does the Code of Conduct apply?

The obligations of this Code of Conduct may also apply at times when a teacher is not performing work-related duties, such as during periods of leave and during a teacher's private life.

Using the Code of Conduct

The Code of Conduct and Guidelines cannot, of course, cover every situation where teachers are required to 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 a teacher is unsure of what to do in a particular situation, they should discuss the matter with their manager or supervisor and, where necessary, seek further advice, for example from an experienced colleague or other appropriate Directorate officer. It is also appropriate for a teacher to discuss the matter with their union.

Finally, before proceeding, teachers 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, the ACTPS Code of Conduct and this Code of Conduct?
- > Could I adequately defend my action to my manager, 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. Teachers 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, teachers 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 and the Teaching Staff Enterprise Agreement.

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 teacher concerned.

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

TEACHING AS A PROFESSION



TEACHING AS A PROFESSION

Teaching is a profession, a form of public service that requires of teachers expert knowledge and specialised skills, acquired and maintained through rigorous and continuing study. It also calls for a sense of personal and corporate responsibility for the education and welfare of the pupils in their charge.

The status of the teaching profession depends to a considerable extent upon teachers themselves, and they should seek to achieve the highest possible standards of teaching practice. Teachers are expected to provide the best possible education for every student, regardless of their background or circumstances, to enable students to reach their full potential within a safe and supportive learning environment.

A teacher's professional responsibilities extend beyond the hours of face-to-face teaching and time spent in the workplace. A teacher's core role includes instruction and supervision of students, curriculum planning, student evaluation, assessment and reporting on student learning, professional learning, parent teacher interviews and participation in activities which enhance the educational experiences of students.

In developing excellence, teachers have a corresponding responsibility to contribute to the future of the teaching profession by:

- > sharing their expertise and experience
- > undertaking leadership roles
- > modelling exemplary teaching practice
- > building capacity for quality teaching within schools and across the system
- > taking responsibility for their professional growth and participation in professional learning.

As professionals, teachers should also promote learning and the value of education by creating connections with families and the wider community¹. Teachers must continuously maintain their expertise, have special sensitivity to recognise the ethical dilemmas involved in teaching work and the readiness to act ethically in these situations.

Professional registration

ACT Teacher Quality Institute (TQI) professional registration

Teachers are required to hold TQI registration, in accordance with the *ACT Teacher Quality Institute Act 2010* (TQI Act) and Regulations, to commence and continue teaching in the ACT. This professional registration is managed by the TQI as an independent ACT Government statutory authority.

TQI registration requires meeting and maintaining the standards of qualifications, expertise, professional education or development, which are used to assess an individual's fitness to teach. Professional registration is a requirement of all school educational jurisdictions in Australia.

The TQI Code of Professional Practice and Conduct for ACT Teachers (TQI Code) promotes the principles of Integrity, Respect and Responsibility. It is against these principles that judgements are made by the TQI when considering the registration of applicants.

Teachers must ensure they are aware of and comply with their obligations under the TQI Act and TQI Code. A failure to comply with the Code of Conduct may also constitute a failure to comply with the TQI Code.

¹ The Finnish Ethical Principles of Teaching (<https://www.oaj.fi/en/education/ethical-principles-of-teaching/>)

The Directorate is obligated to notify TQI under certain circumstances. This obligation is detailed further in Part 3 - Explanatory Guidelines under the heading Reporting Obligations. Notification to TQI may result in the imposing of conditions of registration, suspension or cancellation of a teacher's registration by TQI.

In accordance with subclause N1.2 of the *ACT Public Sector Education Directorate (Teaching Staff) Enterprise Agreement 2018-2022* (Enterprise Agreement): Where a teacher no longer has professional registration, for example, by not reaching the required probation and full registration standard, by failing to renew registration or if the TQI cancels registration, this may result in the termination of the teacher's employment with the Directorate.

