



## P001 - ACSEP BULLYING, DISCRIMINATION, HARASSMENT AND UNACCEPTABLE BEHAVIOUR POLICY

### POLICY OBJECTIVE

The key purpose of this policy is to outline expectations as to acceptable standards of conduct for its members and staff and to document the approach ACSEP will take to prevent all forms of unacceptable behaviour which includes but is not limited to bullying, harassment and discrimination. This policy has been reviewed and is an expanded version of its P001 predecessor.

The *P001 ACSEP Bullying, Discrimination and Harassment and Unacceptable Behaviour Policy* contains within it a practical overview to those who feel they may have been subject to unacceptable behaviour including bullying, harassment and discrimination. It provides guidance for supervisory staff or ACSEP members who are required to deal with a complaint relating to such behaviour as well as a framework of understanding and procedures for all who observe such behaviour. Where there is inconsistency or uncertainty between this policy and other employment or related policies, this policy prevails.

ACSEP believes that education and raising awareness of the potential for all forms of bullying and harassment in the medical profession and in medical training is an important step in the process of eliminating the problem. Policy is only one part of an organisational strategy to deal with bullying, harassment and discrimination and the college is committed to further education and training on the parameters of the issues. The college will distribute and promote this policy at all levels of ACSEP activity and will incorporate this policy in the induction process of membership and staff. As a matter of process this policy will be periodically reviewed to ensure it is up to date.

### POLICY SCOPE

This policy covers employees and members, Registrars and Fellows, external stakeholders and visitors engaged in an activity relating to the affairs of the Australasian College of Sport and Exercise Physicians (ACSEP).

All individuals engaged in activities reasonably connected with the college\* have a responsibility to contribute to achieving a workplace and training environment free from all forms of unacceptable behaviour by being aware of what constitutes these behaviours and avoiding actions which lead to, support or condone such activities. *\*Note: this includes activities which encompass electronic communications and virtual environments. This policy recognises that unacceptable behaviour can be carried out in a variety of ways, including verbal, written and/or electronically.* Further detailed policy and guidelines on ethical and professional principles and practice of medicine expected can be found



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in the [PO15 ACSEP Code of Ethics & Professional Behaviour \(Fellows\)](#) as well as the online [ACSEP Equality and Inclusion Statement](#), [IOC Consensus Statement on harassment and abuse \(non-accidental violence\) in sport](#) and the [ACSEP College Peer Support Group](#), [Better Members](#) and [ACSEP Mental Health Plan](#) resources all found online on the ACSEP website.

## POLICY COMMITMENT AND RESPONSIBILITIES

- 1.1. ACSEP is committed to advocating and upholding fundamental human rights whilst maintaining the highest international standards of ethics and quality in training, research and governance.
- 1.2. ACSEP recognises and supports the particular needs and aspirations of Aboriginal, Torres Strait Islander, Māori and Pacific Islander people and is committed to genuine strategic efforts to do this in the workplace. These are including but not limited to:
  - Having knowledge of, respect for, and sensitivity towards, the histories and specific cultural needs of the Indigenous communities the college serves and works with/alongside;
  - Acknowledging and understanding the social, economic and cultural factors which are operating as inequalities and systemic barriers within the workplace and greater social space in order to actively investigate and address these barriers positively;
  - Following the framework and initiatives as set out in the [ACSEP RAP \(Reconciliation Action Plan\)](#) with view to achieving all of its short and long-term goals.
- 1.3. ACSEP is committed to continually develop and improve its practices and structure to provide inclusive and diverse workplaces and training situations. This includes supporting and maintaining healthy and safe work and training sites which promote the physical and mental wellbeing of employees, trainees and membership as well as encourage and consider the contribution of all employees and membership from different backgrounds, experiences and perspectives.
- 1.4. ACSEP is committed to providing a workplace that is seen as a positive and rewarding place to work and learn by employees, membership and external stakeholders and is safe and free from all forms of unacceptable behaviour (bullying, harassment, discrimination, victimisation etc.).
- 1.5. ACSEP requires all membership, employees and those associated with the college to respect the opinions and spiritual beliefs of others and their right to practise their beliefs.
- 1.6. ACSEP is committed to providing a workplace that allows staff, trainees and membership to make complaints without the risk of victimisation and as a governing body ACSEP will effectively respond to all forms of unacceptable behaviour when raised, and will investigate promptly, confidentially and impartially. ACSEP will take appropriate action against persons behaving in any way that falls



within the parameters of unacceptable behaviour, this may include disciplinary action under ACSEP rules.

