

- PROCEDURE -
Conflicts of Interest

Procedure Statement

Purpose

This procedure will outline the process for identifying, declaring and managing a perceived, potential or actual Conflict of Interest.

Scope

All TAFE SA Staff

Roles and Responsibilities

Position	Responsibility
Managers	<p>All Employees who hold delegated authorities under the TAFE SA HR Delegations for matters including but not limited to financial, purchasing, contract or human resources activities must ensure that exercising their Delegation does not result in a perceived, potential or actual Conflict of Interest.</p> <p>All Managers have an obligation and responsibility to ensure that appropriate steps are taken to avoid Conflicts of Interest.</p> <p>Managers are responsible for:</p> <ul style="list-style-type: none">• completing mandatory training related to Conflicts of Interest.• ensuring that all Employees have completed their mandatory Conflicts of Interest training;• ensuring that all Employees are aware of their obligations in relation to the relevant policies and to provide advice on Conflict of Interest matters to ensure compliance; <p>ensuring all matters are treated confidentially and in accordance with TAFE SA policy.</p>
Employees	<p>It is acknowledged that Conflicts of Interest are not in themselves wrong and can arise without fault, however it is vital that Employees identify, declare and manage Conflicts of Interest effectively. Where doubt exists, the Conflict of Interest must be declared.</p>

	<p>Employees are responsible for creating an environment that values respect, integrity and excellence. Employees must:</p> <ul style="list-style-type: none"> • complete mandatory Conflicts of Interest training to ensure they are aware of obligations to comply with this Procedure and disclose any perceived, potential or actual Conflict of Interest; • take ultimate responsibility for identifying, declaring and managing perceived, potential and actual Conflicts of Interest and must disclose these to their Manager. Where the Conflict of Interest involves the Employee's Manager, the declaration is to be made to the Manager's Line Manager; • develop an appropriate course of action in consultation with their Manager. This strategy may include a number of options to effectively manage perceived, potential, or actual Conflicts of Interest. <p>All TAFE SA staff are bound by the Public Sector Code of Ethics and are required to seek the appropriate approval prior to undertaking any work outside of the Public Sector.</p>
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Procedure Detail

The Code of Ethics for the South Australian Public Sector is issued under the Public Sector Act 2009, whereby it is referred to as the Code of Conduct. The Code of Ethics describes the requirement for Public Sector employees to ensure their personal or financial interests do not influence or interfere with the performance of their role.

Overview

To ensure that Conflicts of Interest are identified, declared and managed, TAFE SA will:

- > promote and support a positive approach to the management of perceived, potential or actual Conflicts of Interest;
- > appropriately and securely create, store and archive all documentation pertaining to Conflicts of Interest as provided in the Records Management Policy;
- > maintain confidentiality in the management of any perceived, potential or actual Conflicts of Interest;
- > ensure that any personal information collected, stored, used or disclosed pertaining to Conflicts of Interest is managed according to TAFE SA Policy.

Identifying a Conflict of Interest

A Conflict of Interest arises when an Employee's personal interests or benefits, private interests either financial or non-financial and their TAFE SA responsibilities come into

conflict, whereby the private or personal interests could improperly influence the performance of their official duties. There are three types of Conflicts of Interest:

- An **actual** conflict of interest arises when there is a real conflict between an individual's duties at TAFE SA and their existing personal, external or financial interests.
- A **potential** conflict of interest arises where an individual has personal, external or financial interests that could come into conflict with the performance of their duties at TAFE SA in the future.
- A **perceived** conflict of interest can exist where a third party could form the view that an individual's personal, external or financial interests could improperly influence the performance of their duties at TAFE SA, now or in the future.

A conflict may arise from a range of factors including, but not limited to, personal relationships, employment outside of TAFE SA or using a TAFE SA related activity to influence an outcome.

Conflicts of Interest

An Employee must declare a perceived, potential or actual Conflict of Interest where it relates to:

- > a close personal relationship;
- > a personal interest or benefit;
- > private interest or benefit.

Close Personal Relationships

Employees must declare to TAFE SA any situation which may require them to supervise an employee, or supervise, teach and/or assess a student, with whom they have or have had a close personal relationship.

To ensure transparency in relation to any formal processes or decisions, a staff member must make a disclosure to their Manager, Educational Manager or Director as soon as that staff member becomes aware of the existence of a close personal relationship. Examples of inappropriate activities, processes and decisions for staff in close personal relationships include but are not restricted to:

- > Recruitment and Selection
- > Continuing appointment/transfer
- > Promotion
- > Referees
- > Classification Assessment
- > Lecturer Progression
- > Salary Determination
- > Performance Coaching
- > Disciplinary processes
- > Termination
- > Staff Development Opportunities
- > Conditions of Service
- > Direct Supervision

Employees who become involved in a situation where a personal relationship is a source of actual, potential or perceived Conflict of Interest, must declare this to their Manager in the first instance and withdraw from the situation giving rise to the conflict.

Private interests

Employees must declare to TAFE SA any perceived, potential or actual financial or non-financial Conflict of Interest that may result in personal advantage, including Conflicts of Interest with outside employment (further detail below).

Personal benefits

Employees must declare to TAFE SA any perceived, potential or actual Conflicts of Interest that may result in or be perceived as, an incentive or inducement to perform or not perform an official function, duty or responsibility.

Declaration of a Conflict of Interest

Where a conflict arises, the Employee must make the declaration to their Manager in the form of a Declaration of a Conflict of Interest Form (HRB 15) as soon as practicable after identifying a perceived, potential or actual Conflict of Interest.