Cancellation of professional registration in any jurisdiction will prevent a teacher from registering and teaching in other jurisdictions within Australia and New Zealand. Further information about TQI is at www.tqi.act.edu.au.

Working with Vulnerable People (WwVP) registration

Teachers are required to have and maintain current 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, the teacher must advise the Directorate's People and Performance Branch of the restrictions in place.

A failure to maintain current WwVP registration may result in termination of employment with the Directorate.

Professional responsibilities

In accordance with the subclause P1.1 of the Enterprise Agreement, the core role of teachers is to improve student learning. Within this core role, the professional responsibilities and regular pattern of work of a teacher includes:

- > instruction of students
- > supervision of students
- > curriculum planning
- > assessment of student learning
- > reporting of student learning
- > parent teacher interviews
- > professional learning.

Professional standards

Australian Professional Standards for Teachers (APST), developed by the Australian Institute for Teaching and School Leadership (AITSL), describe teachers' knowledge, practice and engagement through each career stage. These standards were developed to support teacher effectiveness and should be used to guide performance development and career path planning.

Educational leadership enhances student outcomes and teachers' excellence in teaching, and establishes the effective and efficient operation of schools. The Australian Professional Standard for Principals (APSP) provides a framework of the knowledge and skills for school leaders to succeed.

The Directorate's Teacher and School Leader Performance and Development Framework (T&SLPD Framework) and Principal Performance and Development Framework (PPD Framework) are aligned to the APST and APSP.

Professional learning and development

Professional learning enhances the knowledge or skills that lead to improved student learning, enable evaluation and reflection on current practices, and collaboration with other teachers and relevant professionals. Continuing professional learning is a requirement of a teacher's registration with the TQI. Teachers are required to participate in professional learning organised individually and by the school.

Teachers must ensure their professional learning program supports their development against the expectations of the APST/APSP and their career aspirations. Unauthorised non-attendance at mandatory professional learning may constitute misconduct.

The PPD and T&SLPD frameworks focus on the achievement of system and school priorities, and individual professional learning and development. Teachers are required to engage in the processes associated with the frameworks and undertake critical reflection on the commitment to improving student outcomes, fostering individual accountability and taking positive action in relation to feedback on their performance.

PART 2

CODE OF CONDUCT FOR TEACHERS, SCHOOL LEADERS AND PRINCIPALS



CODE OF CONDUCT FOR TEACHERS, SCHOOL LEADERS AND PRINCIPALS

Principle 1. Works efficiently, effectively and constructively

1.1 Works effectively and productively

Teachers work effectively and productively by:

- > acting in a manner that promotes confidence in the integrity of the public service and the profession
- > being committed to students and their learning
- > organising learning to take account of the diverse social, cultural and special learning needs of their students
- > working to implement high-quality education services
- > encouraging students to strive for high standards and to value learning
- > advancing student 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

Teachers demonstrate high standards of professional practice by:

- > engaging students in their learning
- > working to achieve high-level outcomes for all students
- > maintaining records to manage, monitor, assess and improve student learning
- > using research and student achievement data to inform professional practice
- > engaging in reflective practice, and developing their professional knowledge and teaching skills

- > supporting the personal and professional development of others, where appropriate
- > providing constructive feedback to colleagues that is considered and helpful
- > assisting in developing and mentoring beginning teachers, where appropriate
- > working cooperatively and collaboratively with others to achieve school and system goals
- > informing people of their rights and entitlements, where appropriate
- > accepting responsibility for their own professional learning and development.

1.3 Exercise efficient and effective resource management

Teachers 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.

1.4 Accept responsibility for high-quality teaching

Teachers accept responsibility for high-quality teaching by:

- > providing students with opportunities to learn, recognising and developing each student's unique potential and addressing each student's educational needs
- > assessing students regularly and constructively
- > knowing the learning strengths and weaknesses of their students, and the factors that influence their learning
- > participating in learning and development to maintain and enhance their professional knowledge and skills
- > accepting responsibility for student-learning outcomes
- > knowing their subjects, how to teach them and how their teaching relates to the whole school curriculum and pathways for students
- > drawing on the body of knowledge about learning and contemporary research into teaching and learning to support their practice.

