



## P045 - ACSEP CONFLICT OF INTEREST POLICY

### 1. POLICY OBJECTIVE

The Australasian College of Sport and Exercise Physicians (ACSEP) is committed to the highest levels of integrity and honesty. Good governance is a central part of ensuring that the ACSEP is effectively working towards achieving its purpose and meeting its obligations under the law. Failing to manage conflicts of interest affects the ACSEP's governance in a variety of ways and can ultimately undermine the long-term sustainability of the ACSEP. The objective of this policy is to help effectively identify, disclose and manage any actual, potential or perceived conflicts of interest to protect the integrity of the ACSEP and manage actual and potential risk.

The ACSEP Board aims to ensure that ACSEP members, registrars, staff and other persons serving on a college entity or in a college role and referred to as 'college representatives' are aware of their obligations to disclose any actual, potential or perceived conflicts that they may have and comply with this policy to ensure they effectively manage those conflicts of duties or interests as representatives of the ACSEP.

Appropriately identifying and managing conflicts of duties and interest is essential in promoting accountability and transparency. Likewise, for the ACSEP as an organisation, creating accountable and transparent decision-making processes and clearly stated associated procedures helps manage conflicts as they arise. Identification of conflicts requires discussion, clarifying questions and a strong sense of openness and integrity present in the culture of the college as an organisation. Creating a culture of open disclosure and effective management is the objective of this policy.

### 2. POLICY SCOPE

This policy applies to the Australasian College of Sport and Exercise Physicians (ACSEP) governing Board and all college representatives defined below in Table 3 POLICY RELATED DEFINITIONS

### 3. POLICY RELATED DEFINITIONS

Definition listed in alphabetical order	
<b>Actual</b>	Involves a direct conflict between current duties and responsibilities and existing personal interests whether pecuniary, non-pecuniary or material or where a person is likely to gain advantage for themselves or a relative or a friend, because of their position in the ACSEP



<b>Accountability</b>	In this context relates to college representatives being held responsible by the people who have an interest in the ACSEP – its staff, members, beneficiaries, funders and the general community. In a practical sense, this means explaining actions you have taken and accept responsibility for their results.
<b>Associate</b>	An associate refers to relationship to a college representative in the capacity of - A relative (see definition below) / The employer or an employee of the college representative / A beneficiary under a trust or an object of a discretionary trust of which the College representative is a trustee / A person from whom the college representative has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services / A person who is a proprietary company or body corporate in which the college representative a shareholder or member or has a significant beneficial interest / A body corporate of which the college representative is a director or a member of the governing body, exerts significant control or influence, or has the capacity to significantly affect its financial standing.
<b>Conflict of Duty</b>	Conflicts of duty arise where there is a clear duty to two parties whose interests are not compatible in relation to a matter such as a conflict between a college representative's duty to the ACSEP and another duty to another organisation.
<b>Conflict of Interest</b>	<p>A conflict of interest occurs when a person's personal interests conflict with their responsibility to act in the best interests of the ACSEP.</p> <p>A conflict of interest exists when it appears likely that a college representative could be influenced, or be perceived that they are influenced by a personal interest in carrying out their duty</p> <p>Personal interests include direct interests as well as those of family, friends, or other organisations a person may be involved with or have an interest in (for example, as a shareholder).</p> <p>A conflict of interest may be actual, potential or perceived and may be financial or non-financial. These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of the ACSEP and must be managed accordingly</p> <p>It is not possible to rigidly define or adequately circumscribe all conflict of interest situations, but it is important to recognise that the integrity of the ACSEP as an organisation must be maintained to a high degree.</p>



<b>College Representative</b>	Includes all ACSEP governing officers i.e., ACSEP Board members, ACSEP members, Fellows, Registrars, staff and all other persons serving on a college entity (committee) or in a college role such as contractors and consultants.
<b>Gifts or Benefits</b>	College representatives should not solicit or accept any gifts or benefits that might in any way appear to compromise or influence them in their official capacity especially if the ACSEP or any college representative is engaged in a tender process or equivalent. If in any doubt, guidance should be sought at the ACSEP Board level. All gifts to the organisation/work area of more than nominal value i.e., a painting or a piece of equipment should be disclosed to the ACSEP Board for mitigation of potential risk.
<b>Interests</b>	Includes a person's interests, assets, property, benefits, relationships, offices held, affiliations or other arrangements valued by a person.
<b>Material</b>	An interest of substance or which has the capacity to influence the vote of that person upon the decision to be made.
<b>Nonpecuniary</b>	May arise from relationships, or other personal involvements that could bias decisions or judgements, rather than financial matters.
<b>Pecuniary</b>	Involving actual or potential financial gain or loss.
<b>Relative</b>	Includes a spouse, domestic partner, parents, siblings, children, any family relation, or companion or person who resides in the same household.

