

CODE OF CONDUCT

Implementation document for Code of Conduct policy

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Document history

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2.1.0	07/2021	Updated links, minor wording changes, removal of clause in 9.2.2	Executive Director, Professional and Ethical Standards
2.2.0	19/10/2022	Updated links to e-learning courses on managing gifts, benefits and hospitality (section 7.3.1) and added a link to the current declaration form.	Executive Director, Professional and Ethical Standards

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1 Introduction

The NSW Department of Education is committed to preparing young people for rewarding lives as engaged citizens in a complex and dynamic society. The department's vision is to be Australia's best education system and one of the finest in the world. To achieve this vision, we need a highly professional and inclusive workforce.

As employees, we are committed to social justice by opposing prejudice, injustice and dishonesty, and behaving in ways that advance vibrant, sustainable, inclusive and responsible communities across NSW.

The Code of Conduct describes standards of professional conduct that promote adherence to the department's and NSW public sector's values.

All employees are expected to exercise sound judgement and live up to both the content and spirit of the Code.

Given the broad and diverse nature of the department's work, the Code does not seek to encompass every requirement. Legislation, industrial instruments, policies, government directives, procedures, training and instruction will intersect with the Code to provide the framework for accountability in our work.

The Code should also be read in conjunction with the [NSW Public Service Commission's Code of Ethics and Conduct for NSW Government Sector Employees](#), which all government sector employees must comply with.

If you have any questions about the Code, please discuss them with your workplace manager.

2 Our values

The department's values build upon the public sector core values. You are expected to live up to these values at work.

Excellence

- We have high expectations and we continually seek to improve ourselves and our work.
- We strive to excel and invite the best ideas from everyone in and outside the department.
- We use and share evidence, research and data to underpin policy and practice.
- We welcome collaboration and learning with others.

Trust

- We build relationships based on transparency, honesty and mutual respect.
- We support each other.
- We respect each other's expertise, experience and points of view, and listen with an open mind.

Equity

- We ensure that every student has access to high-quality public education.
- We respect diversity and the views and contributions of others.
- We treat people fairly.

Integrity

- We act professionally with honesty and consistency.
- We communicate clear expectations.
- We are transparent with information and our decisions.

Accountability

- We take responsibility for decisions and outcomes.
- We allocate and use resources efficiently and effectively.
- We monitor and review performance to drive improvement.

Service

- We are flexible, innovative, responsive and reliable.
- We provide coordinated and aligned services to enhance teaching and learning.
- We work openly in partnership with parents, communities and organisations.

3 Legislative and policy requirements

The Code of Conduct draws on department and state legislation, regulations, policies and procedures.

The Code should be read in conjunction with the NSW Public Service Commission's Code of Ethics and Conduct for NSW Government Sector Employees, which all government sector employees must comply with.

Employees must also comply with relevant legislative, industrial and administrative requirements. This includes lawful directions made by a person with appropriate authority.

Where there is a conflict between legislation and the Code, legislation should take precedence.

Employees are expected to be aware of, and act in accordance with, applicable government directives, circulars and memoranda. Some of this material is referenced in the Code.

4 Application

The Code of Conduct applies to all employees of the department. This includes:

- ongoing, temporary and casual employees
- employees on secondment to the department
- members of the public service senior executive (PSSE)
- contractors and agency staff engaged to perform work for, or on behalf of, the department
- volunteers
- special religious educators
- graduate program participants
- pre-service teachers
- consultants where their engagement requires adherence to the Code.

The Code obliges employees to be accountable for their professional and personal conduct. There are a range of consequences for breaching the Code depending on the nature and seriousness of a breach.

The Code does not apply to students. Student discipline is addressed in the [Student Discipline in Government Schools Policy](#).

The [School Community Charter](#) outlines the responsibilities of parents, carers, educators and school staff in NSW public schools. The charter seeks to ensure our learning environments are collaborative, supportive and cohesive.

5 Employee responsibilities

As a department employee, you must:

- keep students safe and support their wellbeing
- treat everyone with respect, courtesy, fairness, and honesty
- act with the utmost care and diligence
- understand and apply the laws, policies, procedures and guidelines that underpin your work
- work collaboratively and comply with lawful and reasonable directions
- always uphold the values and good reputation of the department whether on or off duty
- avoid conflicts of interest, report those that cannot be avoided and cooperate in their management
- only use official information for the work-related purpose it was intended
- only use your position and resources for a proper purpose
- report inappropriate conduct immediately.

6 Workplace manager responsibilities

Workplace managers are employees who have a supervisory role for other employees.

As a workplace manager, in addition to complying with the responsibilities detailed in section 5 of this Code, you must:

- model the department's values and professional conduct
- promote a collaborative and collegial workplace
- foster performance and development processes with employees under your supervision
- provide ongoing support and feedback to employees under your supervision
- provide information about support services and resources available to employees under your supervision
- communicate to employees under your supervision their responsibilities under the Code
- establish systems for effective communication and consultation in decision-making
- utilise reporting systems when a breach of the Code may have occurred
- promptly address poor conduct and performance.

7 Ethical decision-making

Ethical decision-making involves evaluating and choosing alternatives consistent with ethical principles.

7.1 Conflict of interest

A **conflict of interest** exists where your public duty conflicts, or may be perceived to conflict, with your personal interests.

Personal interests refer to a wide range of interests that arise from your private or non-work life. They include:

- activities that directly benefit you
- favours benefiting personal relationships or associates
- animosity towards another person
- business, social and professional activities
- financial or non-financial interests.

Conflicts of interests can arise in educational settings where personal interests exist between an employee and a student or their family.

All conflicts of interest, whether perceived or actual must be declared, managed and documented. This ensures we provide fair and impartial services, maintain public confidence, prevent corruption and manage allegations of misconduct.

The public interest must come first on all occasions.

7.1.1 Avoiding conflicts of interest

As a department employee, you must:

- take all steps to avoid actual and perceived conflicts of interests. This may include declining social invitations from individuals or organisations.

7.1.2 Disclosing conflicts of interests

As a department employee, you must:

- proactively disclose in writing any conflicts of interest you have, or may be perceived to have, as soon as you become aware of it to your workplace manager (or their manager where appropriate)
- report situations where a colleague or workplace manager attempts to influence a decision where there is a perceived or actual conflict.
- As a senior executive (including acting senior executives) or nominated employee, you must make an annual written declaration about any private financial, business, personal or other interest or relationship that has the potential to influence your decisions or advice.

7.1.3 Managing conflicts of interests

A workplace manager taking steps to manage an actual or perceived conflict of interest, must:

- assess the risks related to the conflict of interest
- determine the best management options that uphold the integrity of the department and public trust, prevent the impression of improper influence and is in the public interest
- document the management action plan
- implement and monitor a management action plan.

As a department employee, you must cooperate fully with any management action implemented to deal with actual or perceived conflicts of interest.

Additional information on conflicts of interest is detailed in sections 7.3 and 7.4 of this Code.

For more information, refer to:

- [Fraud Prevention Conflicts of interest factsheet](#)
- [Corruption Prevention e-learning](#)
- [Guidance on misconduct – conflicts of interest.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee is the president of a community group seeking to hire a school hall. The employee alerts the principal of their involvement with the group in writing and hands responsibility to the vice-president to negotiate the agreement, taking no further role. The principal develops a plan to ensure that the employee is not involved.
2. An employee's child attends their local school, where the employee works. The employee advises the principal who develops a plan to manage any potential conflict of interest. The employee will not be involved in decision-making for their child at school, including teaching classes, assessing work or managing their child's behaviour at school.

Inappropriate conduct

3. An employee purchases new furniture for their office, personally authorised the purchase and failed to seek approval from their supervisor. The purchase results in the employee receiving a personal benefit. The conflict of interest has not been managed.
4. An employee is seeking to have their child enrolled at a particular out-of-area school. The employee contacts the principal, who they know professionally, to facilitate the enrolment. The conflict of interest is not declared and the child is enrolled at the school. Conflicts of interest should be declared, managed and documented. Neither employee has taken steps to declare the conflict. The conflict of interest has not been managed.

7.2 Fraud, corruption and maladministration

Corrupt conduct is the conduct of any individual, whether a public official or not, that adversely affects (or could adversely affect), either directly or indirectly, the honest and impartial exercise of public official functions.

Fraud involves dishonestly obtaining a benefit, or causing a loss, by deception or other means. Fraud is established as an offence in section 192E of the Crimes Act 1900.

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory and based wholly or partly on improper motives.

The department does not tolerate any form of fraud, corruption or maladministration and is vigilant in its prevention, deterrence, detection and investigation.

All employees are required to act ethically, with integrity and in accordance with the law, this Code and related policy and procedures.

All employees must be aware of the risks of fraud, corruption and maladministration in the workplace. Employees must take practical steps to avoid or manage risks and report all suspected cases of fraud, corruption or maladministration.

The department's Public Interest Disclosures Internal Reporting Policy establishes its commitment to supporting and protecting employees who report wrongdoing.

