Conflict of Interest Policy and Procedures

1. Purpose

The purpose of this policy is to set out the requirements and expectations of the Victorian Curriculum and Assessment Authority (**VCAA**) in relation to conflicts of interest.

Avoiding conflicts of interest is fundamental to ensuring the highest levels of integrity and public trust in the Victorian public sector. The VCAA upholds, and expects anyone engaged in its work to uphold, the Victorian public sector values: responsiveness, integrity, impartiality, accountability, respect, leadership and human rights. The failure to manage conflicts of interest promptly, transparently and effectively is inconsistent with these values. This Policy has been developed to support the application of the *Public Administration Act 2004* (Vic) (the **PA Act**) and the Code of Conduct for Victorian Public Sector Employees (**Code of Conduct**).

By creating, implementing and regularly reviewing this policy and its effectiveness, the VCAA aims to foster a culture where employees are comfortable disclosing and discussing conflicts of interest in the workplace, and conflicts of interest are properly identified and managed in a clear, transparent, accountable and timely way.

1. Application

This policy applies to all **VCAA Staff**.

“**VCAA Staff**” includes anyone engaged by the VCAA (whether paid or unpaid, employee, honorary or volunteer), Department of Education and Training (**DET**) staff undertaking work or activity for the VCAA, and contractors as defined in Appendix 1.

A reference in this policy to “**staff**” or “**staff member**” means **VCAA Staff**.

1. What is a conflict of interest?

A conflict of interest is a conflict between your **personal** or **private interests**, and public or official duties or responsibilities. Conflicts of interest can be **actual**, **potential** or **perceived**.

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| **Actual** conflict of interest: | there is a real conflict between your public duties and private interests. |
| **Potential** conflict of interest: | You have private interests that could conflict with your public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk. |

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| **Perceived conflict of interest:** | the public or a third party could reasonably form the view that your private interests could improperly influence your decisions or actions, now or in the future. |
| **Private** interest: | anything that can influence you. Private interests include **direct** interests, such as your own personal, family, professional or business interests, as well as **indirect interests**, such as the your personal, family, professional or business interests or groups with whom you are, or were recently, closely associated.  Private interests may be **pecuniary** (i.e. financial), which includes any actual, potential or perceived financial gain or loss. It is not necessary for a direct financial benefit to obtained for a conflict of interest to arise e.g. a conflict will arise if an associate of yours receives a financial benefit as a consequence of a decision made by you. A private interest, may also be **non-pecuniary**, which includes any tendency toward favour or prejudice resulting from personal or family relationships, such as friendships, or sporting, cultural or social activities |

1. What are your obligations?

You must, wherever possible, avoid conflicts of interest in your work for the VCAA.

Where it is not possible to avoid the conflict of interest, you must **declare** and **manage** the conflict of interest in accordance with this policy.

It is not possible to identify all possible conflicts of interest in advance but you must deal with conflicts promptly once they arise as set out below. You must be also able to **identify** potential conflicts of interest and put in place appropriate measures to prevent an actual conflict arising where possible.

If there is any doubt about whether you may have a conflict of interest, or about the application of this policy, you should immediately raise the matter with your unit manager, Director or Executive Director.

1. Conflict of Interest Procedure

This section sets out the procedure for how this policy will operate in practice during your engagement with the VCAA. Set out below are the steps that you must follow to avoid having a conflict of interest.

1. Identify any conflict of interest

You should regularly consider the relationship between your private interests and public duties in order to identify any conflict of interest (for example, before major projects, decisions or policy development).

As a guide when assessing your private interests, you should consider whether you have interests such as the following (though this list is not exhaustive):

* a **relationship** with a student completing VCE, NAPLAN or the Selective Entry Schools Entrance Examination;
* a secondary employment commitment in a related area, e.g.
* a contract to write a textbook or other material, or published textbooks or material;
* an engagement to deliver seminars related to VCE.
* affiliations with for-profit and non-profit organisations, e.g.
* teacher professional associations;
* a business delivering seminars related to a VCE study;
* significant family or other relationships **with clients, contractors or other staff** working in the same (or a related) organisation (i.e. an educational organisation);

Further examples of potential conflicts of interest that may arise during your engagement by the VCAA see **Appendix 3**.

Whilst a conflict of interest may occur in any part of the VCAA, some functions and activities are considered higher risk than others and may require from you increased risk mitigation measures.

