



CONFLICT OF INTEREST

Policy and Procedures

DEFINITIONS

Terms in this document, for which definitions are not provided in the text or may not be self-evident or for which usage at ACC may differ to that in other higher education institutions are as follows:

Conflict of Interest: A conflict of interest occurs when a person's or an entity's vested interests raise a question of whether their actions, judgment, and/or decision-making can be unbiased.

PURPOSE

This policy outlines the principles applying to the declaration and management of an actual and potential conflict of interest.

SCOPE

The policy applies to all professional and academic staff employed by the College (including casual staff and clinical staff), contracted domestic and international marketing and recruitment agents, and external independent members of College Committees and Boards.

POLICY

1. Avoidance and Disclosure

Staff and Committee/Board members must take reasonable steps to avoid any actual, potential or perceived conflict of interest and act in the best interests of the College.

Staff and Board members must ensure there is no conflict or perceived conflict of interest (a) between their interests outside the College and (b) their duties, obligations and responsibilities within and/or to the College.

They are expected to:

- At all times, undertake their responsibilities and perform their duties in the interests of achieving the College's mission and strategic objectives.
- Not misuse the influence of their position to pursue personal, sexual or financial relationships with other staff, students or members of the community.
- Apply the principles contained in the College's Gifts, Benefits and Hospitality Policy and Procedure to the acceptance of gifts or favours.
- Declaring private paid outside work, including directorships and board memberships that may present a conflict of interest.
- Declare all commercial, personal or familial relationships that may constitute an actual or potential conflict of interest.

- Disclose actual or potential conflict of interest and withdraw themselves immediately from the situation giving rise to the conflict.
- In the instance of staff and student relationships, refrain from managing, assessing the performance of, supervising, or directly teaching a person with whom they have, or have had, a close personal or familial relationship (including a sexual relationship), unless they have declared the connection and have received permission to do so.

2. Types of Conflict of Interest

A conflict of interest can be financial or personal and may involve the interests of a staff members or Committee/Board members or members of their family or friends.

2.1 Financial or personal relationship affecting business practices

- Staff and Board members must understand that a conflict of interest (actual or potential) exists where:
 - Close personal relationships interfere with or are seen to influence staffing or procurement decisions.
 - A staff or Board member deals with, calls tenders from, or obtains prices from anyone with whom they are in a close personal relationship or any company or other entity in which they have a financial interest or from which they may benefit financially; and
 - A staff or Board member or anyone with whom they are in a close personal relationship has an interest in a company or other entity providing or likely to provide goods or services to the College in circumstances where they are in a position to decide or to influence the decision to purchase those goods or services.

2.2 Personal and Family Relationships between Staff and Students

- Staff members and contracted academic (including clinical) staff must also understand that a personal or family relationship between an academic employee and a student has the potential to compromise their responsibility where they are responsible for the supervision, teaching and/or any level of assessment of that student, or indirectly by affecting a student's interaction with the College.

Personal relationships between students and staff may involve serious difficulties arising from the unequal power of the parties concerned, as well as the difficulties in maintaining appropriate boundaries between professional and personal life.

Therefore:

- Staff should not take part in the following matters in relation to any student with whom they have a personal relationship:
 - Selection for entry to the College or to any of its courses (where this depends on a judgement other than a pre-determined score or grade).
 - Assessment procedures.
 - Selection for any scholarship or prize.
 - Involvement in any other process, the outcome of which is likely to influence the student's status or performance record.
- Where staff declare the existence of, or the potential for, a conflict of interest, the relevant supervisor or Committee Chair should approve alternative arrangements to ensure that the staff member does not participate in any of the matters listed above.
- Where it is not possible to avoid altogether the involvement of staff members with any of the matters listed above, any arrangement made, e.g. cross-marking or co-supervision of a student's work, to mitigate the risks inherent in a potential or actual conflict of interest must be formally

approved by the relevant Executive Member prior to implementation.

- Students who consider that they are actually or potentially involved in a conflict of interest with staff of the College should ensure that the matter is referred to the relevant Executive Member or other senior officer for appropriate action. Any staff involved in a conflict of interest with a student should advise the student that they have a right to consult with the supervisor of that staff member.
- Where officers are unsure as to whether a conflict of interest or perceived conflict of interest has occurred or may occur, advice should be sought from their supervisor.
- If a staff member or Committee member is found to be in a personal relationship and the potential conflict of interest has not been disclosed, any decision taken in relation to the student and any potentially affected students will be reviewed by the relevant supervisor or Committee Chair.