As a department employee, you must:

- act lawfully, ethically and honestly always
- act within your delegated authority
- comply with department policies, procedures and guidelines
- not seek to circumvent financial, fraud or corruption controls.

Employees have reporting responsibilities as detailed in section 11.1 of this Code.

For more information, refer to:

- [Fraud and Corruption Prevention](#)
- [Fraud and Corruption Control Policy](#)
- [Public Interest Disclosures Internal Reporting Policy](#)
- [Financial Management Policy](#)
- [Government Sector Finance Act 2018](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee becomes aware of a colleague submitting fraudulent timesheets. The employee reports it to their workplace manager.

Inappropriate conduct

2. An employee makes false and unauthorised payments from school funds to their own private company. This is a criminal offence. Where it is reasonably believed that an employee has committed a criminal offence, the matter must be referred to Professional and Ethical Standards who will ensure that it is properly reported to police.
3. A principal fails to maintain up-to-date enrolment records, over-inflating student numbers and increasing staffing at the school. Public monies should be used efficiently and effectively. Circumventing processes undermines fair staffing across schools.
4. An employee uses a department fuel card to fill their private vehicle because they had, on other occasions, transported equipment and supplies for work. The employee is required to claim for the use of their private vehicle and to use the fuel card for work purposes only. The conduct is unethical and circumvents financial controls aimed at preventing corruption.
5. A principal improperly authorises \$300,000 in building works to build office space through invoice splitting and authorising incorrect coding of the expenditure. The expenditure is hidden and demonstrates unreasonable waste of public resources.

7.3 Gifts, benefits, hospitality and bribes

A **gift, benefit or hospitality** is any item, service, prize, ticket, meal, travel, upgrade, discount, job or promotion, preferential treatment or access to information that has an intrinsic value and/or value to you, a member of your family, relation, friend or associate. The gift, benefit or hospitality may be provided by a student, colleague, parent, community member, supplier, potential supplier or organisation.

Bribery is soliciting, receiving or offering any undue reward to or by a person to influence the way that person acts. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.

Employees must be familiar with, and comply with the department's Gifts, Benefits and Hospitality Procedures.

Accepting gifts and other benefits has the potential to compromise employees by creating a sense of obligation and potentially undermining their impartiality. It may also affect the reputation of the department and its employees.

7.3.1 Managing gifts, benefits and hospitality

As a department employee, you must:

- not accept a bribe
- not solicit any gift, benefit or hospitality
- not create the impression that any person or organisation is or can improperly influence the department or its decisions
- refuse any gift, benefit or hospitality that is not token in nature or that may compromise your position
- declare, register and manage a gift, benefit or hospitality that is impossible to refuse according to the standards set out in the Gifts, Benefits and Hospitality Procedures
- refuse and report a bribe, gift, benefit or hospitality if it is, or could be perceived to be, an attempt to persuade you to make a certain decision or act in a certain manner.

Employees have reporting responsibilities as detailed in section 11.1 of this Code.

For more information, refer to:

- guidance on misconduct – Gifts, benefits and hospitality
- Gifts, Benefits and Hospitality Procedures
- fraud and corruption control e-learning
- make a declaration of a gift, benefit or hospitality.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A teacher attends a private training event paid for by the department. The teacher wins a laptop as a lucky door prize. The teacher declares the prize and records it on the school's gifts and benefits register. The laptop is the property of the department and the principal appropriately decides that it will be used by students.

Inappropriate conduct

2. A supplier thanks an employee for their loyalty and sends them a gift card. The employee fails to declare the gift card and instead uses it for personal purchases. The gift cards may give rise to the perception that the employee has been induced to continue to purchase goods.

7.4 Recruitment

Recruitment of employees is carried out in accordance with relevant legislation, industrial instruments, policies and procedures.

Recruitment and employee selection processes must meet the principles and standards of merit selection. It must be ethical and fair.

Employees on a selection panel have a responsibility to declare any prior personal or business relationship with, or interest in, an applicant.

Prior knowledge of an applicant does not necessarily amount to a conflict of interest or exclude participation in the selection process. Declaration of a potential conflict, however, enables the panel to resolve or manage any conflicts of interest that might unduly influence panel deliberations.

As a department employee, you must:

- not be involved in any decisions relating to the discipline, promotion, pay or conditions of a current or prospective employee with whom you have a close personal or business relationship
- declare any prior personal or business relationship with or interest in an applicant where you are a member of a selection panel.

For more information, refer to:

- [Advice on disclosing and managing conflicts of interest](#)
- [Department policies relating to recruitment](#)
- [Recruitment and selection guide for public sector panels.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee and panel convenor previously supervised one of the applicants. The employee makes a declaration to panel members about their prior relationship with the applicant and the potential conflict. The declaration is recorded in the recruitment documentation. The employee's workplace manager is informed about the declaration and decides that the panel can proceed.

Inappropriate conduct

2. A principal arranges for their son-in-law to work as a casual teacher but fails to inform their director of the relationship. Employees should not approve employment arrangements for family members and workplace supervisors should declare, manage and document conflicts of interest.

7.5 Private and secondary employment

Private employment refers to any paid employment outside of the department, including self-employment.

Secondary employment refers to any work or position within the department that is in addition to an employee's principal full-time employment in the department.

Approval processes for private and secondary employment are intended to protect children, the reputation and resources of the department and, to proactively address actual or perceived conflicts of interest.

The following employees are not required to gain approval for other employment provided it does not happen when they are expected to be on duty:

- casual employees
- temporary employees (employed for less than 10 weeks) employed under the Education (School Administrative and Support Staff) Act 1987
- permanent part-time and temporary part-time employees.

These employees must assess and declare to their workplace manager any actual or perceived conflicts of interest.

They must also carefully consider whether private or secondary employment (including unpaid or voluntary work) may adversely affect the performance of their primary duties within the department, the department's reputation and/or give rise to a real or perceived conflict of interest.

If you are employed in a permanent full-time or temporary full-time position, you must:

- seek approval in writing from your manager before engaging in any private or secondary employment
- only begin private or secondary employment after you have received approval in writing. Approval must be obtained at least annually
- ensure your private or secondary employment aligns with the department's private and secondary employment policies and procedures
- not use your official position for personal advantage in pursuit of private income
- immediately report to your workplace manager any conflicts of interest which arise because of your secondary or private employment. If the conflict cannot be managed, managers should withdraw approval for the other employment.

For more information, refer to:

- Private and Secondary Employment Policy
- Private employment in the tutoring industry – advice to staff
- C2018-04-PSCC2018-06 Contesting Elections
- Fraud Prevention advice on managing secondary employment.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee makes a written request to work as a security guard on weeknights. The employee's workplace manager has concerns about the employee's capacity to undertake additional work because of their overall performance. The employee explains that they are experiencing financial difficulties. An agreement is reached and documented that the employee can work on Friday and Saturday nights and written approval is granted on this basis.

Inappropriate conduct

2. In addition to being a full-time employee of the department, an employee works as a taxi driver between 6.00pm and 3.00am three nights a week. The employee does not have prior approval for private employment. The employee's colleagues observe him sleeping at various times during the day. He is also falling behind in his work.
3. A music teacher provides paid piano tuition to students from the school in the music room. The conduct creates a perceived, if not actual, conflict of interest with the teacher's primary role. The music teacher is also inappropriately using public resources to generate private income.
4. A temporary employee takes sick leave and undertakes private tutoring at the same time.

7.6 Public resources

Financial waste involves uneconomical, inefficient or ineffective use of resources authorised or unauthorised, which results in significant loss or wastage of public funds or resources.

The resources you use at work are publicly funded. This includes your time.

As a department employee, you must:

- use public resources economically, efficiently and effectively for official purposes
- make decisions relating to the use of public resources that are reasonable, authorised and can withstand public scrutiny
- treat department property with due care and secure against theft and misuse
- not use departmental equipment for personal or commercial income-generating activity
- obtain written approval in advance from your workplace manager to use department resources and facilities for personal use. Managers should record this arrangement in a workplace loans register
- use personal devices sparingly in worktime and in a manner that does not disrupt your work. This includes disruption to supervision, teaching and learning.

Employees have reporting responsibilities as detailed in section 11.1 of this Code.

For more information, refer to:

- [Financial management in schools](#)
- [Financial Management Policy](#)
- [Conducting fundraising activities](#)
- [Delegations of authority](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee is tasked with purchasing office equipment for their business unit. The employee confirms the delegations, financial and procurement procedures that apply. The employee follows these processes in making the purchase using the EdBuy platform

Inappropriate conduct

2. An employee uses their phone during the classes they supervise to take calls and respond to social media posts. The employee is distracted from their class responsibilities. The employee has a responsibility to use their paid work time effectively and efficiently.
3. An employee collects cash funds raised by students for a charitable organisation. The employee fails to count, receipt or bank the money, placing it in their desk drawer for several days saying they will use their own credit card to make the full donation. The money goes missing and the total loss cannot be quantified. The money, effectively held in trust for the charity, has not been secured and the practices do not comply with financial procedures.