1.5 Advance student learning and the public interest

Teachers advance student learning and the public interest by:

- > implementing the educational goals and priorities of the school and system
- > working to develop an educational environment that addresses the needs of all students, including Aboriginal and Torres Strait Islander students, students with different ethnic or cultural backgrounds, students for whom English is an additional language and students with a disability
- > developing and implementing effective pedagogies
- > promoting learning, the value of education and the profession of teaching in the wider community
- > working effectively with other professionals, parents/carers and members of the broader community to provide effective learning for students.

Principle 2. Responsive, collaborative and accountable

2.1 Responsive to the government

Teachers 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

- > implementing the policies of the elected government, particularly as they relate to education
- > complying with lawful and reasonable directions from their manager or supervisor
- > being familiar with legislation, regulations and professional codes that are relevant to their employment
- > not disclosing, without lawful authority, any information obtained as a consequence of their employment
- > placing students' best interest over the teacher's personal interest or benefit
- > cooperating with colleagues
- > accepting responsibility for developing their own professional knowledge and skills
- > maintaining high standards of professionalism, probity and performance.

2.2 Ensure child safety

Teachers ensure child safety by:

- > recognising that students have a right to a safe and secure teaching and 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 Develop and maintain constructive professional relationships with parents and carers

Teachers develop and maintain constructive professional relationships with parents and carers by:

- > engaging in open communication with the parent community, where appropriate
- > reporting on student progress and learning options.

2.4 Respect the dignity, rights and opinions of others

Teachers 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.

2.5 Exercise leadership in their role as manager or supervisor

Teachers exercise leadership in their role as manager or supervisor by:

- > acting as positive role models
- > acknowledging the work of all staff
- > complying with and applying the policies and procedures of the Directorate
- > understanding and implementing provisions outlined in Enterprise Agreements
- > ensuring that all staff are made aware of their reporting responsibilities

- > encouraging initiative, responsiveness and leadership amongst staff
- > being open and accepting of differing views and perspectives that may better achieve Directorate and school goals
- > exercising their responsibilities conscientiously and prudently
- > promoting participatory decision making facilitated by genuine consultation
- > providing learning and development opportunities for their staff
- > giving regular constructive feedback to staff on their work performance, for example, through probation, contract assessment and the Performance and Development Plan
- > promoting equity and diversity in the workplace
- > providing strategic educational and operational direction
- > monitoring and enhancing educational quality through planning for teaching and learning, and implementing change management to better meet the needs of students
- > identifying and supporting colleagues who may be experiencing difficulty
- > responding appropriately to issues of inefficiency
- > managing and reporting perceived misconduct appropriately
- > seeking support for colleagues who may be experiencing difficulty.

Principle 3. Makes fair and reasonable decisions

3.1 Act with integrity

Teachers 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
- > 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.

3.2 Discourage any form of discrimination or harassment in the workplace

Teachers 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

Teachers act with probity by:

- > being aware of the social, cultural, and religious backgrounds of their students, and treating students appropriately having regard to their individual needs
- > seeking student and staff views about decisions that affect them
- > assessing and recording student performance data according to Directorate policies and procedures
- > 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 copyrighted 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

