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teachers'

code of professional practice

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teachers'

code of professional practice

TEACHERS' CODE OF PROFESSIONAL PRACTICE

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INTRODUCTION

This Code of Professional Practice is important for all teachers including principals employed by the ACT Department of Education and Training. 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.

What teachers know and do has a profound effect on the nature and quality of student learning. Good teachers are even more important in a society that is continually changing and developing, and in which there is increasing emphasis on the creation of knowledge and sharing of information.

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 core expectations that the government and community have for public servants including teachers are set out in the values and principles contained in section 6 of the *Public Sector Management Act 1994* (the Act). These principles underpin the Code of Ethics stated in section 9 of the Act. The Code of Ethics is explained in the booklet entitled “ACT Public Service Code of Ethics” issued by the Chief Minister’s Department. The values and principles stated in section 6 and the Code of Ethics stated in section 9 provide the framework for this Code of Professional Practice (the Code) for teachers in ACT Public schools.

The Code is the Department’s statement of the standards of professional conduct and integrity expected of teachers in ACT Public schools for the purpose of upholding the values and principles in section 6 of the Act and complying with the Code of Ethics in section 9 of the Act. The Code also aims to guide teachers in identifying and resolving ethical conduct issues which may arise in the course of their work and, in so doing, maintain public trust and confidence in their integrity and professionalism.

WHAT IS THE CODE OF PROFESSIONAL PRACTICE?

The Code sets out the five principles of public service ethics that should guide the work of all teachers in meeting the educational needs of their students. These principles are:

- service to the public
- responsiveness to the government and the needs of the public
- accountability
- fairness and integrity
- efficiency and effectiveness

These principles are not in order of importance as each is fundamental to good professional 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 teachers. The Code expands on these obligations by stating expectations for professional conduct that apply to teachers including school principals in ACT Public schools.

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

USING THE CODE

The Code 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 the teacher should discuss the matter in confidence with their supervisor and, where necessary, seek further advice, for example from an experienced colleague or another appropriate Departmental officer. In certain circumstances it may be appropriate 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?

- Are my actions consistent with the Department's goals, the values and principles and the Code of Ethics in the Act and this Code of Professional Practice and Guidelines?
- Could I adequately defend my action to my supervisor, the Department 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 school, the Department 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. 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 profession as unethical conduct itself.

WHO MUST COMPLY WITH THE CODE?

The Code applies to and binds all ACT Government teachers, principals (permanent, casual and temporary).

WHEN DOES THE CODE APPLY?

The obligations of the Code apply at all times. This includes times when a teacher is not at school or not performing work duties. It includes times when a teacher is on leave. While the Code focuses primarily on how a teacher performs their work duties, it is important to note that the Code of Ethics set out in section 9 of the *Public Sector Management Act 1994* applies also to conduct in a private capacity that reflects adversely on the reputation of the public service, the Department or the teaching profession.

WHAT HAPPENS IF I BREACH THE CODE?

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 Department considers that the Code 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 values and general principles of the ACT Public Service (ACTPS).

In deciding whether the Code 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 Department and its teachers and to maintain public confidence in the integrity of the ACTPS, the Department and its teachers. The aim is not to punish, even if the consequences of disciplinary action for a teacher are severe.

Disciplinary action that may be taken in response to proven breaches of the Code 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.

The Code applies also to temporary, casual and probationary teachers. Temporary, casual or probationary teachers who breach the Code will be dealt with according to the terms of their employment. Disciplinary action may include a reprimand, termination of employment or other appropriate sanction.

WHO DETERMINES IF THE CODE HAS BEEN BREACHED?

As the employing authority, the Chief Executive (or delegate), will make a determination whether the Code has been breached and what disciplinary action should be taken. Teachers will have the opportunity to put their point of view about the breach, and what consequences should follow, before any penalty is imposed.

REPORTING BREACHES OF THE CODE

Specific instances of either suspected or actual breaches of the Code must be reported to an appropriate officer ie. Principal, Executive Director, Senior Executive Responsible for Business Integrity Risk.

UPDATING THE CODE

The Code of Professional Practice aims to be current and relevant in supporting teachers in the proper performance of their professional duties. As such it needs to take account of new concerns about ethical issues that may arise. To this end the Department welcomes recommendations for future revisions of the Code. These recommendations should be forwarded to the Chief Executive.

CODE OF PROFESSIONAL PRACTICE

PRINCIPLE 1: SERVICE TO THE PUBLIC

Teachers are expected to abide by the ACT Public Service Code of Conduct and Code of Ethics which provides both a core set of standards covering the behaviour of staff in dealing with the public and a minimum set of behaviours expected of the ACTPS and its employees.