7.7 Lobbying

Lobbying is the practice of influencing the decisions of government officials and legislators by an external person, organisation or agency.

A **lobbyist** is a person who tries to influence legislation on behalf of a special interest or a member of a lobby.

Governments often define and regulate organised group lobbying.

As a department employee, you must:

- comply with the NSW Government [Lobbyist Code of Conduct](#) published on the Department of Premier and Cabinet's website.

For more information, refer to [Lobbyist Code of Conduct](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. Employees attend a meeting with a community action group formed to oppose a department decision to close a school. The employees document a record of the meeting including items of discussion, substantive issues raised, when and where it took place and key decisions, advice, actions and information given to the community action group.

Inappropriate conduct

2. Senior department employees agree to meet with a lobbyist who vaguely describes the meeting's purpose as being about 'a great financial opportunity'. The lobbyist requests that employees do not take notes of the meeting and that they want to keep it 'low key'.

8 Respectful and safe relationships

8.1 Dignity and respect

Our daily interaction with others reflects on the department's reputation.

All employees are expected to be approachable, courteous and prompt in dealing with students, their families and carers, colleagues and members of the public, irrespective of their position or seniority.

Everyone has a right to expect that they will be spoken to in a respectful manner.

In dealing with other people, employees should consider and tolerate different opinions and perspectives, sorting out disagreements through rational and open discussion.

As a department employee, you must:

- treat everyone with dignity and respect
- not use coarse, obscene or sexually suggestive, racist, misogynist or discriminatory language in the workplace
- present yourself as an appropriate role model to students
- actively engage in processes aimed at building positive work relationships and resolving complaints.

As a workplace manager you must also:

- lead by example and take all necessary steps to ensure that the workplace and classrooms reflect the department's values.

For more information, refer to:

- [NSW Public Service Commission – Behaving Ethically](#)
- [Dignity and Respect in the Workplace Charter](#)
- [Anti-Racism Policy](#)
- [Information, training and resources on creating and maintaining respectful workplaces](#)
- [Complaints Handling Policy](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. Two employees are involved in a robust discussion about managing a workplace issue. While the employees hold disparate views, they acknowledge each other's perspectives. They work towards finding a resolution through open and respectful communication. Both employees have exercised dignity and respect in the interaction.
2. A parent approaches the principal of their child's school just before a school assembly. The parent requests a meeting with the principal to discuss an incident that occurred between their child and another student. The principal explains to the parent that they need to attend the school assembly and offers to meet with the parent to discuss their concerns later that same day. The parent agrees.
3. An employee is frustrated by their workplace manager's work delegation and feels their tone is condescending. The employee arranges to meet with the manager. The manager is unable to change the work program but agrees to revisit the issue. In the meantime, the manager and employee immediately work on a plan to improve communication. The

employee has exercised dignity and respect in their interaction, working to resolve the concerns.

Inappropriate conduct

4. An employee enters the staffroom and loudly berates a colleague in front of other employees. The employee has failed to treat their colleague with dignity and respect or act as an appropriate role model.
5. An employee frequently tells racists and sexualised jokes to colleagues. Colleagues and the workplace manager have tolerated the employee's conduct over a long period. All parties have failed to uphold the values of the department in not addressing the offensive behaviour appropriately.

8.2 Bullying, harassment and discrimination

Bullying is repeated and unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. Bullying is not part of reasonable management action carried out in a reasonable manner to effectively direct and control the way work is carried out, which can include allocating work, giving feedback and addressing conduct or performance issues.

Harassment is any unwelcome behaviour that an employee finds offensive or which makes them feel intimidated or humiliated. **Sexual harassment** is behaviour of a sexual nature that makes an employee feel offended, humiliated or intimidated. This could include sexual advances, requests for sexual favours, sexual gestures, jokes or comments.

Discrimination is treating someone unfairly because of a characteristic they have, or they are assumed to have, that is protected by law. These characteristics include gender, marital status, pregnancy, breastfeeding, age, race, ethnic or national origin, disability, carer responsibilities, transgender, sexual orientation, medical conditions or political or trade union affiliations.

The department is committed to creating a workforce that is diverse, inclusive and reflective of the community. The department has specific targets to raise awareness, understanding and engagement with diversity.

The department does not tolerate bullying, harassment or discrimination.

As a department employee, you must:

- treat students, colleagues and members of the public with respect
- not use information, communication technologies or social media to engage in conduct that could reasonably be considered to have a negative impact on another person, cause them harm, or make them feel unsafe
- take all necessary steps to prevent, address and report harassment, bullying and discrimination in the workplace.

As a workplace manager, you must also:

- clarify and address allegations of bullying, harassment and discrimination promptly.

For more information, refer to:

- [Anti-Racism Policy](#)
- [Anti-Discrimination Act 1977](#)
- [Disability Standards for Education 2005](#)
- [Diversity and Inclusion Strategy 2018-2022](#)
- [Dignity and respect charter](#)
- [Bullying assessment tool](#)
- [Respectful workplaces](#)
- [Legal Issues Bulletin 42 – Staff subject to cyber bullying](#)
- [Social Media Policy](#)
- [Complaints Handling Policy](#)
- [Leadership Support](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A workplace manager meets with an employee to discuss performance concerns, including that they have not met deadlines for submitting work. The employee raises a complaint with the workplace manager's supervisor that they are being bullied. The circumstances are explored by the supervisor who concludes the conduct involves the reasonable management of an employee.

Inappropriate conduct

2. An employee continually sends provocative emails to colleagues about another employee's work performance and conduct. The employee's workplace manager has provided clear advice and directions to the employee not to send such emails. The employee repeats the conduct, which is a risk to their colleague's health and safety.
3. An employee attempts to hug and kiss their workplace manager's cheek, despite previously being told that such conduct is inappropriate. There is written evidence that the manager has made attempts to set clear boundaries, which the employee has failed to heed, and the conduct has continued. The conduct, which involves the repeated invasion of personal space and physical contact, could constitute an assault.

8.3 Child protection – reportable conduct

Every student, irrespective of their age, has a right to a safe educational environment that promotes learning and the opportunity to reach their full potential.

School-based employees play a powerful role in the lives of young people and often influence and inspire students. They can make a critical difference to the lives of students. For some students, school is the safest place in their day.

The Office of the Children's Guardian administers, oversees and audits department investigations into reportable allegations and convictions made about employees, contractors and volunteers.

The Children's Guardian Act 2019 defines reportable conduct as:

- a sexual offence committed against, with or in the presence of a child
- sexual misconduct with, towards, or in the presence of a child
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under section 43B (failure to protect) or section 316A (failure to report) of the Crimes Act 1900
- behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct includes conduct towards children outside of the workplace including an employee's own children.

Reportable convictions are a conviction or finding of guilt by a court in NSW or elsewhere prescribed in the Children's Guardian Act. They involve offences against children, possession of child abuse material and other serious offences against a person.

Employees must never engage in reportable conduct or conduct that harms a child.

8.3.1 Sexual offences

- As a department employee, you must never sexually offend against a child including accessing or dealing in any way with child abuse material.

8.3.2 Sexual misconduct

As a department employee, you must:

- not have a sexual or intimate relationship with any student, regardless of whether the student attends the school where you may work and irrespective of their age
- not engage in sexual conduct towards any student. This includes sexual touching, making sexual comments, asking questions about a student's sexual experience, discussing your own sexual experience, referring to sexual matters not in an educational context, showing a student sexual images when there is no educational purpose.

8.3.3 Ill-treatment

- As a department employee, you must not engage in conduct towards a student that is degrading, hostile or places excessive demands on them.

8.3.4 Neglect

- As a department employee, you must not neglect the physical or psychological needs of a student through an act or omission. This includes failing to protect a child from abuse or exposing a child to a potentially harmful environment.

8.3.5 Physical harm

As a department employee, you must:

- avoid physically touching a student, without a clear educational purpose, to provide care for a student appropriate to their age or for a legitimate purpose that has been approved and documented
- not physically harm a student or impose any physical punishment in the course of your professional duties. This includes pushing, pulling, shoving, smacking, slapping and grabbing a child
- not physically restrain a child unless there is no other option for managing the student and there is a risk of significant harm to them or others. The form of restraint used must be the least restrictive option available
- record and report all use of physical restraint to a member of the school executive.

8.3.6 Psychological or emotional harm

As a department employee, you must not engage in conduct that is intentional or reckless, obviously or very clearly unreasonable and which results in significant emotional harm or trauma to a child.

Employees have reporting responsibilities as detailed in section 11.2 of this Code.

For more information, refer to:

- [Child Protection \(Working with Children\) Act 2012](#)
- [Responding to Allegations against Employees in the Area of Child Protection](#)
- [Office of the Children’s Guardian Reportable Conduct Fact Sheets](#)
- [Child Protection Policy: Responding to and reporting students at risk of harm](#)
- [Mandatory Child Protection Training for corporate staff](#)
- [Mandatory Child Protection Training for school-based staff](#)
- [Controversial Issues in Schools Policy](#)
- [Legal Issues Bulletin 9 – Physical intervention and restraint of students.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A new casual teacher is orientated to the school’s discipline processes and is given access to student support plans. The casual teacher applies the school’s disciplinary strategies when student behaviour issues arise. The teacher seeks help from the executive when a student makes threats towards another student.

