

AEU - ACT BRANCH INTERIM POLICY FOR ETHICAL AND PROFESSIONAL PRACTICE OF TEACHERS AT CIT

CONTENTS

Introduction

What are the ACTPS Values and Principles?

What are the General Obligations of Public Employees?

Using the AEU Policy

What is the status of the AEU Policy?

What happens if I breach the Public Sector Management Act?

Who determines if the Public Sector Management Act has been breached?

Updating the AEU Policy

AEU Interim Policy for Ethical and Professional Practice for Teachers at CIT

Principle 1: Service to the Public

1.1 Obligations

Principle 2: Responsiveness to the Government and the Needs of the Public

2.1 Obligations

Principle 3: Accountability

3.1 Obligations

Principle 4: Fairness and Integrity

4.1 Obligations

Principle 5: Efficiency and Effectiveness

5.1 Obligations

Explanatory Guidelines for AEU Interim Policy for Ethical and Professional Practice

INTRODUCTION

This AEU Interim Policy for Ethical and Professional Practice for Teachers at CIT is the endorsed position of the AEU ACT Branch. It seeks to provide AEU members with clear guidelines on what is meant by ethical and professional practice in order to clarify expected teacher behaviour and practices.

The Government and the community expects public servants, including CIT teachers, to adhere to the values and principles outlined in section 6 of the Public Sector Management Act 1994 (the Act). These principles underpin the general obligations of employees which are stated in section 9 of the Act. These general obligations are also explained in the booklet, "ACT Public Service Code of Ethics" issued by the Chief Minister's Department and are outlined in the CIT policy: " Framework for Professional Practice at the Canberra Institute of Technology"

This AEU policy puts these behaviours and practices in a CIT context. It aims to guide you in the way you work and interact with others, in the fulfillment of your responsibilities and assist you in identifying and resolving issues which may arise as part of your work. The Policy seeks to assist CIT teachers in maintaining public trust and confidence and carefully distinguishes between the ethical standards required by all staff and the additional professional standards required by teachers.

WHAT ARE THE ACTPS VALUES AND PRINCIPLES?

Section 6 of the Public Sector Management Act 1989 sets out the five values and principles as follows:

6 Values and principles

Government agencies shall have an objective of implementing the following values and principles:

- (a) service to the public;
- (b) responsiveness to—
 - (i) the requirements of the government; and
 - (ii) the needs of the public;
- (c) accountability to the government for the ways in which functions are performed;
- (d) fairness and integrity;
- (e) efficiency and effectiveness.

These principles are not in order of importance as each is fundamental to good public sector practice. These ethical principles help us decide whether our actions are right or wrong. They tell us what is expected of us, and help us think through difficult situations and reach proper conclusions.

Each principle creates obligations for staff.

WHAT ARE THE GENERAL OBLIGATIONS OF PUBLIC EMPLOYEES?

Section 9 of the PSM Act describes the general obligations of public employees as follows:

9 General obligations of public employees

A public employee shall, in performing his or her duties:

- (a) exercise reasonable care and skill;
- (b) act impartially;
- (c) act with probity;
- (d) treat members of the public and other public employees with courtesy and sensitivity to their rights, duties and aspirations;
- (e) in dealing with members of the public, make all reasonable efforts to assist them to understand their entitlements under the territory laws and to understand any requirements that they are obliged to satisfy under those laws;
- (f) not harass a member of the public or another public employee, whether sexually or otherwise;
- (g) not unlawfully coerce a member of the public or another public employee;
- (h) comply with this Act, the management standards and all other territory laws;
- (i) comply with any lawful and reasonable direction given by a person having authority to give the direction;
- (j) if the employee has an interest, pecuniary or otherwise, that could conflict, or appear to conflict, with the proper performance of his or her duties—
 - (i) disclose the interest to his or her supervisor; and
 - (ii) take reasonable action to avoid the conflict;as soon as possible after the relevant facts come to the employee's notice;
- (k) not take, or seek to take, improper advantage of his or her position in order to obtain a benefit for the employee or any other person;
- (l) not take, or seek to take, improper advantage, for the benefit of the employee or any other person, of any information acquired, or any document to which the employee has access, as a consequence of his or her employment;
- (m) not disclose, without lawful authority—
 - (i) any information acquired by him or her as a consequence of his or her employment; or
 - (ii) any information acquired by him or her from any document to which he or she has access as a consequence of his or her employment;

- (n) not make a comment that he or she is not authorised to make where the comment may be expected to be taken to be an official comment;
- (o) not make improper use of the property of the Territory;
- (p) avoid waste and extravagance in the use of the property of the Territory;
- (q) report to an appropriate authority—
 - (i) any corrupt or fraudulent conduct in the public sector that comes to his or her attention; or
 - (ii) any possible maladministration in the public sector that he or she has reason to suspect.

