



# ACPE Governance Charter

June 2020

This document outlines the legal and governance framework of the College. It sets out the respective roles, responsibilities and authorities of the Board of Directors, the Academic Board, their respective Sub-committees, and the CEO and Dean, in setting the strategic directions of the College and ensuring good governance and effective management.

# ACPE Governance Charter

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# ACPE Governance Charter

## Glossary of Terms

A list of defined terms used in this Framework is at Schedule A

## Related Documents

The Governance Charter is to be read with reference to the following:

- ACPE Constitution
- The ACPE Strategic Plan
- The ACPE Risk and Audit Framework
- The ACPE Policy on Delegation of Authority and Authority Limits
- All laws policies and guidelines applicable to ACPE, including those listed in Schedule B

## 1. Purpose

The Governance Charter outlines the governance framework of ACPE LTD (ABN 28 107 480 848) which operates under the name "the Australian College of Physical Education" ("ACPE" or "the College").

The Charter begins with a brief overview of the History of the College and its Mission, Vision and Values, followed by a detailed outline of the College's interpretation of 'Good Governance' and the Framework by which this is achieved.

## 2. Brief History of ACPE

The Australian College of Physical Education is a specialist independent Higher Education institution. Originally established in 1917 as a physical education training institution for young women, the College today offers, to a diverse group of students, several degrees in Sport Performance, Education, Dance, Sport Business, Applied Fitness, and Health Sciences. Since 1995 it has operated in premises in the heart of Sydney Olympic Park.

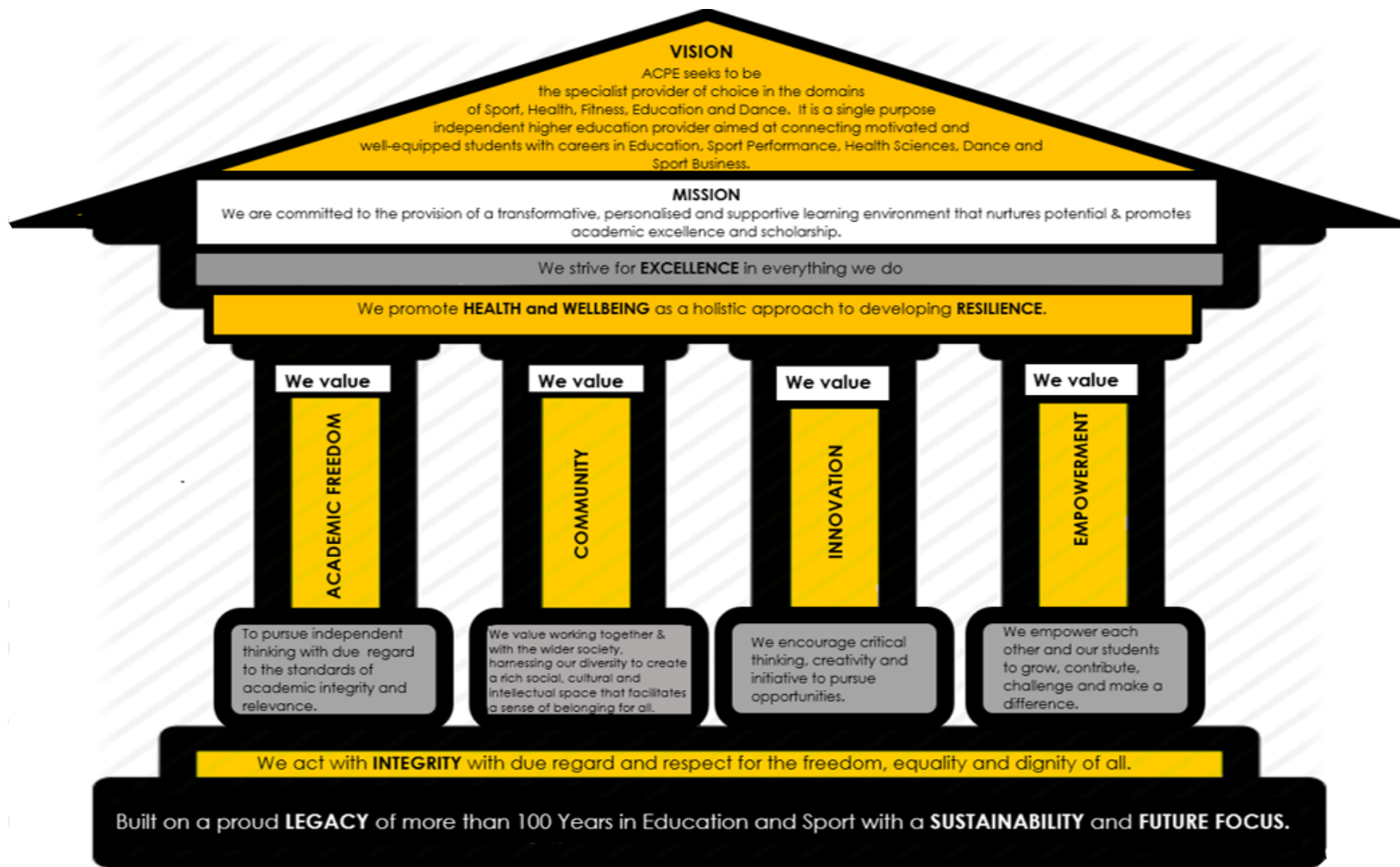
Graduates of the College have had success in establishing careers in many areas including state Departments of Education as well as private schools, the state Departments of Sport and Recreation, the Australian Sports Commission, the Australian Olympic Committee, local government recreation centers, as coaches and trainers for professional sporting teams, as instructors in private gymnasias, and in coaching positions at schools in a number of different sports.

On 1 January 2019, ACPE was acquired by ACPE Holdings Pty. Ltd.

### **3. Vision, Mission and Values**

ACPE's Vision, Mission, Philosophy and Values are laid out in detail in Appendix 1. They are summarised in the diagram below.

This Governance Charter should always be read and applied in the manner that best facilitates achievement of ACPE's Vision and Mission, and that upholds ACPE's Philosophy and Values.



## 4. Good Governance

### 4.1 Defining Governance

At ACPE, Governance is defined as the framework within and by which authority is exercised within the College. It encompasses the systems by which the College is controlled, and the mechanisms by which its Boards, Committees, Directors and Officers are held to account.

### 4.2 Good Governance - Components and Benefits

The Governance Institute<sup>1</sup> outlines four key components of governance:

- i. **Transparency:** being clear and unambiguous about the organisation's structure, operations and performance, both externally and internally, and maintaining a genuine dialogue with, and providing insight to, legitimate stakeholders and the market generally.
- ii. **Accountability:** ensuring clarity of decision-making within the organisation, with processes in place to ensure that the right people have the right authority for the organisation to make effective and efficient decisions, with appropriate consequences for failures to follow those processes.
- iii. **Stewardship:** developing and maintaining an enterprise-wide recognition that the organisation is managed for the benefit of its shareholders/members, taking reasonable account of the interests of other legitimate stakeholders.
- iv. **Integrity:** developing and maintaining a culture committed to ethical behaviour and compliance with the law.

As indicated in various AICD communications, good governance yields several benefits:

- Better organisational strategies and plans.
- Improved operational effectiveness.
- More prudent regulatory compliance, financial and risk management.
- Improved member and stakeholder engagement and communication flow.
- Increased likelihood that, and degree to which the College actually delivers on its purpose.<sup>2</sup>

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<sup>1</sup> <https://www.governanceinstitute.com.au/resources/what-is-governance/governance-foundations/>

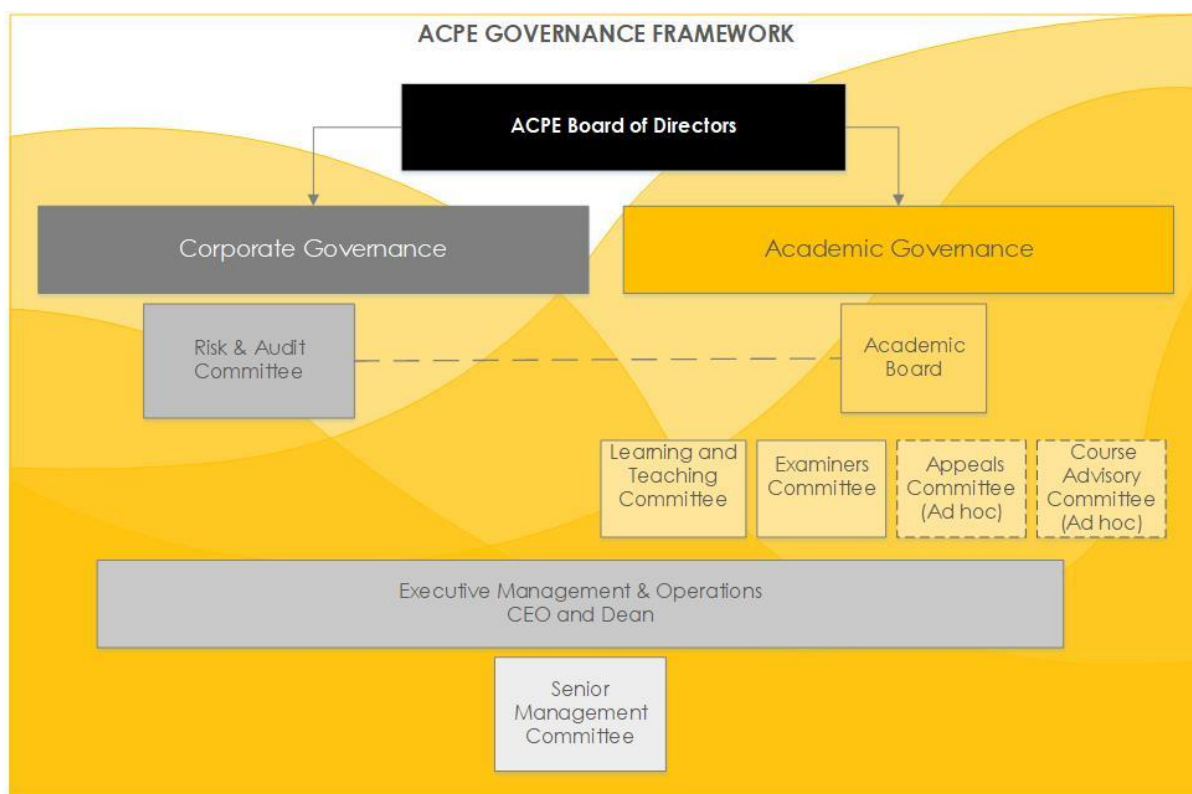
<sup>2</sup> Source: Australian Institute of Company Directors <https://aicd.companydirectors.com.au/-/media/resources/director-resource-centre/governance-and-director-issues/guiding-principles-of-good-corporate-governance.ashx>

At ACPE, good governance is embodied in the setting and monitoring of the College's organisational culture through its vision and mission and values, which underpin all activities at the College. The vision provides a glimpse into ACPE's desired future, whilst the mission guides the College's priorities and actions, and its values assist in driving the behaviour of staff and students in realising the College's vision. These are referred to under section 3. above and detailed in Appendix 1.

