

CODE OF CONDUCT - Revised August 1997

1. INTRODUCTION

- 1.1 All employees of the Department are accountable through the Director-General to Parliament and to the community at large for the effective education of students, and for the efficient use of the significant sums of public moneys entrusted to the public education system. All staff share a special duty of care toward the students in the public education system.
- 1.2 This code of conduct has been formulated to clarify to staff the type of conduct that is expected of them in the performance of their duties. It is intended to provide practical assistance for staff members faced with ethical challenges.
- 1.3 Ultimately, it is up to staff to recognise the professional and ethical dimensions of their work and to give proper attention to the values which should form their actions and decisions.
- 1.4 A co-operative, collaborative atmosphere conducive to the promotion of integrity in the workplace will assist staff in the implementation of this code. It is the responsibility of delegated officers to foster such an atmosphere and provide guidance and personal and professional development.
- 1.5 Some of the requirements which come under the code of conduct are also the subject of specific provisions of various Acts. If there is any conflict between the code and the provisions of an Act or Regulation the provisions of the Act or Regulation will prevail.

2. PUBLIC COMMENT

- 2.1 Effective communication is a key facet of school management. Successful school management requires that school communities are kept fully informed of matters relating to the role, function and operation of their schools.
- 2.2 As indicated in the statement "The Role of the Principal in the Public School System" (July 1992), principals are accountable to the Director-General of School Education. One element of that accountability involves principals working collaboratively with staff and parents and providing educational leadership by keeping their communities fully informed. This accountability also extends to all Departmental staff.
- 2.3 It is expected, therefore, that in the course of their official duties, principals and other staff will be called upon to make public comment on educational matters.
- 2.4 "Public comment" includes speaking engagements (including comments on radio and television), and expressing ideas in letters or in books or notices where it is reasonably foreseeable that publication or circulation of the comments will flow to the community at large.

- 2.5 When speaking in their official capacity, principals and other staff should be cognisant of the policies and priorities of the elected government of the day and the policy positions of the Department. In these circumstances they should make comment which is positive and supportive of their colleagues and school community, which promote public education and enhance the image of the Department and their school.
- 2.6 Other than in the course of their official duties, or where required by law, principals and other staff should not make public comment relating to official business or government policy.
- 2.7 While principals and other staff, as members of the community, have the right to enter into public debate on political and social issues, there are some circumstances in which public comment is inappropriate. These include all circumstances where it may be reasonably inferred that such public comment, although made in a private capacity, is in some way an official statement.
- 2.8 A staff member, who is an elected or nominated spokesperson for a professional association or a union, is entitled to make public comments in relation to education matters in so far as it is clear that the comments represent the association or union views, and not necessarily those of the Department. Staff making such statements should clearly acknowledge the capacity in which they are expressing their views.

3. PERSONAL AND PROFESSIONAL BEHAVIOUR

- 3.1 In performing their duties and responsibilities all staff must:
- i. be conscious of their special duty of care to the students of the NSW public education system in all educational activities in and out of school;
 - ii. be familiar with the provisions of legislation relevant to their official responsibilities. The main legislation relating to the conduct and obligations of staff is: Education Reform Act 1990, Teaching Services Act 1980, Education (Ancillary Staff) Act 1987, Public Sector Management Act 1988, Public Finance and Audit Act 1983, Anti-Discrimination Act 1977, Freedom of Information Act 1989, Independent Commission Against Corruption Act 1988, Ombudsman Act 1974, Protected Disclosures Act 1994;
 - iii. comply with legislative and industrial requirements and the Department's *Code of Conduct*, policies and procedures;
 - iv. comply with reasonable directions given by a supervisor/principal and adhere to official guidelines concerning the performance of their duties;
 - v. implement the priorities of the Department and the school and ensure their professional actions reflect Government and Departmental policy;

