



Child Protection Policy and Procedures

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1. Introduction

1.1. Purpose

This policy sets out staff responsibilities for child protection and processes that staff must follow concerning child protection matters.

1.2. Scope

This policy applies to all employees, temporary and casual employees, host employers, visitors, volunteers, and contractors. Staff members who fail to adhere to this policy may be in breach of their terms of employment.

1.3. Definitions

CEO	Chief Executive Officer
HR/WHS Officer	Human Resources/Work Health and Safety Officer
DCJ	Department of Communities and Justice
Mandatory Reporter	<p>Under the Care and Protection Act, mandatory reporting applies to persons who:</p> <ul style="list-style-type: none">• in the course of their employment, deliver services including health care; welfare, education, children's services, and residential services, to children; or• hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services, and residential services to children. <p>All teachers are mandatory reporters. Other staff members may also be mandatory reporters.</p>
WWCC	Working with Children Check

1.4. Responsibilities

CEO	<ul style="list-style-type: none">• Administer and approve the Child Protection Policy.• Act as the Head of Entity for the College for reportable allegations and reportable conduct• Lodge mandatory reports to DCJ, previously known as Family and Community Services• Securely maintain records relating to mandatory reporting, reports of conduct allegations, the outcome of reportable conduct investigations and criminal convictions• Annually inform employees of their legal responsibilities relating to child protection
Assistant Principal	<ul style="list-style-type: none">• Receive and action child protection notifications in the absence of the CEO

Employees	<ul style="list-style-type: none"> Identify and report child protection issues. Act in accordance with this policy and procedures.
HR/WHS Officer	<ul style="list-style-type: none"> Verify WWCC clearances, monitors WWCC expiry dates and follow up renewal of WWCC before expiry. Maintain records of WWCC clearance verifications and professional development. Maintain a register of staff members who have acknowledged that they read and understood this policy Arrange child protection training for all employees
Students	<ul style="list-style-type: none"> Report child protection issues.
Student Support Officer \ Counsellor	<ul style="list-style-type: none"> Refer any concerns regarding risk of harm to the CEO for consideration and completion of MRG. Complete MRG in the absence of the CEO or Assistant Principal.

1.5. Key Legislation

There are four key pieces of child protection legislation in New South Wales:

- a. *the Children and Young Persons (Care and Protection) Act 1998 (NSW) (Care and Protection Act);*
- b. *the Child Protection (Working With Children) Act 2012 (NSW) (WWC Act);*
- c. *the Children's Guardian Act 2019 (Children's Guardian Act);* and
- d. *the Crimes Act 1900 (Crimes Act).*

1.6. Compliance and Records

The CEO monitors compliance with this policy. The CEO securely maintains College records relevant to this policy, which include:

- a register of staff members who have acknowledged that they read and understood this policy;
- working with children check clearance (WWCC clearance) verifications;
- mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services; and
- reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

2. Child Protection

The safety, protection and welfare of students is the responsibility of all employees and encompasses:

- a duty of care to take reasonable steps to prevent harm to students which could reasonably have been foreseen; and
- obligations under child protection legislation.

2.1. Child protection concerns

There are different forms of child abuse. These include neglect, sexual, physical, and emotional abuse.

Neglect	is the continued failure by a parent or caregiver to provide a child with the necessary things for proper growth and development, such as food, clothing, shelter, medical and dental care, and adequate supervision.
Sexual abuse	is when someone involves a child or young person in sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.
Physical abuse	is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver, or another person. Physical abuse includes but is not limited to injuries caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation, and female genital mutilation. Injuries include bruising, lacerations or welts, burns, fractures, or dislocation of joints. Hitting a child around the head or neck and/or using a stick, belt or another object to discipline or punish a child (in a non-trivial way) is a crime.
Emotional abuse	can result in serious psychological harm. Emotional abuse is behaviour which damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma. Although 'one-off' incidents can cause serious harm, the frequency, persistence, and duration of the parental or carer behaviour are instrumental in defining the consequences for the child. Emotional abuse can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation, or threatening behaviour.

2.2. Child wellbeing concerns

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold for risk of significant harm (see section 5.1.2).

