



Policy and Procedure

CHILD PROTECTION

1. Introduction

1.1. General

The safety, protection and well-being of all students is of fundamental importance to the School.

Both you and the School have a range of different obligations relating to the safety, protection and welfare of students including:

- a) a duty of care to ensure that reasonable steps are taken to prevent harm to students;
- b) obligations under child protection legislation; and
- c) obligations under work health and safety legislation.

The purpose of this Policy is to summarise the obligations imposed by child protection legislation on the School and on employees, contractors and volunteers at the School and to provide guidelines as to how the School will deal with certain matters.

Child protection is a community responsibility.

1.2. Key legislation

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

- a) the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (the **Care and Protection Act**);
- b) the *Commission for Children and Young People Act 1998* (NSW) (the **CCYP Act**); and
- c) the *Ombudsman Act 1974* (NSW) (the **Ombudsman Act**).

We deal with each below.

1.3. Your obligations to report

While we set out below circumstances in which the **legislation** requires reporting of particular child protection issues, the School requires you to report **any concern** you may have about the safety, welfare or wellbeing of a child or young person to **the Manager**.

If the allegation involves the **Manager**, you are required to report to the **Chairman of the Board of Governance**.

This obligation is part of the School's overall commitment to the safety, welfare and well-being of children.

1.4. Other policies

Please note that there are a number of other School policies that relate to child protection which you need to be aware of and understand including (but not limited to):

- a) the **Code of Conduct** which sets out information about the standards of behaviour expected of all employees, contractors and volunteers of the School;
- b) the **Work Health and Safety Statement** which summarises the obligations imposed by work health and safety legislation on the school and workers; and
- c) the **Discrimination, Harassment and Bullying Statement** which summarises your obligations in relation to unlawful discrimination, harassment and bullying; and
- d) *[insert reference to the School's policy on student bullying]*
- e) *[insert any others]*.

Date of Policy:

Proposed review date of
policy:

PART A: THE CARE AND PROTECTION ACT

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm.

NOTE: Any concern regarding the safety, welfare or wellbeing of a student must be reported to **the Manager**.

1. Who is a mandatory reporter?

Under the Care and Protection Act persons who:

- a) in the course of their employment, deliver services including health care; welfare, education, children's services and residential services, to children; or
- b) 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, are mandatory reporters.

All teachers are mandatory reporters. Other School employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter you should speak to the Manager.

2. When must a report be made Community Services?

2.1 What is the threshold?

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 Community Services as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, the School considers that a report should also be made to Community Services where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person.

2.2 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:

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

'Reasonable grounds' does not mean that you are required to confirm your suspicions or have clear proof before making a report.

2.3 Significant harm

Significant harm

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

- a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- b) 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,
- c) in the case of a child or young person who is required to attend school 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 in accordance with that Act,
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- f) 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,
- g) the child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child 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.

2.4 Other relevant definitions

Policy definition of significant harm

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent.

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 well-being.

In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

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

Child is a person under the age of 16 years for the purposes of the Care and Protection Act.

Child abuse and neglect

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 basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are 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 other object to discipline or punishing a child (in a non-trivial way) is a crime.

Serious psychological harm can occur where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

Sexual abuse is when someone involves a child or young person in a 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.

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

Young person means a person who is aged 16 years or above but who is under the age of 18 years for the purposes of the Care and Protection Act.

3 What should you do if you consider that a mandatory report is required?

Reporting by the School about these matters to Community Services and, where necessary, the police, is generally undertaken by **the Manager**. This is in accordance with best practice and the Memorandum of Understanding between Community Services and the three Education Sectors.

If you have a concern that a child or young person is at risk of significant harm you should contact **the Manager** as soon as possible to discuss whether the case reaches 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 [Manager] or next most senior member of staff is not contactable you should speak to the Police

and/or the Child Protection Helpline directly and then advise the Manager or next most senior member of staff at the School as soon as possible.