The Employee and their Manager will work towards appropriately managing or resolving the conflict. This may include but is not limited to:

- > the Employee withdrawing from the situation leading to the conflict,
- > restricting the Employee's involvement; or
- > where the Conflict of Interest cannot be adequately mitigated or avoided, seeking further advice from the appropriate Director.

Managers will review each declaration and, where appropriate, work with the Employee to develop the most appropriate plan of action.

Once finalised by all parties, the Declaration of a Conflict of Interest form (HRB15) can be sent to Workforce Development (workforce.development@tafesa.edu.au) and will be filed in Content Manager (TAFE/19/033/1945) for future reference.

Completion of the Declaration of a Conflict of Interest form in line with the Conflict of Interest Policy involves:

- > Step 1 Employee completes the form (HRB15)
- > Step 2 Line Manager or Director reviews and completes the form
- > Step 3 If required, the Business Unit Director reviews and finalises the form. The HR Business Partner may be involved for further advice should it be required.
- > Step 4 The finalised form is sent to Workforce Development (workforce.development@tafesa.edu.au) form who will upload into Content Manager folder (TAFE/19/033/1945).

Changes to declared Conflicts of Interest

An Employee must advise their manager in writing where a Conflict of Interest previously declared has been or is materially altered.

Outside Employment

TAFE SA employees must not engage in employment or other remunerative activity outside of their public sector employment where the activity conflicts with, or has the potential to conflict with, their role as a public sector employee, or if the performance of such outside employment or activity might affect their capacity to perform their public sector duties.

TAFE SA employees will obtain written permission via an Application for Approval for Outside Employment Form (HRB6) which will require support by the Line Manager, prior to final consideration by the appropriate delegate.

This approval must be obtained prior to engaging in any outside employment or remunerative activity (including any employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward).

In general, it is not necessary for employees to obtain permission to involve themselves in or undertake voluntary or unpaid activities or paid recreational activities (e.g. sport coaching) unless there is an actual or potential conflict of interest between such activity and their duties and/or role as a public sector employee.

TAFE SA employees who leave the public sector to work with a non-Government employer will avoid situations which would result in an unfair advantage for their new employer. This holds particularly in the case where the employer is bidding for a government contract or is competing for a grant or similar disbursement of public moneys.

Approval for Outside Employment

Any application submitted for Approval for Outside Employment will be considered by the Line Manager in the first instance. If the Line Manager supports this request, the application will be escalated to the appropriate Delegate for final consideration. This decision will be communicated through the HR Business Partner / HR Advisor to the employee in writing. A copy of the finalised application form and written correspondence will be placed on the employee's personnel file in Content Manager and recorded in Chris 21. This is irrespective of whether the application is approved or not.

If a Line Manager or Delegate determines that an outside employment opportunity presents or has the potential to present a conflict of interest for TAFE SA, or that the employment may affect their capacity to perform their public sector duties, the employee may be required to provide more information.

If a final decision is made not to approve an application, the employee will be informed in writing of this decision and the reasons why.

Failure to declare a Conflict of Interest

Employees found to have failed to identify, declare and appropriately manage a perceived, potential or actual Conflict of Interest may be subject to disciplinary procedures. Some breaches may also have consequences under criminal or civil jurisdictions.

Privacy and confidentiality

All Information relating to Conflicts of Interest will be treated as confidential.

Any Personal Information collected, stored, used or disclosed under this Procedure will be managed in accordance with the TAFE SA's Privacy Policy.

Definitions

Term	Definition
Conflict of Interest	<p>A situation whereby a conflict arises for an employee between their TAFE SA duties and their own personal interest/s. Conflicts of interest may be perceived, potential or actual. Conflicts of interest can involve financial or non-financial interests of the staff member, or such interests of a business partner or associate, family member, friend or person who is in, (or has had) a close personal relationship with the staff member.</p>
Close Personal Relationships	<p>A relationship that goes beyond the bounds of a platonic/personal friendship or a working relationship, and includes being a relative or personally involved, i.e. sexual, intimate, dating, romantic or similar close relationships that may be consensually undertaken by both individuals; or</p> <ul style="list-style-type: none"> - a relationship which gives rise to a real or potential or perceived conflict of interest and includes relatives and financial relationships; or - a relationship where one person is financially dependent on another; or - relationships where there have been previous instances of serious conflict between the parties. <p>Usual and customary socialising at TAFE SA, not involving the conduct defined above, for example:</p> <ul style="list-style-type: none"> - mentor-mentee; supervisor-employee; co-workers; and supervisor-student, - working relationships which exist due to ordinary collegiate academic collaboration, - professional collegiality where colleagues are not relatives, financially dependent, or intimate partners, <p>are not considered close personal relationships for the purpose of this policy.</p>
Delegate	<p>A person authorised to make formal decisions on behalf of the Chief Executive, to enable operational efficiency to occur within TAFE SA.</p>
Code of Ethics	<p>The Code of Ethics for the South Australian Public Sector is issued under the Public Sector Act 2009, whereby it is referred to as the Code of Conduct.</p>

Associated Documents and References

Document/Reference Title
Code of Ethics
ICAC Public Interest Disclosure Guidelines
Declaration of a Conflict of Interest Form
SA Public Sector Values and Behaviours Framework
HR Delegations
Public Sector Act 2009
SA Public Sector Salaried Employees Interim Award
TAFE SA Regulations 2012
Application for Approval for Outside Employment
Conflicts of Interest Folder
Gift Register Procedure
TAFE SA Assessment Policy
Close Relationships Procedure
ICAC Conflicts of Interest Training – mandated for all staff

Document Control

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