- vi. be fair in exercising delegated responsibility and promote personal and professional development of staff;
- vii. demonstrate the highest standards of professional behaviour, exercise professional judgement and act in a courteous and sensitive manner when interacting with students, parents or caregivers, staff and the public;
- viii. collaborate in the development of Departmental plans, policies and programs;
- ix. devise and document teaching and learning programs and develop and implement appropriate evaluation mechanisms;
- x. treat students equitably, including those with disabilities or other special needs;
- xi. meet the individual learning needs of students and assist each student to maximise his or her learning outcomes;
- xii. effectively manage and implement programs for child protection and student welfare;
- xiii. undertake appropriate ongoing professional development to promote competence in curriculum development, delivery and evaluation, classroom management and teaching skills;
- xiv. perform their duties efficiently and effectively and with honesty, integrity and fairness at all times;
- xv. ensure that decisions are made fairly and conveyed promptly both within the Department and to those students and members of the public who have a right to know;
- xvi. use information gained in the course of employment only for proper and appropriate purposes;
- xvii. use public resources economically;
- xviii. behave in such a manner to protect and enhance the esteem and standing of public education. In particular:

staff must not, under any circumstances, have sexual relationships with students.

- It is irrelevant whether the relationship is homosexual or heterosexual, consensual or non-consensual or condoned by parents or caregivers. The age of the students or staff member involved is also irrelevant.

- Improper conduct of a sexual nature by a staff member against a student includes sexual intercourse and any other form of child sexual abuse (which must be notified) as well as but not limited to the following:
 - * inappropriate conversations of a sexual nature;
 - * obscene language of a sexual nature;
 - * suggestive remarks or actions;
 - * jokes of a sexual nature;
 - * obscene gestures;
 - * unwarranted and inappropriate touching;
 - * sexual exhibitionism;
 - * personal correspondence with students in respect of the staff member's sexual feelings for the student; and
 - * deliberate exposure of students to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are contextual;
- staff must not give students alcohol or other drugs, nor will they encourage or condone the use of alcohol or other drugs by students. They may, however, administer or supervise the administration of prescribed medications consistent with Departmental guidelines.
- staff must not, under any circumstances, use any form of discipline which involves corporal punishment or engage in any form of behaviour which could cause physical or emotional abuse to students.

3.2 If there is doubt about the propriety of their behaviour staff should seek the guidance of their supervisor/principal.

3.3 Supervisors/principals should ensure that staff are aware of their responsibilities under this code and provide staff with the necessary professional and personal development and support to ensure implementation of the code.

4. DISCRIMINATION AND HARASSMENT

- 4.1 Staff must not discriminate against or harass their colleagues, students or members of the public on the grounds of sex, marital status, pregnancy, age, race, ethnic or national origin, physical or intellectual impairment or sexual preference. Such harassment or discrimination may constitute an offence under the Anti-Discrimination Act. In addition, staff must not harass or discriminate on the grounds of political or religious conviction.
- 4.2 Supervisors/principals must take all necessary steps to ensure that classrooms and other workplaces are free from all forms of harassment and discrimination.

5. USE AND SECURITY OF OFFICIAL INFORMATION

- 5.1 The Freedom of Information legislation provides a formal mechanism for the disclosure of certain official information and documents. Therefore, under the provisions of that legislation and in accordance with policies and procedures, appropriately delegated staff acting as agents of the Department and not as individuals, are able to disclose information related to official business.
- 5.2 Staff should maintain the integrity and security of all official information and/or documents for which they are responsible or to which they have access. Particular care must be taken with information and/or documents dealing with student welfare or student performance and staff records.
- 5.3 All staff must ensure that premises are secure and that suitable arrangements are in place to maintain security of confidential and sensitive documents.

6. USE OF OFFICIAL FACILITIES AND EQUIPMENT

- 6.1 Staff should ensure that resources, funds, personnel or equipment entrusted to them, are used effectively and economically in the course of their duties.
- 6.2 The services of other staff members or official facilities and equipment must not be used for private purposes unless prior written approval has been granted. The only officers delegated to grant approval for private use are principals, district superintendents, directors, assistant directors-general and deputy directors-general.
- 6.3 Where prior approval has been granted, private use can only occur under the following circumstances:
- the use does not limit the access of colleagues to do their official work;
 - all consumables must be provided by the staff member;
 - the staff member assumes responsibility for lost, stolen or broken equipment in the event of neglect or wilful damage;

- the staff member undertakes to comply with all relevant copyright legislation in the use of that equipment; and
- a record is kept of the terms of the approval.