You are not required to, and must not, undertake any investigation of the matter yourself.

You are not to inform the parents or caregivers that a report to Community Services has been made.

You are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with your mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy, but could expose you to potential civil proceedings for defamation.

4 What should you do if you have a concern that is below the mandatory reporting threshold?

While the Care and Protection Act outlines a mandatory reporter's obligation to report to Community Services, as an employee of this School, any concern regarding the safety, welfare and wellbeing of a student must be reported to the Manager.

You are required to deal with all reports regarding the safety, welfare or wellbeing of a student with confidentiality and only disclose it to the Manager and any other person the Manager nominates. Failure to do so will be a breach of this policy.

PART B: THE OMBUDSMAN ACT

1 Responsibilities

1.1 General

Part 3A of the Ombudsman Act requires the heads of certain agencies, including non-government schools in New South Wales, to notify the New South Wales Ombudsman of all allegations of reportable conduct by an 'employee' and the outcome of the School's investigation of these allegations.

An 'employee' includes employees, contractors, volunteers, work experience participants, clergy, ministers of religion and instructors of religion who provide pastoral or liturgical services. In this part where there is a reference to an employee it includes all of these persons.

1.2 The Ombudsman

The Ombudsman:

- a) 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;
- b) must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions;
- c) is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable or reportable convictions;
- d) must determine whether an investigation that has been monitored has been conducted properly, and whether appropriate action has been taken as a result of the investigation;
- e) may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school, or the handling of or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation); and
- f) may undertake 'own motion' investigations of non-government schools where the Ombudsman considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

1.3 Head of Agency

The Head of Agency is the Manager of the School.

Under the Ombudsman Act the Head of Agency must:

- a) set up systems within their organisation to ensure that they are advised of any allegations of reportable conduct against employees;
- b) notify the Ombudsman as soon as possible and no later than thirty days after being made aware of an allegation;

c) notify the Ombudsman whether or not the School plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable; and

d) provide the Ombudsman with any documentary and other information as the Ombudsman may from time to time request to assist in the Ombudsman's monitoring of an investigation.

1.4 Your obligations to report

You must report any concerns you may have about any other employee engaging in reportable conduct or any allegation of 'reportable conduct' that has been made to you, to [the Manager], including information about yourself. If you are not sure whether the conduct is reportable conduct but consider that it is inappropriate behaviour you must still report it.

You must also report to [the Manager] if you 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. This includes information relating to yourself.

If the allegation involves [the Manager], you are required to report to [the Chairman of the Board of Governance].

1.5 Contact for parents

[The Manager] is the contact point for parents if they wish to report an allegation of reportable conduct against an employee.

2 What is reportable conduct?

2.1 Definition of reportable conduct

Reportable conduct is defined as:

- a) any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material);
- b) any assault, ill-treatment or neglect of a child; and
- c) any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

- a) conduct that is reasonable for the purposes of 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
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- c) conduct that is exempted from notification by a Class or Kind Agreement.

2.2 Other relevant definitions

Set out below are definitions of the various terms referred to above in relation to reportable conduct.

Behaviour that causes psychological harm to a child is behaviour that is obviously or very clearly unreasonable and results in significant harm or trauma to a child. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.

Child is a person under the age of 18 years for the purposes of the Ombudsman Act.

Ill-treatment captures those circumstances where a person treats a child in an obviously or very clearly improper manner. The focus is on the alleged conduct rather than the actual effect of the conduct on the child.

Ill-treatment can include disciplining or correcting a child in an obviously unreasonable or inappropriate manner; making excessive and obviously unreasonable demands on a child; malevolent acts towards children; and inappropriate and hostile use of force against a child.

Neglect includes either an action or inaction by a person who has care responsibility towards a child. The nature of the employee's responsibilities provides the context against which the conduct needs to be assessed.

1. Supervisory neglect:

- An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or
- An intentional or reckless failure to adequately supervise a child or a significantly careless act or failure to act, that:
 - Involves a gross breach of professional standards, and
 - Has the potential to result in the death or significant harm to a child.