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.

Teachers serve the public interest by:

- acting in a manner which promotes confidence in the integrity of the public service and the profession
- exercising reasonable care and skill
- treating students, parents and colleagues with courtesy and sensitivity to their rights, duties and aspirations
- protecting students from harm
- 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 in partnership with parents and carers
- acting against any form of harassment or unlawful discrimination

1.1 OBLIGATIONS

Each teacher has an obligation to:

1.1.1 Respect the dignity, rights and opinions of others

Teachers respect the dignity, rights and opinions of others by:

- respecting cultural, ethnic and religious differences
- valuing and acknowledging the contributions made by others in meeting school and Departmental goals

1.1.2 Demonstrate high standards of professional practice

Teachers demonstrate a high standard in teaching and learning 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
- providing constructive feedback to colleagues that is considered and helpful
- assisting in developing and mentoring beginning teachers
- 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

1.1.3 Protect students from harm

Teachers protect students from harm by:

- 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

1.1.4 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
- reporting on student progress and learning options
- being responsive to all reasonable requests in relation to their child's education

1.1.5 Exercise leadership in their role as supervisors

Teachers exercise leadership in their role as supervisors by:

- acting as positive role models
- acknowledging the work of staff
- encouraging initiative, responsiveness and leadership amongst staff
- being open and accepting of differing views and perspectives that may better achieve Departmental and school goals
- exercising their responsibilities conscientiously and prudently
- promoting participatory decision making
- 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 Professional Pathways program
- promoting equity and diversity in the workplace
- providing strategic educational and administrative direction
- monitoring and enhancing educational quality through planning for teaching and learning, and implementing change management to meet the needs of students better
- identifying and supporting colleagues who may be experiencing difficulty
- responding appropriately to issues of inefficiency
- managing and reporting perceived misconduct appropriately

1.1.6 Discourage any form of discrimination or harassment in the workplace

Teachers 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 sexual harassment
- refraining from unlawfully discriminating against any person

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 teachers must provide the same level of professionalism in the administration and delivery of government policies and services, irrespective of the political persuasion of the government.

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

- respecting the rule of law and our system of democracy by upholding:
 - Commonwealth and Territory laws and regulations
 - government and Departmental policies
 - relevant professional codes of practice
 - relevant industrial agreements
- working to implement high quality education services
- advancing student learning and the public interest
- 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 education
- complying with and applying the policies of the Department
- complying with lawful and reasonable directions from their supervisor/s
- 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

2.1 OBLIGATIONS

Each teacher has an obligation to:

2.1.1 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, 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, parents/carers 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
- 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 comment

PRINCIPLE 3: ACCOUNTABILITY

Teachers are accountable to the Chief Executive for the authority they exercise on the Chief Executive's behalf. Teachers are accountable 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.

Teachers are accountable for:

- encouraging students to strive for high standards and to value learning

- placing the student's best interest over the teacher's personal interest or benefit
- cooperating with colleagues in the best interest of students
- accepting responsibility for developing their own professional knowledge and skills

3.1 OBLIGATIONS

Each teacher has an obligation to:

3.1.1 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

PRINCIPLE 4: FAIRNESS AND INTEGRITY

Teachers are placed in positions of trust. They manage school resources. They have access to school information and they make decisions that affect staff and students.

The trust that is placed in teachers requires that they conduct themselves with honesty, fairness, and propriety.

Teachers act with fairness 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

Each teacher has an obligation to:

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

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 Departmental 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 Department or school or create an apparent or real conflict of interest
- refraining from using their position to pursue private interests to gain private benefit for themselves or others
- not accepting inappropriate gifts or benefits
- using copyright material for official purposes only
- acting professionally and with probity by complying with the 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 when they are responsible for students
- 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 Department in achieving high-level outcomes for all students.

Teachers exercise efficiency and effectiveness in the use of school resources by:

- avoiding waste and extravagance in using school resources
- using school property and resources appropriately
- maintaining high standards of professionalism, probity and performance

5.1 OBLIGATIONS

Each teacher has an obligation to:

5.1.1 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 Departmental policy and procedures, and only for costs incurred to carry out school business
- using all electronic communication systems in accordance with Government and Departmental 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 Departmental equipment is used in accordance with the manufacturer's requirements, and that all use is both safe and legal
- obtaining approval to use school equipment and resources offsite, and ensuring that it is safely stored and secured

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explanatory guidelines

code of professional practice

EXPLANATORY GUIDELINES- CODE OF PROFESSIONAL PRACTICE

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EXPLANATORY GUIDELINES

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

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

1. AGGRESSIVE BEHAVIOUR BY OTHERS

- 1.1 At times, a member of the community may act aggressively or in an offensive manner, while on school 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 teacher 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.
- 1.2 Aggressive behaviour by students directed at teachers must be managed in accordance with the school's and the Department's Safe Schools Framework. Teachers may use reasonable physical restraint to prevent students injuring themselves or other students, but this is to be used as a last resort.
- 1.3 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.
- 1.4 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.