## 5. ACPE Governance Structure

### 5.1 ACPE Governance Structure

The Governance structure which serves ACPE is represented in Diagram 1. ACPE Governance Framework below.



### 5.2 Overview: Governing Boards and Regulatory Requirements

#### 5.2.1 Board of Directors

The Australian College of Physical Education (ACPE) is a limited company with a Board

of Directors that includes a majority of independent and non-executive directors along with a representative of the shareholders of the Company. The Board of Directors is chaired by an independent director appointed by the shareholders.

The Board of Directors is the preeminent Governing Body for ACPE. It sets the College's mission and strategic goals in addition to ensuring the College continues to meet its legal, regulatory, financial and social obligations and responsibilities. Its terms of reference and membership comply with Higher Education Standard 6.1.1<sup>3</sup> which requires:

*“a formally constituted governing body, which includes independent members, that exercises competent governance oversight of and is accountable for all of the higher education provider’s operations in or from Australia, including accountability for the award of higher education qualifications, for continuing to meet the requirements of the Higher Education Standards Framework and for the provider’s representation of itself.”*

These are further elaborated in Section 6.1.

The independence of the Board of Directors provides a mechanism to separate the ownership and governance of the College from the management of the College and to provide independent business, financial and higher education expertise and advice at the highest level of decision-making.

To assist in the evaluation, monitoring, review and mitigation of risk in the College, the Board of Directors convenes the Risk and Audit Committee, the membership of which comprises independent non-executive Directors members of the Board of Directors, one of whom is appointed to serve as chairperson, but who will not be the Chair of the Board of Directors.

In order to provide a mechanism whereby the College is provided with independent academic advice, the Board of Directors (by the powers vested in it by clause 20.10 of the College's Company Constitution) delegates the academic governance of the College to the Academic Board and its sub-committees, but this delegation does not abrogate the Board of Directors of its responsibility to oversee academic governance. The Academic Board, by reporting directly to the Board of Directors, provides expert advice to assist the Board of Directors to discharge this duty. Further detail on the role and terms of reference of the Academic Board and its subcommittees is provided in sections 5.2.2 and 6.3 below.

For the efficient and effective management of the College's day to day business, the Board of Directors delegates responsibility to the CEO and Dean who convenes the Senior Management Committee, which consists of the senior management of the College. The Senior Management Committee serves as an advisory body to the CEO and Dean in the day-to-day running of the College.

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<sup>3</sup> HESF 2015



The above described separation of both Academic Governance and Executive Management from Corporate Governance is in accordance with TEQSA's Guidance Notes on Corporate Governance<sup>4</sup> and Academic Governance.<sup>5</sup>

### **5.2.2 Academic Board**

The ACPE Academic Board is the principal academic decision-making body of the College and advises the Board of Directors on all matters related to the academic governance and operations of the College.

The membership of the Academic Board comprises at least one Director, and academic staff from other higher education providers, industry practitioners, members of professional associations, members of the College's academic staff and representatives of its alumni and students.

To assist in the governance of academic operations and specifically to ensure that the College meets the higher education standards, the Academic Board convenes a Learning and Teaching Committee for monitoring and reporting on quality assurance processes for learning and teaching. The Learning and Teaching Committee also has responsibility for advising on policy and practice related to learning and teaching in the College's courses.

The Academic Board convenes a Course Advisory Committee for each broad discipline to provide advice on new course proposals and the review of existing courses, and to report on applications for course accreditation and renewal of accreditation. External membership provides an additional measure of assuring course quality, relevance and external referencing. Course Advisory Committees are convened by the Academic Board on an Ad Hoc basis as required.

The Academic Board also convenes an Examiner's Committee for the review and ratification of assessment and final results. The Examiner's Committee ensures the quality of the moderation and reviews the academic standing of students.

The detailed terms of reference, membership and meeting protocols for the Board of Directors, the Academic Board and their respective committees and subcommittees are detailed in Section 6.3 to follow.

### **5.2.3 Regulatory Requirements**

In addition to the requirements of ASIC and the Corporations Act, ACPE, as a Higher Education Provider (HEP), is subject to regulation by TEQSA and is required to comply with the HESF 2015, which came into force on 1 January 2017; the Education Services for Overseas Students (ESOS) Act; the National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code); and with listing of courses on the Commonwealth Register of Institutions and Courses for Overseas

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<sup>4</sup> <https://www.teqsa.gov.au/latest-news/publications/guidance-note-corporate-governance>.

<sup>5</sup> <https://www.teqsa.gov.au/latest-news/publications/guidance-note-academic-governance>.

Students (CRICOS). ESOS/CRICOS has relatively few mandatory requirements in relation to governance but does require adherence to numerous standards that relate to student support, infrastructure, facilities, and learning and teaching processes.

More specifically, the Board of Directors and the Academic Board are bound by the requirements of HESF 2015 Domain 6 on Corporate and Academic Governance. Standards 6.1 and 6.2 relate particularly to Corporate Governance and Accountability, while Standard 6.3 relates to academic governance

TEQSA's Guidance Notes provide greater clarity on the interpretation and application of selected Higher Education Standards: They embrace Corporate and Academic Governance, including a comprehensive range of matters pertaining to risk management and quality assurance. A current list of relevant Guidance Notes is included as Schedule C.

## **6. Board and Committee Functions, Membership, and Meeting Protocols**

### **6.1 Board of Directors**

#### **6.1.1 Role**

As indicated under Section 5.2.1, the role of the Board of Directors is to set the College's strategic direction, and to maintain oversight of compliance and management of the College including ensuring that the College meets its legal, regulatory, financial and social obligations and responsibilities.

#### **6.1.2 Functions**

The functions of the Board of Directors are to:

- i. Set the mission and strategic goals of the College (HES6.2.1b).
- ii. Approve and monitor the implementation of the College's plans and financial forecasts (HES6.2.1c).
- iii. Ensure the College maintains financial viability and has sufficient funds for its ongoing operations (HES6.2.1c).
- iv. Oversee and monitor the assessment and management of risk, via the Risk and Audit Committee and the Academic Board and ensure that the College has strategies to mitigate risks that may eventuate (HES6.2.1e).
- v. Oversee and review the management and performance of the College (HES6.2.1d).
- vi. Appoint the Secretary for the College (if applicable) (HES6.3.1a).

- vii. Consult with and make recommendations to the shareholders through the Shareholder Director on matters relating to the selection, appointment and, if necessary, removal of the external auditor and also the terms on which the external auditor is engaged (HES6.2.1a,c,d).
- viii. Ensure the College meets its statutory obligations under the *Corporations Act 2001* (HES6.2.1c, d, i).
- ix. Implement an appropriate, documented, observed and regularly reviewed system of delegation to ensure the effective discharge of these functions.
- x. Establish and maintain an Academic Board to oversee the academic governance of the College, determining membership, appointing members and the Chairperson, and monitoring its activities (HES6.3.1).
- xi. Determine a quality assurance framework to guide the College and approve policies and procedures for the quality assurance of the College's operations consistent with legal and regulatory requirements and corporate social responsibility (HES6.2.1h, HES6.3.1b; HES6.3.2a).
- xii. Maintain oversight of academic and research integrity via the Academic Board (HES6.3.2d).
- xiii. Review reports from the Academic Board to ensure that Academic outcomes, policies and practices meet the institutional benchmarks for quality and follow the appropriate academic delegations (HES6.3.1; 6.3.2).
- xiv. Award qualifications on recommendation of the Academic Board (HES6.2.1h).

### **6.1.3 Appointment Protocols**

The protocols for appointment to the Board of Directors are:

- i. The Board of Directors may consist of a mix of shareholder representatives, senior executives and independent and non-executive directors; however, membership should include a majority of independent and non-executive directors at all times. The current membership is indicated at 6.1.4 below.
- ii. Shareholder Directors are classified as those Directors who have an interest in the ownership of the Company (or who represent a person with such an interest) but who do not hold an executive position.
- iii. Independent Directors are classified as those Directors who comply substantially with the Independence Guidelines set out in Appendix 2.
- iv. Executive Directors are those Directors who are members of the executive management team of the College.
- v. Appointment and or removal of a Director is in accordance with the Company

Constitution of the College.

- vi. The Chair of the Board of Directors is appointed as stated in paragraph 6.1.5 below.
- vii. The Composition of the Board of Directors shall be reviewed at least once every two years to ensure that the balance and type of Directors is the optimum to further the College's interests. The Board of Directors Skills Matrix outlines the various competencies (governance, industry knowledge and experience, Technical skills and experience) of Directors in addition to the Fit and Proper Person requirements. The Skills Matrix of the present Board of Directors is included at Appendix 3.
- viii. At the discretion of the Board of Directors, independent and non-executive Directors may be required to enter into terms of engagement with the College including a Deed of Confidentiality.
- ix. The Board of Directors may commission independent advice or assistance at the reasonable expense of the Company on request of the Chair to further assist the Board of Directors in carrying out its terms of reference.