Inappropriate conduct

2. A teacher breaches professional boundaries by communicating with a student on social media. The teacher exchanges intimate messages with the student and plans to engage in a relationship when the student leaves school. The conduct amounts to sexual misconduct and will be reported the Office of the Children’s Guardian.
3. A teacher engages in inappropriate conduct towards and in the presence of students. This includes yelling at and making demeaning comments about students and their family members, failing to follow a student’s behaviour management plan and acting outside the school discipline policy. The conduct amounts to a reportable allegation of ill-treatment.

8.4 Professional boundaries

Employees who work with children are in a unique position of trust, care and authority with their students, which means there is always an inherent power imbalance between teachers and students.

It is the responsibility of teachers to maintain the professional boundary with students.

Professional boundaries continue whether in school or non-school settings and in all community contexts.

Where there are relationships with a student or their family that have arisen outside of the professional context, school-based employees must carefully manage these, declare them to workplace managers and keep them separate from the workplace relationship.

Modelling professional boundaries with students is important and protective. Failing to do this may leave students vulnerable to predatory conduct.

Because of the power imbalance present in the teacher-student relationship, professional boundaries remain after students complete their schooling.

Conduct that breaches the professional boundary includes a range of behaviours that are focused on a particular student or a group of students or are overly personal or intimate.

Employees must not breach professional boundaries. Such conduct may involve several dimensions:

- emotional
- relational
- power
- financial
- communication.

8.4.1 Emotional breaches

An emotional breach includes:

- showing preferential treatment without legitimate reasons
- using forms of control to develop emotional dependence
- forming close relationships with parents to spend time with a student.

8.4.2 Relational breaches

A relationship breach includes:

- engaging in a relationship with a student that is romantic or intimate in nature
- flirtatious or intimate behaviour towards a student
- expressing romantic feelings or notions towards a student
- meeting a student outside school, alone without a legitimate educational context
- taking a student for an unauthorised activity. For example, for coffee or to a social event
- becoming a 'friend' or contact of a student on a social networking site without parent and principal approval
- commenting on a student's public social networking profile
- expressing interest in or 'liking' a student on a dating site.

8.4.3 Power breaches

A power breach includes:

- using your authority to harm a student
- rewarding or punishing a student based on the teacher–student relationship, student popularity or a favour done by the student for the teacher
- using a student to gain benefit, such as goods, services or sensitive information.

8.4.4 Financial breaches

A financial breach includes:

- giving a gift or money to a student which is more than a token
- exploiting the teacher–student relationship for financial gain.

8.4.5 Communication breaches

A communication breach includes:

- talking with a student about highly personal matters without a legitimate work-related purpose
- offering advice on personal matters to a student
- accepting friend requests or communicating with a student via social media
- refusing to set limits for and stop discussions of a personal or sexual nature when initiated by a student.

Employees have reporting responsibilities as detailed in section 11.2 of this Code.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee and their family live in a remote community and are involved in the local rugby league club. The employee also works at the local school where many of the junior league club players attend. The employee and their principal develop a plan to maintain appropriate boundaries. As part of the plan, the employee can transport junior players to games provided they comply with the club's child safe Code of Practice and have parent consent. The employee may also attend club social events but will ensure they are not alone with children and behave in a way that upholds the department's reputation. The employee has agreed that they will not drive students to and from school as this relates to their professional role. The employee and principal discuss emerging issues that may arise to ensure professional boundaries are transparently maintained in line with community expectations.

Inappropriate conduct

2. An employee contacts three students on social media and sends numerous messages discussing personal issues. The employee's conduct crosses professional boundaries. Students could be at risk of harm from the employee or from other people because proper boundaries have been eroded through the employee's conduct.
3. An employee purchases gifts for a student, including clothing and gift cards. The conduct involves favouritism and may create a sense of obligation on the student. If a student requires items including clothing and food that are not provided by a parent or guardian, the school should provide the item directly, rather than the individual employee.
4. An employee is seen transporting a student in their private vehicle every Friday afternoon. There is no parent or principal endorsement. The conduct involves a pattern of interactions with a student that has no legitimate educational purpose.

8.5 Former students

The relationship between students and employees who work in schools is not equal.

This imbalance does not disappear at a specific point in time but can linger after the student leaves school and can act as an impediment to both parties' capacity to make decisions and act in their own, and others' best interests.

The department may consider a number of critical factors when evaluating whether there has been a breach of the professional boundary between a former student and teacher. This includes:

- the length of time between the conclusion of the professional relationship and the beginning of an intimate relationship
- the age difference between the (former) student and the teacher
- emotional and/or social maturity of the (former) student
- vulnerability of the (former) student
- evidence of the nature of the relationship including while the (former) student was still at school, its closeness, the level of dependence
- any misconduct or poor conduct on the part of the employee during the professional relationship with the student.

As a department employee, you must not:

- engage in intimate relationships with former students that breach professional boundaries.

Employees have reporting responsibilities as detailed in section 11.2 of this Code.

For more information, refer to [Guidance on misconduct – crossing professional boundaries](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A teacher meets an adult former student at a community event and a personal relationship develops. The teacher worked as a casual teacher at a high school where the student attended Years 7 and 8. The teacher and student have not had continuing contact in the intervening period. The conduct is unlikely to breach professional boundaries.

Inappropriate conduct

2. A teacher arranges to meet with students to celebrate their HSC results during the January holidays. One student invites the teacher for a drink and they exchange contact details. An intimate relationship develops between them. The conduct breaches professional boundaries.

8.6 Duty of care – health, safety and wellbeing

Duty of care refers to a legal obligation to take reasonable care to minimise the risk of foreseeable harm (physical and psychological) to others.

Duty of care encompasses a wide range of matters including but not limited to:

- providing adequate supervision, training and instruction
- ensuring grounds, premises and equipment are safe for employees, students and the general public
- implementing strategies to prevent bullying in the workplace, school or college
- providing first aid commensurate with your level of training and experience, or seeking assistance from an emergency service to aid an employee, student or community member who is injured or becomes sick in the workplace.

All employees share in the department's responsibility and commitment to the safety, health and wellbeing of themselves and others in their workplace and must comply with relevant legislation.

A greater level of care is required for a person who is vulnerable because of their age, maturity, skill level, disability, health or personal circumstances.

Duty of care extends to protecting students from self-harm while in school and reporting on incidents out of school.

As a department employee, you must:

- understand and comply with your responsibilities and obligations under relevant work, health and safety legislation and department policies, procedures and guidelines
- comply with any reasonable safety instruction and guidance of the department or your workplace manager
- consider and take reasonable care of the physical and psychological safety of yourself, students, colleagues and the community in all activities undertaken in the course of your employment

- take reasonable care to ensure your workplace is safe and secure for everyone
- proactively identify, report and cooperate with appropriate action in response to safety risks and hazards in support of the health, safety and wellbeing of all on site
- act with the authority you hold to address or refer safety risks and hazards to relevant officers within the department
- ensure you have identified and documented risks associated with activities, and put in place strategies that align with relevant guidance to manage risks before beginning the activity
- help, to the best of your ability, an injured or sick person in your workplace including obtaining the assistance of a trained person who can attend to them.

For more information, refer to:

- [Health and Safety](#)
- [Risk management resources and tools](#)
- [Work Health and Safety Policy](#)
- [Work Health and Safety Act 2011](#)
- [Work Health and Safety Regulation 2017.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A school is organising an excursion. The excursion organisers gather information about the venue, department policy, procedures and relevant guidance so they can comply with the requirements. They develop a risk assessment, seek principal approval and parent permission. They brief all parents and volunteers on the risk assessment processes and brief students on safety rules. The excursion organisers have exercised their duty of care to protect students.

Inappropriate conduct

2. An employee is aware of a leaking tap with water pooling on the floor. The employee mops up the water and tries unsuccessfully to turn the tap off. The tap continues to leak water creating an ongoing hazard, but the employee takes no further action. While the employee's initial response was appropriate, their failure to report the problem does not comply with this Code or work, health and safety legislation.
3. A teacher is aware that a student with high medical needs requires constant supervision on the playground. The teacher returns to the staff room, leaving the student unattended. The teacher has failed to appropriately exercise their duty of care. The conduct could amount to supervisory neglect and must be reported to Professional and Ethical Standards.

9 Professional conduct

9.1 Reasonable instruction and direction

A workplace manager is expected to maintain the good order and functioning of the workplace. This includes providing instruction and giving feedback to employees.

Workplace managers should be open to constructive questions, feedback or concerns regarding their instructions. They have a responsibility to respond appropriately.

If an employee considers an instruction unreasonable, they should tell the person issuing the instruction while also ensuring their response is delivered respectfully. The employee should provide reasons for their concerns and allow the person an opportunity to respond. If they remain concerned, the employee may seek advice at the next management level.