2.3. Staff member responsibilities

Key legislation requires reporting of particular child protection concerns. However, as part of the College's overall commitment to child protection, all staff are required to report any child protection or concerns about the safety, welfare or wellbeing of a child or young person to the CEO. If the allegation involves the CEO, a report should be made to the Chair of the College Board. Staff members may seek the assistance of the HR/WHS Officer to report to the Chair.

3. Training

3.1. The College

The College provides all staff members with a copy of this policy. The College provides all staff members with the opportunity to participate in child protection training annually.

3.2. Staff members

All new staff members must read this policy and sign the acknowledgement that they have read and understood the contents.

All staff members must participate in annual child protection training and additional training, as directed by the CEO. The training complements this policy and provides information to staff about their legal responsibilities related to child protection and College expectations, including:

- mandatory reporting;
- reportable conduct;
- working with children checks; and
- professional boundaries.

Training may include face to face or online professional learning programs, employee briefings and reading College documentation.

All new staff members must engage in child protection training on commencement of their role with the College. In addition, all new employee inductions include a briefing by the HR/WHS Officer on College expectations.

The HR/WHS Officer maintains induction and training records, including:

- attendance/participation records for professional learning activities
- certificates of completion
- acknowledgements/sign off by staff as part of induction records

Staff briefing content and attendance appear in staff meeting minutes. The CEO circulates updated child protection policies/procedures to employees via email. Where a policy undergoes a significant change to regulation, legislation or compliance requirements, staff sign an acknowledgement that they have read and understood the policy/procedural change. The HR/WHS Officer is responsible for monitoring employee participation in training activities and following up on employees with outstanding activities.

Records are kept in individual employee files and compliance summaries appear in reports to the College Board.

4. Working with children

The WWC Act protects children by requiring a worker to have a WWCC clearance or current application to engage in child-related work. Failure to do so may result in a fine or imprisonment.

The Office of the Children's Guardian (OCG) is responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- grant a WWCC clearance (generally valid for 5 years); or
- refuse a WWCC clearance (further applications cannot be made for 5 years).

The OCG may also impose an interim bar on child-related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OCG.

4.1. Responsibilities for working with children checks

4.1.1. Staff members

Staff members who engage in child-related work and eligible volunteers must:

- hold and maintain a valid WWCC clearance;
- not engage in child-related work at any time that they are subject to an interim bar or a bar;
- report to the CEO if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or the OCG notifies them that they are subject to a risk assessment;
- notify the OCG of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

It is an offence for employees to engage in child-related work when they do not hold a WWCC clearance or are subject to a bar.

All volunteers must:

- be aware and follow the expectations of conduct expressed in the College staff Code of Conduct.
- have a WWCC clearance if they engage in high-risk roles. The CEO determines whether a volunteer's role is high-risk.

4.1.2. The College

The College must:

- verify online and record the status of each child-related worker's WWCC clearance. The HR/WHS Officer verifies and maintains records for employee and volunteer WWCC clearances. Information is stored in secure electronic or hard copy files in the HR/WHS Officer office.
- only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance;
- advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. The CEO must refer a finding of reportable conduct concerning sexual misconduct, a sexual offence, or a serious physical assault to the OCG's Working with Children Check Directorate (WWCC Directorate). It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

4.2. Working with children check clearance

A WWCC clearance is an authorisation under the WWC Act for a person to engage in child-related work.

4.2.1. Child-related work

Child-related work involves direct contact by the worker with a child or children, where that contact is a normal part of and more than incidental to the work. Child-related work includes but is not limited to work in the following sectors:

- early education and child-care including education and care service, child-care centres and other child-care;
- schools and other educational institutions and private coaching or tuition of children;
- religious services;
- residential services including boarding schools, homestays more than three weeks, residential services and overnight camps;
- transport services for children, including school bus services, taxi services for children with disability and supervision of school road crossings; and
- counselling, mentoring or distance education not involving direct contact.

Employees should direct any queries about whether roles/duties engage in child-related work to the CEO.

4.2.2. Application/Renewal

Employees/volunteers are responsible for monitoring the expiry date for their WWCC clearance. Employees/volunteers remain responsible for maintaining a current WWCC clearance. While the HR/WHS Officer will assist by reminding employees/volunteers of their expiry dates, the College is not responsible for employees/volunteers who fail to renew their clearance by the due date. Where an employee/volunteer fails to renew their clearance, and is therefore unable to undertake child related work, the College may terminate employment/engagement.

