Conduct and Behaviour Policy

External NDIS Providers working in Government Schools
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1. **Purpose**

External service providers, contractors, consultants, volunteers or other non-employees working with the Department of Education can be seen as representatives of the Department and should display conduct that is appropriate and will enhance a positive reputation.

This Behaviour and Conduct Policy replicates those that have been developed for Department of Education employees.

Continued association with the Department of these persons depends upon them observing and complying with this Policy.

2. **Policy Statement**

The Department is committed to working collaboratively with the National Disability Insurance Scheme (NDIS), National Disability Insurance Agency (NDIA) and External Service Providers to support student access to the services and supports they need.

There may be some instances where External NDIS Providers seek to access the school to deliver services for a particular student or group of students.

In such approved instances, all External NDIS Providers must comply with this Conduct and Behaviour Policy.

3. **Lawful and Reasonable Directions**

The following standards apply:

3.1 External providers must comply promptly, conscientiously and effectively with all lawful and reasonable decisions and directions given by a person having authority to give such directions.

3.2 External providers must not knowingly or deliberately impede compliance with, or implementation of, a lawful and reasonable decision or direction.

3.3 When making decisions or giving directions, external providers must act within their legal and organisational responsibilities and delegations. External providers must make competent decisions and give fair and reasonable guidance and directions.

4. **Professionalism and Ethical Conduct**

The following standards apply:

4.1 In the course of their employment, external providers must act in a professional and respectful way that enhances their professional reputation and the reputation of the Department. External providers should act appropriately in the presence of students at all times, both within and outside school hours. At all times external providers should conduct themselves in a manner that does not bring the Department of Education or themselves into disrepute.

4.2 External providers must treat other external providers, Department of Education employees, students, parents and other clients with respect and without harassment, victimization or discrimination. External
providers must not behave in ways that a reasonable person would consider to be offensive, intimidating, humiliating or threatening.

4.3 External providers whose work involves interacting with students have a special responsibility to comply with duty of care requirements and not to be engaged in inappropriate behaviour such as illegal, anti-social, scandalous or disreputable activities, which may negatively impact on them being seen as appropriate role models for those students.

4.4 External providers must be aware of the policies, procedures and delegations that are applicable to their actions. Principals/Managers must make relevant information available to external providers. External providers are required to read and understand policy documents issued to them or circulated to them.

4.5 External providers must uphold and comply with:

4.5.1 applicable laws, regulations, industrial awards and agreements (Commonwealth, State and local);

4.5.2 applicable professional standards and codes of practice that do not conflict with government or departmental policy;

4.6 External providers must act promptly in reporting breaches of the law, departmental policies, Government policies and directives, as well as misconduct and maladministration under the State Service Code of Conduct and these departmental Standards, to their Principal/Manager or other relevant departmental officer.

4.7 External providers are expected to always behave in ways that promote the safety, welfare and well-being of students, other clients and employees, in accordance with relevant occupational, health and safety legislation.

4.8 External providers must perform their work duties competently and responsively, with a focus on delivering or supporting the delivery of high-quality specialist services to students, and delivering high-quality services to other internal and external departmental clients.

4.9 External providers must maintain the accuracy, integrity and appropriate confidentiality of all departmental information.

4.10 All external providers are accountable for their official decisions and conduct.

4.11 Dress, personal appearance and hygiene are important elements of professional presentation. External providers must ensure their personal appearance and presentation is clean, tidy and appropriate for their work role.

4.12 External providers must ensure that departmental resources are not used improperly. These resources include financial and material resources as well as intellectual, information, system and knowledge resources related to the work of the Department.

5. Duty of Care

Duty of care is essentially a duty to do everything reasonably practicable to protect others from foreseeable harm. While this applies in all aspects of an employee’s work, it is particularly important for those external providers who have interaction with students.