This Policy expands on these obligations by indicating specific professional expectations the AEU believes are required of teachers.

The Policy is complemented by a set of Explanatory Guidelines, which explain a number of the obligations in more detail and provides examples and guidance regarding expectations for professional practice.

USING THE AEU POLICY

The AEU interim policy 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 in confidence with their supervisor and, where necessary, seek further advice, for example from an experienced colleague. Of course members may at any time contact the AEU office for advice and support.

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

- Are my actions within the spirit and letter of the law?
- Are my actions consistent with the Institute's policies and the ACT Public Service Code of Ethics in the Public Sector Management Act ?
- Could I adequately defend my action to my supervisor, the CIT and the community if the situation became publicly known?
- Is this the proper thing for me to do?
- What will the outcome of my action be for:
 - the CIT and the public interest?
 - students?
 - 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 ACT Public Service Code. Teachers should also act within the spirit of the law and the Code. 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 CIT and the teaching profession as unethical conduct itself.

Your AEU Organiser is always available to assist with any questions which may arise in your workplace in relation to your professional obligations under the PSM Act. You can contact the ACT Branch of the Australian Education Union at - email: priority1@aeuact.asn.au or telephone: 6272-7900.

WHAT IS THE STATUS OF THE AEU POLICY?

This interim policy is provided as guidance only to all AEU members within CIT, including permanent, contract, probationary and casual teachers. It has no formal legal status.

Acknowledgement is given that this policy and explanatory guidelines have been adapted from the "Teachers' Code of Professional Practice" published by the ACT Government Department of Education and Training.

WHAT HAPPENS IF I BREACH THE PUBLIC SECTOR MANAGEMENT ACT?

If the CIT considers that Section 9 of the PSM Act has been breached, disciplinary action may be taken.

Any disciplinary action must be taken in accordance with the relevant terms of the CIT Teaching Staff Enterprise Agreement. These terms state that disciplinary procedures must be applied in accordance with the principles of natural justice and procedural fairness, and in a manner that promotes the values and general principles of the ACT Public Service (ACTPS).

In deciding whether the PSM Act has been breached, due consideration must be given to the circumstances of the breach and the views of the teacher concerned.

Disciplinary action (as provided for in the CIT Teaching Staff Enterprise Agreement) that may be taken in response to proven breaches of the PSM Act include:

- counselling
- a written admonishment

- a financial penalty
- transfer to other duties (at or below current salary)
- reduction in incremental point
- a temporary or permanent reduction in classification/salary
- termination of employment.

These outcomes may be in addition to any penalty imposed by a court for a breach of legislative provisions.

WHO DETERMINES IF THE PUBLIC SECTOR MANAGEMENT ACT HAS BEEN BREACHED?

As the employing authority, the Chief Executive (or delegate), will make a determination whether the PSM Act has been breached and what disciplinary action should be taken.

However, in accordance with the CIT Teachers' Enterprise Agreement, a detailed process, underpinned by the principles of natural justice, must be followed. During this process teachers will have the opportunity to put their point of view about the alleged breach, and what consequences should follow, before any penalty is imposed.

The AEU office is available to assist any member through this process.

UPDATING THE AEU POLICY

This Interim Policy for Ethical and Professional Practice for Teachers at CIT aims to be current and relevant in supporting teachers in the proper performance of their duties. As such it needs to be a living document that can be updated regularly to reflect the issues relevant to the working life of AEU members in CIT.

To this end the AEU welcomes recommendations for future revisions of the Policy. These recommendations should be forwarded to the AEU TAFE Council through your sub-branch representative or through the AEU office. (priority1@aeuact.asn.au)

AEU INTERIM POLICY FOR ETHICAL AND PROFESSIONAL PRACTICE

Principle 1: Service to the Public

All CIT staff, including teachers are expected to abide by the Public Sector Management Act and the associated ACT Public Service Code of Ethics.