The following functions are considered high risk within the VCAA (not exhaustive):

* recruitment;
* procurement, contract management and tendering;
* internal committee governance including that of the Board;
* curriculum review and development (including review panels);
* examination and test development; and
* assessment activities.

If you are unsure whether your private interest may conflict with your public duty you should discuss the matter with your unit manager, Director or Executive Director.

1. Declare any conflict of interest

The VCAA has developed a number of forms to assist you in declaring conflicts of interest. If you are unsure which form to use you should ask your unit manager, Director or Executive Director.

The general forms which are for use by most VCAA staff are:

* Relationships Declaration (**Appendix 4**): to be completed by all staff on commencement of employment/engagement and in January of each year thereafter (for ongoing staff).
* Conflict of Interest Declaration (**Appendix 5**): for use by all staff. To be completed as follows:
* by all staff on commencement of employment/engagement; and
* by all staff annually in January of each year; and
* by all staff when a conflict is identified. If you do not realise you have or may have a conflict of interest until after the activity or process has commenced, you should declare the conflict of interest immediately, notify your Executive Director via your manager, and take no further part in the activity or process until the conflict is managed in accordance with this Policy. Where it is not possible to complete the written Declaration before you are involved in a particular work matter, e.g. if you are in a meeting and become aware of a conflict because an issue arises without warning, you should:
  + verbally disclose the interest;
  + ensure the disclosure is recorded in any minutes or record of the meeting and your own notes;
  + if necessary, remove yourself from the meeting while the issue is discussed or ask that the meeting is postponed or stopped, as appropriate;
  + complete the Conflict of Interest Declaration and provide it to your Executive Director as soon as possible.

Additionally, there are some specific forms which apply for particular roles:

* Declaration of Private Interests (**Appendix 6**) to be completed at the commencement of employment/engagement and in January of each year thereafter by:
* Executive Officers (already required to submit a Declaration of Private Interests to DET);
* Any employee holding a financial delegation of any amount;
* Members of VCE Study Review Panels complete a VCE Study Review Panel Member Declaration.
* Any staff involved in recruitment decision making (including making recommendations leading to decisions), or in the supervisory/management line for a particular role, are required to declare any Close Relationship with any candidate. These declarations are recorded in the documentation for the recruitment process.
* NAPLAN Markers, VCE Assessors and VCE State Reviewers are required to declare any close relationships and associations as part of their conditions of appointment. These are lodged on an online staff management system. Reminders about updating these details are sent to markers and assessors in particular in the lead up to the relevant period of work.
* VCE examination developers and reviewers are required to declare specified conflicts of interests as part of the application process including close relationships and associations, involvement with VCE textbooks and examination preparation materials. These declarations are used to determine eligibility and allow planning of management of issues. On appointment examination panel members agree to conditions of appointment to confirm that critical conflicts do not exist and declarations have been made.
* Members of the VCAA Board (i.e. appointees pursuant to s.2.5.6 of the *Education and Training Reform Act 2006* (Vic) (**ETR Act**)) are subject to Victorian government requirements in relation to disclosure of personal interests, and avoiding conflicts of interest. For further information, consult the ***VCAA Board Members’ Handbook***.

1. Managing conflicts of interest

Staff member’s conflict of interest management plans must ensure conflicts are managed and resolved in favour of the public interest rather than that of the staff member and will be based on the following mitigation strategies:

**Restrict**: restrictions are placed on the staff member’s involvement in the matter.

**Recruit**: a disinterested third party is used to oversee part or all of the process that deals with the matter. In most circumstances a subordinate of the person with the conflict of interest would not be considered a disinterested third party.

**Remove**: the staff member removes themselves, or is removed, from the matter.

**Relinquish** or **Resign**: the staff member relinquishes the private interest that is creating the conflict. Where relinquishing the interest is not possible (e.g. relationship with family) and the conflict cannot be managed in the public interest using one of the other options above, the staff member may consider resigning.

Staff with direct reports should review management plans regularly to ensure they remain effective (for example, annually and before major projects, significant decisions or policy development).

Any management strategy should be regularly reviewed between the staff member and their unit manager.

Information provided in Relationships Declarations is collated and held in a register by the Executive Assistant to the Executive Director, Assessment and Reporting Division. The register for the current year is made available on the VCAA intranet and accessible to members of VCAA Executive, Unit Managers and other necessary VCAA staff (as nominated by their manager) who are expected, for the purposes of their role, to make themselves aware of declared staff relationships with students/organisations. Each year, the Executive Assistant to the Executive Director, Assessment and Reporting circulates the Relationships Declaration for the following year. Unit Managers are responsible for ensuring that new staff complete the declaration on commencement.

