# CHILD PROTECTION POLICY AND PROCEDURES

**RATIONALE**

It is the right of all students at Monte Sant' Angelo Mercy College to experience a safe, secure and nurturing environment. School authorities and employees owe a duty of care to students. This duty of care is to take reasonable steps to protect students from a reasonably foreseeable risk of harm. The Mission Statement of the College is explicit in its promotion of a safe environment and seeks to promote the values of justice, compassion and dignity for all members of the College community. It is this environment that the Child Protection Policy of the College is designed to protect. The College's Child Protection Policy and Procedures are designed to encourage the highest level of awareness and action to promote the safety of all students.

Specifically, the Policy details:

PART A: Legislative Requirements

PART B: Definitions

PART C: Working with Children

PART D: Reportable Conduct

PART E: Mandatory Reporting

PART F: Types of Reportable Conduct for EXTERNAL allegations

The allegation of some form of harm shall not be constituted as proof of harm. The policy of the College regarding confidentiality shall be observed by all members of staff in regard to internal and external threats.

**PURPOSE**

This policy outlines the College's approach to child protection as a child safe organisation. All staff are committed to child safety by adhering to and following the National Principles for Child Safe Organisations. This policy outlines the formal procedures to be followed in the event that a child protection matter is raised.

**PRINCIPLES AND PROCEDURES**

This policy describes the legislation surrounding notification of risk of significant harm, in accordance with legislative reforms. These reforms require that anyone caring for children and young people needs to monitor the wellbeing of those in their care and report if there is any doubt about their safety.

The Child Safe Standards, College principles and procedures are communicated to all staff at a compulsory session scheduled during the Staff Conference at the beginning of each year with the ights and responsibilities of all staff outlined. This is facilitated by the College leadership team as they play a vital role in creating and maintaining a culture where student rights and safety are prioritised.

The safety, protection and welfare of students is the responsibility of all staff members and encompasses a duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen and is an obligation under child protection legislation.

The safety, protection and welfare of students is also a shared responsibility of parents and carers and other members of the community.

**RELATED POLICIES & CODES**

- Child Protection Code of Professional Standards for College Employees
- Communication, Concerns and Complaint Procedures – provides the steps taken by the school in addressing complaints for parents
- Dealing with Staff Concerns, Complaints and Grievances
- Discrimination and Harassment Complaints Handling
- Harassment and Anti-Bullying Policy
- Whistleblower Policy
- Work Health and Safety Statement - identifies the obligations imposed by work health and safety legislation on the school and staff members;

## PART A: LEGISLATIVE REQUIREMENTS

### Children and Young Persons (Care and Protection) Act 1998 (NSW)

The Children and Young Persons (Care and Protection) Act 1998 provides for 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.

Under section 23 of the Act a child or young person is at risk of significant harm if there are concerns for their safety, welfare and wellbeing.

Under section 27 of the Act teaching staff have mandatory obligations to report risk of significant harm concerns to the Principal and College Counsellor.

The Mandatory Reporter's Guide (MGR) is an online tool for Mandated Reporters.

### Child Protection (Working With Children) Act 2012 ("WWC Act")

The safety, welfare and wellbeing of children and, in particular, protecting them from child abuse, is the paramount consideration in the operations of this Act.

The object of this Act is to protect children by not permitting certain persons to engage in child-related work, and by requiring persons engaged in child-related work to have working with children clearances.

The Child Protection (*Working with Children*) Act 2012 requires all staff working with children to undertake a 'Working with Children Check'.

Principals are obligated to report sustained findings of sexual misconduct, sexual offence and serious physical assault matters to the Office of the Children's Guardian.

### Children's Guardian Act 2019 ("Children's Guardian Act")

Relevant Entities are required to screen people who apply to work in child-related employment positions in their organisation. They must also notify the Office of the Children's Guardian of relevant employment proceedings. This Act also covers the Reportable Conduct Scheme.

The role of the Children's Guardian in administering the reportable conduct scheme:

- provide oversight, guidance, and education to relevant entities in fulfilling their obligations under the scheme.
- ensuring appropriate action is taken by a relevant entity.
- monitoring a relevant entity's systems for preventing, detecting and dealing with reportable conduct and reportable convictions.