In addition a defining characteristic of a profession is a spirit of public service. Consistent with this spirit, teachers who are both public servants and members of a profession, should place the responsibility for the education, welfare, health and safety of their students before their responsibility to sectional or private interests or to other members of the profession.

All CIT staff serve the public interest by:

- exercising reasonable care and skill
- treating students, parents and colleagues with courtesy and sensitivity to their rights, duties and aspirations
- acting against any form of harassment or unlawful discrimination.

Teachers also serve the public interest by:

- demonstrating high standards of professional practice, including being committed to students and their learning and organising learning to take account of the diverse social, cultural and special learning needs of their students.
- protecting students from harm , in particular by fulfilling their common law “duty of care” responsibilities.

1.1 Obligations

1.1.1 Exercising reasonable care and skill

All CIT staff have a duty to exercise reasonable care and skill whilst performing duties at work. Some of the key features in fulfilling this obligation are:

- Exercising legal requirements as and when applicable;
- Taking reasonable steps to ensure that the information on which decisions are made is accurate; and
- Seeking advice from a senior staff member when the correct course of action is not clear.

1.1.2 Treating students, parents and colleagues with courtesy and sensitivity to their rights, duties and aspirations

All CIT staff treat students, parents and colleagues with courtesy and sensitivity to their rights, duties and aspirations by:

- respecting cultural, ethnic and religious differences.
- listening to, valuing and acknowledging the contributions made by others.
- responding to enquiries respectfully.

1.1.3 Discourage any form of discrimination or harassment in the workplace

All CIT staff act to help remove discrimination and 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 bullying and sexual harassment.
- refraining from unlawfully discriminating against any person.

1.1.4 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 and ensuring the confidentiality of those records.
- 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.
- providing constructive feedback to colleagues that is considered and helpful.
- assisting in developing and mentoring beginning teachers.
- working co-operatively and collaboratively with others to achieve Centre and Institute goals.
- informing people of their rights and entitlements where appropriate.
- accepting responsibility for their own professional learning and development.

1.1.5 Protect students from harm

Teachers protect students from harm by:

- understanding their legal responsibilities under the common law principle of “duty of care”.
- recognising that students have a right to a safe and secure teaching and learning environment.
- reading, understanding and complying with mandatory reporting requirements.
- 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.

Principle 2: Responsiveness to the Government and the Needs of the Public

The ACT Public Service's primary responsibility is to the ACT community through serving the government that it has elected. This means that all CIT staff must provide the same level of expertise in the administration and delivery of government policies and services, irrespective of the political persuasion of the Government.

All CIT staff are responsive to the Government and the needs of the public by:

- respecting the rule of law and our system of democracy by upholding:
 - relevant Commonwealth and Territory laws and regulations.
 - relevant government and departmental policies.
 - relevant Frameworks of ethical and professional practice.
 - relevant industrial agreements.
- responding appropriately to known or suspected breaches of the law or breaches of departmental policies on acceptable conduct and administration.
- implementing the policies of the elected government, particularly as they relate to the Institute.
- complying with and applying the policies of the Institute.
- complying with lawful and reasonable directions from their supervisor/s.
- not disclosing without lawful authority any information obtained as a consequence of their employment.

CIT Teachers are also responsive to the government and the needs of the public by:

- working to implement high quality education services.
- advancing student learning and the public interest.

2.1 Obligations

All CIT staff have an obligation to:

2.1.1 Respect the rule of law

CIT staff respect the rule of law by:

- understanding and adhering to all laws, regulations, policies, industrial agreements and Frameworks relevant to their work.

Teachers also have an obligation to:

2.1.2 Advance student learning and the public interest

Teachers advance student learning and the public interest by:

- working to develop an educational environment, which addresses the needs of all students, including Indigenous students, students with different ethnic or cultural backgrounds, students for whom English is a second 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 and members of the broader community to provide effective learning for students.
- seeking support for colleagues who may be experiencing difficulty.
- reporting knowledge of suspected fraud, misconduct, negligent management or any perceived risk to health or safety to an appropriate person.
- observing confidentiality in a manner consistent with legal requirements, the interests of students and the wider public interest.
- implementing the educational goals and priorities of the Centre and Institute.
- complying with lawful and reasonable directions from their supervisor/s.
- making decisions and giving directions within their authority.
- refraining from making unauthorised public comments where the comment may be perceived as official CIT comment (this does not preclude public comment made through your membership of the AEU)

Principle 3: Accountability

All CIT staff are accountable to the Chief Executive:

- for the authority they exercise on the Chief Executive's behalf.
- for upholding the law and adhering to the policies of the Government as they relate to their employment.