6.4 Departmental vehicles may be used only for official business. Details about the use of motor vehicles can be found in the Departmental Motor Vehicle Best Practice Guide (19/11/96).

7. PUBLIC PARTICIPATION

7.1 Staff need to ensure that their participation in and promotion of political, religious or community matters does not bring them into conflict with their professional responsibilities.

7.2 Staff involved in the political arena whether as potential parliamentary candidates, as spokespersons or representatives for a political party, cause or movement should be aware of the potential for conflict of interest and should ensure that their political activities are kept quite separate from their Departmental employment.

7.3 Staff nominating as parliamentary candidates at elections must comply with the provisions of the relevant Commonwealth or State legislation, and resign from their positions in the Department at the time specified in the relevant Act.

8. PERSONAL INTERESTS

8.1 All staff are public officials and as such have an obligation to ensure that there is no actual or perceived conflict between their personal interests and their public and/or professional duties. Examples where conflicts of interest could arise include the following:

- being involved in the tender process when your or an associate's business is a potential tenderer;
- assessing applications for community use of the school's hall when you are an active member of the local drama society which is seeking to book the hall; or
- being involved in the selection process or employment decisions involving a member of your family, or a close personal friend.

8.2 Staff have an obligation once they become aware that there is or may be a potential conflict between their personal interest and official duty (whether real or apparent) to immediately inform their supervisor/principal or an appropriate delegated officer and seek approval to proceed.

9. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE

- 9.1 The Director-General approves of teaching and public service staff engaging in external employment (including operating a business) provided that the employment is not in conflict and does not interfere with or adversely affect their Departmental duties, and provided it is undertaken with the knowledge and agreement of an appropriate delegated officer. Delegated officers are principals, district superintendents, directors, assistant directors-general and deputy directors-general.
- 9.2 Examples of circumstances where staff undertaking outside employment may create a conflict between public duty and private interest include:
- the teacher's outside employment affects the efficiency and effectiveness of their Departmental role;
 - the teacher who acts as a paid tutor or conducts a coaching college in which students from his or her school are enrolled;
 - a teacher who has a management or controlling interest in a company that is selling computer or other equipment/services to that teacher's school; and
 - the staff member who is employing contractors from a company in which the staff member's immediate family members have a management or controlling interest.
- 9.3 Where there is any doubt regarding a possible conflict of interest staff members must immediately inform their supervisor/principal or an appropriate delegated officer and seek approval to proceed.
- 9.4 Where there is no actual or perceived conflict a supervisor/principal or a delegated officer cannot reasonably refuse a staff member permission to engage in external employment when the following three conditions are met:
- the employment does not affect the staff member's efficiency or effectiveness in performing their Departmental duties;
 - any outside employment is performed wholly in the staff member's private time; and
 - no plant, equipment or facilities of the Department are used in connection with the outside employment.
- 9.5 The supervisor/principal or other delegated officer must maintain appropriate records in writing of approvals given to staff to engage in external employment.
- 9.6 In general, it is not necessary for staff to obtain permission to be involved in voluntary or unpaid activities. Where a conflict of interest arises between these activities and official responsibilities, staff have an obligation to raise the issue with their supervisor/principal or an appropriate delegated officer.

10. POST SEPARATION EMPLOYMENT

- 10.1 Staff should not use their position in the Department to obtain work opportunities for future employment. They should not allow themselves or their work to be influenced by plans for, or offers of, employment outside the Department.
- 10.2 Former staff should not use, or take advantage of, confidential information obtained in the course of their official duties with the Department for their gain or profit, until that information has become publicly available.
- 10.3 All staff should be careful in their dealings with former employees of the Department and make sure that they do not give them, or appear to give them, favourable treatment or access to privileged information.