All students have a basic and expected right to a physical and emotional environment that is free from unreasonable risk of harm. “Harm” includes any significant detrimental effect to the student’s physical, psychological or emotional wellbeing by any cause and includes minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the student if allowed to continue. Amongst other things, harm can be caused by:
• physical, psychological or emotional abuse or neglect; or
• sexual abuse or exploitation; or
• domestic or family violence; or
• student bullying; or
• one’s own actions.

The following standards apply:

5.1 External providers must actively seek to maintain a physically safe environment for students in accordance with the *Work Health and Safety Act 2012*.

5.2 External providers must actively seek to prevent harm to students and to support students who have been harmed. They are mandatory reporters under the *Children, Young Persons and their Families Act, 1997*. External providers are legally required to notify Child Safety Services if they know, believe or suspect that a child is being abused and neglected. Refer to the *Child Safety Notification Process*.

6. **Psychological Harm to Students**

   The following standards apply:

   6.1 External providers must not engage in conduct of a bullying or harassing nature. Such conduct might include, but not be restricted to: targeting students with unfair and continued criticism; making excessive or unreasonable demands; and making any form, both oral and written, derogatory comments. External providers should not engage in making derogatory comments in any form to students, parents, work colleagues or the general public.

7. **Physical Contact with Students**

   The following standards apply:

   7.1 External providers must not engage in conduct that could physically harm a student. NB There may be occasions, however, where physical intervention is appropriate in order to protect students. In these circumstances this would be deemed reasonable action providing that the physical intervention is to prevent harm or further harm to students and that the employee seeks to avoid inflicting physical harm where possible.

8. **Sexual Conduct**

   The following standards apply:

   8.1 The External provider’s interactions with all students must be seen to be professional at all times.

   8.2 External providers must not engage in behaviour that raises a reasonable suspicion that they have engaged in or will engage in sexual conduct with students, or that the standards applying to the professional employee/student relationship has or will be breached.

   8.3 External providers must not, unless there are specific work-related reasons, provide or exchange personal information such as telephone numbers with any student.
8.4 External providers must not engage in sexual conduct with a student at any time, either during or outside school hours.

8.5 Sexual conduct includes, but not exclusively:
   a) unwarranted and inappropriate touching of students
   b) suggestive remarks or action of a sexual nature
   c) sexual exhibitionism
   d) obscene gestures, language, jokes containing sexual references or deliberately exposing students to the sexual behaviour of others in any form, other than in the case of prescribed curriculum material in which sexual themes are contextual
   e) inappropriate conversations of a sexual nature
   f) comments that express a desire to act in a sexual manner
   g) personal correspondence (including electronic communication) with a student in respect of the adult’s sexual feelings for a student
   h) deliberate exposure of students to sexual behaviour of others including display of pornographic material
   i) flirtatious behaviour directed at a student
   j) dating a student
   k) spending significant time alone with a student other than to perform one’s professional duties, or without other reasonable explanation
   l) expressing romantic feelings towards a student in any way.

8.6 Sexual conduct can also include ‘grooming behaviour’. Grooming behaviour is a process whereby sexual offenders ‘condition’ and build rapport with children or young persons in order to reduce their resistance to, and increase compliance with, sexual abuse. The grooming process can include:
   a) Misleading students by pretending to them they are special, for example by spending inappropriate time with students, inappropriately giving gifts, showing special favours to certain students but not to other students, allowing students to overstep the accepted rules etc.
   b) Breaking of accepted standards of behaviour, for example undressing in front of students, allowing students to sit on their lap, talking about sex, ‘accidental’ touching etc.

8.7 External providers must discourage and reject any advances of a sexual nature initiated by a student. Should such a situation arise the employee must report any such instances immediately to their supervisor/senior officer to assist in preventing repetition and avoiding subsequent allegations.