Employees can obtain advice from their union and/or professional association at any time.

9.1.1 Direct management action

A workplace manager should apply a fair process when taking direct management action to address employee conduct concerns. This includes:

- informing the subject of a concern/complaint about the substance of the matter
- providing a reasonable opportunity for people with a direct interest in the situation to respond to or comment on the issues, whether in writing, in person or otherwise
- making reasonable inquiries and considering relevant information before making a decision
- acting fairly and without bias, including not managing a complaint in which they have a direct interest
- conducting any inquiries without undue delay.

Workplace managers should only take direct management action to address conduct issues, including where an investigation by Professional and Ethical Standards is not required.

9.1.2 Directions

A workplace manager can provide an employee with a written direction, requiring them to comply with an instruction.

Issuing a direction is a significant undertaking with potentially serious consequences for employees.

Employees or their representative may request a review of a direction. The request must be made in writing to the person issuing the direction. The supervisor of the person issuing the direction will complete the review.

The employee must continue to comply with the direction, as far as is reasonably practicable, until the supervisor has made the review decision.

As a department employee you must:

- undertake your duties in a timely and professional manner and follow the reasonable instructions of your workplace manager
- not breach a lawful direction
- comply with a lawful direction until the direction lapses or is revoked.

As a workplace manager you must also:

- address workplace issues and poor conduct promptly and fairly.

For more information, refer to:

- [Teaching Service Act 1980](#)
- [Government Sector Employment Act 2013](#)
- [Education \(School Administrative and Support Staff\) Act 1987](#)
- [Direct management action bulletin](#)
- [Issuing directions bulletin](#)
- [Discussing conduct concerns bulletin](#)
- [Guidance on misconduct.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee is rude and disrespectful towards other staff at meetings. The employee frequently interrupts, and other staff are now reluctant to speak up for fear of being ridiculed. The workplace manager decides to take direct management action. They meet with the employee to discuss the concerns, to counsel the employee on the standards required and to provide support in making adjustments. The workplace manager does not issue a direction.
2. A student reports to the principal that their teacher left the class unsupervised again to make a personal call. The teacher is apologetic, but the principal and deputy principal have spoken with the teacher about this issue on several occasions. After meeting with the teacher to discuss the matter, the principal issues the employee with a letter of direction stating that they must not leave their class unsupervised.
3. A principal witnesses a teacher blocking the exit of the classroom at the end of a lesson, by placing their body in the doorway to stop students leaving. During a meeting to discuss the concerns, it becomes apparent that this is a long-standing practice of the teacher, which the teacher believes is appropriate. Despite offering alternative strategies, the teacher is resistant to changing practices. The principal is concerned about the risk of the teacher coming into unnecessary physical contact with a student and issues a direction.

Inappropriate conduct

4. A workplace manager is advised that an employee rarely greets their colleagues. Without discussing the matter with the employee, the workplace manager issues a letter of direction the employee to always greet team members in the workplace. The workplace manager has failed to act fairly before issuing a direction and the nature of the direction is unreasonable.

9.2 Drugs, alcohol and smoking

The department is committed to schools and workplaces being professional settings where students are learning or being supported to learn, where everyone present can be safe, productive and healthy. The use of drugs (illicit or recreational), alcohol and tobacco in schools and workplaces is not acceptable.

Employees must ensure their capacity to perform their duties is not impaired by the use of alcohol or drugs and that the use of any substance does not put them, another person or a student at risk.

Employees experiencing difficulties in relation to physical, social and psychological wellbeing are encouraged to seek support from the [Employee Assistance Program](#).

9.2.1 Drugs and non-prescribed substances

As a department employee, you must:

- not work under the influence of drugs or non-prescribed substances
- not attend work if you have in your possession, or are in control of, any illegal drugs or non-prescribed substances
- not give or supply any person drugs or non-prescribed substances
- not supply or administer medication to students except in line with policy and procedures
- notify your supervisor if you become aware that your work performance or conduct is, or could be, affected by drugs or non-prescribed substances
- take steps to address any substance use or abuse issues that may impact on your work performance or the reputation of the department
- immediately report any concerns about an employee or student who appears to be affected by drugs or other substances.

As a workplace manager you must also:

- not permit employees to use, possess or supply drugs or non-prescribed substances.

9.2.2 Alcohol

As a department employee, you must:

- not work under the influence of alcohol
- not take alcohol to a school or consume it during school hours or at any school function any time students are present, including events conducted outside school premises
- avoid drinking alcohol to excess where you are likely to be observed by students
- not purchase, give or condone the use of alcohol to any student.

As a workplace manager you must also:

- not permit employees or community users to use alcohol, except in line with policy and procedures.

9.2.3 Smoking or using electronic smoking devices

As a department employee, you must not:

- smoke or permit smoking (including e-cigarettes and 'vaping' devices) on department premises, even if they are enclosed or private. This includes buildings, gardens, sports fields, sheds, utility rooms or storerooms, cars and car parks
- smoke near school premises or departmental workplaces including where students may observe you smoking.

As a workplace manager you must also:

- not permit any person to smoke on department premises.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee attends school unsteady on their feet and slurring their words. The employee is supported to go home and told to obtain a medical clearance before returning to school. The employee meets with the principal on their return, acknowledges they had been drinking into the early hours of the morning. The principal issues a direction to the employee not to attend school under the influence of alcohol.

Inappropriate conduct

2. A teacher is issued with a court attendance notice for possession of a prohibited drug. There is evidence underpinning the allegation. The conduct has the potential to damage the reputation of the department and the teaching service.
3. A teacher is alleged to have supplied a student with marijuana. This is a child protection allegation and a criminal offence. It must be reported to both the police and Professional and Ethical Standards.

For more information, refer to:

- [Administering of medication \(Health and Safety\)](#)
- [Administering prescription medication \(Student wellbeing\)](#)
- [Drugs in School Policy](#)
- [Community Use of School Facilities](#)
- [Student Health in NSW Public Schools: A summary and consolidation of policy](#)
- [Smoke-free Environment Act 2000](#)
- [Public Health \(Tobacco\) Act 2008.](#)

9.3 Electronic communication and social media

The department acknowledges that employees use electronic communication and social media in both professional and personal contexts.

To avoid conflict, employees should ensure they clearly separate professional and personal use of such platforms. Using electronic communication and social media requires good judgement.

The department recommends employees manage personal social media accounts to prevent access by students or community members.

New employees are encouraged to audit their online presence, review their list of friends and contacts and remove items that may conflict with our values or be in breach of this Code.

The department can exercise its rights to monitor and view any data stored or transmitted using its facilities or equipment.

As a department employee, you must:

- act lawfully when using social media, including breaching copyright
- only communicate with students using social media, social networking and educational platforms after ensuring you have:
 - parental permission
 - workplace manager approval
 - systems in place to maintain transparent communication
 - a clear educational purpose
- not post to official department sites (such as school sites) unless authorised
- keep your personal and professional social media profiles separate
- make sure your personal online activities do not interfere with your performance at work
- be clear that your personal views are yours and you are not expressing the views of the department
- not discuss or post confidential information obtained through work
- not post or transmit material that could bring you, other employees or the department into disrepute
- not use images of students on your personal social media accounts where the relationship with the student predominantly stems from your work.

For more information, refer to:

- [Social Media Policy](#)
- [Student use of digital devices and online services](#)
- [Communication Devices and Associated Services Policy](#)
- [Copyright \(staff only\)](#)
- [Media Relations Policy](#)
- [Values in NSW public schools Policy](#)
- [Controversial Issues in Schools Policy](#)
- [Social media toolkit](#)
- [Records Management Program \(staff only\)](#)
- [Privacy and Personal Information Protection Act 1998.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee receives a friend request from a student to their personal social media account. The employee declines the request and informs their workplace manager of the contact.

Inappropriate conduct

2. A teacher has a public social media account and has made repeated disparaging comments about the principal. The conduct has the potential to cause reputational harm to the school or principal and can impact the welfare of staff.
3. A teacher is in regular contact via social media with their Year 11 class about classwork intertwined with personal anecdotes. The conduct crosses professional boundaries as the social media use goes beyond a legitimate educational purpose and raises child protection risks.
4. An employee 'likes' a social media post that makes belittling comments about a colleague. The conduct is disrespectful and not in keeping with the department's expectations of employees.

9.4 Accurate recording and signatures

To maintain integrity and trust, it is important that information is reported accurately and with appropriate authority.

As a department employee, you must:

- proactively report to supervisors or workplace managers when you have made a mistake or been involved in an incident
- provide information truthfully and candidly when giving an account of events
- be accountable for any documents that you sign. You should carefully read all documents you are asked to sign and must not sign or submit a document that you know is not true or is misleading
- not give the impression that you have the authority of another person without their permission
- only sign your own name and never permit or encourage anyone to sign a name other than their own.

As a workplace manager you must also:

- not encourage or coerce an employee to sign a document or approve purchases for which they do not have delegation, disagree or are not satisfied.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A workplace manager insists that an administrative employee sign off on timesheets. The administrative officer reports this to the workplace manager's supervisor to take appropriate action. They also decline to act in breach of the requirements of the Code.