EXPLANATORY GUIDELINES

Contents

1. Attendance and absence	15	20. Reporting obligations	25
2. Assault	15	20.1 Australian Federal Police (AFP)	25
3. Challenging official decisions or directions	16	20.2 Fraud and maladministration	25
4. Conflict of interest	17	20.3 Mandatory reporting	25
5. Copyright	18	20.4 Preschool requirements under the Education and Care Services National Law 2010	26
6. Corruption	18	20.5 Reporting child abuse to police	26
7. Drugs, alcohol and tobacco	19	20.6 Reportable Conduct Scheme	26
8. Electronic communication with students	20	20.7 Restrictive practices	27
9. Ensuring child safety	20	20.8 Teacher Quality Institute	28
10. Gifts	21	20.9 Working with Vulnerable People (WwVP) registration	29
11. Impartiality	22	21. Sexual harassment or sexual misconduct	29
12. Intellectual property	22	22. Supervision and duty of care	32
13. Maladministration	22	23. Standards of dress	32
14. Misconduct	22	24. Unlawful discrimination	32
15. Official information and public comment	23	25. Use of school resources	33
16. Privacy	24	26. Verbal interactions with students	34
17. Political activity	24	27. Vexatious complaints	34
18. Procedural fairness	24	28. Workplace harassment	34
19. Professional relationship	25	29. Workplace health and safety	35

CODE OF CONDUCT - EXPLANATORY GUIDELINES

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

The Guidelines will assist teachers, school leaders and principals to perform their professional duties in a manner consistent with the best practice principles and their obligations.

Where examples are provided, teachers, school leaders and principals must always be mindful of their reporting obligations.

A reminder (🔔) will be added to examples where one or more reporting obligations must be considered.

1. Attendance and absence

- 1.1 Teachers 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 school.
- 1.2 Teachers 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 or other can constitute assault. Similarly, a student's actions can constitute assault of a teacher. Both students and teachers can pursue criminal or civil proceedings against the other for assault.
- 2.2 A teacher observing a student assaulting or threatening to assault another individual

should attempt to verbally deescalate the situation, if possible, before physically defending others. A teacher 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 on playground duty, a teacher 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 teacher moves towards the two students, the teacher sees that the stick is sharp and makes a judgment that the stick could do some damage to the student/s.

The teacher also makes an assessment that there is no time to enlist the help of another teacher to prevent a possible injury to either student. The teacher 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 teacher has hurt their wrist.

In these circumstances, this is an appropriate action by the teacher.

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

Example: Managing assault – inappropriate response

In attempting to resolve a student-management issue, a teacher 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 teacher takes the student by the elbow and attempts to escort them to the back of the classroom.

This is an inappropriate response by the teacher.



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

3. Challenging official decisions or directions

- 3.1 Teachers 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, teachers should seek to discuss the matter with their manager or supervisor and attempt to understand the basis for the direction. The teacher should only then express the reasons for their concerns about the 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 their reasons for the decision or direction. If the concerns remain unresolved, the teacher concerned may raise their objection with a more senior teacher at the school or a more senior officer in the Directorate.

- 3.4 If attempts at informal resolution are unsuccessful or inappropriate to use in the circumstances, the teacher 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 teacher. 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.

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

A teacher disagrees with the principal's decision not to suspend a student for inappropriate language in class. The teacher 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 teacher's concerns and explains their decision. The teacher listens, acknowledges and accepts the right of the principal to make a decision even though they may not agree with it.

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 teacher'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 teacher'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 Teachers 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 their personal or 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 one situation where a conflict of interest may arise. A second job means employment other than a person's ACTPS position and includes paid employment, voluntary work, business involvement and company positions.
- 4.6 An officer 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:
- declaring the conflict and then altering one's personal interest to resolve the conflict
 - declaring the conflict and, in conjunction with their manager, supervisor or the principal, making arrangements to resolve the conflict.

Example: Proper resolution of a conflict of interest

A teacher 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 teacher declares the conflict of interest to the other selection panel members and withdraws from the panel. They are replaced by another teacher.

This is an appropriate response.

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

A teacher has special expertise in the use of 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 teacher to recommend what software the school should purchase.

The teacher should not assist. There is an apparent conflict between the interests of the school and the interests of the company for which they work for, even though the school's approval of the teacher's part-time work has caused the conflict.

Example: Conflict between private interests and public duty

A teacher operates a taxi to supplement their income with the approval of the Directorate. They employ a driver to drive the taxi. The teacher 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 teacher arranges for the driver to drive the student to and from school each day.