Employees and volunteers may apply or renew a WWCC through Service NSW or its replacement agency. Applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of misconduct findings. If the OCG grants or renews a WWCC clearance, the holder will be issued with a number to be provided to the College to verify the status of a staff member's WWCC clearance.

4.2.3. Refusal/Cancellation

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is restricted from engaging in child-related work and cannot apply for another clearance for five years. Employers are notified by the OCG and instructed to remove such persons from child-related work.

4.2.4. Interim bar

The OCG may issue an interim bar, for up to 12 months, to high-risk individuals to prevent them from engaging in child-related work while the OCG conducts a risk assessment. If an interim bar remains for six months or longer, the individual may appeal to the Administrative Decisions Tribunal.

Not everyone subject to a risk assessment receives an interim bar; only those representing a serious and immediate risk to children.

4.2.5. Disqualified person

A disqualified person is a person who has been convicted or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWCC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child-related work.

4.3. Ongoing monitoring

The OCG continues to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

4.3.1. Risk assessments

A risk assessment is an evaluation of an individual's suitability for child-related work.

The OCG conducts a risk assessment on a person's suitability to work with children when they receive a new record which triggers a risk assessment. Triggers may include an offence under Schedule 1, a pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children and findings of misconduct involving children.

4.4. Process for reporting to OCG

4.4.1. The College

The WWC Act defines Independent Schools as reporting bodies.

The College must advise the OCG of the findings they have made after completing a reportable conduct investigation. The advice includes whether the College makes a finding of reportable conduct. The College must refer a finding of reportable conduct concerning sexual misconduct, a sexual offence, or a serious physical assault to the OCG's WWCC Directorate. The College must also refer information internally to the OCG's WWCC Directorate if it meets the threshold for considering an interim WWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The College may also be obliged to report, amend, or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

4.4.2. Finding of misconduct involving children

The College reports any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the College should alert them to the consequent report to the WWCC Directorate concerning sustained findings of sexual misconduct, a sexual offence, or a serious physical assault.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the College records concerning the finding of misconduct involving children once final findings are made. The entitlement of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

4.4.3. Other information

The College may also be required to provide information to the OCG relevant to assessing whether a person poses a risk to the safety of children or the OCG's monitoring functions.

5. Mandatory reporting

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.

Under the Care and Protection Act, mandatory reporting applies to persons who:

- in the course of their employment, deliver services including health care; welfare, education, children's services, and residential services, to children; or
- hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services, and residential services to children.

All teachers are mandatory reporters. Other staff members may also be mandatory reporters. Any queries about whether other staff members are mandatory reporters should be directed to the CEO.

5.1. Reports to Communities and Justice (DCJ)

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to DCJ as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

The College may also choose to report to the DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm, where there are current concerns about the safety, welfare, and wellbeing of the young person.

A mandatory reporter meets their obligation if they report to the CEO. This centralised reporting model ensures that one person in the College has all the information relevant to the circumstances of a child at risk of significant harm. The approach also addresses the risk of the College not being aware of individual incidences that amount to cumulative harm.

5.1.1. Reasonable grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first-hand observations of the child, young person or family;
- what the child, young person, parent or another person has disclosed;
- what can reasonably be inferred based on professional training and/or experience.

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

5.1.2. Significant harm

A child or young person is 'at risk of significant harm' if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- in the case of a child or young person who is required to attend College in accordance with the Education Act 1990, the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education under that Act;
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;

- the child or young person is living in a household where there have been incidents of domestic violence, and consequently, the child or young person is at risk of serious physical or psychological harm,
- a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm;
- the child was the subject of a pre-natal report under section 25 of the Care and Protection Act. The child's birth mother did not engage successfully with support services to eliminate or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent', is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare, or wellbeing.

The significance can result from a single act or omission or an accumulation of these.

5.2. Process for mandatory reporting

5.2.1. Staff members

Staff members must raise concerns about a child or young person who may be at risk of significant harm with the CEO as soon as possible. The staff member and CEO discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the CEO (or Assistant Principal) is not contactable, the staff member should contact the Police and/or the Child Protection Helpline (13 21 11) directly. In addition, the staff member must advise the CEO (or Assistant Principal) as soon as possible.