Inappropriate conduct

2. A teacher witnesses a playground altercation in which an employee roughly handles a student. The teacher provides an account but omits their personal observations of the student being roughly handled. The teacher has failed to accurately report events and their account is misleading.
3. Two employees collude and provide inaccurate and incomplete accounts of a serious accident to their workplace manager. The employees have not demonstrated integrity when providing information and ought to have independently provided their own account.

9.5 Recordkeeping and academic dishonesty

A record serves an essential administrative, legal and historical purpose.

Under the State Records Act 1998 (NSW) employees must make and keep full and accurate records in respect to their official actions and decisions. Employees must do so in accordance with the department's Records Management Program.

Educators play a critical role in ensuring the fair and equitable assessment of students' capabilities. Conduct that undermines assessment and testing processes also undermines the efficacy and reliability of these processes.

As a department employee, you must:

- properly capture and store information in the department's records management systems
- store documents securely and confidentially
- not destroy records without appropriate authority
- assess and record marks for students' work accurately, fairly and in a manner that is consistent with relevant policy and the requirements of your school, institute or educational facility.

As a workplace manager, you must also:

- ensure that employees reporting to you understand their records management obligations
- act on any apparent record management breaches.

For more information, refer to:

- Records Management - Corporate
- Records Management – Schools
- Records Management – Disposal Authorities
- State Records Act 1998 (NSW)
- Records Management Procedures.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An incident occurs at a school. The workplace manager gathers incident reports from witnesses and takes photographs of the scene. The workplace manager stores the documents in a secure location, which others can access.

Inappropriate conduct

2. An employee finds a storeroom full of old files dating back many years. The employee on their own initiative clears the storeroom, placing the records in a paper recycling skip bin. The employee has disposed of the records without authority and has not appropriately secured them.
3. A teacher feels that the marks awarded to her class do not accurately reflect the calibre of the students. The teacher adjusts the assessments without reference to the faculty marking guide and ignores that the assessments have already been double marked. The conduct of the employee undermines the integrity of the assessment process.

9.6 Cyber security and professional use of devices

Maintaining trust in the services provided by the NSW Government requires the protection and professional use of government data and systems.

Cyber Security NSW provides a list of cyber security hygiene practices that are mandatory for department employees.

9.6.1 Cyber security hygiene

As a department employee, you must:

- use robust cyber security hygiene practices to reduce the risk of security threats and unauthorised access
- maintain an up-to-date knowledge of department cyber security alerts and safety measures
- implement and comply with the department's and Cyber Security NSW's security policies
- never share your username and password with others or use the access credentials of others
- take care when using third party services, systems, infrastructure or devices and when in doubt seek authorisation.

9.6.2 Personal devices

When using a personal device for work, you must:

- use robust cyber security hygiene practices to reduce the risk of security threats and unauthorised access
- use the most up to date security and software on the device
- ensure department-related content cannot be accessed by others including family members who may have access to the device
- ensure students cannot view or access personal content
- not store unauthorised images of students.

9.6.3 Department devices

When using department devices, you must:

- collect, use and store data in compliance with applicable laws, privacy principles and department policies
- only use information and information resources for responsible and authorised purposes
- exercise good judgment when using electronic communication, following the principles of ethical behaviour
- communicate in a professional manner that will withstand public scrutiny
- never seek to bypass security or access measures
- never populate department data in systems, programs or applications without proper authorisation, data protection, appropriate controls and commercial terms.

9.6.4 Prohibited conduct

You must never use the department's networks or devices to create access, store or transmit information that is:

- subversive, illegal or unlawful
- sexually related, pornographic or offensive
- violent or hate-related
- racist or offensive towards a particular group or individual
- malicious or defamatory
- used for generating private income or gambling
- inconsistent with child protection policy, privacy laws or copyright.

Employees have reporting responsibilities as detailed in section 11.3 of this Code.

For more information, refer to:

- [Communication Devices and Associated Services Policy](#)
- [Communication Devices and Associated Services Guidelines](#)
- [DCS-2020-05 Cyber Security NSW directive – Practice Requirements for NSW Government](#)
- [Information Security Awareness Training](#)
- [Email phishing and spam](#)
- [Cyber Awareness – Password Security Training](#)
- [Legal Issues Bulletin 42 – Staff subject to cyber bullying](#)
- [Privacy Bulletin 5 – Photographs and recordings.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee has access to a range of sensitive department information across platforms. The employee is regularly called away from their desk to assist other team members. The employee uses a single sign-on to access multiple platforms and has a strong password using random characters, numbers and letters that they regularly change. The employee ensures they lock their computer when they are away from their desk to prevent unauthorised access.

Inappropriate conduct

2. A director gives their username and password to another employee to manage their calendar. The employee accesses the network using the director's credentials. The conduct of both employees breaches this Code. The director should use delegations within software where appropriate but must not disclose their login details.
3. A teacher brings their personal device to class. The device has personal images and documents. The teacher gives students the device to use in a class activity. A personal device should not be shared with students particularly where they can view personal content.

9.7 Knowledge, training and accreditation

All employees have a responsibility to have an up-to-date understanding of their role and related legislation, policies and procedures.

As a department employee, you:

- should regularly engage in ongoing learning to update and develop professional skills
- should actively engage in and maintain a professional development plan
- must maintain the required credentials to fulfil your role, including Working with Children Check Clearances, accreditation and mandatory training as required by law and/or department policy
- must be proactive and ensure that you keep well-informed about changing legislation, policies and procedures that apply to your work.

As a workplace manager, you must also:

- actively assist your employees to engage in and maintain a professional development plan
- have effective systems to keep employees informed of legislation, policies and procedures that apply to their work including induction processes, mandatory training and ongoing learning.

For more information, refer to:

- [Child Protection \(Working with Children\) Act 2012](#)
- [Performance development](#)
- [Mandatory induction training for corporate employees](#)
- [Mandatory induction training for school-based employees](#)
- [Professional learning.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee actively engages in the professional development planning cycle. They bring to their manager's attention training that aligns with their role and learning goals. The workplace manager approves for the employee to attend training and requests that the employee share their learnings at an upcoming staff meeting. The conduct of all parties positively contributes to ongoing learning.

Inappropriate conduct

2. An employee fails to renew their Working with Children Check. The employee no longer holds the required credentials to undertake child-related work. The conduct is not compliant with this Code and the department may suspend the employee from work without pay until the clearance is obtained.
3. An employee has not undertaken mandatory training despite reminders from their workplace manager. The conduct is not compliant with this Code and their workplace manager may need to take direct management action or issue the employee with a direction.

10 Representing the department

10.1 Personal, political and community activities

Employees have a right to participate in political and community activities and to pursue personal interests provided they do so in a private capacity and do not allow a conflict of interest to arise with their role in the department.

Employees may not always agree with a decision made by their workplace manager, the department or government of the day. Despite these differences, employees must ensure that their personal views do not interfere or override the performance of their duties or department or government policy and decisions.

It is important to retain public confidence in public education and ensure the department remains apolitical and professional.

Employees can communicate directly with a Member of Parliament on an issue affecting them as private citizens.

As an elected or nominated spokesperson for a professional association or a union, employees can make public comments about education and training matters. It must be clear that those comments represent the views of the association or union and not the department.

Employees must inform their workplace manager of any political, community or personal associations that may affect, or be perceived to affect, their work.

As a department employee, you must:

- clearly state the capacity in which you are expressing your views
- not make any comment that may cast doubt on your ability to objectively implement department policies and decisions
- not participate in private political activities while on duty or on work premises
- not claim to represent the department when not authorised
- not deliberately or recklessly misrepresent the department's position on any issue
- not use the department's resources, intellectual property, letterhead or information to assist in your political, community or personal activities
- not disparage, humiliate or defame others
- not undermine the department's reputation or values.

For more information, refer to:

- [Media Relations Policy](#)
- [Legal Issues Bulletin 42 – Staff subject to cyber bullying](#)
- [Conflicts of interest](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee involved in a political party provides a comment to their local media critical of the government's planning laws and lack of open space. The employee does not identify their role in the department and their comments are robust but not defamatory. The conduct complies with this Code.

Inappropriate conduct

2. An employee speaks at a protest rally and identifies themselves as a teacher at a public school. The employee makes disparaging comments about the department's policies. The teacher does not indicate that they are providing comments on behalf of a union or professional association. The conduct does not comply with this Code.
3. A teacher hands out leaflets to students and parents on the school playground encouraging them to support the funding of an educational program. The conduct does not comply with this Code.
4. An employee is required to implement a new program. The employee makes public statements which raise concerns about the intended benefits of the program. The employee also makes comments on their social media account which reveals preliminary data and their dissatisfaction with the program. The conduct casts doubt on the employee's capacity to implement the program. The conduct does not comply with this Code.

10.2 Complaints

The department is committed to continuously improving the way we work and resolving complaints promptly at a local level.