- 1.7. ACSEP employees and membership are expected to act in good faith and use skill, care and diligence in the performance of all duties and responsibilities, and not intentionally cause serious risk to the reputation or viability of the college, consistent with their employment and membership obligations.
- 1.8. ACSEP employees and membership are expected to maintain a standard of conduct and work performance and demonstrate professionalism and courtesy in dealing with other members, employees, students or applicants, contractors, visitors and members of the public.
- 1.9. ACSEP is committed to providing continued advice and support to its members through awareness, training and development programs.
- 1.10. ACSEP is committed to supporting and assisting its membership who are managers, supervisors, trainers, committee members and committee chairs to exercise their leadership and authority to ensure a supportive, flexible, safe and inclusive work and training environment; and ensure that their relationships with registrars, members, employees and the public are professional and respectful.
- 1.11. ACSEP requires all associated with the college in leadership, supervisory or trainer positions to be mindful at all times of the power imbalances that exist in exercising these roles by paying proper regard to the welfare of those they engage with and to:
  - 1.11.1. not initiate, cultivate or encourage relationships that do not pay that proper regard
  - 1.11.2. not engage in any activity inconsistent with the responsibilities, commitments, standards and expectations set out in this policy
  - 1.11.3. to take all reasonable steps to avoid and resolve conflicts of interest
- 1.12. ACSEP requires all membership, employees and those associated with the college to act in the best interests of the college when carrying out their duties and responsibilities and must not allow their private interests or the interests of others to interfere with that obligation.
- 1.13. ACSEP requires all membership, employees and those associated with the college to disclose any conflict of interest and adhere to the college's determination on the management of the conflict.
- 1.14. ACSEP requires that all membership, employees and those associated with the college must take all reasonable steps not to directly or indirectly or through any third party:



- 1.14.1. use the college's intellectual property and resources to benefit a third party without prior written authority of the college
- 1.14.2. induce or attempt to induce an employee to perform work in competition with the college or to act in a manner contrary to an employee's employment obligations or membership obligations

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## 2. UNACCEPTABLE BEHAVIOUR PROCEDURAL PRINCIPLES

ACSEP views the following matters as unacceptable behaviour and will address each separately. Individuals may also be personally liable for external complaints, including criminal complaints. In such circumstances, ACSEP will not provide support where the employee or member has not complied with the parameters of this policy. The college may, at its discretion, determine that suspected or alleged non-compliance with this policy may warrant investigation of the matter without necessity of a complaint being raised. The college may, at its discretion, take any lawful action it deems necessary in response to concerns regarding the health, wellbeing or safety of an individual, irrespective of the actions contemplated in this policy or any other policy.

### 2.1. Unlawful Discrimination

Unlawful discrimination is the less favourable treatment of a person because of something which is special to an individual or small group of people. There are State and Federal laws against discrimination in employment and education and unlawful discrimination can be Direct or Indirect.

- 2.1.1. **Direct Discrimination** under the Equal Opportunity Act 2010 is when someone treats you unfavourably, or proposes to treat you unfavourably, because of your protected attribute. There are 20 protected attributes:

Age	Breastfeeding	Religion
Disability	Family responsibilities	Sexual orientation
Gender identity	Immigrant status	Intersex status
Industrial history	Marital or relationship status	Sex
Medical history	Nationality or citizenship	Gender identification/expression
Political opinion	Potential pregnancy	Social origin
Pregnancy	Race	



2.1.2. **Indirect Discrimination** occurs when a work practice, procedure or requirement unreasonably disadvantages an individual for a reason prohibited by legislation. An individual must not directly or indirectly, or incite others to, engage in any of the following behaviours, in any circumstance which may have an impact on the workplace:

- i. unlawfully discriminate against other individuals based on a protected attribute defined in this policy or at law;
- ii. engage in harassment;
- iii. engage in sexual harassment;
- iv. sexually assault an individual;
- v. physically or verbally assault an individual;
- vi. engage in bullying;
- vii. engage in stalking;
- viii. engage in victimisation;
- ix. vilify an individual or group of individuals; or
- x. engage in child abuse or any form of unlawful dealing with a child.