#### 4. POLICY GUIDELINE EXAMPLES OF CONFLICT OF INTEREST ACTIVITIES AND RELATIONSHIPS

The following examples have been provided to illustrate types of potential or actual conflicts of interest that should be disclosed in accordance with this policy. The list is not all inclusive and is intended to provide guidance only.



<b>Conflicting duties</b>	Participating in decisions relating to an employer that may conflict with the interests of the College, e.g., consideration of an accreditation of training post report by the Accreditation Committee of a Board of Director's private practice.
<b>Self-Benefit</b>	Using your position or relationship within the College to promote your own interests or those of your family, including using confidential or privileged information gained in the course of your participation on the ACSEP Board, another committee or employment at the college for personal benefit or gain or for the personal gain or benefit of family members.
<b>Conflicting relationships</b>	In a situation where the relationship between a supervisor, assessor [or examiner] and a trainee may compromise an unbiased assessment.
<b>Influence peddling</b>	Soliciting benefits for yourself or your family from outside organisations in exchange for using your influence to advance the interests of that organisation within the ACSEP.
<b>Other business relationships and dealings</b>	Approving grants or contracts with organisations in which you or your family have a significant financial or other interest or relationship, particularly if you are in a position to influence major decisions, are responsible for review, negotiation and approval of grants or contracts, or otherwise direct the college's business dealings with that entity or business.
<b>Intellectual Property</b>	Inappropriate or unauthorised use of materials developed under the auspice of the ACSEP or potential conflicts relating to the development and use of educational material (for those ACSEP Board members and ACSEP Fellows employed by universities).
<b>Outside commitments</b>	Participating in social or political activities is not restricted if you participate as an individual and not as a representative of the College.
<b>Property transactions</b>	Directly or indirectly leasing, renting, trading, or selling real or personal property to the ACSEP
<b>Personal use of the ACSEP property</b>	Using or taking the ACSEP resources, including facilities, equipment, personnel, and supplies, for private use or other unauthorised non-college activities.
<b>Recording or reporting false information:</b>	Misrepresenting, withholding, or falsifying relevant information required to be reported to external parties, or used internally for decision-making purposes, in order to derive personal benefits.



<b>Affiliations</b>	Affiliations with for-profit and non-profit organisations, sporting bodies, clubs and associations, political, trade union or professional organisations and other personal interests for the interests of future employment prospects or plans, a family or private business, secondary employment
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## 5. POLICY STATEMENT

As stated in the above POLICY OBJECTIVE this policy has been developed because conflicts of interest commonly arise, and do not need to present a problem to the ACSEP if they are openly and effectively managed. It is the policy of the ACSEP as an organisation as well as a responsibility of the ACSEP Board, that ethical, legal, financial or other conflicts of interest be avoided when and if possible, and that any such conflicts (where they do arise) do not conflict with the obligations to the ACSEP as an organisation. In all interactions, as per the *ACSEP Code of Ethics & Professional Behaviour*, college representatives must observe clear standards of ethical behaviour and avoid any activity or interest that might reflect unfavourably on the integrity of the ACSEP. In doing so college representatives must not allow their personal interests to influence the decisions they make, the actions they take or the advice they provide in the course of their official duties or relationship with the ACSEP.

It is the responsibility of all college representatives to identify and to take action, as specified in this policy, to address situations in which a conflict of interest has arisen, or as soon as the actual, potential or perceived conflict is identified. All college representatives must regularly assess whether they, or other college representative potentially has a conflict of interest. Importantly college representatives also have a duty to bring their skills and capacities fully to bear and serve the ACSEP as an organisation by following this policy and disclosing the potential conflict for review and management rather than arbitrarily removing themselves from decision making or stepping aside.

## 6. RESPONSIBILITY OF THE ACSEP BOARD

The ACSEP must ensure that its Board members are aware of all legal and governance standards of its organisation, particularly their responsibilities as Board members and that they disclose any conflicts of interests as outlined by this policy. It is understood that most Board members will encounter a conflict of interest (or more) at some point in their duties. Many Board members sit on more than one Board and may have a vested interest in other organisations which may or may not be a source of conflicts of interest. The POLICY OBJECTIVE recognises the key to managing these conflicts responsibly is to encourage, facilitate and record all disclosures and encourage open discussion on conflicts of interest in a way that is supportive and non-judgmental. Those leading the ACSEP as an organisation such as the ACSEP Board play a key role in creating this culture of disclosure.