2. Carer neglect:

- Grossly inadequate care that involves depriving a child of the basic necessities of life: such as the provision of food and drink, clothing, critical medical care or treatment, or shelter.

3. Failure to protect from abuse:

- An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

4. Reckless act (or failure to act):

- A reckless act, or failure to act, that:
 - Involves a gross breach of professional standards, and
 - Has the potential to result in the death of, or significant harm to, a child.

Physical Assault is any act by which a person intentionally inflicts unjustified use of physical force against another. An assault can also occur if a person causes another person to reasonably apprehend that unjustified force is going to be used

against them. Even if a person who inflicts physical harm or causes another person to reasonably apprehend physical harm does not actually intend to inflict the harm or cause fear, they may still have committed an assault if they acted 'recklessly'.

'Recklessness' in this context relates to circumstances when the person ought to have known that their actions would cause a person physical harm or cause them to fear injury.

Assaults can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.

PSOA 'person subject to the allegation'

Sexual Misconduct has two categories which include:

- (1) crossing professional boundaries, and
- (2) sexually explicit comments and other overtly sexual behaviour.

The alleged conduct must have been committed against, with or in the presence of a child.

1. Crossing professional boundaries

Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:

- relationship with;
- conduct towards; or
- focus on;

a child or young person, or a group of children or young persons.

Codes of conduct that outline the nature of the professional boundaries which should exist between employees and children/young people can be particularly useful. For employees who either intentionally breach such codes or have demonstrated an inability to apply them appropriately, it may be necessary to provide more detailed written advice about what constitutes appropriate behaviour.

2. Sexually explicit comments and other overtly sexual behaviour

Behaviour involving sexually explicit comments and other overtly sexual behaviour which can constitute sexual misconduct. Some forms of this behaviour also involve crossing professional boundaries. This conduct may include:

- a) inappropriate conversations of a sexual nature
- b) comments that express a desire to act in a sexual manner
- c) unwarranted and inappropriate touching
- d) sexual exhibitionism
- e) personal correspondence (including electronic communications such as e-mails and text messages) with a child or young person in relation to the adult's sexual feelings for a child or young person

- f) exposure of children and young people to sexual behaviour of others including display of pornography
- g) watching children undress. For example, in change rooms or toilets when supervision is not required or justified.

Sexual Offences encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child'.

These offences include (but are not limited to) the following:

- (a) indecent assault
- (b) sexual assault
- (c) aggravated sexual assault
- (d) sexual intercourse and attempted sexual intercourse
- (e) possession/ dissemination/ production of child pornography or child abuse material
- (f) using children to produce pornography
- (g) grooming or procuring children under the age of 16 years for unlawful sexual activity
- (h) deemed non-consensual sexual activity on the basis of special care relationships

3 What happens when an allegation of reportable conduct is made?

3.1 Initial steps

Once an allegation of reportable conduct against an employee is received, the Head of Agency is required to:

- (a) determine on face value whether it is an allegation of reportable conduct;
- (b) assess whether Community Services or the Police need to be notified (ie, if reasonable grounds to suspect that a child is at risk of significant harm or criminal offence);
- (c) notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by Community Services or the Police);
- (d) notify the Ombudsman within 30 days of receiving the allegation;
- (e) carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- (f) investigate the allegation or appoint someone to investigate the allegation.

3.2 Investigation principles

The School will:

- (a) be mindful of the principles of procedural fairness;

- (b) inform the person subject of the allegation (PSOA) of the substance of any allegations made against them and provide them with a reasonable opportunity to respond to the allegations;
- (c) make reasonable enquiries or investigations before making a decision;
- (d) avoid conflicts of interest;
- (e) conduct the investigation without unjustifiable delay;
- (f) handle the matter as confidentially as possible; and
- (g) provide appropriate support for all parties including the child/children, witnesses and the PSOA.

