



Australasian College
for Emergency Medicine

ACEM Examinations Conflict of Interest Policy

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acem.org.au

Document Review

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Revision History

Version	Date	Pages revised / Brief Explanation of Revision
v1	Oct-2016	Approved by Board.
v2	Oct-2018	Revisions throughout approved by the Board
v3	Mar-2024	Amend Examinations Subcommittee to Committee and add reference to support person for candidate reviewing OSCE recordings.

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1. Purpose and scope

The Australasian College for Emergency Medicine (ACEM; the College) is committed to high standards of ethical conduct. This policy provides guidance in identifying and handling perceived, potential and actual conflicts of interest involving ACEM examination activities. This policy draws on and complements the ACEM *Conflict of Interest Policy* (COR139), and applies specifically to College examinations.

It is the responsibility of each ACEM member, trainee, staff member, and other persons serving on a College entity or in a College role ('College representatives') to have regard to the particular circumstances of each case, and the application of this policy in each case.

This policy applies to all members and staff of the College involved in the preparation and conduct of College examinations, including, but not limited to, the following groups:

- ACEM Examination Committee and Examination Working Groups;
- ACEM Court of Examiners;
- ACEM Panel of Standard Setters;
- ACEM OSCE FACEM Confederates.

2. Policy Statement

ACEM members, trainees, staff and College representatives are obligated to avoid and disclose any ethical, legal, financial or other conflicts of interests involving the College and remove themselves from a position of decision-making authority or influence with respect to any conflict situation involving the College. Individuals have a duty to place the interests of the broader membership above their own personal (self-serving) interests.

Individuals should identify any actual, potential or perceived conflicts of interest that are external to their involvement in College activities and take appropriate action to address such conflicts of interest as they arise.

This is particularly so in relation to College examinations, which are high-stakes assessments. As such, individuals in possession of information about College examinations may find themselves in positions of significant conflict of interest (perceived or actual) through events or actions, some of which may be outside of their control. The College values the significant contributions of all involved in enabling the conduct of examinations and is most keen to ensure that individuals are protected, as far as is possible, from any effects of any conflict of interest. As a result, this will mean that there will be times when it is in the best interest of all concerned for individual(s) to be prohibited from participating in activities relating to the development and conduct of College examinations until the circumstances that give rise to any conflict of interest (perceived or actual) are removed.

3. Definitions

3.1 General

ACEM;the College

means the Australasian College for Emergency Medicine.

Actual conflict of interest

involves a direct conflict between current duties and responsibilities and existing private interests.

College entity

means an entity, howsoever styled, established by a governing body pursuant to approved terms of reference and in accordance with the *Policy on College Entities*.

College member

means a person admitted as a member of the College pursuant to the provisions of the ACEM Constitution and associated regulations.

Examination

refers to any formally constituted and conducted College examination process, including the Primary Written Examination, Primary Clinical Examination (Viva), Fellowship Written Examination and Fellowship Clinical Examination (OSCE) of the FACEM Training Program, as well as examinations conducted as a requirement of any other ACEM training program.

Family member

includes spouse, domestic partner, parents, siblings, children, the spouse or partner of a parent, sibling or child, and any other relative who resides in the same household.

Fee paying (courses)

involves payment by a participant to attend.

For profit (courses)

organised with the intent of making a financial profit and/or where presenters or other contributors receive payment of any kind over and above reimbursement of direct expenses for their contributions.

Not for profit (courses)

organised without the intent of making a financial profit and/or where presenters or other contributors receive no payment of any kind over and above reimbursement of direct expenses for their contributions.

Perceived conflict of interest

is where it could be perceived, or appear, that private interests could improperly influence the performance of duties – whether or not this is in fact the case.

Potential conflict of interest

is where private interests could conflict with official duties.

Trainee

means a person enrolled in and undertaking the FACEM Training Program and, for the purposes of this policy, also includes trainees undertaking the Emergency Medicine Certificate (EMC), Emergency Medicine Diploma (EMD), Emergency Medicine Advanced Diploma (EMAD), and Diploma in Pre-Hospital Retrieval Medicine (DipPHRM), as well as Specialist International Medical Graduates (SIMGs) undertaking College requirements for the purpose of attaining eligibility for election to Fellowship of the College.

4. Conflict of Interest

A conflict of interest is a situation which occurs if an interest or activity:

- influences, or appears to influence, the ability of the individual to exercise objectivity; or
- impairs, or appears to impair, the individual's ability to carry out responsibilities in the best interests of the College.