- providing advice and education to relevant entities to assist relevant entities in detecting and dealing with reportable conduct and reportable convictions.
- Reportable Conduct Directorate.

**Crimes Act 1900 NSW – 2018 Amendments ("Crimes Act 1900")**

In 2018 the Crimes Act was amended to adopt recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the Police. While the general age of consent to sexual intercourse in New South Wales is 16 years of age, under Section 73 of the Act – *Special Care Relationships* it raises the age of consent to be above the age of 16 and under 17 years and above 17 years and under 18 years of age.

*Failure to protect offence*
Under Section 43B, an adult working in a school, therefore all staff members, will 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 is targeted at those in positions of authority and a responsibility of working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

*Failure to report offence*
Under Section 316A, any adult, and therefore all staff members, will 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 Principal and is aware that the Principal has reported the matter to the Police.

**PART B: DEFINITIONS**

Principal/Head of Entity

For the purposes of the Child Protection Policy, the College Principal is referred to as *Head of Entity*.

Child

Under the *Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Care and Protection Act)* a child is a person under the age of 16 years.

Under the *Child Protection (Working with Children) Act 2012*, a child is a person under the age of 18 years.

Under the Children's Guardian Act 2019, a child is a person under the age of 18 years.

Young person

Under the *Children and Young Persons (Care and Protection) Act 1998 (NSW) (The Care and Protection Act)* a young person is a person aged 16 years or above but who is under the age of 18 years.

Employee

***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 by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity.
- a person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.

ESOA
Employee Subject Of the Allegation

Mandatory Reporter

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, are mandatory reporters.

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 Principal.

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.

Mandatory Reporting - ROSH

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 (ROSH), report to the Department of Communities and Justice (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.

In addition, the College may choose to make a report to the Department of Communities and Justice (DCJ) 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.

At Monte Sant' Angelo Mercy College, a mandatory reporter will meet their obligations if they report to the College Principal. This centralised reporting model ensures that a person in the College has all of the information that may be relevant to the circumstances of the child at risk of significant harm and addresses the risk of the College not being aware of individual incidences that amount to cumulative harm.

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 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.
- 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, as a consequence, 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 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.

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

Reportable Conduct

- Involves a child (a person under the age of 18 years) at the time of the alleged incident
- A current employee
- Involves certain defined conduct as described in the Act (see below)

Reportable Allegation

Is an allegation that an employee has engaged in conduct that may be reportable conduct.

Conviction of reportable conduct

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

**Definitions of Reportable Conduct**

Sexual Offence

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

***This is not an exhaustive list.***

Definitions of 'grooming', within child protection legislation, are complex. Under the Crimes Act, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed 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. Under Schedule 1(2) of the WWC Act, grooming is recognised 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 for it to be categorised as a reportable allegation of sexual offence.

Sexual Misconduct

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 scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

***This is not an exhaustive list.***

Assault

An assault can occur 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)
- 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 actually intends to apply any force (apprehension of physical force)

Ill Treatment

Is defined as conduct towards a child that is:

- unreasonable
- 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 defined as 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 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, or 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.

Working with Children Check WWCC

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

## PART C: 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)
- refuse a WWCC clearance (further applications cannot be made for 5 years)

In addition, the OGC may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OCG. (See Appendix 1 for further details)

1. Monte Sant' Angelo Mercy College is committed to providing a safe and caring environment for students and recognises the importance of adopting preventative measures in protecting students from harm.

   The Principal is responsible for ensuring that the following steps are taken to investigate a reportable allegation:

   - On employment application and prior to commencement all new employees including volunteers, contractors who require one, casuals and sports staff etc. are required by law to complete an online Working with Children Check Application and provide the Director Staff Services with either the WWCC Application number or their WWCC number if they have subsequently obtained that as well as their date of birth. Upon receipt of this information, the Director Staff Services is required to go online to verify the WWCC number and clearance status. Applicants must provide the Director Staff Services with personal identification including surname, date of birth and their WWCC application/number in order for the College to complete this verification.