#### **6.1.4 Board of Directors' Membership**

The Board of Directors membership comprises:

- Independent non-executive Director and Chair – with Higher Education and/or Business expertise
- 3 Independent non-executive Directors – embracing Higher Education, Financial Management, Legal/Regulatory or Sport Industry expertise
- Shareholder Director
- Executive Director (CEO and Dean)

The Chair of the Academic Board is invited to be present at each meeting, with rights of audience and debate but not voting rights.

Senior management and/or academic staff may also be invited to address particular items on the agenda from time to time, with rights of audience and debate for the relevant item(s).

#### **6.1.5 Chair**

Under the ACPE Constitution the Shareholder Director may appoint a person as Chair of the Board of Directors and determine the period for which they are to hold office. The appointment may be from among existing Independent non-executive Directors or may be a new independent non-executive director. If there is no Chair so appointed, or if appointed but the Chair is not present at a meeting, or declines to act, or is disqualified from acting, the Directors present must choose one of the remaining Independent non-executive Directors to be Chairperson.

### **6.1.6 Secretariat**

The Company Secretary (or their delegate) is appointed by the Board of Directors, and along with the Chair, is responsible for the development of agenda items and collation of papers for each meeting. Agendas and papers for meetings will normally be distributed to members at least seven (7) days in advance of any meeting.

The Company Secretary takes minutes of each meeting of the Board of Directors.

Draft minutes of each meeting are reviewed, finalised and signed by the Chair and placed within the College's Minute Records within one month after each Board meeting, thereby ensuring compliance with the Corporations Act.

The minutes are distributed to Board members thereafter and presented for confirmation with papers for the following meeting.

As outlined in the TEQSA Guidance Note on Corporate Governance (2019), minutes record not only the decisions taken, but also the basis on which the decision was made (key documents considered and key points that were taken into consideration in the making of any decision<sup>6</sup>. The Governance Institute of Australia and the Australian Institute of Company Directors have issued a *Joint statement on board minutes* (August 2019) which gives definitive guidance. The Executive Officer is responsible for maintaining the list of resolutions and actions resulting from the meeting.

### **6.1.7 Frequency of Meetings**

The Board of Directors meets at least four times per year according to the *Annual Governance Calendar*. Any Director may, and the Company Secretary must on the request of a Director convene a special meeting at any time with reasonable notice. Meetings will otherwise be convened and conducted in accordance with the College's Constitution. Meetings may be attended in person or via electronic means.

### **6.1.8 Quorum and voting**

Subject to the College's Constitution, matters arising at a meeting of Directors are decided by a majority of votes of the Directors present and voting and, in accordance with the Constitution, each Director has one vote. At a meeting of Directors, a quorum is two independent Directors unless only one Independent Director is present, in which case the quorum is that Independent Director and the Executive Director.

In the event that a motion at a Board of Directors meeting is tied, the Chair has a second vote. However, the Chair may choose not to exercise that right.

### **6.1.9 Decision-Making between meetings**

Where urgent action is required between scheduled meetings of the Board of Directors, a decision may be made via circular resolution. Under the Corporations Act and ACPE's Constitution such a resolution requires written approval of each Director entitled to vote on the issue. It becomes effective when all such Directors

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<sup>6</sup> <https://www.governanceinstitute.com.au/advocacy/thought-leadership/joint-statement-on-board-minutes/>

have given their written approval. Directors may sign separate copies.

#### **6.1.10. Committees/Subcommittees**

The Board of Directors may establish standing and ad-hoc committees, by any title, and terms of reference, to assist in performing its role. The chair of any such committee should be appointed by the Board of Directors.

Each such committee has the functions, powers and authority granted or delegated to it by the Board of Directors. The meeting and other procedures for a committee are the same as for the Board of Directors unless its Terms of Reference provide otherwise.

The Board of Directors maintains ultimate responsibility for matters delegated to or dealt with by a committee. The Board of Directors may vary or overrule any committee decision.

The Academic Board and the Risk and Audit Committee are Board Committees with the functions, powers and authority contained in their respective Terms of Reference under this Governance Charter.

#### **6.1.11 Protection of Directors**

Appropriate insurance is put in place to protect Directors for matters or things done or omitted in good faith in carrying out their duties.

#### **6.1.12 Induction, Professional Development and Review**

The Board of Directors will establish a program of induction and professional development for Directors to build the expertise of the Board of Directors and to ensure that all Directors are aware of the nature of their duties and responsibilities. The Board of Directors will put in place a process to assess its performance at regular intervals and identify needed skills and expertise for the future.

#### **6.1.13 Review of Terms of Reference**

The Board of Directors may review and amend its Terms of Reference at any time.

### **6.2 Risk and Audit Committee**

#### **6.2.1 Role and Authority**

The Risk and Audit Committee is a committee of the Board of Directors.

The role of the Committee is to assist the Board of Directors in the effective discharge of its responsibilities in the oversight of ACPE's statutory reporting, internal quality assurance, compliance and other control systems, risk management systems, insurance and legal proceedings, and internal audit functions. The Committee does not relieve any Directors of their responsibilities for these matters.

The Board of Directors delegates to the Risk and Audit Committee the authority required to carry out its role under its Terms of Reference.

## 6.2.2 Functions

The delegated functional authorities and responsibilities of the Risk and Audit Committee are to:

- i. Oversee and provide advice to the Board of Directors on the College's approaches to managing and controlling risk and audit, including its:
  - Systems of internal control (e.g. plans, policies, procedures, training).
  - Modus Operandi for internal and external audit, and monitoring of quality and compliance.
  - The effectiveness of its framework for identification, rating, mitigation, monitoring and review of risk.
- ii. Ensure that risk, quality assurance and compliance strategies are adopted on the basis of a risk likelihood, consequences and cost-benefit analysis, and reflect ACPE's quality objectives and tolerance for risk.
- iii. Ensure any identified lapses in compliance, including in connection with ACPE's regulatory obligations, are identified and monitored, and prompt corrective action is taken.
- iv. At least twice a year, receive, consider and take action on (as applicable) reports from management relating to identification and management of strategic, operational and project risks and make appropriate recommendations to the Board of Directors, including providing details of, or recommending risk mitigation actions.

These reports may include but are not limited to the following elements (not mutually exclusive) of risk and audit:

- Risk profile and exposure reports in connection with reputation risk, financial remissions and refunds.
  - Academic risk reports.
  - Reports on TEQSA's Provider Risk Assessment and progress on targeted improvements.
  - HR matters (WHS/OHS cases, staff turnover, staff complaints and appeals, critical incidents).
  - Risks to CRICOS registration.
  - SSVF (Simplified Student Visa Framework) risk ratings.
  - Litigation or contract risk (actual or threatened).
  - Insurance coverage risks.
  - Other commercial and operational risks
- v. At least annually, receive, consider and take action on (as applicable), reports from ACPE's Academic Board on higher education academic risk priorities facing the business and make recommendations to the Board of Directors.

- vi. at least annually report to the Board of Directors on the external auditor's report, including its consistency/discrepancy with Committee members' information and knowledge, any significant findings and recommendations and management's response thereto, adequacy of the report for shareholder needs; and the overall performance of the external auditor and related fees.
- vii. Exercise other functions as delegated by the Board of Directors to the Committee.

### **6.2.3 Reporting**

The Risk and Audit Committee reports to the Board of Directors. It also communicates with the ACPE Academic Board and Senior Management to ensure they are apprised of meeting deliberations and decisions and vice versa.

### **6.2.4 Membership**

The current membership of the Risk and Audit Committee comprises:

- 2 independent Directors, one of whom shall be appointed as the Chair of the Risk and Audit Committee but who does not serve as the Chair of the Board of Directors.

In addition, invitees with rights of audience and debate but not voting rights:

- The Shareholder / Director
- Chair of the Board of Directors
- The Executive Director (CEO and Dean)
- Various Senior Management as required
- External experts co-opted as required.

Membership of the Committee shall be monitored by the Board of Directors to ensure the balance and type of members is the optimum to achieve the objectives of this committee.

The Risk and Audit Committee Chair has delegation to co-opt members on a needs basis for a period as determined by the Chair, but for a period no greater than 12 months.

The Chair may also request the attendance of any employee, consultant or contractor of the College at Committee meetings.

### **6.2.5 Chairperson**

The Risk and Audit Committee is chaired by an Independent Director with risk expertise nominated by the Board of Directors, but who is not the Chair of the Board of Directors.

If at any meeting the appointed Chairperson (or delegate) is not present within fifteen (15) minutes after the time appointed for holding the meeting, the Committee



members may choose another Independent non-executive Director member to be Chairperson of the meeting and the substitute Chairperson has all powers, discretions and functions at such meeting that would be exercisable by or conferred on the Chair had he or she been present.

### **6.2.6 Secretariat**

The CEO and Dean and the Risk and Audit Committee Chair are responsible for the development of agenda items for each meeting. The Compliance Officer serves as the Committee Secretary and assists with the preparation and distribution of the agenda and papers to committee members prior to meetings, normally at least seven (7) days in advance of any meeting.

The Compliance Officer prepares the minutes of each Risk and Audit Committee meeting. Draft minutes of each meeting are reviewed, finalised and signed by the Chair and placed with the College's Minute records within one month after each meeting.

The minutes are to be distributed to Committee members thereafter and presented for confirmation with papers for the following meeting.

The Compliance Officer is also responsible for maintaining the list of actions resulting from the meeting.

### **6.2.7 Frequency of meetings**

The Risk and Audit Committee meets a minimum of twice per calendar year and may meet more frequently at the discretion of the Committee Chair.

### **6.2.8 Review of Terms of Reference**

The Board of Directors may review and amend the Risk and Audit Committee's Terms of Reference at any time.

## **6.3 Academic Board**

### **6.3.1 Role and Authority**

The Academic Board operates independently of the ownership and management of the College to assure academic integrity of the College's courses. It has responsibility for academic policy making, academic administration and oversight of the educational process. This ensures that the Academic Board maintains appropriate control over the administration of the curriculum to enable the achievement of educational objectives. The Academic Board also recommends the graduands list for approval by the Board of Directors.