This is inappropriate conduct.

Example: Conflict between private interests and professional duty

A teacher employs one of their students to work in their business which is operated in an approved private capacity outside work-hours.

The actions of the teacher are inappropriate as there is an apparent conflict of interest between their role in teaching and assessing the student and the employment of the student in their business.

5. Copyright

- 5.1 When teachers develop 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 Teachers must ensure they do not breach copyright laws or licensing arrangements when copying any school property, such as software, library and reference materials.

6. Corruption

- 6.1 Corruption, in relation to a teacher, covers a wide range of behaviours but includes any behaviour that is contrary to the trust, powers and responsibilities placed with the teacher. 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, for the benefit of another person.
- 6.2 Whether a 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 teacher's use of their powers or responsibilities, the teacher should ask the question: 'Would I mind if my manager or supervisor knew what I was doing?' If the answer is 'yes', the teacher should discuss the situation immediately with their 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 and others.
- 7.2 Consistent with the Alcohol Policy and their responsibilities as professionals, teachers on duty must not:
- be under the influence or in possession of illegal drugs
 - be under the influence of alcohol
 - supply students with alcohol, illicit drugs or tobacco
 - supply students with prescribed or over-the-counter medications unless authority from the parents or carers is held
 - 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
 - carry or consume alcohol in government vehicles, except where prior approval in writing has been given for a special occasion by the principal
 - allow students, regardless of age, to consume or possess alcohol at any school activity including excursions, outdoor adventure activities and camps
 - consume alcohol during hours of duty or when they have a continuing responsibility for students. This includes school excursions, outdoor adventure activities and any other school activity held outside ordinary school hours.
- 7.3 Teachers should notify their 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 teachers with students must be authorised by the school 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 a 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 in the classroom 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 practices:

- blocking a child from leaving a room by standing in the doorway
- prevention of free movement
- restriction of 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 part of their body, 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 teachers 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, or to ensure the safety of a student or hand-over-hand learning
 - gestures to encourage or congratulate a student, such as a high-five or handshake.

10. Gifts

- 10.1 Teachers 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. Teachers 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 teacher must not accept for private use, any gift or benefit offered by a seller of goods or services purchased for school use.
- 10.3 Teachers 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 Teachers 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 teacher a vase. The teacher estimates its value at approximately \$40. The teacher approaches their manager/supervisor and discusses what actions should be taken. The teacher and manager/supervisor agree the item is of nominal value and the teacher keeps the vase.

This is an appropriate response.

- 10.5 Generally, teachers 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 teacher's supervisor within 7 days of receipt and given to the supervisor 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 teacher at a school assembly as part of our Canberra-Nara sister city celebrations. The gift is clearly not of nominal value. The teacher graciously accepts the gift on behalf of the school/Directorate. Within the next 14 days, the gift is declared and provided to the teacher'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 a teacher’s personal beliefs and preferences, and whatever their personal relationships with other employees or members of the community, a teacher must carry out their duties and treat students, other teachers, parents, members of the general public and other public employees fairly and in an unprejudiced manner.

12. Intellectual property

- 12.1 A teacher 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 a teacher or principal refers to poor administrative practices, including:
- a. incorrect action or failure to take any action that should reasonably have been taken
 - b. failure to follow correct legal procedures and compliance
 - c. excessive delay in process
 - d. failure to properly investigate or reply to concerns raised with them
 - e. failure to provide information that should reasonably have been provided where it does not breach privacy principles
 - f. inadequate record keeping
 - g. making misleading or inaccurate statements
 - h. failure to follow an appropriate genuine consultative process
 - i. any action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose.

14. Misconduct

- 14.1 As ACTPS employees, teachers 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 Enterprise Agreement, misconduct includes the following:
- a. failing to meet the obligations set out in section 9 of the PSM Act and this Code of Conduct
 - b. engaging in conduct that may bring, or has brought, the Directorate into disrepute
 - c. a period of unauthorised absence without any satisfactory reason on return to work
 - d. 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 or the Directorate
 - e. failing to notify the Directorate of criminal charges, a conviction or a non-conviction order
 - f. making vexatious or knowingly false allegation against another employee.