- All existing staff have had to apply for and receive a Working with Children Check number and it is an individual staff member's responsibility to keep this up to date.
- A WWCC register is securely kept by the Director Staff Services and all WWCC information is stored in Edumate with number, verification date and expiry date. Emails generated by the Office of the Children's Guardian once a WWCC has been checked are retained by the Director Staff Services.
- The Director Staff Services monitors the WWCC register for currency, contacts staff to request they update their WWCC, two months before expiry and once informed that a WWCC has been renewed, verifies the renewed WWCC as well as updating the WWCC register. If a staff member fails to renew their WWCC by the expiry date, they are immediately not permitted to work. Edumate also immediately flags if a staff member does not hold a valid WWCC.
- The College is required to 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. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred 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.

2. Staff Procedures

- At the start of each year, all College staff are issued with a copy of the Child Protection Policy and Procedures and Code of Professional Standards for College Employees. They are required to read this policy and sign the acknowledgement that they have read and understood the policy.
- The signed declaration is given to the Director Staff Services where it is recorded and filed. A register of staff attendance is maintained using a Microsoft Excel spreadsheet and any staff who do not attend are required to attend a subsequent session.
- All staff must participate in annual Child Protection training and additional training, as directed by the College Principal. Notification of the date and time of the annual Child Protection training session is provided in the Staff Conference Agenda which is issued the previous year (at least six weeks prior to the date of this session). This training presentation is conducted by the Deputy Principal Pastoral Care and held at the annual Staff Conference in January.
- Attendance is recorded at this training presentation and a register of attendance is held by the Director Staff Services. The Director Staff Services monitors all attendance registers and ensures all staff have attended a child protection training session at least every 12 months.
- All attendance registers are maintained in a Microsoft Excel spreadsheet
- If a staff member is unable to attend the Child Protection session offered during the Staff Conference an additional presentation is offered in early February. Staff employed at the College must attend a Child Protection presentation within a month of the commencement of their employment.
- Child Protection training complements this policy and provides information to staff about their legal responsibilities related to child protection and the College expectations, including mandatory reporting, reportable conduct, Working With Children Checks, and an understanding of professional boundaries as clearly stated in the Code of Practice provided to each member of staff prior to their commencement and each year of their employment.
- If staff are unable to attend, a follow up session is held. New staff members to the College throughout the year are captured in a mid-year presentation.
- The College prohibits the administering of corporal punishment by any person (i.e. employees, volunteers, parents, members of the community) to enforce discipline at the College.

- Casual and part-time coaches including, but limited to, debating, sporting, music peripatetics and regular casual teaching staff are required to attend a briefing outlining the Child Protection Policy and Child Protection Code of Professional Standards for College Employees. After attending these briefings all casual and part-time coaches are required to sign an acknowledgement that they have read and understood the College's Code of Professional Standards. This acknowledgement and a record of staff attendance is maintained by the Director Staff Services in conjunction with relevant managers (e.g. Sports Program Manager).

3. Staff members

Staff members who engage in child-related work and eligible volunteers (including those volunteers working at overnight camps) are required to:

- Hold and maintain a valid WWCC clearance.
- Not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- Report to the Principal if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OCG that they are subjected 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 an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

All volunteers are required to:

- Be aware and follow the expectations of conduct expressed in the College's Child Protection Policy.

4. Child-related work

Under the Working with Children Check Act, child-related work involves direct contact by the worker with a child or children and that contact is a usual 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.
- Counselling, mentoring or distance education not involving direct contact.

Any queries about child-related work should be directed to the Principal.

5. Application/ Renewal

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance the holder will be issued with a number which is to be provided to the College to verify the status of a staff member's WWCC clearance.

6. Refusal/Cancellation

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

7. 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 a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to the Administrative Decisions Tribunal.

Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

8. 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 WWC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

9. Ongoing Monitoring

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

10. Risk Assessments

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

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

**COMPLIANCE AND RECORDS**

The Director Staff Services monitors compliance with this policy and securely maintains College records relevant to this policy, which includes:

- Register of staff members who acknowledge that they have read and understood this policy.
- Working With Children Check clearance (WWCC clearance) verifications.