An individual is considered to have a potential conflict of interest when:

- they or a family member or close associate may receive a financial or other significant benefit as a result of the individual's position at the College;
- they have the opportunity to influence the College's business, administrative or other material decisions in a manner that leads to personal gain or advantage; or
- they, a family member or a close associate have an existing or potential financial or other significant interest that impairs, or might appear to impair, their independence in the discharge of their responsibilities to the College.

Examples of close associates include:

- an employer (including hospital) or an employee of the individual;
- a beneficiary under a trust or an object of a discretionary trust of which the individual is a trustee;
- a person from whom the individual has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services;
- a company in which the individual is a shareholder or has a commercial interest;
- a body corporate of which the individual is a director or a member of the governing body.

The value of the College has been built by the pro-bono contribution and work of its members over many decades. Members, trainees and other College representatives get involved in the work of the College because of their personal and professional interests in specific areas. All individuals bring these personal interests and affiliations to their work in College activities. These interests can be described as vested interests and may become a conflict of interest when an individual elevates their vested interests above those of the College and the broader membership. The emergence of the conflict calls into question an individual's behaviour, judgement and decision making. An individual should understand the risk of a vested interest becoming a conflict, be aware of their behaviour and manage the situation accordingly.

It is noteworthy that for Board members, a conflict of interest does not exist if the material interest is common to all decision makers. In addition, a position of an individual on a College entity or in a College role (i.e. Director of Emergency Medicine Training; DEMT) does not generally constitute a conflict of interest.

5. Specific Conflicts

5.1 Acceptance of gifts or benefits

In general, ACEM members, trainees, staff and College representatives should not solicit or accept any gifts or benefits of a non-token nature, including any gratuity and/or entertainment. For the purpose of this policy, the nominal value of token gifts that may be accepted is up to AUD\$100.

Gifts or benefits, whether token in nature or otherwise, must not be accepted from external third parties or any individual awaiting a College decision (e.g., SIMG applicants, consultants, contractors, etc). Additionally, if the College is engaged in a tender process, no gift, gratuity or entertainment, no matter how small or insignificant, should be accepted from the tenderers.

Gifts to the organisation of more than nominal value, e.g., a painting, or a piece of equipment, may be acceptable, but should be disclosed to the Chief Executive Officer (CEO) and should be recorded in a Gifts and Benefits Register maintained by the Office of the CEO and President.

If any ACEM member, trainee, staff or College representative is in any doubt, guidance should be sought from the College CEO.

5.2 Paid participation in fee-paying examination revision or preparation courses

It is recognised that some individuals involved in the development and conduct of College examinations are involved also in the development and conduct of revision/preparation courses for candidates attempting ACEM examinations. The College makes a clear distinction between such courses that are held in ACEM-accredited training hospitals, or other sites, for the benefit of trainees, and those that are held outside of ACEM-accredited training sites by members as private individuals, either on a for profit or a not-for-profit basis.

Pro-bono participation in hospital revisions/preparation courses of members who are involved in the development and conduct of College examinations is set out separately below (refer Section 5.3). The College is, very clear regarding the involvement in College examinations of members who have material

involvement in the organisation or delivery of revision/preparation courses that are held external to ACEM-accredited training sites and where a fee for participation is involved, regardless of whether the course is being conducted on a for profit or not-for-profit basis.

In summary, this is the position of the College:

When an individual participates in any role in the examination process, no access to examination items will be permitted prior to or after the conduct of an ACEM examination to members, trainees or College representatives involved in examination revision/preparation courses where a fee is charged for participation. This includes participation in examination question development or standard setting for any examination, or as an examiner, regardless of whether that involvement may be considered minor (e.g., knowledge of one or a small number of examination items) or major (e.g., knowledge of a section or the entirety of an examination). Further to this, any possible conflicts that members feel may arise from their involvement in College examination processes, including as a support person participating in the review of OSCE station recordings for any purpose as outlined in the *Policy and Procedure for the Recording of Stations at the Fellowship Clinical Examination (TA689)*, and paid participation on examination revision or preparation courses, should be declared to the College and updated on an ongoing basis on a register of interests held by the College.

5.3 Pro Bono participation in examination revision or preparation courses

The College recognises the significant pro-bono contributions of members in training trainees, including in assisting trainees in preparing for College assessment tasks, such as examinations. The difficulty for some members in balancing their role in such activities with other College roles in assessment activities is understood and the College has no desire to inhibit the participation of members in either activity.

