

DOCUMENT REFERENCE: PPP181

RESPONSIBLE MANAGER: CEO / Board Chair (*For Board Members*)

CATEGORY: Institute Governance

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RELATED DOCUMENTS: Legislation: Public Administration Act 2004
Code of conduct for Victorian Public Sector Employees 2015
Code of conduct for Directors of Victorian Public Entities 2016
Victorian Public Sector Commission Gifts, benefits and hospitality policy guide
Victorian Public Sector Commission conflict of interest guidance for organisations

Documents: HR068 Conflict of Interest Declaration Form
HR069 Declaration of Private Interest
PPP025 Financial Delegations Policy
PPP083 Code of Conduct

Purpose

This Policy outlines the behavioral expectations of all staff and Board Directors when they find themselves in circumstances where there is a potential, perceived or actual conflict of interest.

South West TAFE requires that all staff members and Board Directors must be free from potential, perceived or actual influences of the kind described herein when dealing with persons or other organisations on behalf of, or in relation to their employment with South West TAFE.

Scope

This Policy applies to all staff including Board Directors of South West TAFE. Any failure to comply with or breaches of this Policy may be regarded as misconduct or serious misconduct, depending on the nature of the conflict of interest, and may be subject to disciplinary action.

Definitions

For the purposes of this code:

- A **conflict of interest** (divided loyalty) may arise when a South West TAFE staff member's capacity and obligation to perform their employed role is or may be compromised by other interests or commitments. This may occur when the staff member becomes a participant in activity, work (paid or unpaid) or roles, which have an adverse impact on or implication for their employed position with South West TAFE or access to resources as an employee with South West TAFE.
- A conflict of interest may be perceived or actual but must be declared to People and Culture for consideration by the relevant manager of South West TAFE in line with the Code of Conduct and associated Codes of Practice. It may be necessary that the staff member take action to remove themselves from a conflict of interest situation. Conflict of interest may, at times, also be reduced or managed to an acceptable level.
- **Private interests** may be **pecuniary** (i.e. financial), which includes any actual, potential or perceived financial gain or loss, as well as **non-pecuniary**, which includes any tendency toward favour or prejudice resulting from personal or family relationships, such as friendships, enemies or sporting, cultural or social activities.
- A **potential conflict of interest** arises where an employee has a private interest that could conflict with their duties as a South West TAFE employee.
- A **perceived conflict of interest** can exist where a third party could form the view that an employee's private interest could improperly influence the performance of their duties, now or in the future.
- **Supervisor** – means Executive Manager, Teaching Manager, Department Manager, or Senior Educator whichever is applicable to the staff member as their direct Supervisor.

Declaration and management of conflict of interest

Conflict circumstances	Behavioral expectations
<p>1. Paid, unpaid or voluntary work outside of the Institute</p>	<p>South West TAFE recognises that engagement in work outside the Institute can be a valuable means of maintaining industry currency for staff. It is also aware of the conflicts that can arise for staff and the organisation when managing multiple jobs.</p> <p>This section sets out the expectations that must be met to avoid any such conflicts. If involved or intend to be involved in paid, unpaid or voluntary work outside of the Institute a staff member will need to:</p> <ul style="list-style-type: none"> a) ensure that there is no impact on the fulfilment of duties and performance as part of employment with South West TAFE b) make sure that any paid, unpaid or voluntary work occurs outside nominated working hours with South West TAFE c) ensure that you have the written approval as per <i>HR068 Conflict of Interest Declaration Form</i> d) do not utilise South West TAFE resources, equipment or facilities without specific, written authorisation from the appropriate management as per <i>HR068 Conflict of Interest Declaration Form</i> e) clearly separate duties of South West TAFE from other approved responsibilities and ensure that all stakeholders fully understand that a conflict of interest has been declared <p>Specifically, in relation to other paid employment a staff member must:</p> <ul style="list-style-type: none"> f) ensure that South West TAFE functions remain a priority at all times while working your South West TAFE nominated work roster.
<p>2. Directorships, Board and Committee of Management positions</p>	<ul style="list-style-type: none"> a) If a staff member is considering becoming a director of a public or private company, other than those which are of a charitable or non-profit nature and not in competition with South West TAFE, or formed to deal solely with private affairs, the staff member is required to seek approval as per <i>HR068 Conflict of Interest Declaration Form</i>. <p>The Manager, People and Culture will consider such a request and may grant approval if they are satisfied that there has been a full and complete disclosure as to the circumstances of the directorship, including actual, potential or perceived conflict of interest, and is satisfied that the staff member has undertaken to carry out the duties of the directorship in accordance with section (a) above (including the use of <i>HR068 Conflict of Interest Declaration Form</i>).</p> <ul style="list-style-type: none"> b) All South West TAFE Board Directors are required to complete a <i>HR069 Declaration of Private Interest Form</i> upon appointment, and update on an annual basis for the term of their appointment.