Staff members are not required to and must not undertake any investigation of the matter. Staff members must not inform parents or caregivers that the College has reported a matter to DCJ.

Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality breaches this policy and could incite potential civil proceedings for defamation.

5.2.2. The College

In general, the CEO reports these matters to the DCJ and, where necessary, the Police. The DCJ supports this approach under best practice principles. In the absence of the CEO, authority is delegated to the Assistant Principal. In the absence of the CEO and Assistant Principal authority may be delegated to another staff member to ensure reports are made in a timely manner.

5.3. Process for reporting concerns about students

5.3.1. Staff members

The Care and Protection Act outlines a mandatory reporter's obligation to report to the DCJ concerns about the risk of significant harm. However, to ensure centralised reporting, all staff members must report any concern regarding the safety, welfare, and wellbeing of a student to the CEO. Staff members who are unsure whether a matter meets the threshold of 'risk of significant harm' should report their concern to the CEO regardless.

Staff members must deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose it to the CEO and any other person the CEO nominates.

Records of MRG outcomes and mandatory reports made are kept in hard copy or electronic file in the CEO's office.

6. Reportable conduct

Section 29 of the *Children's Guardian Act 2019* requires the Heads of Entities, including non-government schools in New South Wales, to notify the OCG of all allegations of reportable conduct and convictions involving an 'employee', and the outcome of the College's investigation of these allegations. Under the Children's Guardian Act 2019, allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant entity at the time the allegation becomes known by the Head of Entity.

Reportable Conduct:

- involves a child (a person under the age of 18 years) at the time of the alleged incident; and
- involves certain defined conduct as described in the Act (see below).

The OCG:

- must keep under scrutiny the systems for preventing reportable conduct by employees of non-government schools and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions;
- must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions;
- is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable conduct or reportable convictions;
- must determine whether an investigation they monitor was properly conducted and whether the school took appropriate action as a result of the investigation;
- may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school;
- may directly investigate the handling of or response to an allegation of reportable conduct or reportable conviction (e.g. arising from complaints by the person who is the subject of an allegation); and
- may investigate how a relevant entity has dealt with or is dealing with a report, complaint, or notification if the OCG considers it appropriate.

6.1. Reportable conduct

Under the Children's Guardian Act 2019, reportable conduct is defined as:

- a sexual offence;
- sexual misconduct;
- an assault against a child;
- ill-treatment of a child;
- neglect of a child;
- an offence under section 43B (failure to protect) or section 316A (failure to report) of the Crimes Act 1900; and
- behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct does not extend to:

- conduct that is reasonable for the discipline, management, or care of children, having regard to the age, maturity, health, or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated, and the result of the investigation has been recorded in accordance with appropriate procedures; or
- conduct of a class or kind exempted from being reportable conduct by the Children's Guardian Act under section 30.

6.1.1. Definitions

The following definitions relate to reportable conduct:

A **sexual offence** is an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination, or possession of child abuse material.

Definitions of 'grooming' within child protection legislation are complex. The Crimes Act classifies grooming or procuring a child under 16 years for unlawful sexual activity as a sexual offence. The Crimes Act (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Schedule 1(2) of the WWC Act recognises grooming as a form of sexual misconduct. The Children's Guardian Act 2019 and this Child Protection Policy reflect these definitions within the context of the Reportable Conduct Scheme (Division 2).

An alleged sexual offence does not have to be the subject of criminal investigation or charges to be categorised as a reportable allegation of a sexual offence.

Sexual misconduct is conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act provides the following (non-exhaustive) examples:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Note – crossing professional boundaries comes within the scheme's scope to the extent that the alleged conduct meets the definition of sexual misconduct. That is the conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

Assault occurs when a person intentionally or recklessly (i.e. knows the assault is possible but ignores the risk):

- applies physical force against a child without lawful justification or excuse – such as hitting, striking, kicking, punching, or dragging a child (actual physical force); or
- causes a child to apprehend the immediate and unlawful use of physical force against them – such as threatening to physically harm a child through words and/or gestures regardless of whether the person intends to apply any force (apprehension of physical force)

Ill-treatment is conduct towards a child that is:

- unreasonable; and
- seriously inappropriate, improper, inhumane, or cruel.