Teachers are also accountable:

- for the educational programs they deliver. Programs must be delivered effectively and impartially. Teachers must maintain clear records of the reasons for their decisions.
- for encouraging students to strive for high standards and to value learning.
- for placing the student's best interest over the teacher's personal interest or benefit.
- for co-operating with colleagues in the best interest of students.
- for accepting responsibility for developing their own professional knowledge and skills.

3.1 Obligations

Teachers have an obligation to be:

3.1.1 Accountable for the delivery of educational programs

Teachers accept accountability for the delivery of educational programs 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, including providing timely information to students about assessment processes.
- 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 pathways for students within the Institute and externally.
- drawing on the body of knowledge about learning and contemporary research into teaching and learning to support their practice.

Principle 4: Fairness, Probity and Integrity

All CIT staff are placed in positions of trust which requires that they conduct themselves with fairness, probity and integrity.

All CIT teachers act with fairness, probity and integrity when they:

- respect the rights and dignity of students, their colleagues and others.
- avoid conflicts between their private interests and professional responsibilities.
- do not take, or seek to take, improper advantage of their position in order to obtain a benefit for themselves or any other person.
- act with probity and impartiality.

4.1 Obligations

All CIT staff have an obligation to:

4.1.1 Act with fairness, probity and integrity in their daily work activities and decision-making

CIT teachers act with fairness, probity and integrity by:

- being aware of the social, cultural, and religious backgrounds of 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 Institute policies and procedures.
- identifying, declaring and avoiding any apparent or actual conflict of interest.
- resolving any conflict in favour of the public interest.
- not accepting any private or additional payment for services that could reasonably be expected to be provided as part of normal employment.
- managing private relationships in a way that does not adversely impact on the work or reputation of the Centre or Institute or create an apparent or real conflict of interest.
- refraining from using their position to pursue private interests to gain private benefit for themselves or others.
- not accepting inappropriate gifts or benefits.
- using copyright material for official purposes only.
- complying with the departmental 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 while on duty, unless management permission has been granted for special occasions.
- seeking approval to undertake secondary private employment.
- observing procedural fairness in their decision-making processes.

Principle 5: Efficiency and Effectiveness

The ethical principle of efficiency and effectiveness seeks to obtain maximum value for the resources expended by the Institute in achieving high-level outcomes for all students.

All CIT teachers exercise efficiency and effectiveness in the use of Institute resources

by:

- avoiding waste and extravagance in using Institute resources.
- using Institute property and resources appropriately.
- maintaining high standards of expertise, probity and performance.

5.1 Obligations

All CIT staff, including teachers have an obligation to:

5.1.1 Exercise efficient and effective resource management

All CIT teachers exercise efficient and effective resource management by:

- acting honestly at all times
- using Institute 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 Institute policy and procedures, and only for costs incurred to carry out Institute business.
- using all electronic communication systems in accordance with Government and Institute policies.
- ensuring that they do not breach copyright law or licensing arrangements when copying any Institute property such as software, library and reference materials.
- ensuring that Institute equipment is used in accordance with the manufacturer's requirements, and that all use is both safe and legal.
- obtaining approval to use Institute equipment and resources offsite, and ensuring that it is safely stored and secured.

EXPLANATORY GUIDELINES FOR AEU INTERIM POLICY FOR ETHICAL AND PROFESSIONAL PRACTICE

CONTENTS

Explanatory Guidelines

- Aggressive Behaviour by Others
- Assault
- Challenging Official Decisions or Directions
- Conflict of Interest
- Copyright
- Corruption
- Criminal Charges and Offences
- Drugs, Alcohol and Tobacco
- Gifts
- Harm to a Student
- Impartiality
- Intellectual Property
- Maladministration
- Mandatory Reporting
- Misconduct
- Official Information and Public Comment
- Privacy
- Political Activity
- Procedural Fairness
- Reporting Fraud and Maladministration
- Sexual Misconduct
- Unlawful Discrimination
- Use of Institute Resources
- Vexatious Complaint
- Workplace Harassment
- Sexual Harassment

References

- Government Publications
- AEU Policies
- Institute Policies
- Industrial Agreement
- ACT Legislation
- Federal Legislation

EXPLANATORY GUIDELINES

These Explanatory Guidelines should be read in conjunction with the AEU Interim Policy for Ethical and Professional Practice for Teachers in CIT.