Example: Managing aggressive behaviour – appropriate response

A parent arrives at a school to complain about the exclusion of his 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.

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 his 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.

2. ASSAULT

- 2.1 Assault generally involves the deliberate or reckless application of force or the threat of force regardless of whether harm is caused. A threat of force can be verbal or non-verbal. Restraint or the severity of restraint of a student can constitute assault. Similarly, a student's actions can constitute assault of a 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 – appropriate response

While on playground duty, a teacher observes an altercation between two students. One student appears to have lost his temper, has picked up a stick and is threatening to use it as a spear against the other student. He is 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 judges that there is not time to enlist the help of another teacher to prevent a possible injury to either student. The teacher moves between the two students, grabs 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.

Example: Managing Assault – inappropriate response

In attempting to resolve a student management issue, a teacher asks a year 3 student to leave his desk and to go to the back of the classroom. The student refuses to leave his desk. The request and refusal are repeated several times. The teacher takes the student by the elbow and attempts to escort him to the back of the classroom. A scuffle breaks out in which the student kicks and swears at the teacher. The teacher responds by yelling and dragging the student to the corner.

This is an inappropriate response by the teacher.

3. CHALLENGING OFFICIAL DECISIONS OR DIRECTIONS

- 3.1 A teacher may challenge or question a decision or direction if they believe it to be unlawful, unethical, unfair or unreasonable.
- 3.2 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.
- 3.3 The person whose decision or direction is challenged should listen to the concerns raised and review their decision in light of these concerns. The decision maker should explain the facts giving rise to the decision or direction and give 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 teacher at the school or a more senior officer in the Department.

If attempts at informal resolution are unsuccessful or inappropriate to use in the circumstances, the teacher may elect to use the Department's internal review.

- 3.4 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. General complaints are resolved using the Department's Employee Grievance Resolution Policy and Procedures.

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

A teacher disagrees with the principal's decision not to suspend a student for using insulting language to the teacher 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 he/she 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, 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.
- 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 ACT Public Service position and includes paid employment, voluntary work, business involvement and company positions.
- 4.6 An officer may not work in a second job without the Chief Executive's approval.

- 4.7 Section 244 of the Public Sector Management Act sets out conditions applying to second jobs. Whilst this applies only to officers, temporary employees are also expected to meet the same standards.
- 4.8 In circumstances where a conflict of interest does arise, the conflict should be resolved by:
- a) declaring the conflict and then altering one's personal interest to resolve the conflict, or
 - b) declaring the conflict and, in conjunction with their 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 his 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. He is replaced by another teacher.

This is an appropriate response.

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

A teacher has special expertise in the use of information technology in teaching and learning. With the school's approval, he works 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 he works, 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 his income with the approval of the Department. He employs 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 his 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 Department then 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 law or licensing arrangements when copying any school property, such as software, library and reference materials.

6. CORRUPTION

- 6.1 Corruption in relation to a 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 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 principal or my supervisor knew what I was doing?" If the answer is "Yes", the teacher should discuss the situation immediately with their principal or supervisor.

7. CRIMINAL CHARGES AND OFFENCES

- 7.1 A teacher will advise the Delegate (Executive Director Resource Management, Director Human Resources or the Manager Employee Relations) in writing of any criminal charges laid against the teacher where the teacher has reasonable grounds for believing that the interests of the Department or the ACT Public Service may be adversely affected taking into account:

- a) the circumstances and seriousness of the alleged offence
- b) the duties of the employee
- c) the effective management of the work area

Further details can be found in the current Collective Agreement.

8. DRUGS, ALCOHOL AND TOBACCO

- 8.1 The Department 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 impact on the health and safety of students.
- 8.2 Consistent with their status and responsibilities as a professional, teachers on duty must not:
 - a) be under the influence or in possession of illegal drugs
 - b) be under the influence of alcohol
 - c) consume or bring alcohol or drugs on to school premises during working hours, or while they have a duty of care for students
- 8.3 Teachers who are experiencing difficulties in relation to alcohol, tobacco or other drugs (illegal or prescription) are encouraged to access the Employee Assistance Program.
- 8.4 Teachers must not consume alcohol in any circumstances at any time when they are on duty. In the context of the Code of Professional Practice, a teacher is 'on duty' whenever the teacher has a responsibility to supervise or care for students. This includes supervision of students outside school hours, for example on a field trip or an excursion.