## **2.2. Harassment including Sexual Harassment**

2.2.1. Harassment (verbal, written, physical and/or electronic communication) on any of the attributes specified is unlawful and can manifest itself in the workplace as behaviours that are unwelcome and make a person feel intimidated, offended, degraded or scared.

2.2.2. Intention to harass or offend, humiliate or intimidate need not be proven for this conduct to be against the law. The intention or motive of an alleged harassment is not relevant. The important matter is how the behaviour affects the person it is directed against and how they perceived or experienced the behaviour.

2.2.3. Harassment can impact an individual employee, or a group of employees and harassment can be a single incident and does not need to be repeated to be unacceptable.

2.2.4. Sexual Harassment is unsolicited comments or conduct (verbal, written, physical and/or electronic) of a sexual nature which is unwelcome in a situation where a reasonable person, having regard to all the circumstances, should have anticipated that the person harassed would be offended, humiliated or intimidated.

2.2.5. Sexual Harassment is not gender defined and may involve a person of the opposite sex, same sex or any gender identification. PLEASE NOTE: The Sex and Age Discrimination Legislation Amendment Act 2011 (Australia) amended the Sex Discrimination Act 1984 in May 2011 to expand the protections against sexual harassment.



2.2.6. Sexual harassment can take various forms such as:

- i. Behaviour accompanied by a direct or implied threat, benefit or promise;
- ii. A compliance being demanded in return for professional or personal advantages or the avoidance of an employment detriment;
- iii. Physical contact;
- iv. Verbal comments;
- v. Propositions;
- vi. Staring or leering
- vii. Unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- viii. Suggestive comments or jokes
- ix. Insults or taunts of a sexual nature
- x. Intrusive questions or statements about your private life
- xi. Sending sexually explicit emails or text messages
- xii. Inappropriate advances on social networking sites
- xiii. Accessing sexually explicit internet sites
- xiv. Requests for sex or repeated unwanted requests to go out on dates
- xv. Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
- xvi. The display of offensive material (this includes material access from the internet or by email);
- xvii. Behaviour which can create sexually permeated hostile working environments; or
- xviii. Behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communication.

2.2.7. Sexual harassment does not include behaviour based on mutual attraction, friendship and respect or interactions that are consensual, welcomed or reciprocated.

2.2.8. ACSEP wishes to ensure that persons working within its environment respect the sensitivities of others, especially considering their potential differing social and cultural standards. That may mean that some behaviour may be acceptable to some persons but unacceptable to others. Cultural differences or ethnic background values are not an excuse or justification for sexual harassment.

### **2.3. Vilification**

Vilification refers to unwelcome comments or actions (verbal, written or electronic) and is any act that happens publicly and could incite others to hate, have serious contempt for, or severely ridicule an



individual or group of people for any of the 20 protected attributes as outlined in Equal Opportunity Act 2010 (see 2.4). Vilification can be a single incident and does not need to be repeated to be unacceptable.

#### **2.4. Physical, Sexual and other Assaults**

ACSEP urges a victim of or a witness to any apparent physical, sexual or any other assault to bring the matter to the immediate attention of the college through any appropriate trusted officer. The college deals with these matters confidentially, sensitively and in conjunction with external authorities. In circumstances where an individual prefers to disclose matters to local police or a support service or rather than make a formal complaint, the college may draw on these disclosures to initiate appropriate actions:

Disclosures may be made:

- in person via local police or local support services
- online [www.1800respect.org.au](http://www.1800respect.org.au) (Australia) or <https://www.humanrights.gov.au/complaints/make-complaint/complaint-form> or Sexual Abuse Prevention Network (NZ)
- on the phone via the Australia Inappropriate Workplace Behaviour Reporting Line (1800 685 463) or Human Rights Commission 1300 656 419. Auckland Safe Network (09 377 9898), Wellington STOP (04 566 4745), Christchurch STOP (03 353 0257)

#### **2.5. Workplace Bullying**

Workplace Bullying is repeated unreasonable and inappropriate behaviour that creates a risk to health and safety which creates a hostile and offensive work atmosphere and demeans and humiliates individuals and/or groups.