The Board of Directors delegates to the Academic Board the authority required to carry out its role under its Terms of Reference

### 6.3.2 Functions

The functions of the Academic Board are to:

- i. Promote excellence in learning and teaching and ensure effective oversight of the quality of teaching, learning and research training at the College (HES6.3.1a).
- ii. Maintain oversight of and report to the Board of Directors on the quality of teaching, learning, research and academic integrity at the College (HES6.3.1d).
- iii. Set and monitor institutional benchmarks for academic quality and outcomes (HES6.3.2e).
- iv. Monitor potential academic risks (HES6.3.2d).
- v. Facilitate free intellectual enquiry and ensure academic integrity (HES6.3.1a).
- vi. Ensure a culture of scholarship is developed and nurtured throughout the College (HES6.3.2 d,f).
- vii. Ensure that Academic Scholarship and Professional Development of academic staff is undertaken so that professional and discipline-based expertise is current, teaching skills are maintained and updated, and appropriate scholarly activity is undertaken.
- viii. Critically evaluate the quality and effectiveness of educational innovations or proposals for innovations (HES6.3.2g).
- ix. Consider and make decisions on all aspects of the development and accreditation or renewal of accreditation of courses, the admission of students, teaching, assessment and requirements for graduation, prizes, awards and scholarships (HES6.3.2c).
- x. Formulate, coordinate, approve and review academic policies and procedures (HES6.3.2a).
- xi. Advise on the academic aspects of the College's plans and to foster discourse on issues related to higher education and the College's mission and strategic goals (HES6.3.1c).
- xii. Refer certain matters to such standing committees as the Board of Directors or Academic Board may establish from time to time (HES6.3.1d).
- xiii. Receive reports from standing committees or working groups and ensure that their referred responsibilities are discharged (HES6.3.2b,g).
- xiv. Receive reports from the Examiners' Committee listing those students who have

satisfied all course requirements and are eligible to graduate and recommend approval of such lists to the Board of Directors for approval.

- xv. Consider recommendations from the Examiners' Committee concerning those students who, by virtue of special circumstances (for instance elite athlete requirements or exceptional other circumstances) are unable to complete their studies in the maximum time allowed under course rules and require approval of an extension of their candidature.
- xvi. Consider and recommend on any matter referred to the Academic Board by the Board of Directors (HES6.3.2h).
- xvii. In addition to such matters as are specifically referred to the Academic Board, the Academic Board may generate reports and recommendations to the Board of Directors, including recommending new courses for development (HES6.3.1d).

### **6.3.3 Membership Protocols**

Whilst ultimate responsibility for the selection and appointment of the Academic Board rests with the Board of Directors, the Board of Directors relies on recommendations from the Academic Board, other Directors and the CEO and Dean with regard to the identification and selection of Academic Board Members. The Board of Directors considers these recommendations to ensure the appropriate balance of membership in regard to relevant Legislation, Higher Education and Professional Regulations and Standards, best practice principles associated with academic governance, and the professional knowledge and skills required<sup>7</sup> on the Academic Board at a particular time or for a particular purpose.

The protocols for membership of the Academic Board include the following:

- i. Prospective members of the Academic Board are selected on the basis of their particular expertise in relation to the operation of higher education providers and the delivery of higher education curriculum, and are drawn from internal academic staff, representatives from the alumni, academics from other higher education providers, industry practitioners and members of professional bodies or associations.
- ii. The Board of Directors appoints members of the Academic Board taking into

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<sup>7</sup> Professional standards include AHPRA – Australian Health Practitioner Regulation Agency, which provides accreditation through its various Boards for a range of health practitioners, ESSA - Exercise & Sports Science Australia which provides accreditation for Sport and Exercise Scientists and Exercise Physiologists, the Australian Strength and Conditioning Association (ASCA) - the peak national body for strength and conditioning professionals in Australia; the Australian Institute for Teaching and School Leadership (AITSL) - determines the standards for teachers in schools nationally. Higher Education Threshold Standards <https://www.legislation.gov.au/Details/F2015L01639> and TEQSA Guidance notes referenced in Schedule B.

consideration recommendations of the Academic Board.

- iii. At least one member of the Academic Board shall also be a member of the Board of Directors.
- iv. The Academic Board must always have a majority of members who meet the Independence Guidelines set out in Appendix 2.
- v. The number of members of the Academic Board shall be no less than four.
- vi. There shall be two student representatives on the Academic Board.

Membership of the Academic Board is reviewed at least every two years by the Board of Directors and, where appropriate, recommendations for new members are sought from the Academic Board. External members of the Academic Board will normally serve for an initial term of four years and may be invited to serve for one or more additional terms. The term served by student members may vary depending upon their year of enrolment when invited to serve. Student members are identified by the Academic Board and recommended to the Board of Directors for approval.

Members of the Academic Board must not make any public statement or political comment on matters that may impact on the College's operations or reputation, or include reference to the Company without the prior written approval of the College. This does not preclude a member from communication on matters germane to their discipline or from referring to their membership of the Academic Board in a resume. Members of the Academic Board may make statements in accordance with the principles of Academic Freedom detailed in Appendix 4.

Academic Board members are required to declare any actual or perceived conflict of interest that might arise in the course of their service on the Academic Board. At the discretion of the Board of Directors, independent members of the Academic Board may be required to enter into terms of engagement with the College including a Deed of Confidentiality.

### **6.3.4 Membership of the Academic Board**

The current membership of the Academic Board is as follows:

- Independent Chair (Experienced academic in Higher Education – preferably with Professor or Emeritus Professor Status)
- 3 Independent members with expertise in sectors and disciplines represented in the College's programs
- Alumni Representative
- CEO & Dean
- Alumni Representative
- 2 Student Representatives
- Registrar
- Chair, Learning and Teaching Committee
- 2 Heads of Department on Rotational Basis.

### **6.3.5 Chairperson**

The Board of Directors appoints an independent member as the Chair of the Academic Board. In appointing a Chairperson, the Board of Directors considers the following:

- Considerable knowledge of and experience in senior positions in the higher education sector.
- Experience chairing academic councils, boards and similar committees.
- Academic qualifications, research and experience in the review of academic policy and procedure and with national regulatory frameworks.
- Academic status - (preferably) an Emeritus Professor or Professor.

### **6.3.6 Secretariat**

The Board of Directors appoints a Secretary who along with the Chair of the Academic Board, is responsible for the development of agenda items and collation of papers for each meeting. Agendas and papers for meetings will normally be distributed to members at least seven (7) days in advance of any meeting.

The Secretary takes minutes of each meeting of the Academic Board. The draft minutes are reviewed, finalised and signed by the Chair and placed within the College's Minute Records within one month after each Academic Board meeting.

The minutes are be distributed to Academic Board members thereafter and presented for confirmation with papers for the following meeting.

### **6.3.7 Frequency of Meetings**

The Academic Board meets at least four times a year on a date and time according to the *Annual Governance Calendar*. The Chair or the Board of Directors may convene a special meeting at any time with reasonable notice. The Academic Board may meet using technology such as tele-conference/video-conference software.

### **6.3.8 Quorum and voting**

Matters arising at a meeting of the Academic Board are decided by a majority of votes of the members present and voting. Each member has one vote. At a meeting of the Academic Board, a quorum is two independent members. In the case of a tied vote the Chair has a casting vote but may chose not to exercise it, in which case the motion is lost.

### **6.3.9 Decision-Making Between Meetings**

Where urgent action is required between scheduled meetings of the Academic Board, the Chair of the Academic Board may act on behalf of the Academic Board but must report all such actions to the Academic Board for ratification at its next meeting.

### **6.3.10 Committees/Subcommittees**

The Board of Directors has delegated to the Academic Board the authority to establish the following standing and ad-hoc committees.

- Learning and Teaching Committee
- Examiners' Committee
- Appeals Committee
- Course Advisory Committees

The Chairperson of each committee is appointed by the Academic Board with the approval of the Board of Directors.

The Terms of Reference for each of these Committees are integral to this ACPE Governance Charter and are indicated in the sections to follow.

### **6.3.11 Review of Terms of Reference**

The Terms of Reference of both the Academic Board and any of its subcommittees may be reviewed from time to time. Any amendments agreed by the Academic Board will be recommended by the Chair of the Academic Board to the Board of Directors for consideration and ratification.

## **6.4 Learning and Teaching Committee**

### **6.4.1 Role**

The Learning and Teaching Committee is established by the Academic Board to provide it with advice on a wide range of academic matters. In addition, the Committee acts as a co-ordinating influence for the:

- Development and implementation of courses.
- Maintenance and moderation of academic standards.
- Enhancement of the quality of courses and the quality of teaching.

### **6.4.2 Functions**

The Learning and Teaching Committee advises the Academic Board on, and may make recommendations with respect to:

- The implementation and amendment of approved courses and course units;
- Academic priorities and quality assurance issues.
- Assessment processes, moderation and monitoring of academic standards.
- Matters related to the delivery of courses and units of study in both face-to-face and online modes of delivery including the provision of physical, library and IT facilities.
- Academic planning.
- Matters referred to it by the Academic Board or the CEO and Dean.

The Learning and Teaching Committee may consider and make determinations with

respect to:

- Assessment schedules for academic courses.
- Unit and lecture evaluation processes.

### **6.4.3 Reports by the Committee**

(a) To the Academic Board.

The Chair of the Learning and Teaching Committee provides a written report on the activities of the Committee to each meeting of the Academic Board. This report may contain recommendations to the Academic Board.

(b) To the Examiners' Committee of the Academic Board.

The Chair of the Learning and Teaching Committee in combination with the Registrar provides recommendations to the Academic Board pertaining to the determination of grades following each assessment period. The Chair also provides a commentary on anomalous grade patterns and table written explanations where appropriate.