- 14.2 All teachers 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 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 A teacher must not behave in a way that brings discredit upon the reputation of the teaching profession. In this regard it is important for teachers to be mindful that their actions in a private capacity may adversely affect their reputation and that of the profession. The conduct of teachers must at all times maintain and build community trust and confidence in the profession.

Example: Reporting official misconduct – appropriate response

A school leader directs another teacher to increase the assessment mark awarded to a particular student. The school leader provides no justification or evidence that would support the increase in the assessment mark. The teacher reports the matter to an appropriate supervising officer.

This is an appropriate response.

Example: Reporting official misconduct – appropriate response

A teacher witnesses an employee pick up a student and push them into a 'time out' room. The teacher 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 information 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 the teacher'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 teacher 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 teacher discloses the information to their political organisation.

This action is inappropriate.

Example: Inappropriate political activity

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

This action is inappropriate.

Example: Appropriate political activity

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

This action is appropriate.

16. Privacy

- 16.1 Teachers have access to 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 teachers 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 Teachers have the same rights as everyone else to express their political views and to make public comment.
- 17.2 However, a teacher must be sensitive about how they exercise these rights. Teachers 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 Teachers need to be careful about expressions of political opinion in the workplace and the appropriateness of sharing their views with students.

18. Procedural fairness

- 18.1 This involves the manner in which teachers 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 teacher and student is fiduciary and as such requires the teacher to exercise their rights and powers in good faith and for the benefit of the student.
- 19.2 The Code of Conduct also requires a teacher 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 teacher 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 A teacher 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 Teachers 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, teachers 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 or to the Directorate, SERBIR, fraud prevention manager in the Chief Minister's Directorate, ACT Ombudsman or 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

Teachers are 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.

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 that pose a risk to the health, safety or wellbeing of children must be reported 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 to not give the information to a police officer.

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

20.6 **Reportable Conduct Scheme**

Teachers 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.

Teachers should follow the Directorate's Reportable Conduct Scheme Policy and Procedures 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.

Teachers 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 their Year Co-ordinator and says that they are upset because their classroom teacher hit them on the head to get their attention.

The Year Co-ordinator 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, teachers 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.

Restrictive practices 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 Teacher Quality Institute

The Directorate has an obligation under the TQI Act to notify the TQI if it has reasonable grounds for believing:

- a. the teacher has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher
- b. the teacher is given a negative notice under the Working with Vulnerable People (Background Checking) Act 2011, section 40
- c. the teacher's registration under the WwVP Act –
 - i. has lapsed
 - ii. is made subject to a condition
 - iii. is suspended or cancelled
 - iv. is surrendered.

The Directorate must also notify the TQI within 5 working days:

- a. when the Directorate advises the teacher that it has decided to begin a formal investigation of the teacher
- b. when the Directorate takes disciplinary action against the teacher under the terms of the teacher's employment
- c. when the Directorate removes, ends or cancels a teacher's access to casual employment
- d. when the teacher who is subject of a formal investigation or preliminary inquiry by the Directorate resigns.

The Directorate must also disclose information in relation to a teacher to the TQI when requested by the TQI to do so in writing.

20.9 Working with Vulnerable People (WwVP) registration

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

- a. they are given a negative notice under the WwVP Act
- b. their WwVP registration:
 - i. lapses
 - ii. is made subject to a condition
 - iii. is suspended or cancelled
 - iv. 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 or sexual 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 teacher 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 or electronic communication concerning the teacher's feeling for a student
- f. unwanted personal correspondence or electronic communication to a colleague
- g. deliberate exposure 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 Teachers must discourage and reject any advances of a sexual nature initiated by a student.