11. ACCEPTANCE OF GIFTS AND BENEFITS

- 11.1 Staff must never solicit any gifts or benefits, nor accept gifts or benefits either for themselves or for another person, which might in any way, either directly or indirectly, compromise or influence them in their official capacity.
- 11.2 Gifts of a nominal value generally used for promotional purposes by the donor, or moderate acts of hospitality may be accepted by staff. As a general rule gifts valued at \$100 or more would not be considered nominal.
- 11.3 Gifts or hospitality offered as an inducement to purchase are not acceptable regardless of their monetary value. Recent examples of inducement include a bookshop offering teachers a personal dinner for two to the value of \$60 for every \$1,000 of textbook orders and an employment agency offering administrative staff theatre tickets valued at \$70 for each temporary person employed in excess of a week.
- 11.4 Acceptance of gifts and hospitality is a matter of judgement for the individual staff member who must be satisfied that his or her position will not in any way be compromised or appear to be compromised by acceptance of the gift or hospitality.
- 11.5 In any event the acceptance of a gift or benefit of a substantial nature (that is anything valued in excess of \$100) must have the specific approval of the principal, district superintendent, director, assistant director-general or deputy director-general, whichever is relevant.

12. NOTIFICATION OF CORRUPT CONDUCT, MALADMINISTRATION, OR SERIOUS AND SUBSTANTIAL WASTE OF PUBLIC MONEY

- 12.1 It is important to know what may amount to corrupt conduct so that staff members can know how they or other staff are to behave. Corrupt conduct is defined in sections 7 to 9 of the Independent Commission Against Corruption (ICAC) Act. The definition is intentionally very broad but the key issue is misuse of public office in the public sector of New South Wales.

12.2 Corrupt conduct occurs when:

- a public official carries out public duties dishonestly or unfairly;
- anyone does something that could result in a public official carrying out public duties dishonestly or unfairly;
- anyone does something that has a detrimental effect on official functions, and which involves any of a wide range of matters, including fraud, bribery, official misconduct, violence; or
- a public official misuses information or material obtained in the course of duty.

12.3 It is not corrupt conduct unless it involves (or could involve) a criminal offence, a disciplinary offence, or reasonable grounds to dismiss a public official. Reference should be made to the ICAC Act for more specific details.

12.4 The Director-General has a duty under the Act to report to the Independent Commission Against Corruption any matter that he suspects on reasonable grounds, concerns or may concern corrupt conduct.

12.5 The Protected Disclosures Act offers protection for public officials who make disclosures which concern:

- corrupt conduct;
- maladministration; or
- serious and substantial waste of public money.

12.6 Protection is not available for disclosures which;

- are frivolous or vexatious;
- primarily question the merits of government policy; or
- are made in an attempt to avoid dismissal or disciplinary action.

Reference should be made to the Protected Disclosures Act for more specific details.

12.7 Each principal, district superintendent, director, assistant director-general and deputy director-general has a responsibility to ensure disclosures of alleged corrupt conduct, maladministration or serious and substantial waste of public money, can be made to them, are properly investigated, and the results of the investigation reported to the Department's Special Investigations Committee.

- 12.8 Staff wishing to make a protected disclosure can do so to a nominated disclosure officer in district offices or State Office. Nominated disclosure officers are listed in the Department's *Internal Reporting System for Protected Disclosures* (ISBN:0731083512) and are generally the district superintendent in a district office, or a director, assistant director-general or deputy director-general in State Office. That officer has a duty to ensure the confidentiality of the information, protect the identity of the complainant, and to investigate or commission an investigation of the complaint.
- 12.9 Staff who make genuine complaints or reports about alleged corrupt conduct, maladministration or waste of public money, will not be prejudiced in their employment or otherwise in any way. If however, they perceive that this may occur, or they are reluctant for any other reason to report a matter to the nominated officer, they should make their complaints through the Director of Audit or through the Director of Executive Services. Staff may also make complaints direct to the ICAC, the Ombudsman or to the Auditor-General.

CONCLUSION

- 13.1 This code reflects a contemporary view of professional behaviour and practice for staff in the Department of School Education. To maintain its currency and value, the code may be altered from time to time to take account of changed circumstances or new situations.
- 13.2 If a staff member is in doubt as to the appropriate course of action to be adopted in any circumstance, the matter should be discussed with a more senior officer or raised formally with the relevant principal, district superintendent, director, assistant director-general or deputy director-general, whichever is relevant.