The above notwithstanding, however, it must be recognised that conflicts (perceived or otherwise) can occur and may not be immediately obvious or understood. Further, the range of College activities in which members may be involved renders any complete listing of possible conflicts extremely difficult. Thus, any possible conflicts that members feel may arise from their involvement in College examinations should be declared and updated on an ongoing basis on a register of interests held by the College. Potential conflicts can then be considered and appropriate action taken with individuals advised accordingly.

5.4 Conflicts arising between individuals

It is recognised that not all conflicts may be immediately apparent to those involved in College examinations, e.g., when they involve matters that may have occurred in the past, or have been interpreted differently by the individuals involved. This is particularly so where conflicts may be perceived to exist between individual examiners and individual candidates.

In order to minimise the occurrence of such instances, the College will supply examiners with a list of candidates in advance of the examination and request that any conflict be identified and declared. The College will also supply a list of examiners to candidates in advance of the examination and request that any conflict be identified and declared. Where conflicts are identified, either by examiners or candidates, the College will take steps to ensure that the conflict is dealt with in a manner appropriate to the matter involved. Frequently this will involve ensuring that individual examiners will not examine individual candidates where a conflict has been declared.

Instances where a family member, close associate or colleague are involved as a candidate in an examination where a College member has involvement in any way must be declared and will be dealt with on an individual basis, depending on the nature of the involvement of the member. For example, where the member is involved as an examiner on the day of the examination will likely require a different response to that where a member may be involved as a writer or reviewer of examination materials.

6. Disclosure

A College staff member or ACEM member, trainee or other College representative who has a potential conflict of interest in a matter before a College entity of which they are a member must disclose the interest to the relevant entity. If there is doubt as to the materiality of the interest, the chair of the relevant College entity will decide whether a conflict exists.

In relation to ACEM examinations, the entity responsible for considering conflicts of interest of individuals is the Examinations Committee (ExC). The ExC may publish guidance material(s) in relation to this matter; such material must have prior approval of the Council of Education and must not conflict with any position espoused by the College in this or any other policy, regulation or similar document. Where any doubt exists as to the appropriate course of action to be taken in regard to any individual or matter raised, the Chair of the ExC will liaise with the College Censor-in-Chief (CIC) and CEO to arrive at a decision.

The disclosure made must be recorded in a register of interests held by the College and noted in the minutes of an ExC meeting.

An individual who has an interest in a matter before a College entity must not:

- take part in discussion by the entity relating to that matter;
- while such discussion is taking place, be in, or in the vicinity of, the room in which that matter is being discussed (for virtual meetings, this includes being connected to the relevant platform in which discussion is being held);
- vote in relation to that matter.

When deciding what kind of relationships, situations or affiliations should be disclosed, the individual should consider the situation from the perspective of a third party and whether the relationship, situation or affiliation is of such a nature that it could raise an allegation of an actual or perceived conflict of interest. In such cases, the individual should err on the side of transparency in order to alleviate or avoid future misunderstandings.

Should an appearance of impropriety or actual conflict of interest exist, appropriate actions must be taken. Actions taken will vary depending upon the particular facts. The individual must work cooperatively with the College entity or the CEO to achieve a resolution of the conflict in the best interests of the College.

Where an instance of impropriety is suspected to have occurred, the matter must be brought to the attention of the CIC or, in the case of an ACEM Board member, to the President, and to the CEO. Should the matter relate to the College President, the matter must be brought to the attention of the next ranking Office Holder (President- Elect or Immediate Past President, as applicable) and the CEO. Should the matter relate to the College CEO, the matter must be brought to the attention of the College President and Deputy CEO. If deemed necessary, the matter will be investigated through the Office of the CEO.

The fact that an individual member of a College entity has failed to comply with this policy does not, of itself, invalidate the decisions of that entity.

6.1 Updating Declaration

As soon as an individual becomes aware of a new conflict of interest or a potential conflict of interest, or there has been a materially significant change to their prior interests declared, they must immediately complete an additional written *Declaration of Conflict of Interest* (COR530) and declare it to the relevant College Officer, being:

- Board member – the President or the Chief Executive Officer;
- Council or entity member – the chair of the relevant Council or entity;
- Staff member – the Chief Executive Officer or relevant Executive Director; and
- Member – the Chief Executive Officer.

In addition to the declaration being made to the relevant College Officer, the updated declaration should also be provided to the relevant College staff member who is the administrator for the entity in question.

6.2 Disclosure at meetings

In addition to providing a written statement of their interests, College members should declare any identified conflict prior to the consideration of relevant matters.