21.6 Teachers 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 teacher-student relations have or will be breached. Teachers' interactions with students, including those over 16 years old, must be, and be seen to be, professional at all times including 'out of school' hours.

Example: Sexual misconduct

A teacher on a term's contract with a high school forms a 'close' but professional relationship with a 16-year-old student.

The teacher finishes their contract and commences a new one at another ACT Public school. The teacher contacts the 16-year-old student, they begin dating and form a sexual relationship.

This is unprofessional conduct. Having a sexual relationship with a student constitutes sexual misconduct. Whether the teacher and the student are, or were ever, at the same school is irrelevant.

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

- g. attendance at private social functions with students outside school hours, such as private parties
- h. taking students to coffee, the movies or other social events. whether alone or in company
- i. providing students with money and/or gifts.


- 21.9 Teachers must also maintain professional boundaries at all times with their colleagues through respectful and professional behaviours while working with others.

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

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

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

Maintaining professional boundaries

- 21.7 Teachers 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 teacher/student relationship have or will be breached include:
- a. flirtatious behaviour directed at a student
 - b. dating a student
 - c. spending significant time alone with a student, other than to perform one's professional duties or with another reasonable explanation
 - d. expressing romantic feelings towards a student in written or other forms
 - e. live chat conversations on the internet with students
 - f. providing mobile and home telephone numbers to students

- 21.10 Crossing professional boundaries, includes behaviour that involves an inappropriate and overly personal or intimate relationship with, conduct towards or focus on a child or class of children. Persistent less serious breaches of professional conduct in this area, or a single serious 'crossing of the boundaries' by an employee, may constitute sexual misconduct, particularly if the employee either knew, or ought to have known, that their behaviour was unacceptable. Communications directed to an individual child that are different or exclude other children may also be inappropriate.

- 21.11 Teachers can develop strong bonds with children under their care. It is critical that the balance between care and support for the child in the educational context is not confused with behaviours that may constitute a relationship that is inappropriate or beyond that of professional teacher-student relationship.
- 21.12 Physical interaction with students should be age appropriate and limited to professional teacher- student relationship. Physical contact must not raise concern of exploitation of vulnerability.
- 21.13 All teachers 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.
- 21.14 Teachers must not provide personal contact details to parents and students. Teachers 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 teacher, a school mobile phone should be provided to the teacher leading the excursion.
- 21.15 Engaging in conduct to satisfy a teacher’s own needs over the needs of a student is never acceptable.

Example: Crossing professional boundaries

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


The teacher raises the concerns with their mentor, 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 teacher is seen on more than one occasion poking a year 5 student. The same witness has also seen the teacher hugging the same student. The witness reports the behaviour to the principal.

The witness’ response 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 – Preschool to Secondary College Policy and Procedures provides detailed information about the duty of care of all employees and the supervisory responsibilities of teachers.
- 22.2 Supervision is where a teacher uses 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. 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 which could reasonably be foreseen.
- 22.3 Teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can reasonably be expected, protected from harm. The more senior the position of the teacher, the higher the level of duty of care that may be expected.

23. Standards of dress

- 23.1 As a general guide, the appearance and dress of teachers should be in accordance with the standards appropriate to their duties and the people with whom they are dealing. A teacher’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.

Example: Standards of dress

A teacher is training her students for a dance presentation for the school assembly and wears dance tights to school.

This is appropriate to the teacher’s duties and meets the standards of dress.

24. Unlawful discrimination

- 24.1 Teachers 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:
- race
 - sex
 - sexuality
 - transsexuality
 - status as a parent or carer
 - disability
 - pregnancy
 - breastfeeding
 - religious or political conviction
 - age
 - membership or non-membership of an industrial union.

Example: Unlawful discrimination

A parent complains that a teacher should not be allowed to teach a course on human relationships because the teacher is homosexual. The principal removes the teacher from teaching the course on the basis of the parent’s complaint. The teacher concerned always performs their duties professionally.

The principal’s decision to remove the teacher in these circumstances amounts to unlawful discrimination.