2.5.1. Repeated unreasonable behaviour refers to the persistent nature of the behaviour and can involve a range of behaviour over time. Unreasonable behaviour can include behaviour that is victimising, humiliating, intimidating or threatening. A single incident of unreasonable behaviour is not generally considered to be Workplace Bullying, however if it is repeated then this behaviour may constitute Workplace Bullying.

2.5.2. Workplace Bullying can occur wherever people work together in all types of workplaces. Bullying can be carried out in a variety of ways, including face to face, in writing and/or electronically and along with intimidating physical behaviour it can include psychological behaviour such as isolating or ignoring someone to intimidate, manipulate or humiliate.



2.5.3. Workplace Bullying may also involve harassment or discrimination which are breaches of Federal and State acts and give rise to legal claims against the individual and ACSEP.

2.5.4. Examples of Workplace Bullying include, but are not limited to:

- i. Manipulation;
- ii. Intimidation;
- iii. Belittling remarks;
- iv. Offensive remarks or behaviour;
- v. Degrading remarks or behaviour;
- vi. Unreasonable persistent criticism which is not part of a performance review process;
- vii. Fault finding without justification;
- viii. Verbal and physical abuse;
- ix. Isolation from colleagues;
- x. Withholding information employees or members need to perform their job or training;
- xi. Setting unachievable targets with the intent of causing employees or members to fail.
- xii. Cyber-Bullying\*

\* The term 'cyber-bullying' is any bullying, harassment or discrimination, as defined above, when such activity is conducted utilising electronic communication media. Such media includes, but shall not be limited to, email messages, text messages, instant messages, social networking sites, internet- based video sites, and posting of blogs.

2.5.5. Workplace Bullying can be directed at a single worker or group of workers and can be carried out by one or more workers. It can occur:

- i. Downwards from employers, managers, or supervisors to employees or registrars
- ii. Sideways between all individuals/groups
- iii. Upwards from employees or registrars to employers, managers, or supervisors

2.5.6. Workplace Bullying can be harmful to the person experiencing it and to those who witness it. Reactions will vary depending on individual characteristics as well as the specific situation. Some although not all reactions include:

- i. Distress, anxiety, panic attacks or sleep disturbance
- ii. Physical illness, such as muscular tension, headaches and digestive problems
- iii. Loss of self-esteem and feelings of isolation
- iv. Deteriorating relationships with colleagues, family and friends
- v. Depression
- vi. Thoughts and acts of self-harm

2.5.7. Workplace Bullying can damage the reputation of a business and can lead to:

- i. High staff turnover
- ii. Low morale and motivation



- iii. Increased absenteeism
- iv. Lost productivity
- v. Costly compensation claims or legal action

## **2.6. What is not considered to be Workplace Bullying?**

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on an employee/registrar's performance. These actions are not considered to be Workplace Bullying if they are carried out in a reasonable manner, taking the particular circumstances into account. Reasonable management action taken in a reasonable way. Examples of reasonable management action include:

- i. Setting reasonable performance goals, standards and deadlines
- ii. Rostering and allocating working hours where the requirements are reasonable
- iii. Deciding not to select an employee for promotion where a reasonable process is followed and documented
- iv. Informing an employee or registrar about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines
- v. Informing an employee or registrar about inappropriate behaviour in an objective and confidential way
- vi. Implementing organisational changes or restructuring
- vii. Termination of employment or training on reasonable and demonstrable grounds

## **3. Procedural Principles and Reporting**

- 3.1. Regarding all commitments and principles outlined above, ACSEP encourages early identification of all issues and supports a transparent information exchange between all parties to ensure a common understanding of the challenges and opportunities for improvement.
- 3.2. All complaints or reports of inappropriate workplace behaviour as outlined in this policy will be actioned immediately and treated confidentially. \* NOTE Education providers like ACSEP must inform their governing body (AHPRA / NZMC) if they have formed a reasonable belief that a registered health practitioner has behaved in a way that constitutes a form of notifiable conduct.
- 3.3. ACSEP recognises that work and training colleagues play an important role in supporting those who experience any form of unacceptable behaviour and encourage those who witness any form of harassment, bullying or discrimination to take some form of supportive positive action when it happens.