Conflict circumstances	Behavioral expectations
<p>3. Close personal relationships</p> <p><i>Close personal relationships within South West TAFE exist when a staff member has a relationship arising from being a member of immediate or extended family, or is in a relationship which may give rise to an actual or perceived conflict of interest including relationships of a kind that are matrimonial (including de facto), sexual, business and financial.</i></p> <p><i>These steps are required to protect not only your integrity as a professional Institute employee, but also to protect you, your supervisor and the Institute from any actual or perceived conflict of interest.</i></p>	<p>a) Relationships between staff members. If a staff member is in a position by which they need to make decisions/recommendations about a staff member or potential staff member with whom they have a close personal relationship, the staff member must declare this to the supervisor immediately. The supervisor will then advise on the most appropriate course of action to take to mitigate this involvement. This may include but not be limited to:</p> <ul style="list-style-type: none"> i. ensuring that either staff member is not given responsibilities/duties that might give rise to a real or perceived conflict of interest, <i>and/or</i> ii. ensuring that the staff member is not involved in decision making or procedures leading to the appointment, promotion, disciplinary procedures or any other determination in relation to employment conditions or entitlements for the other <p>b) Relationships with students. If a staff member is in a position by which they need to make decisions/recommendations about a student or potential student with whom they have a close personal relationship, the staff member must declare this to the supervisor immediately. The supervisor will then advise on the most appropriate course of action to take to mitigate this involvement. This may include, but not be limited to:</p> <ul style="list-style-type: none"> i. reducing or removing the staff member's formal involvement with that student's process of enrolment, supervision, assessment, selection for prizes, graduation, disciplinary matters, etc. ii. reducing or removing the staff member's capacity to alter the records for a student with whom there is a close personal relationship
<p>4. Giving or receiving of gifts, benefits or hospitality</p>	<p>a) Do not give to or receive gifts benefits or hospitality from any person seeking to conduct business with South West TAFE beyond common courtesies consistent with ethical and accepted business practice. Refer to <i>PPP-026 Gifts and Entertainment Policy</i>.</p>
<p>5. Personal interests which may affect an Institute financial transaction</p>	<p>a) Declare any personal interests you may have which may affect any Institute financial transactions and avoid conflicts of interest (actual and perceived) which may bring the Institute into disrepute. Comply with the expectations within <i>PPP181 Declaration of Interest Policy</i>.</p> <p>In particular</p> <ul style="list-style-type: none"> i) you must not influence the awarding of any contract in which you have an interest ii) you must maintain independence in any dealing with external parties, e.g., suppliers, consultants or contractors, etc. iii) must not give gifts or benefits to any person seeking to conduct business with South West TAFE, beyond common courtesies consistent with ethical and accepted business practice <p><i>Refer to PPP-026 Gifts and Entertainment Policy</i></p>
<p>6. Other circumstances</p>	<ul style="list-style-type: none"> a) It is not possible to define all potential areas of conflict of interest. Staff members are required to declare to the Supervisor any conflict of interest that arises or is likely to arise. If a staff member is in doubt as to whether a conflict exists, raise this with the Supervisor. b) If a conflict of interest is determined, <i>HR068 Conflict of Interest Declaration Form</i> must be completed. c) The Supervisor is required to implement relevant controls to manage any risk around the actual or perceived conflict of interest. The impacted staff member will need to operate within the relevant controls implemented. d) In circumstances where the CEO has a perceived conflict of interest, the decision making relating to the issue lies with the Board Chair. In such circumstances the Board Chair shall determine the matter in accordance with these procedures.

Reporting a conflict of interest of another staff member

- a) Where a staff member is concerned about an actual or perceived conflict of interest involving another staff member, this concern must immediately be reported to the Supervisor of the staff member with the actual or perceived conflict of interest.
- b) The Supervisor must seek advice from People and Culture prior to speaking with the staff member about the conflict of interest. People and Culture may liaise with or refer the matter to another Department if relevant.
- c) The staff member may be directed to provide information regarding a possible perceived conflict of interest and failure to do so will be regarded as a breach of this Code of Conduct.
- d) If a conflict of interest is determined, *HR068 Conflict of Interest Declaration Form* must be completed.
- e) The Supervisor is required to implement relevant controls to manage any risk around the actual or perceived conflict of interest. The impacted staff member will need to operate within the relevant controls implemented.
- f) Through a standing item on the Staffing Committee's Agenda, the People and Culture Manager must inform the CEO and Executive of any conflict of interest.

Declaration and Management of a Private Interest

The term 'private interests' includes not only an employee's own interests, but also the personal, professional or business interests of individuals or groups with whom they are closely associated, such as relatives, friends, or even rivals and enemies. Both pecuniary and non-pecuniary private interests can conflict with an employee's public duties.

a) Pecuniary Interests	involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or close associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source.
b) Non Pecuniary Interest	include professional or personal affiliations, such as membership of a club or religious or ethnic group.
c) Personal Values	may also lead to a COI where they are likely to impact on the proper performance of public duty, or be reasonably seen to do so

It is particularly important to identify situations where an employee's public duties may conflict with pecuniary interests since these situations could give rise to legal consequences if they are not appropriately managed.

The following employees of South West TAFE

- All Executive Officers
- Board Members
- Employees holding a financial delegation
- Business Development Officers (BDO's)

must complete a *HR069 Declaration of Private Interests form*

- upon appointment, then
- annually after appointment and
- within five working days after the employee's circumstances change (i.e. their circumstances as they relate to the topics covered in the declaration form):

Record Keeping

Any completed Declaration Forms are retained on the relevant employee and/or SWTAFE Board member's personnel file retained in People and Culture.

In addition, the Board Secretary retains a copy of any declarations made by a SWTAFE Board member including Executive and staff representatives.