### **6.4.4 Membership**

The Learning and Teaching Committee is comprised of the following members:

- Chair (Associate Dean – Programs & Quality)
- CEO & Dean
- Heads of Department
- Registrar
- Elected members of Academic Staff x 3
- Elected members of Academic Staff x 3
- Director of Student Services and Campus Wellbeing
- Library Representative
- Co-opted members: Learning and Teaching Technologist; Student Engagement, Partnerships and Alumni Manager

Elected members may serve for a period of two years. Co-opted members serve for a period determined by the Committee Chair.

### **6.4.5 Secretariat**

The secretary of the Learning and Teaching Committee shall be the Assistant Registrar or such other member of the administrative staff nominated by the CEO and Dean.

The Committee Secretary along with the Chair, is responsible for the development of agenda items and collation of papers for each meeting. Agendas and papers for meetings will normally be distributed to members at least seven (7) days in advance of any meeting.

The Secretary takes minutes of each meeting of the Academic Board. The draft minutes are reviewed, finalised and signed by the Chair and placed with the

College's Minute Records within one month after each committee meeting.

The minutes are to be distributed to committee members thereafter and presented for confirmation with papers for the following meeting.

#### **6.4.6 Frequency of Meetings**

The Committee will meet as determined by its chairperson. However, as a minimum, the Committee should meet at least four times per year.

#### **6.4.7 Quorum**

The quorum for a meeting to be properly constituted is half the current membership of the Committee.

#### **6.4.7 Subcommittees**

The Learning and Teaching Committee may establish a sub-committee to consider and develop a response to a specific referral from the Academic Board or the CEO & Dean. Where matters are referred by the CEO & Dean, the CEO & Dean receives the formal report and the Academic Board is informed of the substance of the Report.

#### **6.5.9 Review of Terms of Reference**

The functioning of the ACPE Learning and Teaching Committee is to be subject to review at least every two years by the Academic Board to ensure that it is operating effectively and fulfilling its functions, and also for its continuing relevance. Each year the Committee must undertake a self-evaluation of performance and areas requiring further attention in the following year must be highlighted to the Academic Board.

### **6.5 Examiners Committee**

#### **6.5.1 Role**

The ACPE Examiners Committee is established by the Academic Board in order to support the ongoing academic rigour of all higher education courses and awards conferred by the College. The role of the ACPE Examiners Committee is to ensure that the assessment tasks and their distribution, assessment moderation and release of grades are undertaken in a timely fashion. It also monitors rates of student progression and levels of performance at the unit and course level and reports on any concerns or matters that need to be addressed.

#### **6.5.2 Functions**

The ACPE Examiners Committee is directly responsible to the Academic Board. It:

- i. Considers Department Results Reports from each academic department and notes any highlighted anomalies and positive outcomes.



- ii. Reviews and evaluates assessment data and assessment performance indicators associated with the cohort of results presented for approval.
- iii. At its discretion, refers back to the Heads of Departments or the Learning and Teaching Committee those results that are not consistent with the assessment and/or examination policy enunciated by the Academic Board.
- iv. Approves final grades for all students including those reviewed in detail and recommended by the Head of Department / Program Leader / Coordinator and/or referred by them to the Examiners' Committee when issues have been identified and require resolution.
- v. Monitors issues relating to quality of the courses and assessment arising out of identified anomalies in Department Results Reports, and makes recommendations as to the quality of assessment.
- vi. Refers matters arising from grade distribution anomalies or moderation practices to the Learning and Teaching Committee for review.
- vii. Reports to the Academic Board on outcomes of results of a study period, including any issues identified by the committee, outcomes of investigations emanating from these, and recommended changes to delivery and/or assessment of units as a result of this process.
- viii. Considers the academic standing of students and makes recommendations for interventions pertaining to students deemed to be at risk.
- ix. Reviews proposed list of exclusions based on consistent failure to progress, maintain adequate Grade Point Average (GPA) or repeat unit failures.
- x. Determines the list of students eligible to graduate at the end of any given study period and provides the list to the Academic Board for approval and forwarding to the Board of Directors.
- xi. Considers and reports on any matter referred to it by the Academic Board, or the CEO and Dean.

### **6.5.3 Membership**

The membership of the Examiners Committee comprises the following:

- CEO & Dean (Chair)
- Associate Dean (Chair of Learning and Teaching Committee)
- Heads of Department
- Compliance Officer
- Registrar

Members serve on the ACPE Examiners Committee for the period of time they hold the relevant position at the College, and are replaced on the Committee by the new

incumbent at such time as they relinquish that position.

#### **6.5.4 Secretariat**

The secretary of the Examiners Committee shall be the Assistant Registrar or such other member of the administrative staff nominated by the CEO and Dean.

The Committee Secretary along with the Chair, is responsible for the development of agenda items and collation of papers for each meeting. Agendas and papers for meetings will normally be distributed to members at least seven (7) days in advance of any meeting.

The Secretary takes minutes of each meeting of the Examiners Committee. The draft minutes are reviewed, finalised and signed by the Chair and placed within the College's Minute Records within one (1) month after each committee meeting.

The minutes are to be distributed to committee members thereafter and presented for confirmation with papers for the following meeting.

#### **6.5.5 Frequency of Meetings**

The ACPE Examiners Committee meets at the end of each semester, prior to release of results for that semester. The ACPE Examiners Committee also meets for post- results release moderation and consideration of external moderation reports at least eight (8) weeks into the following semester but before the end of that semester. Additional meetings may be scheduled on a needs basis to enable the Committee to carry out its duties.

#### **6.5.6 Meeting Procedures**

The ACPE Examiners Committee is empowered to seek advice and instruction as necessary from such other staff members and external stakeholders of the College as deemed appropriate. Such persons may be invited by the Chairperson of the committee to be in attendance at meetings where appropriate.

#### **6.5.7 Reporting**

The ACPE Examiners Committee reports as follows:

- Minutes of meetings and grade distribution data are submitted for consideration to the Academic Board
- Minutes of meetings are retained in the College's primary electronic management system for use in regulatory reporting and institutional management.

#### **6.5.8 Review of Terms of Reference**

The functioning of the ACPE Examiners Committee is to be subject to review at least every two years by the Academic Board to ensure that it is operating effectively and

fulfilling its functions, and also for its continuing relevance. Each year the Committee must undertake a self-evaluation of performance and areas requiring further attention in the following year must be highlighted to the Academic Board.

## **6.6 Appeals Committee**

### **6.6.1. Role**

The College operates on the basis that all decisions are entrusted to members of the staff acting in accordance with proper procedures established by the College.

However, it is recognised that from time to time disputes may arise with respect to student academic matters; and accordingly, the College has established the *Grievances, Complaints and Appeals Policy and Procedure* to guide processes associated with the resolving of student disputes and appeals.

The final internal stage of the resolution process is the hearing of an appeal to the Appeals Committee. The Appeals Committee will review any decision made by the College concerning an academic or non-academic matter, with which a student may not be satisfied. As outlined in the *Grievances, Complaints and Appeals Policy and Procedure*, a student may exercise their legal rights for an external review following the exhaustion of this final internal process.

The Board of Directors delegates authority to the Academic Board to convene an Appeals Committee on an ad hoc basis.

### **6.6.2 Functions**

The Appeals Committee may investigate and make decisions concerning appeals against:

- Academic progress
- Assessment
- Curriculum
- Quality of course delivery
- Supervision of practicum
- Grading decision
- Attendance procedure
- Results of RPL and credit transfer applications
- Finding allegations of academic integrity
- Issues related to intellectual property
- Exclusion from study
- Any non-academic matters impacting on the student experience and /or well-being.

In investigating a situation the Appeals Committee may:

- Consider written appeals and submissions.
- Examine the relevant evidence provided by the student involved.
- Permit the student involved to be accompanied and/or assisted by a person nominated by the student, for example, a family member or friend (It is anticipated that the person accompanying the student will not be a legal representative).
- Seek the advice of the CEO and Dean and academic staff where the Committee considers it appropriate to do so.

Any recommendation or decision made by the Appeals Committee and presented to the Academic Board shall bear the signatures of all members of the Committee.

The Appeals Committee must follow the process specified in the *ACPE Grievances, Complaints and Appeals Policy and Procedures*.

### **6.6.3 Membership**

The Appeals Committee is an ad-hoc committee of the Academic Board, given that the majority of Appeals will predictably concern academic matters. It is chaired by an independent member of the Academic Board or the Board of Directors, depending on the nature of the Appeal.

The membership of each Appeals Committee is determined by the Academic Board, in consultation with the Board of Directors if appropriate, and depending on the nature of the appeal, and may include external members of either the Board of Directors or the Academic Board, internal staff and/or a student representative.

The Committee may interview the complainant or other stakeholders in the course of considerations.

## **6.7 Course Advisory Committee**

### **6.7.1 Role**

The Board of Directors delegates authority to the Academic Board to convene a Course Advisory Committee on an ad hoc basis for each broad discipline area to provide industry and content specific advice and guidance in relation to the development and on-going revision of the College's higher education courses.

The primary role of the Course Advisory Committee is to ensure that any new or existing qualifications are current and relevant. It considers and responds to advice drawn from a range of sources, including teaching staff, employers, and external academic peers. While not the sole means, the Course Advisory Committees ensure that external references of the quality of existing and proposed courses are maintained.

### **6.7.2 Functions**

The functions of each Course Advisory Committee are to:

- i. Consider and give advice to the Academic Board on the development of new courses, seeking expert advice where necessary to address specific issues.
- ii. Draw to the Academic Board's attention recent developments and trends in specific fields of study and research and directions in course development.
- iii. Provide advice and guidance on the implications of changing government policy and procedures within the higher education sector and how these may relate to, or impact upon, the College's courses.
- iv. Ensure that any innovative practices in teaching and learning are considered within existing courses.
- v. Review course documentation to ensure that it meets standards of rigour and depth appropriate to the award and that course rationale, aims and content are consistent and reflect best practice.
- vi. Receive and comment upon new and revised outlines for units of study within existing courses.
- vii. Consider major changes to existing courses and units of study and to seek additional expert advice where necessary.
- viii. Receive and review any new course proposals (including evidence of their need and demand), units of study, assessment schedules, and admission and progression requirements.
- ix. Keep under review quality assurance mechanisms, paying particular attention to assessment procedures, stakeholder feedback and benchmarking with other higher education providers where possible.
- x. Respond to such other tasks and activities as are referred to the Course Advisory Committee by the Academic Board.
- xi. Consider other matters relating to current and possible new courses as deemed relevant by the Course Advisory Committee and generate reports and recommendations to the Academic Board.
- xii. Draft formal recommendations on issues arising from its meetings and submit these recommendations to the Academic Board for consideration and implementation.