9. ELECTRONIC COMMUNICATION WITH STUDENTS

- 9.1 All telephone, e-mail, SMS and MMS (& alike) contact by teachers with students must be authorised by the school principal. 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.

10. GIFTS

- 10.1 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.
- 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 between \$20-\$25. The teacher approaches his/her 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.

- 10.5 Generally teachers should not accept gifts in circumstances other than outlined in above. If 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 principal within 14 days of receipt. The gift will become official 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/Department. Within the next 14 days, the gift is declared and provided to the teacher's supervisor.

The gift becomes official property and is displayed in the school foyer.

This is an appropriate response.

11. HARM TO A STUDENT

- 11.1 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.
- 11.2 In this regard teachers must not:

- a) provide students with illicit drugs or condone the use of such drugs, nor administer prescription drugs unless approved in line with the Department's policy and guidelines contained in 'Administration of Prescribed Medication, Catheters and Injections to Students' at the following site: www.det.act.gov.au

- b) provide alcohol to students or condone the use of alcohol by students
- c) provide students with tobacco or tobacco related products or condone the use of tobacco by students

11.3 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

12. IMPARTIALITY

12.1 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.

13. INTELLECTUAL PROPERTY

13.1 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, Departmental or Government use.

14. MALADMINISTRATION

14. Maladministration by a teacher including a 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 consultative process
- i) any action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory, or taken for an improper purpose.

15. MANDATORY REPORTING

- 15.1 Teachers are mandated persons under the *Children and Young People Act 1999*. This means that all teachers must report to Care and Protection Services when they have formed a reasonable suspicion that a student has suffered or is suffering sexual abuse, neglect, or non-accidental physical injury. Failure to report a reasonable suspicion could result in criminal prosecution.
- 15.2 Details of mandatory reporting requirements, protections, and penalties can be accessed from The Office of Children, Youth and Family Support.

16. MISCONDUCT

- 16.1 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 Department or the teaching profession.
- 16.2 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.

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 him into a “time out” room. The teacher believes this was excessive force and reports the matter to an appropriate supervising officer. The teacher should consider whether it is appropriate to make a mandatory report about this incident.

This is an appropriate response.

17. OFFICIAL INFORMATION AND PUBLIC COMMENT

- 17.1 Official information is information contained within Departmental/school records, or imparted in an official capacity.
- 17.2 Official information obtained through work must not be disclosed without lawful authority.
- 17.3 It is inappropriate to make any public comment where the teacher’s statement could reasonably be taken as official comment.

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.

18. PRIVACY

- 18.1 The Department and all staff including teachers are bound by the provisions of the *Commonwealth Privacy Act 1988* and the 11 Information Privacy Principles within the Act which protect and regulate the use of personal information.
- 18.2 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*.

18.3 Important aspects of the Information Privacy Principles include:

- a) personal information shall be collected only for a lawful purpose directly related to the function or activity of the collector
- b) the collector must take reasonable steps to ensure the individual is aware of the purpose for which the information is being sought
- c) the information should be relevant to the purpose for which it is collected
- d) a person storing personal information must take reasonable steps to ensure it is protected against unauthorised access, use, modification or disclosure
- e) 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
- f) 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
- g) 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

19. POLITICAL ACTIVITY

19.1 Teachers have the same rights as everyone else to express their political views and to make public comment.

19.2 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/activities and their official responsibilities.

19.3 Teachers need to be careful about expressions of political opinion in the workplace and the appropriateness of sharing their views with students.

Example: Inappropriate political activity

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

This action is inappropriate.

20. PROCEDURAL FAIRNESS

- 20.1 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.
- 20.2 Teachers should make fair, informed and transparent decisions based on evidence available.

21. PROFESSIONAL RELATIONSHIP

- 21.1 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.
- 21.2 The Code of Professional Practice 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.
- 21.3 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 or students, parents/caretakers etc, on grounds that include sex, sexuality, transsexuality, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability or age.
- 21.4 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.

22. REPORTING FRAUD AND MALADMINISTRATION

- 22.1 Under the Code of Professional Practice 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.

22.2 Fraud or any other wrongdoing may be reported to the supervisor at school, to the Department, to the Senior Executive Responsible for Business Integrity Risk, to the fraud prevention manager in the Chief Minister's Department, to the ACT Ombudsman, or to the ACT Auditor-General.

22.3 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.