Ill-treatment can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child.

Neglect is a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a child that causes or is likely to cause harm - by a person who has care and/or has a responsibility towards a child.

Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child's physical or psychological needs. Neglect can also be a single significant incident where a caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child where there is the potential for significant harm to a child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

Emotional or psychological harm is:

- behaviour that causes significant emotional or psychological harm to a child
- intentional or reckless conduct (without reasonable excuse), which is obviously or very clearly unreasonable and results in significant emotional harm or trauma to a child.

For a reportable allegation involving psychological harm, there must be:

- an obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable, and
- evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms, or self-harm, and
- an alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

A **reportable allegation** is an allegation that an employee has engaged in conduct that may be reportable conduct.

A **reportable conviction** is a conviction (including a finding of guilt without the court proceeding to a conviction) in NSW or elsewhere of an offence involving reportable conduct.

An **employee of an entity** includes:

- an individual employed by, or in, the entity

- a volunteer providing services to children
- a contractor engaged directly by the entity (or a third party) where the contractor holds or is required to hold, a WWCC clearance for their work with an entity; and
- a person engaged by a religious body where that person holds or is required to hold a WWCC clearance for their work with the religious body.

ESOA means an Employee Subject of the Allegation

6.2. Process for reporting of reportable conduct allegations or convictions

6.2.1. Staff members

Any concerns about any other employee engaging in conduct that is considered inappropriate or reportable conduct, or any allegation of inappropriate or reportable conduct made to the employee or about the employee themselves, must be reported to the CEO. Staff members must also report the conduct where it is uncertain if it is reportable but considered inappropriate.

Staff members must also report to the CEO when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. Staff members must also self-report this information.

If the allegation involves the CEO, the staff member must report to the Chair of the College Board. Staff members may seek the assistance of the HR/WHS Officer to report to the Chair.

6.2.2. Parents, carers, and community members

Parents, carers, and community members are encouraged to report any conduct that is, in their view, inappropriate, reportable, or criminal to the CEO or their delegate. The College deals with all such reports under the College's complaint handling procedures.

6.2.3. The College

The CEO, as the Head of Entity under the Children's Guardian Act 2019, must:

- ensure systems are in place for preventing, detecting and responding to reportable allegations or convictions;
- submit a 7-day notification form to the OCG within seven business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse),

The notification should include the following information:

- a. that a report has been received in relation to an employee of the College, and
- b. the type of reportable conduct, and
- c. the name of the employee, and
- d. the name and contact details of the College and the Head of Entity, and
- e. for a reportable allegation, whether it has been reported to Police, and
- f. if a report has been made to the Child Protection Helpline, that a report has been made, and
- g. the nature of the relevant entity's initial risk assessment and risk management action.

The notice must also include the following if known to the Head of Entity:

- a. details of the reportable allegation or conviction considered to be a reportable conviction,
- b. the date of birth and working with children number, if any, of the employee the subject of the report,
- c. the police report reference number (if Police were notified),
- d. the report reference number, if reported to the Child Protection Helpline, and
- e. the names of other relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

Maximum penalty for failure to notify within 7 business days —10 penalty units.

6.3. Process for investigating an allegation of reportable conduct

The CEO ensures that the following steps are taken to investigate an allegation of reportable conduct.

6.3.1. Initial steps

Once an allegation of reportable conduct against an employee is received, the CEO must:

- determine whether it is an allegation of reportable conduct;
- assess whether the DCJ or the Police need to be notified (i.e. if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they have been notified, seek clearance from these statutory agencies before the College proceeds with the reportable conduct investigation;
- notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
- notify the OCG within 7 business days of receiving the allegation;
- carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- provide an initial letter to the ESOA advising that an allegation of reportable conduct has been made against them and the College's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019; and
- investigate the allegation or appoint someone to investigate the allegation.

6.3.2. Investigation principles

During the investigation of a reportable conduct allegation, the College will:

- follow the principles of procedural fairness;
- inform ESOA of the substance of any allegations made against them, at the appropriate time in the investigation, and provide them with a reasonable opportunity to respond to the allegations;
- make reasonable enquiries or investigations before making a decision;
- avoid conflicts of interest;
- conduct the investigation without unjustifiable delay;
- handle the matter as confidentially as possible; and
- provide appropriate support for all parties, including the child/children, witnesses and the ESOA.