The Key questions that the Course Advisory Committee must seek to address include:

- Does the course curriculum meet the course objectives? Is the course comparable in its requirements and learning outcomes to courses at the same

level in a similar field at other higher education institutions?

- Does the course have vocational outcomes? If so, in what broad areas of Industry could graduates expect to be employed?
- Does the course design and content satisfy the requirements set out in the Australian Qualifications Framework (AQF) for relevant higher education courses, and does it meet the standards and expectations of relevant accrediting or professional bodies?

### **6.7.3 Membership Protocols**

The protocols for membership of each Course Advisory Committee are:

- i. Each Course Advisory Committee must include an appropriate balance between internal and external members relevant to the discipline who are drawn from the Academic Board, academic staff, other higher education providers, the professions and industry as well as those with curriculum design and development expertise.
- ii. Members are appointed on the basis of discipline-specific knowledge and experience, knowledge and experience of course and curriculum design, industry experience, and knowledge and experience of the higher education sector.
- iii. Each Course Advisory Committee must have at least 2 members who meet the Independence Guidelines set out in Appendix 2.
- iv. Members are appointed by the Academic Board. Tenure of membership is determined by the Academic Board in line with the needs of the College.
- v. The Course Advisory Committee Chair is the Associate Dean (Programs and Quality).
- vi. Members of the Course Advisory Committee must declare any actual or perceived conflict of interest that might arise in the course of their service on a Course Advisory Committee.

### **6.7.4 Frequency of Meetings**

Course Advisory Committees are convened by the Academic Board on an ad hoc basis as determined by reaccreditation and course review and development requirements.

### **6.7.5 Quorum and voting**

Matters arising at a meeting of a Course Advisory Committee are to be decided by a majority of votes of the committee members present and voting. Each member has one vote. At a meeting of a Course Advisory Committee, a quorum is three members. In the case of a tied vote the committee 's Chair has the casting vote but may chose

not to exercise it.

### **6.7.6 Secretariat**

The Dean or Associate Dean appoints a Secretary who is responsible, in conjunction with the Chairperson, for preparing and distributing to committee members the agenda and papers for each meeting at least seven (7) days in advance of any meeting.

The Secretary is responsible for recording the minutes of each meeting. The Draft minutes are reviewed, finalised and signed by the Chairperson and are placed within the College's Minute Records within one (1) month after each committee meeting. The minutes are to be distributed to committee members thereafter and presented for confirmation with papers for the following meeting.

### **6.7.7 Review of Terms of Reference**

The Terms of Reference for Course Advisory Committees may be reviewed from time to time by the Academic Board and amendments recommended by the Chairperson of the Academic Board to the Board of Directors for adoption.

## **6.8 CEO/Dean and the Senior Management Committee (SMT)**

### **6.8.1. Role of the CEO & Dean**

The Board of Directors delegates management functions in general to the CEO & Dean. The CEO & Dean is responsible for the efficient and effective management of the College's business including, without limitation:

- i. Exercising a coordination role in relation to the College's business.
- ii. Providing updates and advice to the Board of Directors regarding the overall operations of the College from a strategic perspective.
- iii. Implementing policies and procedures to enable the efficient running of the College.
- iv. Implementing the College's plans ensuring that the College maintains a quality assured learning and teaching environment for all stakeholders including students, educators and staff.
- v. Developing strategy for consideration by the Board of Directors.

### **6.8.2 Role of the Senior Management Committee**

The Senior Management Committee is established and convened by the CEO and Dean, to assist with and provide advice on the above management responsibilities, thereby ensuring a high level of management coordination to support the CEO & Dean in achieving the College's plans and strategic objectives.

The CEO and Dean's powers under the ACPE Governance Charter, may, with the agreement of the Board of Directors, also be delegated or sub-delegated to an appropriately qualified member of staff or to one or more of the committees referred

to in this Charter. Any such delegations or sub-delegations will be reflected in the College's *Policy on Delegations of Authority and Authority Limits* and associated Matrix, referenced in Section 7. below.

### **6.8.3 Membership of Senior Management Committee**

The current membership of Senior Management Committee comprises:

- CEO & Dean (Chairperson)
- Associate Dean (Programs & Quality)
- Registrar
- Director of Student Services & Campus Wellbeing
- Compliance Officer
- Marketing & Student Recruitment Manager
- Heads of Academic Departments
- Student Engagement, Partnerships, Alumni and Careers Manager
- Senior Accountant
- Head Librarian

### **6.8.4 Secretariat**

The CEO & Dean appoints a secretary who is responsible for distributing agendas and papers to members prior to meetings and recording, preparing and distributing the minutes of each meeting.

Agenda and papers for meetings are normally distributed to members seven (7) days in advance of any meeting.

The Secretary is responsible for recording the minutes of each meeting. The Draft minutes are reviewed, finalised and signed by the Chairperson and placed within the College's Records within one (1) month after each committee meeting. The minutes are distributed to committee members thereafter and presented for confirmation with papers for the following meeting.

### **6.8.5 Frequency of Meetings**

The Senior Management Committee meets at least every second month in accordance with the *Annual Governance Calendar*. Notwithstanding, the CEO & Dean may convene a special meeting at any time with reasonable notice.

### **6.8.6 Committees/Subcommittees**

The CEO and Dean may establish standing or ad-hoc sub-committees or working parties of the Senior Management Committee, by any title and terms of reference as deemed fit, to assist member of the Committee in performing their role.

## **7. Delegations of Authority and Authority Limits**



Under the Corporations Act, the ACPE Constitution and this Charter, the ACPE Board of Directors is empowered to delegate its powers to appropriately qualified members of the Board, the CEO and Dean, members of staff, or to committees that include at least one member of the Board

The Board of Directors, in addition, maintains oversight of Board delegations, reviews Board delegations on at least an annual basis and approves changes to Board delegations as required.

The delegations of authority and authority limits are set out in the College's *Policy on Delegations of Authority and Authority Limits* and its attached Delegations Matrix. The Principles underlying delegations (including principles underpinning Related Party Transactions and Conflict of Interest) are also detailed in the Policy.

## Version Control

Effective Date	Approval Date	Approved by	Amendment details
May 2015	May 2015	ACPE Board of Directors	Approval of full document
July 2018	N/A	N/A	<ul style="list-style-type: none"> <li>Inclusion of Academic Board terms of reference accepted 14 Dec 2016 Amended to reflect prior Board acceptance of revisions to Academic Board terms of reference on 14 Dec 2016 as updated in accord with this acceptance effective 27 Mar 2017 (v3.0) and 27 May 2017(v4.0)</li> </ul>
8 August 2018	8 August 2018	ACPE Board of Directors	<ul style="list-style-type: none"> <li>Approval of full document, including addition of Terms of Reference reflective of Board approval for resumption of Learning and Teaching Committee reporting to the Academic Board. Replaces all prior approved versions and amendments.</li> </ul>
25 March 2019	25 March 2019	ACPE Board of Directors	<ul style="list-style-type: none"> <li>Amendment of ownership and organisation structure</li> <li>Updated designations</li> <li>Removal of all references to StudyGroup</li> </ul>
3 April 2019	3 April 2019	ACPE Board of Directors	<ul style="list-style-type: none"> <li>Approval by circular resolution</li> <li>Amendment of Terms of Reference</li> <li>Addition of the Associate Dean (Programs and Quality) to the academic governance structure</li> <li>Addition of the terms of reference of the Risk management Committee</li> </ul>
11 June 2019	11 June 2019	ACPE Board of Directors	<ul style="list-style-type: none"> <li>Amendment of the Governance Summary</li> <li>Amendment of the terms of reference</li> <li>Addition of the Course Advisory Committee Terms of Reference</li> <li>Reorganisation of Document</li> </ul>
16 September 2019	16 September 2019	ACPE Board of Directors	<ul style="list-style-type: none"> <li>Updated Governance Summary</li> <li>Inserted Draft code of Academic Freedom</li> <li>Updated Vision, Mission and Values</li> <li>Updated organograms to visually represent the separation of the executive management from</li> </ul>

			<p>corporate governance and the link between the academic board and the risk management committee.</p> <ul style="list-style-type: none"> <li>• Revised Terms of reference of the academic board to ensure that all functions of HES6.3 are included, particularly reference to academic and research integrity, academic risk and academic delegations.</li> <li>• Updated references to the Constitution</li> <li>• Added the Chairperson of the Academic Board and Associate Dean as attendees of Board meetings.</li> <li>• Instituted a term of membership for extern and/or elected members of the academic board and the maximum number of terms that may be served.</li> <li>• Specified the number of student representatives on the Academic Board</li> <li>• Added delegations of authority matrix and limits of authority including general principles.</li> </ul>
November 2019			<ul style="list-style-type: none"> <li>• Delegations of Authority Matrix updated.</li> </ul>
16 June 2020	15 June 2020	ACPE Board of Directors	<ul style="list-style-type: none"> <li>• Inclusion of a reference to a "community of Scholars"</li> <li>• Rewording of Academic Board terms of reference to make it clear that the Board of Directors maintains governance oversight but is advised by the Academic Board.</li> <li>• Inclusion of Terms of Reference of Appeals Committee</li> <li>• Revised Organisational Values</li> <li>• Added Fit and Proper Person requirements to Board of Directors Membership requirements</li> <li>• Rewording of Senior Management Committee terms of reference – Senior Management Committee assists the CEO and Dean in an Advisory Capacity only. No quorum or voting rights.</li> </ul>

			<ul style="list-style-type: none"> <li>• 2 student representatives on the Academic board</li> <li>• Added references to the TEQSA Act and Corporations Act</li> <li>• Inserted reference to Board of Directors meeting attendance by electronic means.</li> <li>• Inserted reference to the need for decisions to be made via circular resolutions between scheduled board meetings to be ratified at the following board meeting.</li> <li>• Replaced Chairman with Chairperson</li> <li>• Inserted reference to TEQSA and AICD guidance notes on Minutes</li> <li>• Risk Management Committee renamed Risk Committee</li> <li>• Administrative organisation structure removed – not a governance function</li> <li>• Editing, streamlining and reformatting of Charter, including revision of sequence of information, to improve the flow of information for the benefit of the external reader, and greater use of Appendices and Schedules</li> <li>• Final adjustments to details pertaining Risk and Audit functions and Delegations of Authority and Authority Limits, including referencing of the new <i>Policy on Delegations of Authority and Authority Limits</i> to which the Delegations of Authority and Authority Matrix is now appended, rather than to either of the Charter or and Risk and Audit Framework</li> </ul>
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## Appendix 1 – ACPE Vision, Mission, Philosophy and Values

### ACPE Vision

ACPE seeks to be the specialist independent higher education provider of choice in the domains of Sport, Health, Fitness, Education and Dance. It aims to connect motivated and well-equipped students with fulfilling careers in their chosen fields.