3.3 Investigation steps

In an investigation the Head of Agency or appointed investigator will generally:

- (a) interview relevant witnesses and gather relevant documentation;
- (b) provide a letter of allegation to the PSOA;
- (c) interview the PSOA;
- (d) consider relevant evidence and make a preliminary finding in accordance with the NSW Ombudsman guidelines;
- (e) inform the PSOA of the preliminary finding and provide them with an opportunity to respond;
- (f) consider any response provided by the PSOA;
- (g) make a final finding in accordance with the NSW Ombudsman Guidelines;
- (h) decide on the disciplinary action, if any, to be taken against the PSOA;
- (i) apply the NSW Commission for Children and Young People (CCYP) Guidelines and decide if the matter is reportable to CCYP; and
- (j) send the final report to the Ombudsman and report to the CCYP (where required) (see Part C).

The steps followed in the investigate process will be guided by the “Recommended Protocols for Internal Investigative and Disciplinary Proceedings, 2001” (IEU/AIS) as updated from time to time (See Appendix 2.)

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 matter is also being investigated by Community Services or the NSW Police.

A PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

4 Risk management

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

4.1 Initial risk assessment

One of the first steps following an allegation of reportable conduct against an employee is for the Head of Agency to conduct a risk assessment. The purpose of this initial risk assessment is to identify and minimise the risks to:

- (a) the child(ren) who are the subject of the allegation;
- (b) other children with whom the employee may have contact;
- (c) the PSOA;
- (d) the School, and
- (e) the proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

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

The Head of Agency will take appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have contact with certain students, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the PSOA.

Please Note: A decision to take action on the basis of 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 to be an indication that the alleged conduct by the employee did occur.

4.2 Ongoing Risk Management

The Head of Agency will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

4.3 Risk Management at the Conclusion of the Investigation

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Head of Agency regarding what action, if any, is required in relation to the PSOA, the child(ren) involved and any other parties.

5. What information will be provided to the PSOA?

The PSOA will be advised:

- (a) that an allegation has been made against them (at the appropriate time in the investigation); and

- (b) of the substance of the allegation, or of any preliminary finding and the final finding.

The PSOA does not automatically have the right to:

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

Under the CCYP Act once the 'relevant employment proceedings' have been completed a PSOA can seek access to the records held by the School on their 'relevant employment proceedings' (see Part C section 3).

6. Disciplinary Action

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

In relation to any disciplinary action the School will:

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

7. Confidentiality

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

The School requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against employees will be kept [in a secure area] and will be accessible by [the Head of Agency or with the Head of Agency's express authority].

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

If you become aware of a breach of confidentiality in relation to a reportable conduct allegation you must advise the Manager.

PART C: CCYP Act

1. General

The CCYP is responsible for employment screening for child related employment. The names of employees who have been the subject of completed relevant employment proceedings are reported to the CCYP unless the matter is determined to be not reportable conduct. The CCYP keeps a database of relevant employment proceedings that has two categories. Category One is used in pre employment screening processes. Category Two is not used in pre employment screening processes unless the conduct reported appears to be part of a pattern of relevant conduct by the employee.

Under the CCYP Act Schools are required to:

- (a) conduct Working With Children Checks; and
- (b) notify the CCYP of relevant employment proceedings.

2. Working With Children Checks

2.1 The School's obligations

The School is required to:

- (a) ask all preferred applicants to declare they are not a 'prohibited person' (as defined); and
- (b) conduct a Working With Children Check of preferred applicants in paid child relation employment.

The School must conduct a Working With Children Check before employing someone in paid child related employment and before engaging some volunteers. Existing employees may be checked if they are recruited to a new position with a different range of child related contact.

The Working with Children Check is conducted by an Approved Screening Agency. The Working With Children Check will not be completed without the applicant's consent.

There are three types of records considered in the Working With Children Check: relevant criminal records, relevant apprehended violence orders (AVOs) and relevant employment proceedings.