9. Discrimination and Harassment

The Department of Education commits itself to providing a workplace free of all forms of discrimination and harassment. Common types of harassment include:
   a) Intimidatory harassment
   b) Bullying
   c) Sexual harassment
The following standards apply:

9.1 External providers must not discriminate against or harass any colleague, student, or parent, nor discriminate in how services are provided to the community. All external providers working in DoE schools have the responsibility to act equitably towards other employees, students and the general public in accordance with the Department’s policies and relevant legislation including the **Tasmanian Anti-Discrimination Act 1998**, **Equal Employment Opportunity Act 1987**, **Workplace Relations Act 1996**.

Unlawful discrimination or harassment will not be tolerated and will result in a grievance report to the local National Disability Agency and may also result in criminal charges.

10. Use of Tobacco, Alcohol, other Drugs and Medication

The following standards apply:

10.1 Smoking is not permitted in government buildings, vehicles, facilities and school grounds.

10.2 External providers have an occupational health and safety obligation, in accordance with the **Work Health and Safety Act 2012**, to ensure that their use of alcohol, drugs or other medications does not adversely affect their work performance or endanger the health and safety of others. This includes behaviour at official functions where alcohol is served.

10.3 External providers must not provide students with alcohol or illicit drugs and must not encourage or condone the illegal use of alcohol including underage drinking or excessive consumption of alcohol or the use of illicit drugs.

10.4 External providers should avoid social contact with students, under the age of 18 years, where the consumption of alcohol or drugs occurs.

10.5 External providers must not consume or be affected by alcohol and/or drugs in any circumstances where they are responsible for students.

11. Conflict of Interest

An apparent conflict of interest exists when an employee’s private interests have the potential to interfere with the proper performance of their work duties. An actual conflict of interests exists when a reasonable bystander, in possession of the relevant facts, would conclude that the employee’s private interests are likely to interfere with the proper performance of their work duties. An apparent or actual conflict of interest must be identified, declared and avoided or resolved in favour of the public interest.

The following standards apply:

11.1 DoE employees may potentially work as an External provider. External providers who are also DoE employees must ensure that any secondary private employment undertaken by them does not constitute a conflict of interest with their work duties, or adversely affect their work performance, in accordance with the **State Service Act 2000** and the departmental policy on **Conflict of Interest Procedure**.

11.2 External providers must not engage another employee, or allow themselves to be separately engaged by the Department, to provide goods or services that they could reasonably be expected to provide as part of their departmental employment.

11.3 External providers are required to:
11.3.1 avoid conflicts of interest if possible, and avoid creating conflicts for others
11.3.2 disclose in writing to their supervisor any perceived or actual conflict of interest as soon as they become aware that there is or may be a conflict, and where there is a change of supervisor, to notify that person of the conflict and the means being used to manage it
11.3.3 (with their supervisor) resolve or otherwise manage the conflict and document how this was achieved

Situations which may give rise to a conflict of interest might include:

a) financial interests of the employee, a friend or relative that could influence the impartiality of the performance of duties
b) personal beliefs or attitudes that may influence the impartiality of advice given
c) party political activities or membership of politically active groups if it impedes the employee serving the government of the day
d) personal relationships with other external providers, applicants for positions, students or business customers
e) dealings with a friend, a relative or colleague who is also a student or parent
f) representative duties where an employee who is representing the interests of the Department is also asked to represent the interests of a community group
g) private employment which may conflict with departmental duties
h) approval of expenditure which will benefit the employee, a friend, a relative or an organization with which the employee identifies.

12. Receiving and Giving Gifts and Benefits

The following standards apply:

12.1 External providers should not seek or encourage favours or gifts for services performed in connection with official duties as outlined in the Departmental policy – Gifts, Benefits and Hospitality Policy.
12.2 External providers may not accept a monetary gift in connection with their work duties under any circumstances.

13. Confidentiality – Using and Disclosing Official Information

As an External Provider working in Department of Education schools you may be entrusted with access to information of a sensitive or confidential nature to enable you to carry out your duties. You may also be provided with information from members of the community, i.e. parents and students which may be of a similar sensitive or personal nature.