Information on Conflict of Interest Declarations is held in a register by each Division’s Executive Director. The register for the current year is reported to the VCAA Executive biannually, and relevant information is made available to Unit Managers and other supervising staff (as nominated by their manager) who are expected, in performing their duties, to implement and monitor management plans. All completed forms including declarations requiring management plan approval are retained by each Divison’s Executive Director.

1. Breaches of this policy

That a conflict of interest arises is not necessarily misconduct – conflicts can happen without anyone being at fault and it is not something that should be kept quiet or hidden. There may not have been any misconduct on the part of the staff member, but a reasonable person may perceive that there is potential for the staff member’s private interests to influence their official conduct. Trust in the organisation can be diminished by the perception of wrongdoing, regardless of how well VCAA staff perform their duties and functions. It is for these reasons that actual, perceived and potential conflicts of interest must be avoided or managed.

A conflict of interest having arisen, whether perceived, potential or actual, the failure to recognise the conflict, failure to disclose the conflict and failure to manage the conflict appropriately may constitute misconduct warranting disciplinary action, including dismissal. Once the actions or decision-making of a staff member has been influenced by a conflict of interest, this will be regarded as misconduct under the *Public Administration Act 2004*, and may constitute corruption within the meaning of the *Independent Broad-Based Anti-Corruption Commission Act 2011*.

If you think this policy has been breached

If you believe that a staff member has breached this policy, the allegation should be provided in writing to your Executive Director.

Alternatively, disclosures can be made pursuant to the *Protected Disclosure Act 2012* (Vic). More information is available in [VCAA’s Protected Disclosure Procedures](http://www.vcaa.vic.edu.au/Documents/VCAA%20PDA%20Procedures%2009%2008%202013.doc) document.

1. Privacy

The VCAA is required to comply with the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic) in relation to, amongst other things, employment records.

Declarations of interest, disclosures of conflicts of interest and associated documents will be stored securely and used in accordance with the applicable legislation. Access to the information contained on these forms will be limited to necessary staff, including your manager, relevant Executive Director or Director, the Chief Executive Officer, and any staff member who requires access to the information in order to ensure the conflict is properly managed, and/or for a legitimate business reason (ie in relation to the operations of the VCAA). For example, VCE Examinations Unit and Student Records and Results Unit employees require access to Relationship Declarations in order to ensure the integrity of the VCAA examinations and results process is - and is seen to be - maintained.

Further information on how the VCAA handles personal information is available in the [VCAA’s Privacy Policy](http://www.vcaa.vic.edu.au/aboutus/policies/privacypolicy.html).

1. Authorising Officer

This policy is issued under the authority of VCAA Executive Management and is subject to review in every two years in December.

1. Related Documents

Related policies

* Close Relationships Recruitment and Management Policy and Procedure
* [VCAA Gifts, Benefits and Hospitality Policy and Procedure](https://portal.eduweb.vic.gov.au/vcaa/procedures/Shared%20Documents/VCAAGiftsBenefitsandHospitalityPolicyandProcedure2017.pdfhttps:/portal.eduweb.vic.gov.au/vcaa/procedures/Shared%20Documents/VCAAGiftsBenefitsandHospitalityPolicyandProcedure2017.pdf)
* Outside/secondary employment policy/outside activity/private business interests:
* [Public Administration Act](http://www.eduweb.vic.gov.au/hrweb/employcond/res/extemp.htm)
* [Code of Conduct](http://www.eduweb.vic.gov.au/hrweb/employcond/res/extemp.htm)
* [DET policy](http://www.eduweb.vic.gov.au/hrweb/employcond/res/extemp.htm)
* DET Misconduct and HR policies including Merit and Equity, recruitment, grievances, available at DET HR Web
* [VCAA Copyright policy](http://www.vcaa.vic.edu.au/aboutus/policies/copyrightpolicy.pdf).

1. Appendices

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| Number | Title |
| 1 | Definitions |
| 2 | Regulatory Context |
| 3 | List of Potential Conflicts of Interest |
| 4 | Relationships Declaration (All VCAA) |
| 5 | Declaration of Private Interest |
| 6 | Conflict of Interest Declaration |