Any impropriety found with regard to the relationship between a staff member or Committee member and a student may lead to disciplinary action.

Failure to disclose a potential or actual conflict of interest by staff of Committee Members can render decisions concerning student null and void, and can lead to disciplinary procedures.

3. Failure to disclose a potential or actual conflict of interest

Where a supervisor or Committee or Board Chair becomes aware of a potential or actual undisclosed Conflict of Interest, the procedure for dealing with this breach of acceptable behaviour is that outlined in the ACC's Policy and Procedures on Ethics and Code and Conduct.

Failure to disclose a potential or actual conflict of interest on the part of a staff members may result in:

- Misconduct, serious misconduct or other disciplinary proceedings against the staff member.
- Action under the Corporations Act 2001.
- Action by agencies such as the Ombudsman of South Australia.
- Legal action.

Where a Committee or Board members fails to disclose a potential or actual conflict of interest, and it is alleged that they have failed to do so, this will be referred to the Committee/Board Chair for investigation and decision on appropriate action. Depending on the seriousness of the alleged conflict of interest, the President may also become involved in investigation and resolution of the matter.

Where the conflict of interest has been proven, the action taken will be proportionate to the seriousness of the breach of acceptable conduct. The party guilty of the alleged breach may be asked to resign or their contract may be terminated.

As in all instance of alleged behaviours which are unacceptable to the College, the party alleged to have committed the breach of ethics or acceptable conduct will have recourse firstly to an internal appeal process via the President which may include the appointment of an independent arbiter and to various external independent resources for Appeal.

PROCEDURES

1. Procedures for academic and professional staff members

- If a staff member has an actual or potential conflict of interest, they must disclose it to their supervisor as soon as is reasonably practicable after becoming aware of it.

The supervisor is the position next above the staff member's position.

If the staff member's supervisor has a conflict of interest in the matter, then the staff member will disclose the conflict of interest to the next higher level of authority.

- Where a conflict of interest has been determined to exist, the supervisor and staff member will agree in writing on a course of action to manage or avoid the conflict of interest. A copy of this agreement will be retained in the department records.

It is the responsibility of each staff member to ensure that they stand down in any decision making process where they may have an actual or potential conflict of interest.

A course of action may, inter alia:

- implement additional processes to ensure the impartiality of the staff member in performing his or her duties; or
 - direct the staff member to withdraw from involvement in the matter that has given rise to the conflict or otherwise re-organise the duties of the staff member to avoid the conflict of interest.
- If the supervisor and staff member are unable to agree on a course of action, the matter will be referred for resolution to the next higher level of authority.
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2. Procedures for Board and Committee Members

- At the commencement of each Board member's term, they must sign the Declaration regarding Conflicts of Interest Form which requires them to declare that they either have no actual or potential conflict of interest or alternatively requires them to declare the nature of any conflict of interest. This form must be completed again in the event that a new conflict of interest arises.
- At each meeting of a Board (Board of Directors and Academic Board) members will be asked if they have any potential or actual conflict of interest to declare and any declarations will be minuted.
- If, during the course of a meeting or between meetings, a member of the Board or a Committee has an actual or potential conflict of interest they must disclose it to the Board or Committee or the as soon as is reasonably practicable after becoming aware of it.

The Chair of the Committee or Board will provide guidance in determining will determine what action is taken.

- If there is a Board or Committee decision from which a Board or Committee member stands down, this will be appropriately recorded in the minutes of the relevant Board or Committee meeting.

3. Procedure for International business relations

Due to differences in cultural values and business practices, there is the potential for staff with responsibilities for international relations or teaching staff concerned with teaching and assessing international students to become involved in situations where a conflict of interest may arise. All such instances will be reported to the President of the College, who will, after appropriate consultation with other relevant senior management (Academic Dean and/or Corporate Services Manager), be responsible for determining how any identified potential conflict of interest might be avoided and/or an actual conflict of interest might be productively managed and resolved.

RELATED POLICY DOCUMENTS

- ACC Conflict of Interest Nomination Form
- ACC Code of Conduct Policy and Procedures

VERSION CONTROL

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