The following standards apply:

13.1 External providers must ensure that confidential, private and sensitive information is handled carefully and that the integrity of such information is maintained at all times.
13.2 External providers must only use the Department’s official information, proprietary knowledge and intellectual property for departmental work, except where specific consent of the Department has been given for another purpose. This requirement continues to apply after they have left the
Department’s employment. After ceasing service with the Department, you must not use confidential information obtained during the course of your employment for other work or non-work related purposes.

External providers should be aware that unauthorised disclosure of departmental information is contrary to this Conduct and Behavior Policy and may result in a grievance report to their respective Manager or the local National Disability Agency.

14. Personal Information

External providers must be aware of and comply with the provisions of the Personal Information Protection Act 2004.

The following standards apply:

14.1 External providers must not make private use of official information.

14.2 Personal information collected or held by external providers must be held securely to avoid loss; unauthorised access, use, modification or disclosure; and all other misuse.

14.3 External providers may only disclose information not normally provided to the public:
   a) if it is required as part of their duties
   b) proper authority has been given to them to do so
   c) when required, or authorized, to do so by law, or
   d) when called to give evidence in court.

15. Making Public Comment

The following standards apply:

15.1 External providers must comply with departmental policy when making a public comment about the Department’s work. Public comment includes public speaking engagements, comments on radio and television, expressing views in letters to the media or in books, journals, the internet, Web 2 technologies and resources such as blogs, wikis, social networking sites or other notices that may be viewed by the public.

16. Procedure for Dealing with Allegations and Apparent Breaches

While the department’s Conduct and Behavior Policy is not binding upon contractors, consultants, volunteers or other non-employees working with the Department of Education, they can be seen as representatives of the Department and should display conduct that will enhance a positive reputation. Continued association with the Department of these persons depends upon them observing and complying with this Policy.

Any breaches in this Conduct and Behavior Policy will result in a termination of the Service Provider contract to work in schools.
17. **Grievance procedure**

If an External Provider does not adhere to this Policy, the School Principal must inform the relevant Manager in the first instance.

In the case of a sole provider, the Principal is able to lodge a grievance with the local National Disability Insurance Agency (NDIA). The NDIA have the responsibility to investigate the complaint.

18. **Related policies**

- Gifts, Benefits and Hospitality Policy.

19. **Related procedures**

- Working with External NDIS Service Providers Procedure
- Conflict of Interest Procedure.

20. **Supporting information/tools**

- Further information is available on the Department’s website at National Disability Insurance Scheme.
- NDIS Provider – Factsheet for Principals
- NDIS Provider – Checklist for Principals
- NDIS Parent, External Provider and School Agreement

21. **Legislation**

- National Disability Insurance Scheme (NDIS) Act 2013 (Cth)
- Work Health and Safety Act 2012 (Tas)
- Children, Young Persons and their Families Act, 1997 (Tas)
- Anti-Discrimination Act 1998 (Tas)
- Equal Employment Opportunity Act 1987 (Cth)
- Fair Work (Registered Organisations) Act 2009 (Cth)
- State Service Act 2000 (Tas)
- Personal Information Protection Act 2004 (Tas)

22. **Definitions**

**External NDIS Service Provider**
A provider that is an accredited professional or organisation, independent of the Department of Education Tasmania, contracted to provide service/s to a child with a disability and their family. These providers will be registered with the NDIA.

**National Disability Insurance Agency (NDIA)**

The NDIA is the local agency, which works with local communities to provide information and referrals, support to access community services and activities, personal plans and supports over a lifetime.

**National Disability Insurance Scheme (NDIS)**

The NDIS is the national Scheme that provides disability support. It is an insurance scheme, which will provide Australians under the age of 65 who have a permanent or significant disability with the reasonable and necessary supports they need to live an ordinary life.