ACPE aspires to:

- Have an impeccable reputation as a knowledge hub that serves the industry and the broader community through scholarly activity, innovation and education.
- To be a transformative and inclusive academic community that celebrates critical thinking, promotes debate and is committed to democracy, human rights and social justice with an outward, international and future focus.
- Having an impact on the social, and educational and well-being of the sporting community.
- Be a sustainable institution in economic, social and environmental terms.

### ACPE Mission

ACPE is committed to the provision of a transformative, personalised and supportive learning environment that nurtures potential and promotes academic excellence and scholarly activity. The College strives for excellence in everything it does and promotes health and wellbeing as a holistic approach to developing resilience.

To realise its vision, the College commits to:

- Position ACPE as a values-driven institution, striving to make a difference, through pursuit of knowledge and innovation in the core disciplines.
- Create a scholarship-based teaching and learning environment that will encourage students to reach their full potential, that is supportive of students from disadvantaged backgrounds, and that will produce critical, capable and skilled graduates who can adapt to changing environments.
- Develop, educate and empower well-rounded career ready graduates through quality collaborative teaching-learning and industry engagement.
- Provide an attractive, safe and well-equipped environment that is conducive to good scholarship and collegiality.
- Provide a safe and nurturing student support system as well as a diverse array of opportunities that will foster the all-round development of our students and the College.

- Attract and retain staff of the highest calibre and to provide development programmes for staff at all levels.
- Strive for excellence and to promote quality assurance in all its activities.
- Nurture close relationships with its stakeholders through engagement, collaboration and beneficial partnerships.
- Aspire to be recognised as a well-managed and innovative institution.
- Maintain a student and quality focus, by creating an enabling environment.
- Create a financially viable institution able to adapt to change.
- Be a learning organisation that strives to influence and contribute to positive changes in society whilst itself being responsive to and embracing change.

## ACPE Philosophy and Values

The College is an organisation dedicated to the development and education of people – both its students and staff.

Our Core Values are at the heart of our business. Our values are founded on a proud legacy of more than 100 Years in Education and Sport with a sustainability and future focus as expressed in Diagram 1 below. They define who we are, how we work and guide how we act with each other and with other stakeholders. They're our organizational DNA. All of the values are equally important, are interconnected and inform the ACPE Code of Conduct for Staff and Students.

As an institution we value Academic Freedom to pursue independent thinking with due regard to the standards of academic integrity and relevance. We are a close-knit community and we value working together and with the wider society, harnessing our diversity to create a rich social, cultural and intellectual space that facilitates a sense of belonging for all.

We value innovation and encourage critical thinking, creativity and initiative to pursue opportunities. We believe in empowering each other and our students to grow, contribute, challenge and make a difference.

Underpinning these values is the principle of integrity with due regard and respect for the freedom, equality and dignity of all. We acknowledge that we are answerable to each other, our Board of Directors and ultimately, Australian society for the decisions we make and the actions we take.

We are committed to openness and transparency in our governance, our decision-making and in the execution of our responsibilities and we are committed to demonstrating courage in confronting those who violate the values for which we stand.

## Appendix 2 - Independence Guidelines - Board of Directors

Each Independent Director of ACPE must regularly provide to the Board all information relevant to their compliance with the Independence Guidelines detailed below. Independence will be assessed regularly by the Board of Directors.

The following points encompass a selection of characteristics that are seen to be indicative of the 'independence' of a Director.

The person:

- i. has not had an employment relationship with the provider within the last three years
- ii. has not had a business relationship or other material contractual relationship with the provider within the last three years
- iii. does not have a direct or indirect material financial interest with the provider
- iv. is not involved in the day-to-day management functions of the provider and not allied with the interests of management
- v. is sufficiently impartial and disconnected from provider's operations, such that they are in position to hold management to account and act in the organisation's best interests
- vi. does not have a material personal interest (i.e. doesn't stand to gain, benefit or suffer a loss) in the outcome of a Board meeting
- vii. is free of any interest, position, association or relationship that might influence, or reasonably be perceived to influence, their capacity to exercise independent judgement
- viii. has not been a Director with the provider for such a period (e.g. ten years) that their independence may have been compromised<sup>8</sup>.

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<sup>8</sup> [https://aicd.companydirectors.com.au/-/media/cd2/resources/director-resources/director-tools/pdf/05446-1-11-mem-director-tools-bc-non-executive-directors\\_a4\\_web.ashx](https://aicd.companydirectors.com.au/-/media/cd2/resources/director-resources/director-tools/pdf/05446-1-11-mem-director-tools-bc-non-executive-directors_a4_web.ashx)

## Appendix 3 – Skills Matrix - Redacted

## Appendix 4 – Model Code on Academic Freedom

The ACPE Board of Directors guarantees that academic freedom will prevail within the institution in accordance with the *Model Code on Academic Freedom* recommended by the Minister of Education in March 2019<sup>9</sup>.

Under the draft model code, Academic Freedom comprises:

- i. “the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research;
- ii. the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their units of study and research;
- iii. the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled;
- iv. the freedom of academic staff, without constraint imposed by reason of their employment by the College, to make lawful public comment on any issue in their personal capacities;
- v. the freedom of academic staff to participate in professional or representative academic bodies;
- vi. the freedom of students to participate in student societies and associations.
- vii. the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.”

In addition, in accordance with the principles of the code every member of the staff and every student at the College enjoys freedom of speech exercised on College land or in connection with the College subject only to restraints or burdens imposed by:

- law;
- the reasonable and proportionate regulation of conduct necessary to the discharge of the College’s teaching and research activities;
- the right and freedom of others to express themselves and to hear and receive information and opinions;
- the reasonable and proportionate regulation of conduct to enable the College to fulfil its duty to foster the wellbeing of students and staff;
- the reasonable and proportionate regulation of conduct necessary to enable the College to give effect to its legal duties including its duties to visitors to the College.

Therefore, every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:

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<sup>9</sup> Adapted from: <https://docs.education.gov.au/node/52661>



- imposed by law;
- imposed by the reasonable and proportionate regulation necessary to the discharge of the College's teaching and research activities;
- imposed by the reasonable and proportionate regulation necessary to discharge the College's duty to foster the wellbeing of students and staff;
- imposed by the College to enable the College, the Directors, the executives and staff each to meet their respective legal duties;
- imposed by the College by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

The exercise by a member of the academic staff or of a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.

In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the College shall take all reasonable steps to minimise the restrictions or burdens imposed by such arrangements or conditions on the freedom of speech or academic freedom of any member of the academic staff or students carrying on research or study under such arrangements or subject to such conditions.

## Schedule A – Glossary of Terms

<b>Academic Board</b>	the ACPE Academic Board, as defined in this Governance Charter
<b>ACPE (or the College)</b>	ACPE Ltd trading as the Australian College of Physical Education
<b>Appeals Committee</b>	the ACPE Appeals Committee, an ad hoc committee of the ACPE Academic Board, as defined in this Governance Charter
<b>ASIC</b>	the Australian Securities and Investments Commission
<b>Board and Board of Directors</b>	the ACPE Board of Directors, as defined in this Governance Charter
<b>CEO and Dean</b>	the Chief Executive Officer of ACPE who also serves as Academic Dean
<b>Chair</b>	a short form of reference to the Chairperson of a Board or a Committee
<b>College's Minute Records</b>	the record maintained by ACPE of the minutes of all the College's Board and Committee meetings kept in accordance with the Corporations Act and the ACPE Constitution
<b>Course Advisory Committee (CAC)</b>	refers to an ACPE Course Advisory Committee, an ad hoc committee of the ACPE Academic Board, of which there may be one or several, as defined in this Governance Charter
<b>CRICOS</b>	refers to The Commonwealth Register of Institutions and Courses for Overseas Students. It is an Australian government register that lists all Australian education providers offering courses to people studying in Australia on student visas and the courses offered.
<b>Director</b>	A member of the ACPE Board of Directors
<b>ESOS or ESOS Act</b>	the Education Services for Overseas Students Act 2000, or ESOS Act, establishes legislative requirements and standards for the quality assurance of education and training institutions offering courses to international students who are in Australia on a student visa. ESOS also provides tuition fee protection for international students.
<b>ESOS National Code</b>	the <i>National Code</i> is a set of nationally consistent standards that governs the protection of international students and delivery of courses to those students by providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).
<b>Examiners Committee</b>	the ACPE Examiners Committee, a standing committee of the ACPE Academic Board, as defined in this Governance Charter