- a. The ACSEP organisation will manage conflicts of interest by requiring the ACSEP Board members to:



- i. Avoid conflicts of interest where possible
  - ii. Identify and disclose any conflicts of interest
  - iii. Carefully manage any conflicts of interest
  - iv. Follow this policy and respond to any breaches
- b. The ACSEP Board is responsible for:
- i. Establishing a system for identifying, disclosing and managing conflicts of interest across the ACSEP organisation that is transparent and in keeping with the set governance standards
  - ii. Monitoring ongoing compliance with this policy
  - iii. Reviewing this policy on an annual basis to ensure that the policy is operating effectively
- c. The ACSEP organisation will promote a culture of disclosure from the ACSEP Board level and Committee level by:
- I. Informing newly appointed Board members and Committee Chairs about the ACSEP policy on conflicts of interest and its associated processes
  - II. Providing newly appointed Board members and Committee Chairs with a copy of the ACSEP policy on conflicts of interest
  - III. Clearly stating the expectation all Board or Committee members must record any real, potential or perceived conflicts of interest in a Board or Committee held Register of Interests
  - IV. Providing opportunities for Board members and Committee Chairs to undertake training on conflicts of interest if they feel they require it
  - V. Recording and Reviewing the Register of Interests at all Board and Committee meetings:
    - a. Making conflicts of interest a regular agenda item – a conflict may not be apparent until after a motion has been proposed. This also has the benefit of routinely reminding all Board and Committee members of their duties
    - b. Record new or additional interests
    - c. Review interests already listed on the register
    - d. Review other members' interests (this can be useful in identifying potential or perceived conflicts which may not be initially apparent to a conflicted Board or Committee member)
    - e. Reviewing and deciding upon potential conflict disclosures brought to Board or Committee level by college representative

## 7. IDENTIFICATION AND DISCLOSURE OF CONFLICTS OF INTEREST

- a. In compliance with the objective of this policy to create a culture of disclosure at the ACSEP and modelled by the ACSEP Board and Committees, it is the duty of all college representatives to identify and disclose possible, potential or actual conflicts of interest and their relation to the affairs of the ACSEP.
- b. If there is any doubt or confusion identifying a conflict of interest the recommendation set by the ACSEP governance standards is that all college representatives should err in favour of disclosure via the procedures associated with this policy.



- c. Disclosure of the nature and extent of the interest must be given in writing aware through the ACSEP Conflict of Interest Disclosure Form and provided to the relevant listed college officer with all disclosures passed on and recorded as set out in this policy.
  - I. ACSEP Board member → the President or the Chair of the ACSEP Board
  - II. Committee member → the Chair of the relevant Committee
    - a. → if Chair has conflict → the President or the Chair of the ACSEP Board
  - III. Staff member, on-boarding employees, contractor, member or other representative → the ACSEP Chief Executive Officer or Chief Operating Officer
    - a. → if CEO or COO has conflict → the President or the Chair of the ACSEP Board
- d. Any college officer listed above who receives a disclosure and has a potential conflict of interest will exclude themselves from any discussion of action required and refer the decision with contextual disclosure of the identified conflict in writing to the ACSEP Board.
- e. Once disclosure of an actual, potential or perceived conflict of interest is received it is raised with required area Committee and/or taken further to ACSEP Board for identification and management.
- f. All notifications and reviews of an actual, potential or perceived conflict of interest must be recorded in the minutes of the ACSEP Board or Committee meetings.
- g. Once an actual, potential or perceived conflict of interest is identified, it must be recorded in the ACSEP Board or Committee Register of Interests. The Register of Interests must be maintained by the Chair of the ACSEP Board or Committee Chair, who records and monitors all information related to a conflict of interest (including the nature and extent of the conflict of interest and any steps taken to address it).
- h. As soon as any college representative becomes aware of a new, emerging, or potential conflict of interest or there has been a materially significant change to their prior interests declared, there must be a new disclosure through the ACSEP Conflict of Interest Disclosure Form and this new disclosure provided to the relevant college officer:
  - I. ACSEP Board member → the President or the Chair of the ACSEP Board
  - II. Committee member → the Chair of the relevant Committee
    - a. → if Chair has conflict → the President or the Chair of the ACSEP Board
  - III. Staff member, on-boarding employees, contractor, member or other representative → the ACSEP Chief Executive Officer or Chief Operating Officer
    - a. → if CEO or COO has conflict → the President or the Chair of the ACSEP Board
- i. In addition to the preceding point, all college representatives should also verbally declare any identified or potential conflicts *as they arise and prior to consideration* for resolution of any/all relevant matters, including during meetings.