25. Use of school resources

- 25.1 Teachers should use public resources effectively and efficiently, avoiding waste, extravagance and misuse.
- 25.2 The following limited and occasional private use of school resources and equipment may occur providing it does not adversely affect the performance of teachers' work, the work of others or the reputation of the school:
- limited, occasional and brief telephone calls and faxes
 - limited and occasional use of the school email and 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 email 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:
- it shows lack of respect for persons
 - a reasonable person finds the material offensive

Example: Inappropriate use of school email

A teacher, who alleges that he is the subject of workplace bullying by his manager/supervisor, details his 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 teacher's action has left him open to legitimate complaint by their manager/supervisor.

The appropriate action would have been for the teacher 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 Teachers must take extreme care when using their own personal devices for teaching 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 of ICT 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 Teachers must communicate verbally with students in a respectful manner at all times. It is accepted that a teacher 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 Teachers 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 teacher's behaviour is the subject of a grievance properly lodged by their colleague. Upset at being the subject of a grievance, the teacher 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:
- is directed at an individual worker or group of workers and
 - is offensive, intimidating, humiliating or threatening and
 - is unwelcome and unsolicited and where
 - 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 teacher is constantly critical in a negative way of a teacher's work performance but fails to implement a supportive measure in consultation with the teacher. The supervising teacher isolates the teacher 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 practicable steps to provide a safe, respectful and healthy work environment for employees, students, visitors and others. Teachers are responsible for ensuring that their workplace is maintained in a safe and healthy manner. This is done by:
- being aware of and applying with workplace health and safety (WHS) instructions, training, policies and procedures
 - immediately reporting any workplace hazards, incidents, accidents or near misses to their manager, supervisor or their Health Safety Representative (HSR) and ensuring that an Accident and Incident Report form is submitted within the required time frames
 - maintaining their workplace in a safe and healthy manner for themselves, their colleagues, students and visitors
 - using equipment in accordance with Safe Operating Procedures (SOPs) Safe Work Methods (SWMs), and wearing appropriate Personal Protective Equipment (PPE)
 - actively participating in the development and implementation of workplace health and safety, risk-identification and risk-management processes
 - contributing to audits, inspections and reviews
 - actively participating in WHS prevention and early intervention strategies, both with respect to physical and psychological health and safety
 - taking reasonable care for their own personal health and wellbeing
 - 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 teachers 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 exclusion of their child from a class excursion. The principal explains the background and the reasons for the decision. The parent becomes verbally abusive and the principal asks the parent to stop using abusive language. The parent continues to use abusive language and the principal 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 principal asks the parent to leave the school premises. The parent still refuses to leave the school premises and the principal proceeds to contact ACT Policing.

This is an appropriate response.

Example: Managing aggressive behaviour – inappropriate response

A teacher encounters a student bouncing a ball in a corridor of the school. The teacher 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 teacher takes the student's ball and insists that the student must leave the corridor. The student steps towards the teacher and shouts abuse at the teacher. The teacher grabs the student's arm and uses some force to manoeuvre the student through the door which leads out of the corridor.

This is an inappropriate response by the teacher.

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

REFERENCES



REFERENCES

Legislation

ACT Information Privacy Act 2014

ACT Teacher Quality Institute Act 2010 and Regulations

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

Australian Professional Standards for Teachers
<https://www.aitsl.edu.au/teach/standards>

Australian Professional Standard for Principals
<https://www.aitsl.edu.au/lead-develop/understand-the-principal-standard>

TQI Code of Professional Practice and Conduct for Teachers
<https://www.tqi.act.edu.au/professional-standards/code-of-conduct>

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 agreement

ACT Public Sector Education Directorate
(Teaching Staff) Enterprise Agreement
2018 – 2022 or replacement agreements

Directorate policy and resources

The following Directorate policy resources are at:

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

- > 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

Governance and Community Liaison Branch

edulegalliaison@act.gov.au

School Management Manual

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