<b>Framework</b>	refers to an ACPE document which outlines a governance and/or management model and modus operandi for a particular ACPE function, for instance Risk and Audit Framework
<b>Governance</b>	as defined in this Charter and refers to the framework of rules, relationships, systems and processes by which the College is directed, controlled and held to account and whereby authority is exercised and maintained, encompassing authority, accountability, stewardship and leadership, and direction and control.
<b>Governance Charter</b>	the ACPE Governance Charter June 2020, as updated or replaced by the Board from time to time
<b>Grade Point Average (GPA)</b>	The numeric measure used to summarise the academic achievement of a student at their particular stage of studies in an ACPE course
<b>Higher Education Standards</b>	refers to the <i>Higher Education Standards Framework</i> , which is the basis for the regulation of higher education providers and courses by the Tertiary Education Quality and Standards Agency (TEQSA)
<b>Independent non-executive Directors</b>	directors on the Board of Directors who are not employees of ACPE and who meet the criteria for 'independence' as defined in Appendix B of this Charter
<b>Initial Teacher Education (ITE) Program</b>	An Initial Teacher Education program is accredited by demonstrating evidence against the nationally agreed Accreditation Standards and Procedure. All Australian ITE programs are accredited by state and territory teacher regulatory authorities using these nationally agreed Standards and Procedures.
<b>Learning and Teaching Committee</b>	the ACPE Learning and Teaching Committee, a standing committee of the ACPE Academic Board, as defined in this Governance Charter
<b>HEP</b>	Higher Education Provider in Australia
<b>NESA</b>	the NSW Education Standards Authority, which specifies standards that must be met by higher education courses that produce teachers for work as teachers in NSW Schools and which is responsible for teacher accreditation
<b>Professional Standards</b>	the standards of any professional body which provides professional accreditation for graduates in the disciplines/professions represented by ACPE courses (for instance: the Australian Health Practitioner Regulation Agency (AHPRA), which provides accreditation through its various Boards for a range of health practitioners; Exercise & Sports Science Australia (ESSA), which provides accreditation for Sport and Exercise Scientists and Exercise Physiologists; the Australian Strength and Conditioning Association (ASCA), the peak national body for strength and conditioning professionals in Australia; and the Australian Institute for Teaching and School Leadership (AITSL), which determines the standards for teachers in schools nationally.

<b>Policy on Delegations of Authority and Authority Limits</b>	the ACPE Policy of the same name, initially approved June 2020, as updated or replaced by the Board from time to time
<b>Relevant Legislation</b>	all relevant Acts of Parliament (Federal and state) which relate to the students and staff and operations of ACPE in the conduct of its business
<b>Risk and Audit Committee</b>	the ACPE Risk and Audit Committee established by the Governance Charter with a mandate to oversee risk governance and management at ACPE and to report to and advise the Board in respect of risk and risk management
<b>Risk and Audit Framework</b>	ACPE's Risk and Audit Framework June 2020, as updated or replaced by the Board from time to time.
<b>Senior Executive</b>	a senior manager of ACPE, involved as a member of the Senior Management Committee
<b>Senior Management Committee (SMT)</b>	the Senior Management Committee as described in the Governance Charter and otherwise referred to as the Senior Management Team (SMT)
<b>Shareholder Director</b>	the director on the Board representing ACPE's sole shareholder
<b>Strategic Plan</b>	the ACPE Strategic Plan 2019-2021, Strategic Priorities and Tactical Initiatives as approved by the Board in April 2019 as updated or replaced by the Board from time to time
<b>Terms of Reference</b>	the Terms of Reference in this Governance Charter for and as applicable to the Board, the Risk and Audit Committee, the Academic Board and its subcommittees (Learning and Teaching Committee, Examiners Committee, Appeals Committee and Course Advisory Committees) and the Senior Management Committee (SMT)
<b>TEQSA</b>	the Tertiary Education Quality and Standards Agency, which registers Higher Education Providers in Australia and accredits their courses

## Schedule B – Major Applicable Acts, Regulations, Standards, Guidelines and Awards

Though not exhaustive, the following are the main legal instruments that have a significant role in the management and functions of ACPE. The Senior Management Team member(s) primarily responsible for ensuring compliance with each is also shown.

Act, Regulation, Standard, Guideline or Award	Responsible SMT Member(s)
<b>Higher education</b>	
<ul style="list-style-type: none"> <li>Tertiary Education Quality and Standards Agency Act (2011) (Cwth) (and the Higher Education Standards Framework (Threshold Standards) 2015 made under that Act)</li> </ul>	CEO and Dean
<ul style="list-style-type: none"> <li>Education Services for Overseas Students Act (2000) (Cwth) (and the National Code of Practice for Providers of Education and Training to Overseas Students 2018 made under that Act)</li> </ul>	CEO and Dean Registrar
<ul style="list-style-type: none"> <li>Higher Education Support Act (2003) (Cwth) (and the Higher Education Provider Guidelines 2012 made under that Act)</li> </ul>	Registrar
<ul style="list-style-type: none"> <li>Higher Education Support (HELP Tuition Protection Levy) Act (2020) (Cwth)</li> </ul>	Registrar
<b>Overarching General Laws</b>	
<ul style="list-style-type: none"> <li>Corporations Act (2001) (Cwth)</li> </ul>	CEO and Dean
<ul style="list-style-type: none"> <li>Competition and Consumer Act (2010) (Cwth)</li> </ul>	CEO and Dean
<ul style="list-style-type: none"> <li>Copyright Act (1968) (Cwth)</li> </ul>	Head Librarian
<ul style="list-style-type: none"> <li>Electronic Transactions Act (2000) (NSW)</li> </ul>	Senior Accountant
<b>Employees, contractors and the workplace</b>	
<ul style="list-style-type: none"> <li>Fair Work Act (2009) (Cwth)</li> </ul>	CEO & Dean
<ul style="list-style-type: none"> <li>Educational Services (Post Secondary Education) Award 2010</li> </ul>	CEO & Dean
<ul style="list-style-type: none"> <li>Work Health and Safety Act (2011) (NSW) (and the Workplace Health and Safety Regulations 2011 (NSW) made under that Act)</li> </ul>	Director of Student Services & Campus Wellbeing
<ul style="list-style-type: none"> <li>Workers Compensation Act (1987) (NSW)</li> </ul>	CEO and Dean
<ul style="list-style-type: none"> <li>Workplace Injury Management and Workers Compensation Act (1988) (NSW)</li> </ul>	Director of Student Services & Campus Wellbeing
<ul style="list-style-type: none"> <li>Employees Liability Act (1991) (NSW)</li> </ul>	CEO and Dean
<ul style="list-style-type: none"> <li>Environmentally Hazardous Chemicals Act (1985) (NSW)</li> </ul>	Head of Dept – Health Sciences

## Privacy

- Privacy Act (1988) (Cwth) (including Schedule 1 - Australian Privacy Principles) Registrar  
CEO and Dean
- Workplace Surveillance Act (2005) (NSW) CEO and Dean
- Health Records and Information Privacy Act (2002) (NSW) CEO and Dean

## Equity and diversity

- Anti-Discrimination Act (1977) (NSW) Director of Student Services & Campus Wellbeing
- Equal Employment Opportunity (Commonwealth Authorities) Act (1987) (Cwth) CEO and Dean
- Disability Discrimination Act (1992) (Cwth) (and the Disability Standards for Education 2005 made under that Act) Director of Student Services & Campus Wellbeing
- Racial Discrimination Act (1975) (Cwth) CEO and Dean
- Sex Discrimination Act (1984) (Cwth) CEO and Dean
- Human Rights and Equal Opportunity Commission Act (1986) (Cwth) CEO and Dean

## Finances and accounting

- Income Tax Assessment Act (1936) (Cwth) Senior Accountant
- Income Tax Assessment Act (1997) (Cwth) Senior Accountant
- Fringe Benefits Tax Assessment Act (1986) (Cwth) Senior Accountant
- Superannuation Guarantee (Administration) Act (1992) (Cwth) Senior Accountant
- A New Tax System (Goods & Services Tax) Act (1999) (Cwth) Senior Accountant
- Payroll Tax Act (2007) (NSW) Senior Accountant

## Immigration

- Migration Act (1958) (Cwth) Registrar

## Children

- Children and Young Persons (Care and Protection) Act (1998) (NSW) CEO and Dean
- Child Protection (Working with Children) Act (2012) (NSW) CEO and Dean

## Schedule C - List of TEQSA Guidance Notes

### Academic Governance

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-academic-governance>

### Academic Integrity

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-academic-integrity>

### Academic leadership

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-academic-leadership>

### Academic Quality Assurance

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-academic-quality-assurance>

### Corporate Governance

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-corporate-governance>

### Diversity and Equity

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-diversity-and-equity>

### External Referencing

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-external-referencing-including-benchmarking>

### Financial Assessment

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-financial-assessment>

### Financial Standing

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-financial-standing>

### Grievance and Complaint Handling

<https://www.teqsa.gov.au/for-providers/resources/guidance-note-grievance-and-complaint-handling>

### Scholarship

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-scholarship>

### Staffing, Learning Resources and Educational Support

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-staffing-learning-resources-and-educational-support>

### Technology Enhanced Learning

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-technology-enhanced-learning>

### Third Party Arrangements

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-third-party-arrangements>

### Wellbeing and Safety

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-wellbeing-and-safety>

## **Work Integrated learning**

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-work-integrated-learning>

## **Workforce Planning**

<https://www.teqsa.gov.au/latest-news/publications/guidance-note-workforce-planning>

## **Good Practice Notes:**

### **Addressing Contract Cheating to Safeguard Academic Integrity**

<https://www.teqsa.gov.au/latest-news/publications/good-practice-note-addressing-contract-cheating-safeguard-academic>

### **Improving Retention and Completion of students in Australian Higher Education**

<https://www.teqsa.gov.au/latest-news/publications/good-practice-note-improving-retention-and-completion-students-australian>

### **Making Higher Education Admissions Transparent for Prospective Students**

<https://www.teqsa.gov.au/latest-news/publications/good-practice-note-making-higher-education-admissions-transparent>