The Guidelines will assist all CIT teachers to perform their duties in a manner consistent with the ethical principles and their obligations.

Aggressive Behaviour by Others

At times, a member of the community may act aggressively or in an offensive manner, while on Institute property. In these circumstances, the teacher is entitled to suspend further contact with the person until it can be agreed that there will not be a repetition of the aggressive behaviour. The teacher must not reciprocate the aggressive behaviour. Any teacher may defend themselves, another employee or student against physical attack so long as the action taken is proportional to the threat. This should be a last resort. The force used should be no greater than reasonably necessary and should be for the minimum time required to prevent the attack. Aggressive behaviour by students directed at staff must be managed in accordance with the Institute's policy.

Teachers may use reasonable physical restraint to prevent students injuring themselves or other students, but this is to be used as a last resort. The use of excessive force (for example force beyond that necessary to prevent injury or further injury, or force that may be seen as punishing the student) is not condoned and could amount to assault. Teachers should be careful to restrain students in an appropriate manner to avoid allegations of assault.

Teachers should not feel obliged to restrain a student. If a teacher has serious personal safety concerns, it may be reasonable in the circumstances to decline to intervene and instead to call immediately for assistance.

Assault

Assault generally involves the deliberate or reckless application of force or the threat of force regardless of whether harm is caused. A threat of force can be verbal or non-verbal. Restraint or the severity of restraint of a student can constitute assault. Similarly, a student's actions can constitute assault of a teacher. Both students and teachers can pursue criminal and/or civil proceedings against the other for assault. A teacher can defend him/herself, so long as the action taken is proportionate to the assault or the threat of an assault.

EXAMPLE: Managing Assault/Aggressive Behaviour - Appropriate response

A teacher witnesses two students engaged in a vicious fight outside of class time but on campus. One student is brandishing a sharp stick. The teacher judges that there is not time to enlist any help to prevent a possible injury to either student. The teacher breaks up the fight by grabbing the arm of the student waving the stick and removes the stick from the student's grasp. The student wrenches away his arm and

in doing so suffers a sprain to his wrist.

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

Challenging Official Decisions or Directions

A teacher may challenge or question a decision or direction if they believe it to be unlawful, unethical, unfair or unreasonable.

However, before questioning a decision or direction, a teacher should seek to discuss the matter with their supervisor and attempt to understand the basis for the decision or direction. The teacher should only then express the reasons for their concerns about the decisions or direction. Trivial and vexatious complaints should be avoided.

The person whose decision or direction is challenged should listen to the concerns raised and review their decision in light of these concerns. The decision maker should explain the facts giving rise to the decision or direction and give his or her reasons for the decision or direction. If the concerns remain unresolved, the teacher concerned may raise their objection with a more senior manager.

If attempts at informal resolution are unsuccessful or inappropriate to use in the circumstances, the teacher may elect to use the Internal Review Procedures contained in the CIT Teachers' Enterprise Agreement. The AEU office is available to assist members in this process.

These procedures are established to review management actions or decisions that have or may have an adverse impact on the teacher. These procedures are not to be used for resolving general complaints or disputes.

EXAMPLE: Grievance Resolution - Appropriate response

A teacher is advised by her supervisor that a unit she teaches is no longer to include certain tasks for the students to perform. The teacher explains to the supervisor that those tasks are critical to the achievement of the desired learning outcomes but the supervisor does not accept this position as it is necessary to reduce the number of hours of delivery in the unit and directs the teacher to do as requested. The teacher initiates a formal grievance, using the internal review procedures contained within the CIT Teaching Staff Enterprise Agreement.

This is an appropriate response.

Conflict of Interest

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.

An actual conflict of interest exists when the person's private interests interfere or are likely to interfere with the proper performance of their duties.

An apparent or actual conflict of interest must be identified, declared to the manager and avoided or resolved in the public interest.

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, their other private interests or personal/familial relationships in some way conflict with, or may be perceived to conflict with, the impartial and proper performance of their work duties.