23. SEXUAL MISCONDUCT

23.1 Sexual misconduct during or outside school hours is defined as:

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

23.2 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:

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

23.3 Teachers must discourage and reject any advances of a sexual nature initiated by a student.

23.4 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.

23.5 Examples of behaviour that raises 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 without other reasonable explanation
- d) expressing romantic feelings towards a student in written or other form
- e) live chat conversations on the Internet with students
- f) providing mobile and home telephone numbers to students
- g) attendance at private social functions with students outside school hours, eg. 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

Example 1: Sexual Misconduct

A 30-year-old male teacher on a term's contract with a high school forms a 'close' but professional relationship with a 16-year-old female student.

The teacher finishes his 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. Dating or 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.

Example 2: Behaviour raising a reasonable suspicion of a breach of professional standards

A teacher invites a 17-year-old student to spend the weekend at his farm. The invitation is unrelated to the student's schooling and will only involve the teacher and the student.

This is unprofessional conduct.

24. STANDARDS OF DRESS

- 24.1 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 ACT Public Service and the teaching profession. Wearing thongs, singlets, revealing clothes, or clothes with offensive slogans are examples of inappropriate dress in a school environment.

25. UNLAWFUL DISCRIMINATION

25.1 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:

- a) race
- b) sex
- c) sexuality
- d) transsexuality
- e) status as a parent or carer
- f) disability
- g) pregnancy
- h) breastfeeding
- i) religious or political conviction
- j) age
- k) membership or non-membership of an industrial union

Example: Unlawful Discrimination

A parent complains that a 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.

26. USE OF SCHOOL RESOURCES

26.1 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:

- a) Limited, occasional and brief telephone calls and faxes
 - b) Limited and occasional use of the school email and Internet system subject to the Departmental policy on the use of the Internet and electronic mail
- 26.2 It is a breach of the Code to use the school's internet or electronic mail system to access, store, or transmit words or images that are sexually explicit, violent or contain other offensive material. Material shall be considered offensive if:
- a) it shows lack of respect for persons, and
 - b) a reasonable persons finds the material offensive, and
 - c) the material is not a complaint, report or notification about alleged improper conduct of a person made in accordance with an authorised procedure

Example: Inappropriate use of school email

A teacher who alleges that he is the subject of workplace bullying by his 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 his supervisor.

The appropriate action would have been for the teacher to convey his allegations to people who are authorised to receive it and to take steps to address it, such as his school principal, union, a Departmental officer, or to use the Department's internal review (grievance) procedures.

- 26.3 The Department 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.

27. VEXATIOUS COMPLAINT

- 27.1 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.

Example: Making a vexatious complaint

Nigel's behaviour is the subject of a grievance properly lodged by Elsie. Upset at being the subject of a grievance, Nigel decides to cause Elsie some grief by lodging a grievance against her in which he makes allegations of improper conduct without any reasonable basis for the complaint.

This is inappropriate and unprofessional.

28. WORKPLACE HARASSMENT

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

Example: Workplace harassment and inappropriate supervisory behaviour

A supervising teacher is constantly critical in a negative way of a teacher's work performance but fails to implement a supportive pathway to improvement plan 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. SEXUAL HARASSMENT

- 29.1 Sexual harassment is any unwanted attention of a sexual nature. It is inappropriate and unprofessional.
- 29.2 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

REFERENCES

GOVERNMENT PUBLICATIONS

ACT Public Service Code of Ethics

This document can be located at <http://www.psm.act.gov.au>

DEPARTMENTAL POLICIES

Access to Student Records

Acceptable Use of Information Technology

Administration of Prescribed Medicine, Catheters and Injections to Students

Alcohol- Possession and Consumption in Schools and School Related Activities

Child Abuse and Neglect- Guidelines for Schools and Preschools- Protocol between Family Services, Schools and Preschools

Employee grievance Resolution Policy

Copyright for Schools

Equity and Diversity Plan 2007 - 2009

Equal Employment Opportunity

Excursions

First Aid Policy

Mobile phones, acceptable use of

Playground Supervision of Students

Unwelcome Visitors to Schools Handbook

These policy documents can be located at www.det.act.gov.au

INDUSTRIAL AGREEMENT

ACT Department of Education and Training Teaching Staff Union Collective Agreement 2007 - 2009 or replacement agreements

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

Crimes Act 1900

Disability Services Act 1991

Discrimination Act 1991

Education Act 2004

Enclosed Lands Protection Act 1943

Freedom of Information Act 1989

Human Rights Act 2004

Occupational Health and Safety Act 1989

Ombudsman Act 1989

Privacy Act 1988 (Cwlth)

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

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