6.3 Failure to disclose

Failing to disclose a conflict of interest, whether actual, potential or perceived, may be regarded as a breach of this policy and may constitute a breach of duties, including duties under the *Corporations Act 2001* (Cth).

If it becomes apparent that an interest was not disclosed or that a decision may have been made when a conflict of interest existed, the matter must be reviewed in accordance with this policy.

Unless otherwise agreed in writing, any staff member, member or stakeholder who is considering engaging in any business or activity that conflicts with the College's interests must have the prior written consent of the College.

7. Management of a Conflict of Interest

If a conflict of interest is identified, an appropriate response must be developed to resolve or manage the conflict of interest.

The management of a conflict of interest should take into consideration:

- the nature of the conflicting interest;
- the interests of the College with which the interest conflicts or could conflict;
- the likelihood of the interests actually coming into conflict;
- the decisions or actions which the individual or entity agrees to avoid or not take part in;
- the decisions or actions which are agreed to be permissible.

The management of a perceived, potential or actual conflict of interest must be documented in the record of any decision or consideration. The response to the conflict of interest must be reviewed regularly, as required. Management of any conflict of interest will be treated respectfully. A register of interests is disclosable.

Resolution may include the individual being removed from a position of decision-making authority in relation to the conflict matter or other more serious action(s), depending on the nature of the conflict.

8. Management of conflicts during meetings

8.1 Disclosure in meetings

An individual must disclose any conflict of interest (actual, perceived or potential) prior to the commencement of any relevant discussion of the matter, unless the conflict of interest has already been identified and raised in the meeting by the meeting's chair.

For the purpose of identifying reportable conflicts, the chair must, prior to the deliberations of the relevant body, request relevant interests be declared.

The individual is responsible for ensuring their conflict of interest is declared, recorded and managed prior

to the commencement of any relevant discussion, irrespective of any prior disclosure they may have made (written or otherwise).

8.2 Determination of whether a conflict exists

The chair of the meeting will decide whether a conflict of interest exists. If the chair is uncertain, a conflict of interest will be deemed to exist. If the chair makes a disclosure, the deputy chair will make the decision or, in the absence of the deputy chair, the decision is made by those members of the entity who have not disclosed a conflict of interest.

8.3 Deliberations and voting

Conflicted individuals must not:

- participate, directly or indirectly, in a decision on the matter, including deliberations;
- be present while the matter is being considered or voted on;
- attempt to influence other decision makers.

In no circumstances is a conflicted individual to vote on the matter.

8.4 Assessment of quorum

Where a vote is required on a matter that an individual has been deemed to have a conflict, the conflicted individual will count for the purposes of determining whether quorum is present, however, the individual must not take part in any discussion on the matter and must abstain from voting. The minutes shall record an abstention for the conflicted individual, including the reason(s) for the abstention.

The identified procedures apply irrespective of whether a meeting is convened in person or by virtual means (i.e. teleconference, videoconference).

Where a matter is considered by circulatory resolution (out-of-session decision/ eVote), a conflicted individual is entitled to receive notice of the matter but, based on the nature of the conflict and the time at which it is disclosed, supporting information may be withheld from that person.

Where a matter is considered by virtual means, a conflicted individual is entitled to receive notice of the matter but may be asked to leave for the affected part of the meeting, and subsequently rejoin. The chair may, where aware of a conflict of interest, determine to omit part of an agenda or meeting paper from those provided to a conflicted individual.

8.5 Obligations of the chair

The chair of a meeting is responsible for:

- ensuring a standing agenda item calling for all declarations of interests upon commencement exists, and is administered in all meetings;
- reviewing standing conflict notices prior to each meeting to identify possible conflicts of interests in the proposed content. If the chair is uncertain, a conflict of interest will be deemed to exist and the agenda and meeting papers adjusted in the manner set out in the *Conflict of Interest Policy* (COR139).

If the chair is conflicted in any matter, they must withdraw from that discussion. The deputy chair (if not conflicted) may chair that item or, if there is no deputy chair, the non-conflicted members present in the meeting may choose a member who is similarly non-conflicted to chair that item.

8.6 Minutes of a meeting

The minutes of a meeting should record:

- the fact a declaration was made and the details of the conflict;
- the process adopted by the body to deal with it; and
- the resolution or conclusion of the entity following its consideration of the matter, including any actions that were taken.

9. Associated documents

- ACEM Constitution
- ACEM Regulations
- ACEM Core Values
- Corporations Act 2001 (Cth)
- Conflict of Interest Policy (COR139)
- Declaration of Conflict of Interest (COR530)