6.3.3. Investigation steps

In an investigation, the CEO or appointed investigator will generally:

- interview relevant witnesses and gather relevant documentation;
- provide a letter of allegation to the ESOA;
- provide the ESOA with the opportunity to respond to the allegations either in writing or at Interview;
- consider relevant evidence and make a preliminary finding under the OCG guidelines;
- inform the ESOA of the preliminary finding in writing by the Head of Entity and provide them with a further opportunity to respond or make a further submission before the matter moves to final findings;
- consider any response provided by the ESOA;
- make a final finding under the OCG guidelines;
- decide on the disciplinary action, if any, to be taken against the ESOA;
- send the final report (if it is completed) to the OCG within 30 days after receiving the allegation, as per section 36 of the Children's Guardian Act 2019; or send an interim report (should the final report be unfinished within 30 days) to the OCG within 30 days of receiving the allegation, as per section 38 of the Children's Guardian Act 2019.

Submission of an interim report must include;

- a reason for not providing the final report within 30 days and an estimated time frame for completing the report.
- specific information, including (if known);
 - the facts and circumstances of the reportable allegation;
 - any known information about a reportable conviction;
 - action taken since the OCG received a notification about the reportable allegation or reportable conviction;
 - further action the Head of Entity proposes to take concerning the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action;
 - the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations; and
- be accompanied by copies of documents in the College's possession, including transcripts of interviews and copies of evidence.

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the DCJ or Police are also investigating the matter.

An ESOA may have an appropriate support person with them during the interview process. However, the person is for support only and as a witness to the proceedings. They may not act as an advocate or take an active role in the interview.

6.4. Risk management throughout an investigation of a reportable conduct allegation

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence.

The CEO is responsible for risk management throughout the investigation. The CEO will assess risk at the beginning of the investigation, during and at the end of the investigation.

6.4.1. Initial risk assessment

Following an allegation of reportable conduct against an employee, the CEO conducts an initial risk assessment to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation;
- other children with whom the employee may have contact;
- the ESOA;
- the College, and
- the proper investigation of the allegation.

During the risk assessment, the CEO considers the:

- nature and seriousness of the allegations;
- vulnerability of the child(ren) the ESOA has contact with at work;
- nature of the position occupied by the ESOA;
- level of supervision of the ESOA; and
- disciplinary history or safety of the ESOA and possible risks to the investigation.

The CEO takes appropriate action to minimise risks. Action may include the ESOA being:

- temporarily relieved of some duties,
- required not to have contact with certain students,
- asked to take paid leave, or
- suspended from duty.

When addressing any risks identified, the College considered both the needs of the child(ren) and the ESOA.

A decision to take action based on a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered an indication that the alleged conduct by the employee did occur.

6.4.2. Ongoing risk assessment

The CEO continually monitors risk during the investigation, including in the light of any new relevant information that emerges.

6.4.3. Findings

After the investigation, a finding will be made in relation to the allegation and a decision made by the CEO regarding what action is required concerning the ESOA, the child(ren) involved and any other parties.

6.4.4. Information for the ESOA

The CEO will advise the ESOA:

- that an allegation has been made against them (at the appropriate time in the investigation); and
- of the substance of the allegation, any preliminary finding, and the final finding.

The ESOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation; or
- be shown the content of the OCG notification form or other investigation material that reveals information provided by other employees or witnesses.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the College concerning the finding of misconduct involving children once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

6.4.5. Disciplinary action

As a result of the allegations, investigation or final findings, the College may take disciplinary action against the ESOA (including termination of employment).

In relation to any disciplinary action, the College will give the ESOA:

- details of the proposed disciplinary action; and
- a reasonable opportunity to respond before a final decision is made.

6.4.6. Confidentiality

When dealing with allegations of reportable conduct, it is essential to deal with the matter as confidentially as possible.

The College requires that all parties maintain confidentiality during the investigation, including handling and storing documents and records.

Records about allegations of reportable conduct against employees will be kept in a locked cabinet in the HR/WHS office. Records will be accessible by the CEO or with the CEO's express authority.

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the CEO to do so.

Staff members who become aware of a breach of confidentiality concerning a reportable conduct allegation must advise the CEO.