The School will notify the CCYP of the details of a person whose application for child related employment has been rejected as a result of a Working With Children Check.

2.2 Prohibited persons

It is an offence for a prohibited person to apply for or attempt to obtain, undertake or remain in child related employment in any capacity, whether paid, volunteering or self-employed.

All preferred applicants for child related employment must declare they are not a prohibited person.

It is an offence for an employer to engage anyone in child related employment without requiring them to disclose whether they are a prohibited person.

A prohibited person is someone who is a registrable person as defined in the Child Protection (Offenders Registration) Act 2000 or has been convicted of one of the following offences :

- (a) murder of a child;
- (b) serious sex offence, including carnal knowledge;
- (c) child-related personal violence offence (an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a child);
- (d) indecency offences punishable by imprisonment of 12 months or more;
- (e) kidnapping (unless the offender is or has been the child's parent or carer);
- (f) offences connected with child prostitution;
- (g) possession, distribution or publication of child pornography; or
- (h) attempt, conspiracy or incitement to commit the above offences.

A conviction includes a charge proven in court. It includes a finding that the charge is proven, or that a person is guilty, even though the court does not proceed to a conviction. Dismissed charges and pending charges for these offences do not make someone a prohibited person.

2.3 Volunteers or students on placements

All volunteers or students on placement working with children must sign the Volunteer/Student Declaration. Volunteers engaged in some high risk roles must have a Working With Children Check.

3. Relevant Employment Proceedings

3.1 Notification obligation

Section 39 of the CCYP Act requires the School to notify the CCYP of relevant employment proceedings.

Relevant employment proceedings is a completed disciplinary proceeding where the School has found some evidence that 'reportable conduct' occurred, or an act of violence was committed by an employee in the course of employment and in the presence of a child.

The School is not required to report:

- (a) conduct where it has found that the reportable conduct or act of violence did not occur or the allegations about the conduct were false, vexatious or misconceived; or
- (b) conduct which is exempted from notification under a Class or Kind Agreement with the CCYP.

Completed disciplinary proceedings also include processes which have been completed through the actions of the employee, ie where an employee voluntarily terminates their employment before the School finalises the disciplinary process.

The School will advise an employee that the CCYP has been notified of a relevant employment proceeding involving them.

Under the CCYP Act an employee may request access to the records held by the School on their relevant employment proceedings.

3.2 Reportable conduct

Broadly, under the CCYP Act reportable conduct includes:

- (a) any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child; or
- (b) any child pornography offence or misconduct involving child pornography; or
- (c) any child-related personal violence offence; or
- (d) an offence of filming for indecent purposes committed against, with, or in the presence of, a child under section 21G or 21H of the Summary Offences Act 1988; or
- (e) any assault, ill-treatment or neglect of a child; or
- (f) any behaviour that causes psychological harm to a child, and in any case whether or not the child consents

Reportable does not extend to:

- (a) conduct that is reasonable for the purposes of 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
- (b) conduct that is exempted from notification by a Class or Kind Agreement ; or
- (c) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures.

3.3 Categories

There are two tiers of relevant employment proceedings:

Category One is where the investigation finds reportable conduct occurred or an act of violence took place.

Category Two is where the investigation finds some evidence that reportable conduct or an act of violence occurred, but the finding is inconclusive.

Category One matters trigger an estimate of risk when the person has a Working With Children Check. Category Two matters are only considered in an estimate of risk if there are additional relevant records for the person.

ACKNOWLEDGEMENT

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

Signed

Dated

REFERENCES

NSW Family and Community Services

www.community.nsw.gov.au

NSW Ombudsman

www.ombo.nsw.gov.au

Commission for Children and Young People

www.kids.nsw.gov.au

Department of Premier and Cabinet – Keep Them Safe

www.keepthemsafe.nsw.gov.au

Last Review Date: 13 February 2012
Next Review Date: February 2014

Endorsed by
Board Of Governance

Signed

Signed

Position

Position

Date

Date