As a department employee, you must:

- manage complaints promptly, fairly and objectively
- be aware of, and comply with, the department's complaints handling policy and procedures.

For more information, refer to:

- [Complaints Handling Policy](#)
- [Guidance material on staff complaints](#)
- [Guidance material on school community and consumer complaints.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A principal receives a complaint from a family about the treatment of their child at school. The family is invited to a meeting at the school. During the meeting, the family is given an opportunity to air their concerns. All parties focus on the student's needs and an apology is given where the school has fallen short. A written plan is developed. Management of the complaint is fair and timely.
2. An employee raises a concern about their treatment in the workplace by a colleague. The workplace manager encourages the employee to speak with their colleague about their concerns if they feel comfortable to do so. The workplace manager comes back to the employee a week later to ask whether their concerns have been resolved. The workplace manager has encouraged direct and early resolution of the complaint.

Inappropriate conduct

3. An employee reads a complaint and quickly decides that the school has failed in its obligations. They write to the complainant to advise them that the complaint will be resolved. The employee has failed to consult or gather information from relevant parties to help them understand the full context and to arrive at a fair outcome.

10.3 Copyright and intellectual property

All employees play an important role in ensuring intellectual property is correctly identified, protected and used.

Anything employees develop, invent or create, either alone or in collaboration with others, in the course of their work with the department remains the department's intellectual property. This may apply even if employees develop material in their own time or at home.

As a department employee, you must:

- respect the department's intellectual property rights (including copyright) over material it produces, even after you have left the department
- not use the department's intellectual property for private purposes without obtaining written permission from the directorate or unit that created the material
- seek advice from the unit/directorate that created the intellectual property and/or Legal Services prior to sharing or licensing the department's intellectual property
- ensure the intellectual property rights of others are not infringed and the copyright/other rights of any third-party information included in department materials is correctly identified
- ensure you secure the intellectual property rights for the department to any material you commission from external parties, including students and parents.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A teacher writes a maths textbook in their spare time. It reproduces maths resources that are publicly available on the department's website. The resources are identified as belonging to the department, a link is provided, and the acknowledgements include the author thanking the department for permitting the reproduction. The teacher has sought permission to reproduce the material even though it is in the public domain.
2. A principal asks a parent and graphic designer, to design a new school logo. As part of the agreement, the graphic designer assigns all rights in the design to the department. The principal has ensured the school can reproduce the logo in a variety of ways without seeking permission or further cost.

Inappropriate conduct

3. A teacher posts resources developed by their faculty, including their own work, on a publicly accessible online resource hub under their own name. Material created during the teacher's employment is the intellectual property of the department and must not be used without permission.

10.4 Confidential information and privacy

Protecting information maintains trust and confidence in the department.

The department is committed to protecting personal and health information in accordance with the law.

The department is also committed to improving openness, transparency and ease of public access to our information under the Government Information (Public Access) Act 2009.

As a department employee, you must:

- not disclose confidential information in any form to any party without official approval, or as otherwise permitted by legislation or court order
- only disclose information when it is authorised, seeking advice if you are uncertain
- protect confidential information from unauthorised access.

As a workplace manager you must also:

- take steps to inform employees reporting to you or working with you of their information security responsibilities and relevant department policy and procedures.

For more information, refer to:

- [Data breach response plan](#)
- [Privacy and Personal Information Protection Act 1998 \(NSW\)](#)
- [Health Records and Information Privacy Act 2002 \(NSW\)](#)
- [Government Information \(Public Access\) Act 2009](#)
- [Department's obligations under the Government Information \(Public Access\) Act 2009](#)
- [Privacy information and forms.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A person seeking documents about a funding decision requests information from the department. The information is not published or available by informal request. The person is provided with advice about how to make a formal access application under the Government Information (Public Access) Act 2009. This process ensures the authorised release of information.

Inappropriate conduct

2. A teacher uses school records to obtain a parent's phone number and then contacts the parent to ask them to a romantic dinner. The conduct involves a breach of confidentiality, where there was personal benefit or advantage.
3. An employee uses their access to student information to obtain information about their former partner from whom they are estranged. The conduct involves a deliberate breach of confidentiality for personal benefit or advantage.

10.5 References

A **personal reference** is a document, which makes assertions about another person's skills, conduct, performance, character or potential suitability in relation to matters of employment.

As a department employee, you must remain impartial and not use your position to advantage or disadvantage others.

10.5.1 References in an official capacity

When providing a personal reference in an official capacity, you must:

- know the purpose of the reference and seek this in writing from the person making the request for a reference
- not use department letterhead or logos (including school logos) to provide the reference
- not endorse a supplier or product on behalf of, or as a representative of, the department
- not attest to a person's disciplinary or investigation history unless you are authorised to access and have reviewed the person's investigation history.

10.5.2 Work referee reports

As a department employee, when providing a work referee report you must:

- only provide information that is honest, objective and verifiable
- not use department letterhead or logos (including school logos).

10.5.3 References in a personal capacity

As a department employee, when providing a reference in a personal capacity you must:

- ensure that you do not bring the department into disrepute
- declare the personal nature of the reference and only provide your position if this is necessary to give context to the reference
- not use department letterhead or logos (including school logos).

For more information, refer to:

- [Sponsorship Policy](#)
- [Family law guidelines – section 21 Requests that staff give evidence in family law proceedings.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee requests a principal provide a reference for their Working with Children Check assessment. The principal agrees to provide information about the employee's work history and observed interactions with students. The principal refers the reference to Professional and Ethical Standards to complete the reference details about the employee's investigation history.
2. A friend approaches an employee after being convicted of a domestic violence offence and asks for a reference because they are a teacher. The employee could write a reference in a personal capacity but declines to do so because it may be perceived poorly by their school community.
3. An employee requests a character reference from their workplace manager on department letterhead. The workplace manager seeks clarification in writing about the reference's purpose and is advised it is for family law proceedings. The workplace manager declines because they are not authorised to complete this type of reference in an official capacity.

Inappropriate conduct

4. An employee is happy with the services of a supplier and provides positive feedback during a call. The employee agrees to put their feedback in writing as a testimonial for the supplier to include on their website.

10.6 Dress and presentation

Employees have an obligation in the workplace to dress appropriately and in a manner that maintains respect, establishes credibility and upholds the good reputation of the department and public education.

As a department employee:

- your dress and presentation must project an image that is consistent with accepted community standards and your work context
- your clothing must always be appropriate to the workplace, the nature of the activity, consistent with work health and safety standards and enable you to respond in an emergency.

As a workplace manager, you should also:

- consult with employees to define acceptable standards of clothing balancing their needs and the requirements for professional attire.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A principal consults with employees about their attire. There is agreement to have an opt-in employee uniform with school colours and logo. Employees have also agreed to wear business or more formal attire for school events such as presentation night. The principal sends regular reminders for upcoming school events about the more formal attire required.

Inappropriate conduct

2. An employee arrives at work wearing a shirt that contains offensive language. The workplace manager instructs the employee to change into more appropriate attire.

10.7 Post-separation employment

Employees must be careful in their dealings with former department employees. Employees must not give, or appear to give, former employees favourable treatment or access to privileged information.

Employees must report to their workplace manager any attempts made by former employees to influence or lobby them about the department's activities.

10.7.1 Before separating from the department

As a department employee, you must:

- not use your position unfairly to improve your own prospects of future employment. If you allow plans for, or offer of, employment outside the department to improperly influence your work, there is a conflict of interest and your integrity, as well as that of the department, is at risk
- return any department property you have.

10.7.2 After separating from the department

On leaving the department you must:

- respect the confidentiality of information received in your work and the department's intellectual property rights over material produced by the department, including material you produced while an employee
- not take department resources or other information or equipment unless authorised.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. A workplace manager that employs contractors to supply a service resigns and sets up their own business to supply the same service to the department. The former employee has an unfair advantage over competitors as they have detailed knowledge of the department's tendering requirements and processes, and has established relationships with current employees who are likely to be involved in awarding the contract. The department employees declare the conflicts of interest and ensure that decisions about the contract are made with an independent person.

Inappropriate conduct

2. A former employee now works for a private school in NSW. Before leaving the department, the employee downloaded the department's teaching resources and uses them to benefit their new employer.

11 Reporting

11.1 Reporting wrongdoing

All employees share a role to maintain the integrity and confidence in the services we deliver by complying with legal reporting obligations, reporting wrongdoing and ensuring the safety of people and systems.

Workplace managers are responsible for promptly addressing and responding to possible employee breaches of this Code. Depending on the nature of the breach, this may justify taking direct management action, issuing a direction or taking disciplinary action following an investigation.

The consequences of breaching this Code are described in various pieces of employment legislation and regulations. They extend to ceasing an engagement and placing former employees on a list preventing them from gaining further paid or unpaid work with the department.

As a department employee, you:

- have a duty to report wrongdoing
- must report suspected breaches of this Code to your workplace manager. If the suspected breach concerns your workplace manager, make your report to their line manager
- have a duty to support employees who have made disclosures, as well as protect and maintain their confidentiality
- must not make unfounded complaints with malicious, frivolous or vexatious intent against students, colleagues or members of the public
- must not engage in any reprisal action against a reporter, irrespective of the merits of the report.