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 ACT Public Service position and includes paid employment, voluntary work, business involvement and company positions.

A permanent teacher may not work in a second job without the Chief Executive's approval.

Section 244 of the Public Sector Management Act sets out conditions applying to second jobs. Whilst this applies only to permanent teachers, temporary employees are also expected to meet the same standards.

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, or
- declaring the conflict and, in conjunction with their supervisor or the manager, making arrangements to resolve the conflict.

EXAMPLE: Conflict of Interest - Inappropriate Response

A teacher is chosen to be a member of a selection panel for the filling of a vacant permanent position and is advised of the questions to be put to each applicant. One of the applicants is a relative of the teacher. The teacher advises the panel chair of this fact and they agree to replace the teacher on the panel. However the teacher meets with the relative prior to the interview and coaches the person on the questions to be put to the applicants.

This is an inappropriate response.

Copyright

When teachers develop material during the course of their duties with the Institute then copyright and intellectual property rights in that material will belong to the Australian Capital Territory.

Teachers must ensure they do not breach copyright law or licensing arrangements when copying any CIT or Department of Education and Training property, such as software, library and reference materials.

Corruption

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 person. 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.

Whether behaviour is corrupt is always a matter of judgment and degree. In many ways corrupt behaviour is synonymous with unethical behaviour. If concerns arise about a teacher's use of their powers or responsibilities, the teacher should ask the question "Would I mind if the Centre Director or my supervisor knew what I was doing?" If the answer is "Yes", the teacher should discuss the situation immediately with their Centre Director or supervisor. The AEU office is also available to assist in these circumstances.

Criminal Charges and Offences

A teacher must advise the delegate in writing of any criminal charges laid against the person where the person has reasonable grounds for believing that the interests of the Institute or the ACT Public Service may be adversely affected taking into account:

- the circumstances and seriousness of the alleged offence.
- the duties of the employee.
- the effective management of the work area.

Drugs, Alcohol and Tobacco

The Institute is committed to fulfilling its Occupational Health and Safety responsibilities to provide a safe and healthy working environment for its staff and students. Drugs, alcohol and tobacco misuse can adversely affect the health, safety and work performance of its employees and impact on the health and safety of students.

Except when prior approval from senior management has been provided on special occasions such as Christmas parties, farewells etc, teachers on duty must not consume or bring alcohol on to Institute premises during working hours, or while they have a duty of care for students.

In addition teachers on duty must not be under the influence or in possession of illegal drugs.

Teachers who are experiencing difficulties in relation to alcohol, tobacco or other drugs (illegal or prescription) are encouraged to access the Employee Assistance Program.

A teacher is "on duty" whenever the teacher has a responsibility to supervise or care for students. This includes supervision of students outside normal class hours, for example on a field trip or a visit to work sites.

Gifts

Teachers must not ask for or encourage the giving of gifts or benefits in connection with their work duties. Teachers must not accept a monetary gift in this regard under any circumstances.

A teacher must not accept for private use, any gift or benefit offered by a seller of goods or services purchased for Institute use.

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.

Teachers may, however, accept gifts of nominal value (approximately \$30) 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 response

At the end of a teaching year a student gives a teacher a vase. The teacher estimates its value at between \$20-25. The teacher approaches his supervisor and discusses what actions should be taken. The teacher and supervisor agree the item is of nominal value and the teacher keeps the vase.

This is an appropriate response.

If a teacher is placed in a position where it would be inappropriate to refuse a gift of more than a nominal value (approximately \$30) the gift should be declared to the teacher's supervisor within 7 days of receipt and given to the supervisor or Centre Director within 14 days of receipt. The gift will become official property.

Harm to Student

Harm to a student is defined as any detrimental effect on the student's physical, psychological, or emotional wellbeing by any cause, other than accidental harm not involving negligence or misconduct.

In this regard teachers must not:

- provide students with illicit drugs or condone the use of such drugs, nor administer prescription drugs unless approved in line with the Institute's policy and guidelines.
- provide alcohol to students or condone the use of alcohol by students.
- provide students with tobacco or tobacco related products or condone the use of tobacco by students.

Conduct that could cause physical or psychological harm to students includes:

- discipline outside of departmental guidelines such as corporal punishment.
- handling or touching students inappropriately.
- sustained criticism, sarcasm or teasing.
- excessive or unreasonable demands.
- persistent hostility, verbal abuse, or rejection.
- sending a student to inappropriate locations or imposing social isolation as punishment.