3.4. ACSEP is committed to procedural processes whereby workplace behaviour, wellbeing and performance improvement of college employees, Fellows and Registrars and those affiliated or associated with ACSEP follow a continuous cycle where the college can:

- i. identify behaviour concerns and other risk flags
- ii. analyse the level of risk and opportunities for improvement
- iii. determine appropriate interventions
- iv. ensure that action is taken to mitigate risk
- v. support ongoing improvement

3.5. Any person who considers they may have experienced an incident or behaviour set out in this policy may submit a formal complaint. It is not necessary for a person to have sought informal assistance before submitting a formal complaint. The current procedural principles on reporting are based on two strands:

o **Mandatory Reporting (1)**

Unacceptable behaviour(s), performance concerns, inherent vulnerability's and emerging serious risks are identified and reported by the person(s) involved or raised by a third-party external stakeholder or as a consequence of a practice/site visit. Note: Mandatory reporting matters are outlined by governing health practitioner bodies **NZMC** and **AHPRA**.

o **Non-Mandatory Reporting (2)**

Matters not of a mandatory reporting severity but still representing behaviours of concern and if the complainant is unable to raise the issues with the person involved and resolve the issue as soon as possible the issue should be referred to the College CEO who will take the issue to Board level and to the Professional Standards Committee for review and consideration.

3.6. All risks relating to organisational safety culture will be taken very seriously particularly where evidence of bullying, discrimination or personal safety of parties is apparent or in question. In this instance, all risk flags should be assessed with any and all available information to better understand the extent of the issues and its impact on training engagement, patient care, reporting culture and management (college) response.

3.7. ACSEP recognises that identifying risks from this context will require continual development of strategies to support improved performance and behavioural integrity across all areas of membership and employment. Understanding and identifying the challenges our Fellows and Registrars face also provides a better appreciation of the contextual environment ACSEP members and staff operate in.



- 3.8. ACSEP staff, registrars and members have a responsibility to ensure they cooperate to maintain an environment free from inappropriate discrimination, harassment and bullying of the types set out above. These behaviours can cause distress, emotional and physical damage and interfere with an individual's work performance and career prospects and could definitively and detrimentally impact ACSEP's social reputation and the positive services our college provides to the community.
- 3.9. While employees and members are encouraged to use the options set out in this policy, they have a right to seek advice from and/or lodge a complaint with external bodies. Making a complaint to an external body does not preclude ACSEP from investigating a matter as set out in this policy, although the college will be mindful of the need to ensure co-operation with external agencies.

#### **4. Consequences of Inappropriate Workplace Behaviour**

- 4.1. If persons are found guilty of inappropriate workplace behaviour including but not limited to bullying, harassment or discrimination, then appropriate action will be taken against them. This could include disciplinary action, immediate dismissal and/or reporting to the pertinent various government bodies or investigation by external independent review. Persons found guilty of this behaviour could face any of the following:
- i. Formal apology
  - ii. Counselling
  - iii. Dismissal
  - iv. Disciplinary action under the ACSEP rules and constitution.

#### **5. Complaints Process**

- 5.1. Any initial inquiries or complaints about the College's handling of personal information or processes as outlined in this policy should be directed to the National Office on +61 3 9654 7672 or email [nationaloffice@acsep.or.au](mailto:nationaloffice@acsep.or.au). For more severe complaints the reporting should be directed to the CEO of National Office ACSEP.
- 5.2. It is ACSEP policy that any adverse feedback (written or verbal) from membership or external personnel about college policy or procedures will be investigated thoroughly as per the most current version of the *P002 ACSEP Grievance Policy and Procedure*.
- 5.3. All parties involved will be notified either in writing or verbally of the outcome from the ACSEP National Office and for severe breaches, incidents may be referred to ACSEP Legal Counsel and Fair Work Australia or the Employment Relations Authority of New Zealand.