As a workplace manager, you must also:

- provide support and guidance to any person who confides in you about making a report or disclosure in alignment with law and policy
- identify and act on any public interest disclosure
- report allegations of criminal conduct and wrongdoing to Professional and Ethical Standards who will assess the report and ensure it has been properly reported to other agencies
- report to police if you become aware of a serious offence committed by a person outside of the department.

For more information, refer to:

- [Teaching Service Act 1980](#)
- [Government Sector Employment Act 2013](#)
- [Education \(School Administrative and Support Staff\) Act 1987](#)
- [Fraud and Corruption Control Policy](#)
- [Judgments and decisions](#)
- [Guidance on misconduct](#)
- [Direct management action bulletin.](#)

11.2 Child protection reporting

Many employees have statutory responsibilities to report risk of significant harm to children and young people at work. Employees should use and act on the guidance of the [NSW Mandatory Reporter Guide](#). The department requires employees to act protectively and to report risk of significant harm to children that arise in their private lives.

As a department employee, you must:

- identify and respond to safety, welfare or wellbeing concerns for children and young people and inform your workplace manager in accordance with the department's policies that arise in the course of your work
- report allegations of a child protection nature against other employees to a workplace manager or Professional and Ethical Standards
- report risk of significant harm to a child that may arise outside of work to appropriate agencies
- cooperate with service delivery and plans aimed at addressing the safety, welfare and wellbeing of students.

As a workplace manager you must also:

- use appropriate tools to inform decision-making where there are concerns about risk of harm. This includes the online Mandatory Reporter Guide, Professional and Ethical Standards Reporter Guide, specialist advice and professional judgement
- determine whether concerns about the safety, welfare or wellbeing of children or young people constitute risk of significant harm and, if they do, report these to the Child Protection Helpline
- report allegations of a child protection nature concerning an employee to Professional and Ethical Standards within one working day of receipt of the allegation
- comply with guidance provided by Professional and Ethical Standards in managing risk and taking action
- advise the complainant or reporter what action you have taken and any relevant reference numbers if requested
- carefully document information received.

For more information, refer to:

- [Mandatory Reporter Guide – Child Story Reporter](#)
- [Responding to Allegations against Employees in the Area of Child Protection](#)
- [Office of the Children's Guardian Reportable Conduct Fact Sheets](#)
- [Child Protection Policy: Responding to and reporting students at risk of harm](#)
- [Mandatory Child Protection Training for corporate staff](#)
- [Mandatory Child Protection Training for school-based staff](#)
- [Legal Issues Bulletin 59 - Duty to report and duty to protect a child from child abuse](#)
- [Controversial Issues in Schools Policy.](#)

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee becomes aware of allegations that a teacher is in a relationship with a student . The employee reports the matter to their workplace manager. The workplace manager then contacts Professional and Ethical Standards and reports the matter via the Child Story Reporter. The employee and workplace manager maintain confidentiality and act in accordance with Professional and Ethical Standards guidance.
2. An employee's grandchild discloses that their uncle has inappropriately touched them. The employee makes a risk of serious harm report to Communities and Justice via the Child Protection Helpline.

Inappropriate conduct

3. A principal is advised that a student engaged in harmful sexualised behaviour towards another student in the school bathroom. The principal puts in place a risk management plan but fails to report the incident. The student engages in further harmful sexualised behaviour towards other students and is also found to have been subject to ongoing sexual abuse. There has been a failure to report a child protection issue.
4. An employee finds a student in a highly distressed state. Other student witnesses have heard the student threaten to self-harm and tell the employee. The student is taken to the sick bay until they have calmed down and then allowed to return to class. No report of the incident is made. There has been a failure to report a child protection issue.

11.3 Reporting security and data breaches

As a department employee, you must report to your workplace manager:

- actual or suspected breaches of cyber security
- unauthorised disclosure of confidential information
- inappropriate use of government data and systems
- cyber related risks to department systems and/or information.

You must also make reports to other areas of the department as required. This may include Information Security and EDConnect.

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee opens an attachment from what they believe is a legitimate source. They recognise it is a 'harpooning' email. The employee closes the attachment and reports it to their workplace manager and EDConnect.

Inappropriate conduct

2. An employee becomes aware that they have inadvertently sent an email to multiple recipients containing confidential personal information. The employee recalls the email but is unsure who may have received the information. They are concerned about getting into trouble and decide not to report the matter. The employee has failed in their reporting obligations to report and prevented the containment and mitigation of the data breach.

For more information, refer to:

- [Data breach response plan](#)
- [Information Security Policy](#)
- [Business Continuity Management Policy](#)
- [Enterprise Data Policy](#)
- [Email phishing and spam.](#)

11.4 Disclosures

A **serious offence** is any offence punishable by imprisonment for 12 months or more. Employees are required to make a disclosure of any charge, conviction and/or finding of guilt.

Bankruptcy is a legal process where you are declared unable to pay your debts. Employees must make a disclosure of bankruptcy, which also extends to formal arrangements to avoid bankruptcy including a composition, arrangement or assignment for the benefit of creditors.

Employment legislation requires permanent/ongoing and temporary/casual staff to report serious criminal offences or bankruptcy.

As a department employee, you:

- must promptly inform your workplace manager in writing if you are charged with a serious offence and if you are convicted of a serious offence (including where found guilty by a court of such an offence but where no conviction is recorded)
- may be required to disclose if you have been declared bankrupt or entered into formal arrangements to avoid bankruptcy when your role encompasses financial management
- must inform your workplace manager in writing if you become bankrupt, or make a composition, arrangement or assignment for the benefit of your creditors. You must also provide information about the cause.

As a workplace manager you also:

- have a responsibility to report declarations of an employee being charged and/or convicted of a serious offence to Professional and Ethical Standards.

Examples of appropriate and inappropriate conduct

Appropriate conduct

An employee is charged with high range drink driving which is a serious offence as the maximum penalty for a first offence is 18 months in gaol. The employee reports this to their workplace manager who in turn advises Professional and Ethical Standards.

Inappropriate Conduct

A casual employee is charged with common assault which is a serious offence. The employee intends to contest the charge at court and decides not to report the charge to their manager. They are later found guilty at court but not convicted of the offence. The employee remains silent about the matter. The casual employee was required to report the offence immediately after being charged and again when they were found guilty.

11.5 Protection against reprisal

A **public interest disclosure** is a report of suspected wrongdoing by a public official about a public official which has been accepted as meeting certain requirements under the Public Interest Disclosures Act 1994.

The department expects people to report concerns and to raise complaints about employee conduct. Diligent reporting promotes transparent processes that maintain public confidence.

Anyone who takes detrimental action against an employee in reprisal for having made a public interest disclosure is committing a criminal offence.

Anyone who takes, or threatens to take, detrimental action in respect of a person who reports or proposes to report, in good faith, a reportable allegation in line with the Children's Guardian Act 2019, is committing a criminal offence.

As a department employee, you must not:

- take detrimental action against a person in reprisal for making a report, providing evidence or raising a complaint
- seek to directly discuss a person's report, evidence or complaint where formal investigation or complaint processes have been commenced without the complaint manager's or investigator's approval.

For more information, refer to:

- [Public Interest Disclosures Internal Reporting Policy](#)
- [Public Interest Disclosures Management Guidelines](#).

Examples of appropriate and inappropriate conduct

Appropriate conduct

1. An employee is aware that allegations have been made about their conduct. They discuss with their workplace manager a plan to manage work relationships and avoid perceptions of reprisal. The employee does not discuss the allegation with other people at work except their support person, the workplace manager and the investigator responsible for the matter.

Inappropriate conduct

2. A workplace manager becomes aware that a temporary employee has complained about their conduct. The manager decides not to renew the employee's temporary contract as they view them as a troublemaker. They fill the position with another temporary staff member. The manager does not declare a conflict of interest to their supervisor or have any logical reasons for taking such action. The conduct is likely to be viewed as detrimental action in reprisal for the employee's report.
3. An employee is advised that they are the subject of an investigation and has been invited to nominate potential witnesses. The employee approaches a number of people asking them about their views of the incident, without first seeking the investigator's approval before approaching witnesses.

12 Relevant legislation

Government Sector Employment Act 2013

Teaching Services Act 1980

Education (School Administrative and Support Staff) Act 1987

Anti-Discrimination Act 1977

Children's Guardian Act 2019

Crimes Act 1900

Copyright Act 1968

Government Information (Public Access) Act 2009

Independent Commission Against Corruption Act 1988

Industrial Relations Act 1996

Multicultural NSW Act 2000

Ombudsman Act 1974

Privacy and Personal Information Protection Act 1988

Public Finance and Audit Act 1983

Public Interest Disclosures Act 1994

Work Health and Safety Act 2011

Child Protection (Working with Children) Act 2012

Children and Young Persons (Care and Protection) Act 1998.