Impartiality

This means that whatever a teacher's personal beliefs and preferences, and whatever their personal relationships with other employees or members of the community, they must carry out their duties and treat students, other staff,

parents, members of the general public and other public employees fairly and in an unprejudiced manner.

Intellectual Property

A teacher must not misuse the intellectual property of others, including the inappropriate use of documents, publications, manuscripts, audio-visual presentations, inventions, original research, online learning platforms such as Web CT or My Classes and any other materials developed for Institute or government use.

Maladministration

Maladministration by a teacher refers to poor administrative practices including:

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

Mandatory Reporting

CIT teachers who have contact with children or young people are mandated persons under the *Children and Young People Act 1999*. This means that they must report to the Family Services Centralised Intake Service on 1300 556 728 when they have formed a reasonable suspicion that a student has suffered or is suffering sexual abuse, neglect, or non-accidental physical injury. CIT Counselling Services on 6207-3290 can provide confidential advice and assistance about reporting and possible referral of the student to counseling for support.

Failure of a teacher to make a report could result in criminal prosecution.

Misconduct

Misconduct includes improper conduct in an official capacity, or improper conduct in a private capacity that reflects seriously and adversely on the public service, the Institute or the teaching profession.

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 impact on 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.

Official Information and Public Comment

Official information is information contained within Institute records, or imparted in an official capacity.

Official information obtained through work must not be disclosed without lawful authority.

It is inappropriate to make any public comment where the teacher's statement could reasonably be taken as official comment. However this does not preclude a teacher making public comment under the official auspices of the AEU.

Privacy

The Institute and all teachers are bound by the provisions of the *Commonwealth Privacy Act 1988* and the 11 Information Privacy Principles within that Act which protect and regulate the use of personal information.

The Act imposes sanctions on government agencies that distribute personal information contrary to the Information Privacy Principles. These Principles deal with all stages of the processing of personal information, from collection, processing and storage, to use and disclosure. They also deal with openness about some data handling practices. "Personal information" is any information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. However, information contained in a "generally available publication", such as a Public Register, is not subject to the *Privacy Act 1988*.

Important aspects of the Information Privacy Principles include:

- personal information shall be collected only for a lawful purpose directly related to the function or activity of the collector.
- the collector must take reasonable steps to ensure the individual is aware of the purpose for which the information is being sought.
- the information should be relevant to the purpose for which it is collected.
- a person storing personal information must take reasonable steps to ensure it is protected against unauthorised access, use, modification or disclosure.
- subject to the *Freedom of Information Act 1982* (Cwlth) and some other laws, persons are entitled to have access to personal information concerning them held by government agencies.
- agencies must make corrections to ensure personal information they hold is accurate, up to date and relevant to the purpose for which it is held.
- agencies may only use personal information in their records for a purpose to which the information is relevant, and the purpose for which it was collected.

Political Activity

CIT teachers have the same rights as everyone else to express their political views and to make public comment. 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/activities and their official responsibilities.

As part of their professional responsibilities, teachers need to be careful about expressions of political opinion in the workplace and the appropriateness of sharing their views with students.

EXAMPLE: Political activity - Inappropriate action

A teacher holds very strong political beliefs and uses class time to encourage students to take action in support of the teacher's views.

This is inappropriate action.

Procedural Fairness

This involves the manner in which teachers or other persons make decisions. In particular, it means that decisions must be made without bias or an apprehension of bias; that decisions must be based on the evidence available; that 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; that the person or persons who may be adversely affected have a reasonable opportunity to provide their views before the decision is made; and that the person making the decision gives reasons for the decision if requested or it is otherwise appropriate.

Teachers should make fair, informed and transparent decisions based on evidence available.

Reporting Fraud and Maladministration

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 supervisor, to the Centre Director, to the CIT Audit Committee, to the fraud prevention manager in the Chief Minister's Department, to the ACT Ombudsman, or to the ACT Auditor-General.

The *Public Interest Disclosure Act 1994* (ACT) regulates the manner in which government agencies should respond to reports of wrongdoing and provides protection to persons who make such reports.