7. Criminal offences

In 2018, the Crimes Act was amended to adopt the Royal Commission's recommendations into Institutional Responses to Child Sexual Abuse. The new offences are designed to prevent child abuse and bring abuse that has already occurred to the attention of the Police.

7.1. Failure to protect offence (Crimes Act 1900 – NSW)

An adult working in a school, therefore all staff members, commit an offence if they know another adult working there poses a serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.

This offence targets those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

7.2. Failure to report offence (Crimes Act 1900 – NSW)

Any adult, and therefore all staff members, commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to Police without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the CEO and is aware that the CEO has reported the matter to the Police.

7.3. Special Care Relationships (Crimes Act 1900 – NSW)

It is a crime in NSW for a staff member, volunteer, or contractor to have a sexual relationship with a student where there is a special care relationship. The Act provides that a young person is under an adult's special care if the adult is a member of the teaching staff of the College at which the young person is a student; or has an established personal relationship with the young person in connection with the provision of religious, sporting, musical or other instruction.

The Special Care (sexual intercourse) offence under s73 was supplemented by an additional special care offence involving sexual touching under s73A of the Crimes Act. The new offence under s73A expands special care offences to also apply to non-penetrative sexual touching. The offence protects children aged 16-17 years from inappropriate sexual contact with teachers and others who have a special care of the child.

8. Acknowledgement

I _____ have read, understood, and agree to comply with the terms of this Child Protection Policy.	
_____ Signed	_____ Dated

8.1. References

NSW Department of Communities and Justice

<https://www.dcj.nsw.gov.au>

The Office of the Children's Guardian

<https://www.kidsguardian.nsw.gov.au>

Department of Premier and Cabinet – Keep Them Safe

www.keepthemsafe.nsw.gov.au

8.2. College Policies

Code of Conduct

Bullying Prevention Policy

Complaints Policy

Pastoral Care Policy

Work Health and Safety Policy

Work Placement Employer Guidelines to Workplace Learning

Uncontrolled Document when Printed

Document History and Version Control (not for publication)

Version	Date	Authorised by	Amendments
1.0	13.05.2008	K Day	Original
1.1	10.09.2008	A Holcombe	Minor Amendments
1.2	16.04.2010	A Holcombe	Added Child Protection Procedure & Minor Amendments
1.3	28.06.2011	C Swanson	Amended reference of College Pro to CorSkills to reflect system change. Added "others" to section 6.
1.4	22.03.2012	A Holcombe	Converted to new document template. Added sections "Reportable Conduct Allegations" and Employee Obligations regarding reporting ROSH and ROSH procedures.
1.5	21.06.2012	A Holcombe	Added details on Head of Agency procedures/responsibilities and separated code of conduct section into Appendix C. Clarified Employment screening procedures for College employees and contractors and volunteer workers. Added section on informing College staff of their Child Protection Obligations.
2.0	30.06.2014	A Holcombe	Policy and procedures updated to include requirements of the WWCC as per the Child Protection regulation 2013. Attachment 1_Application for Working with Children Check and Attachment 2_Prohibited Employment Declaration deleted as no longer required. Attachment 3_Child Protection Code of Professional Standards for College Employees renamed as Attachment 1 and sections renumbered.
2.1	20.02.2017	A Holcombe	Periodic review and update of WWCC requirements.
2.2	03.07.2017	A Holcombe	Additional details added as per advice of NESA auditor. Revised Head of Agency responsibilities
3.0	02.04.2019	M. Gleeson	Extensive review. Incorporated advice for Care and Protection Act, Ombudsman Act, WWCC as per AISNSW recommendations. Updated flowchart. Updated references to websites.
4	19.03.2021	M. Gleeson	Extensive review. Change format. Update position titles. Incorporate changes to procedures for technology updates. Simplify wording.
4.1	12.11.2021	M. Gleeson	Minor review. Include the location of mandatory reporting records and clarify access permissions. Include requirements for all new staff to complete child protection training on appointment. Minor updates to wording to improve readability.
4.2	11.03.2022	M. Gleeson	Minor review. Clarify responsibilities and record keeping for professional learning and WWCC renewals. Clarify potential consequences for employee/volunteer failure to update WWCC clearance. Remove definition duplication.