

Senate Standing Committee on Education and Employment - Education

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2014-2015**

Cross Portfolio

Department of Education Question No. ED0506_15

Senator Ludwig provided in writing.

Question

Dept & its agencies: Departmental Staff Misconduct

Since Budget Estimates in June, 2014: 1. Please provide a copy of the departmental staff code of conduct. 2. Have there been any identified breaches of this code of conduct by departmental staff? a) If yes, list the breaches identified, broken by staffing classification level. b) If yes, what remedy was put in place to manage the breach? If no remedy has been put in place, why not? c) If yes, when was the breach identified? By whom? When was the Minister made aware? d) If yes, were there any legal ramifications for the department or staff member? Please detail.

Answer

1. Employees of the Department of Education and its portfolio agencies are required to comply with the Australian Public Service (APS) Code of Conduct (the Code), which is specified in Section 13 of the Public Service Act 1999. The Code is as follows:

An APS employee must:

- 13(1) behave honestly and with integrity in connection with APS employment
- 13(2) act with care and diligence in connection with APS employment
- 13(3) when acting in connection with APS employment, treat everyone with respect and courtesy, and without harassment
- 13(4) when acting in connection with APS employment, comply with all applicable Australian laws
- 13(5) comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction
- 13(6) maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff
- 13(7) take reasonable steps to avoid any conflict of interest (real or apparent) and disclose details of any material personal interest of the employee in connection with the employee's APS employment
- 13(8) use Commonwealth resources in a proper manner and for a proper purpose
- 13(9) not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment

- 13(10) not improperly use inside information or the employee's duties, status, power or authority:
 - to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
 - to cause, or to seek to cause, detriment to the employee's Agency, the Commonwealth or any other person
- 13(11) at all times behave in a way that upholds the APS Values and Employment Principles, and the integrity and good reputation of the employee's Agency and the APS
- 13(12) while on duty overseas, at all times behave in a way that upholds the good reputation of Australia
- 13(13) comply with any other conduct requirement that is prescribed by the regulations

2. Yes

- a) Four departmental employees were found to have breached the Code between 1 June 2014 and 30 September 2014.

An APS4 level employee breached sections 13(2), 13(3), 13(4), 13(5), 13(8), 13(10) and 13(11) of the Code.

Three other APS4 level employees breached sections 13(2), 13(8) and 13(10) of the Code.

- b) In accordance with Section 15(1), the Secretary of the Department of Education (or her delegates) can choose to impose a sanction on an APS employee for breaches of the Code. One of the employees left the department before any sanction could be imposed. The other three employees did not receive a sanction.

Alternative measures the department may take in addressing misconduct include counselling, training or new policies. Such measures were implemented in all four of the cases referred to above.

- c) The department interprets this as referring to the point at which the behaviour or incident was first identified, and who identified it. It is worth noting that at the point the behaviour or incident was first identified it would not be considered to be a 'breach' per se. An independent delegate must make a finding of breach following thorough consideration and investigation of the matter.

One incident was identified on 4 March 2014 by the employee's manager.

One incident was identified on 31 March 2014 by the employee's manager.

Two incidents were identified on 13 June 2014 by the employees' managers.

The Minister was not made aware of any of these matters.

- d) There were no legal ramifications associated with these four matters.

The **Tertiary Education Quality and Standards Agency (TEQSA)** is also covered by the APS Code of Conduct, specified in the Public Service Act 1999, and has provided a nil response to the second part of the question.

The **Australian Research Council (ARC)** is also covered by the APS Code of Conduct, specified in the Public Service Act 1999, and has provided a nil response to the second part of the question.

The **Australian Curriculum, Assessment & Reporting Authority (ACARA)** is also covered by the APS Code of Conduct, specified in the Public Service Act 1999, and has provided a nil response to the second part of the question.

The **Australian Institute for Teaching and School Leadership (AITSL)** – provides the following response

1. AITSL has five values that underpin and guide its work for individuals and as an organisation. These values are:

<i>Excellence</i>	We aim to be outstanding and consistently hold ourselves to high standards – a reputation for quality work, thinking and relationships
<i>Ethical Behaviour</i>	We act with integrity – a reputation for honesty, consistency, reliability, transparency, respect and equity
<i>Engagement</i>	We work with others to achieve the best outcome – a reputation for embracing diversity, partnerships, collaboration, consultation, teamwork and dialogue
<i>Expertise</i>	We grow our knowledge base and harness that of others – a reputation for internal expertise and drawing on an evidence base and the expertise of others, scholarship and thought leadership
<i>Effectiveness</i>	We focus our efforts on areas that will have an impact – reputation for credibility, making a valuable contribution and making a positive difference

To ensure that behaviours that are consistent with and supportive of the law and that AITSL's values and desired culture are reinforced, a framework has been developed as part of the 'Managing Misconduct and Discipline policy' (attached).

2. No breaches of these values or misconduct have been identified.

The **Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS)** – Nil response