Sexual Misconduct

Sexual misconduct during or outside normal Institute hours is defined as:

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

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

- inappropriate conversations of a sexual nature.
- comments that express a desire to act in a sexual manner.
- unwarranted and inappropriate touching of students.
- sexual exhibitionism.
- personal correspondence (including electronic communication) with a student concerning the teacher's feeling for a student.
- deliberate exposure of students to sexual behaviour of others including display of pornography.

As part of their professional responsibilities teachers must discourage and reject any advances of a sexual nature initiated by a student. A professional relationship is a fiduciary relationship in which 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.

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 of age must be and be seen to be professional at all times including "out of school" hours.

Examples of behaviour that raises a reasonable suspicion that the standards applying to the professional teacher/student relationship have or will be breached include:

- flirtatious behaviour directed at a student.
- dating a student.
- spending significant time alone with a student other than to perform one's professional duties, or without other reasonable explanation.
- expressing romantic feelings towards a student in written or other form.
- live chat conversations on the Internet with students.
- providing mobile and home telephone numbers to students.

- attendance at private social functions with students outside class hours, eg private parties.
- taking students to coffee, the movies or other social events whether alone or in company.
- providing students with money and/or gifts.

EXAMPLE: Sexual Misconduct - Inappropriate response

A male teacher is supervising a class of students at an extra curricula activity during the evening. A 20 year old female student indicates that she has romantic feelings towards him and he reciprocates by kissing her.

This is inappropriate action and constitutes misconduct.

Unlawful Discrimination

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.

Use of Institute Resources

The following limited and occasional private use of Institute resources and equipment may occur providing it does not adversely affect the performance of the teacher's work, the work of others or the reputation of the Institute:

- Limited, occasional and brief telephone calls and faxes
- Limited and occasional use of the email and Internet system subject to the Institute's policy on the use of the Internet and electronic mail.

It is a breach of this framework to use the Institute's internet or electronic mail system to access, store, or transmit words or images that are sexually explicit, violent or contain other offensive material. Material will be considered offensive if:

- if it shows lack of respect for persons, and
- a reasonable persons finds the material offensive, and
- the material is not a complaint, report or notification about alleged improper conduct of a person made in accordance with an authorised procedure.

The Institute requires all employees to sign an "Acceptable Use of IT Resources" form to acknowledge they have read and understood the Department's "Acceptable use of IT Resources" policy prior to employment.

Vexatious Complaint

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

Workplace Harassment

Workplace harassment is repeated behaviour by a teacher 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.

Workplace harassment should not be confused with advice or counseling 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 - Inappropriate action

A teacher has a disagreement with her supervisor. As a result the supervisor treats the teacher over a period of months in a belittling manner by:

- yelling at her in front of her peers
- unfairly challenging her work performance
- directing her to do excessive extra duties
- seeking negative responses from students and other employees about the teacher.

Eventually the staff member's health deteriorates and she is forced to go on sick leave.

This is inappropriate action by the supervisor and constitutes misconduct.

Sexual Harassment

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

Sexual harassment happens if a person:

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

REFERENCES

Government Publications

ACT Public Service Code of Ethics

Document can be located at: <http://www.cmd.act.gov.au>

AEU Policies

AEU policies may be located at: www.aeuact.asn.au

Institute Policies

CIT Policies are available on the CIT Staff Information Site at <http://staff.cit.act.edu.au>

Industrial Agreements

CIT Teaching Staff Enterprise Agreements can be accessed on the AEU website at: www.aeuact.asn.au

ACT Legislation

Administrative Appeals Tribunal Act 1989

Administrative Decisions (Judicial Review) Act 1989

Board of Senior Secondary Studies Act 1997

Children and Young People Act 1999

CIT Act 1987

Crimes Act 1900

Disability Services Act 1991

Discrimination Act 1991

Education Act 2004

Enclosed Lands Protection Act 1943

Freedom of Information Act 1989

Government Procurement Act 2001

Human Rights Act 2004

ACT Work Safety Act 2009

Ombudsman Act 1989

Public Interest Disclosure Act 1994

Public Sector Management Act 1994

Spent Convictions Act 2000

Territory Records Act 2002

Trespass on Territory Land Act 1932

Vocational Education and Training Act 2003

ACT Legislation can be located at www.legislation.act.gov.au

Federal Legislation

Privacy Act 1988 (Commonwealth)

Federal legislation may be accessed at <http://www.austlii.edu.au>