## 6. Reporting

No additional reporting outside of the scope of this policy is required. The college shall publish annually a report on college activities for membership reporting.

## 7. Records Management

Staff must maintain all records relevant to administering this policy in a recognised ACSEP record keeping system. Records will be managed and maintained at ACSEP in accordance to the P012 ACSEP Records Management Policy and associated procedures in line with Office of the Australian Information Commissioner [www.oaic.gov.au](http://www.oaic.gov.au) and Office of the New Zealand Privacy Commissioner [www.privacy.org.nz](http://www.privacy.org.nz)

## 8. Related Legislation and Documents

[ACSEP's professional policies online](#) and at the National Office provide guidance to the college's Fellows and Registrars on standards of SEM practice and serve other purposes that the college deems appropriate. The documents are regularly reviewed and updated in accordance with changes in knowledge and practice. For further information or feedback about the ACSEP policies, please email [nationaloffice@acsep.org.au](mailto:nationaloffice@acsep.org.au).

This policy having been written at National Office in Victoria Australia also supports compliance with the following legislation as amended:

- (a) *Age Discrimination Act 2004* (Cth);
- (b) *Australian Human Rights Commission Act 1986* (Cth);
- (c) *Charter of Human Rights and Responsibilities Act 2006* (Vic);
- (d) *Crimes Act 1958* (Vic);
- (e) *Child Wellbeing and Safety Act 2005* (Vic);
- (f) *Disability Discrimination Act 1992* (Cth);
- (g) *Disability Standards for Education 2005* (Cth);
- (h) *Equal Opportunity Act 2010* (Vic);
- (i) *Fair Work Act 2009* (Cth);
- (j) *Financial Management Act 1994* (Vic);
- (k) *Fringe Benefits Tax Assessment Act 1986* (Cth);
- (l) *Independent Broad-based Anti-Corruption Commission Act 2011* (Vic);
- (m) *Occupational Health and Safety Act 2004* (Vic);
- (n) *Privacy and Data Protection Act 2014* (Vic);
- (o) *Protected Disclosure Act 2012* (Vic);
- (p) *Racial and Religious Tolerance Act 2001* (Vic);
- (q) *Racial Discrimination Act 1975* (Cth);
- (r) *Sex Discrimination Act 1984* (Cth);



- (s) *Working with Children Act 2005 (Vic)*; and
- (t) *Workplace Gender Equality Act 2012 (Cth)*.

The policy also refers to guidelines as set out by the <https://www.govt.nz/> and <https://www.mbie.govt.nz/> the New Zealand Ministry of Business including the Employment Relations Amendment Act 2014. It also references the [AMC Good Medical Practice Code of Conduct for Doctors](#) guidelines which can be found online.

### 9. Feedback

ACSEP staff or membership may provide feedback about this document by emailing ACSEP Programs, Policy and Systems Administrator via [nationaloffice@acsep.org.au](mailto:nationaloffice@acsep.org.au)

### 10. Approval and Review Details

Approval and Review	Details
Approval Authority	ACSEP CEO and ACSEP Board of Directors (Executive)
Advisor or Advisory Committee to Approval Authority	ACSEP CEO
Policy Developer	ACSEP Programs and Policies
Next Review Date	8/2/2020

<b>Approval and Amendment History</b>	V2 – 07/02/2019	Reviewed and ratified by ASCEP CEO, ACSEP Board and Professional Standards Committee
	V2 - 17/12/2018	Researched and redrafted by Programs and Policies Administrator
	V1 – 23/7/2018	Reviewed by Professional Standards Committee
	V1 - 01/05/2016	Developed by ACSEP CEO
Original Approval Authority	ACSEP CEO	
Effective Date	01/05/2016	
Amendment Authority and Date	07/02/2019 ACSEP Board EXECUTIVE	
Notes:		