## 8. MANAGING CONFLICTS OF INTEREST

- a. In keeping with the stated POLICY OBJECTIVE having transparent and effective processes for managing conflicts of interests is essential to mitigate risk or negative impact of disclosed potential or actual conflicts of interest and it is important they be managed by impartial decision-makers, who are not involved.
- b. As per the stated details of this policy the ACSEP Board will make any final decision as to whether conflicts of interest exists and through discussion will review and consider the risks associated with the conflict and determine the most appropriate next steps to manage the conflict through remedial action.
- c. The potentially conflicted college representative should not be present or involved in a Board level discussion relating to the identified conflict of interest. Important to restate here that a conflict of interest may be disclosed by someone other than the person who has the conflict and, in this case, they too should not be present for the Board discussion of the issue. The scope of the disclosure should be in writing and at this stage of review require no further elaboration. By removing the conflicted individual and/or any involved individual from the review and management process, the ACSEP Board can demonstrate it has acted responsibly and with reasonable care to objectively and impartially address the potential conflict issue.
- d. The occurrence where a college representative raises an issue of potential conflict of interest outside of the scope of the ACSEP Board processes of review, discussion or management of a disclosure or fails to comply with this policy does not, of itself, invalidate a decision on that matter, or any act, transaction, agreement, instrument pursuant to such decision.
- e. College representative with an interest in a matter is always under the obligation to draw attention to any potentially adverse outcomes for the ACSEP organisation through the process or review and management.
- f. Through the steps listed above the ACSEP at either Committee or Board level will determine what form of management action is appropriate to address the conflict when dealing with the conflict of interest and depending on the circumstances, it may be appropriate to have the associated parties:
  - I. excuse themselves from participating in any discussion on the conflict
  - II. remove themselves from the room during the time of any discussion
  - III. abstain from voting on the matter.
- g. In some situations, conflicts can arise that are deemed through review as serious, or which may regularly impact on the ability of a college representative to make decisions in the best interests of the ACSEP. In these cases, it may best for the responsible college representative to consider whether it is appropriate for them to continue in their role.





## 9. CONSEQUENCES OF FAILURE TO DISCLOSE

As per the scope and details of this policy all college representatives must declare as part of their ongoing engagement and working relationship with the ACSEP any actual, potential or perceived conflicts of interest that are relevant and be ready to provide details of the process that has been agreed to manage these.

- a. Failure to declare a conflict of interest may lead to disqualification from role within the ACSEP organisation, or termination of membership as per the ACSEP Constitution.
- b. Failure to declare a conflict of interest may lead to liability to pay compensation if consequences are deemed serious enough to be pursued through either ACSEP Professional Standards or ACSEP Board.

## 10. RELEVANT LEGISLATION

In Australia, the duty to avoid conflicts of interests is derived from both general law and statutory provisions found in the *Corporations Act 2001*. Under the Act, directors must exercise their powers and discharge their duties with a reasonable degree of care and diligence.

## 11. KEY RELATED DOCUMENTS

- a. The ACSEP Constitution
- b. PO15 Code of Ethics and Professional Behaviour
- c. The ACSEP Conflict of Interests Disclosure Form (see Appendix)
- d. Register of Interests (Board and Committee level documents)
- e. P004 ACSEP Privacy Policy
- f. P012 ACSEP Records Management Policy

## 12. APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	The ACSEP Board
Policy Approval Date	11/08/2023
Policy Review Date	11/8/2024
Advisor(s) to Approval Authority	Applicable ACSEP Committees, ACSEP CEO
Policy Point of Contact	ACSEP CEO
Policy Implementation	ACSEP Board Chair, Committee Chairs, ACSEP CEO
Policy Version History:	



Original Policy Approval: History of Policy Amendments:	<b>V1 – 2014</b> <i>Conflict of Interest Policy and Procedure</i> V2 – 2023 <i>Conflict of Interest Policy</i>
Policy 2023 V2 Re-Draft	Dr Kellie Wells, ACSEP Project Manager
Policy Re-Drafting Date	20/7/2023
Notes: 20/7/2023	This redrafted policy has been referenced against current Australian Government legislation, the Commonwealth Ombudsman, Australian Not-for-profits Commission, and Australian Institute of Company Directors with document comparisons made to current comparable Australian medical college COI policies.

### 13.FEEDBACK

Anyone may provide feedback about this document by emailing [nationaloffice@acsep.org.au](mailto:nationaloffice@acsep.org.au) with all feedback passed on the other listed Policy point of Contact.



## 14.APPENDIX A.

### THE ACSEP CONFLICT OF INTERESTS DISCLOSURE FORM

Name: .....

Position: .....

Involvement with ACSEP:    ACSEP Employee:              
   ACSEP Board Member:          
   ACSEP Member:                  
   Contractor:                        
   Consultant:                        
   Committee member:              
   Indicate committee/s: .....

I declare that I have read and understood P045 - ACSEP CONFLICT OF INTEREST POLICY.

This declaration relates to the following issue/s:

Signature: .....

Date: .....