The Principal or delegate:

- Provides mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services.
- Reports on reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

## PART D: REPORTABLE CONDUCT

Section 29 of the Children's Guardian Act 2019 requires the Heads of Entity, to notify the OCG of all reportable allegations and convictions involving an 'employee' and the outcome of the School'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 when 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.
- Involves certain defined conduct as described in the Act (see below).

The Office of the Children's Guardian (OCG):

- Must keep under scrutiny the systems for preventing reportable conduct by employees and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions.
- Must receive and assess notifications concerning reportable conduct or reportable convictions.
- Is required to oversee or monitor the conduct of investigations into allegations of reportable conduct or reportable convictions.
- 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.
- May directly investigate an allegation of reportable conduct or reportable conviction against an employee, or the handling of or response to such a matter (e.g. arising out of complaints by the person who is the subject of an allegation).
- May investigate the way in which a relevant entity has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so.

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
- Behaviour that causes significant emotional or psychological harm to a child

Reportable conduct does not extend to:

- 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
- 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.

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

For a reportable allegation involving psychological harm, the following elements must be present:

- An obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable.
- 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.

- An alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

To make a finding of reportable conduct causing emotional or psychological harm, the decision-maker must be reasonably satisfied that all three elements are proven, including the causal link between the conduct and the harm.

Failure to Report/Failure to Protect

The 2 new offences under the Crimes Act 1900 'Failure to Report' (S43b) and 'Failure to Protect' (S316A) have now been added as a category under the reportable conduct scheme.

**REPORTING PROCESS FOR REPORTABLE CONDUCT ALLEGATIONS OR CONVICTIONS**

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 College Principal. Where it is uncertain if the conduct is reportable conduct but is considered inappropriate behaviour this must also be reported.

Staff members must also report to the College Principal 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. This includes information relating to the employee themselves.

If the allegation involves the Principal, the staff member must report to the Chairman of the Board.

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 conduct to the College Principal or their delegate. All such reports will be dealt with in accordance with the College's complaint handling procedures.

The College

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

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions.

- Submit a 7-day notification form to the Office of the Children's Guardian as soon as practicable but in no more than 7 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
b. the type of reportable conduct
c. the name of the employee
d. the name and contact details of the College and the Head of Entity
e. for a reportable allegation, whether it has been reported to Police
f. if a report has been made to the Child Protection Helpline, that a report has been made
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
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.

## PROCEDURES FOLLOWED IN THE EVENT OF AN ALLEGATION OF REPORTABLE CONDUCT AGAINST AN EMPLOYEE OF THE COLLEGE

*Refer to the Child Protection Code of Professional Standards for College Employees*

The Principal is responsible for ensuring that the following steps are taken to investigate a reportable allegation.

### 1. INITIAL STEPS

1.1 Once a reportable allegation against an employee is received, the Principal is required to:

- Determine whether it is a reportable allegation.
- Assess whether the Department of Communities and Justice (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 prior to the College proceeding with the reportable allegation investigation.
- Notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the Department of Communities and Justice (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.
- Provide an initial letter to the ESOA advising that a reportable allegation has been made against them and the College's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019.
- Investigate the allegation or appoint someone to investigate the allegation.
- Act in accordance with the rules of mandatory reporting referred to above, industrial relations practice and the Monte Sant' Angelo Mercy College Child Protection Code of Professional Standards for College Employees.
- The College is guided by the provisions of the legislation when decisions regarding investigations are made.
- Determine whether the College has the expertise to satisfactorily conduct the investigation or if there may be cases where a conflict of interest or bias may arise, then an external investigator will be appointed.
- If it is determined that an investigation is to commence then the College is required to report the allegation to NESA. NESA will assess if an employee's teacher accreditation may be suspended whilst the allegation is under investigation.

## 2. INVESTIGATION PRINCIPLES

2.1 Any investigation of a reportable allegation shall follow procedural fairness and be carried out as quickly as is practicable.

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

- Follow principles of procedural fairness.
- Inform the 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 finding.
- Avoid conflicts of interest.
- Conduct the investigation without unjustifiable delay.
- Handle the matter as confidentially as possible.
- Provide appropriate support for all parties including the child/children, witnesses and the ESOA.

2.2 If the allegation is deemed to potentially be a criminal offence and the Police wish to investigate the matter this MUST occur before the Principal conducts any investigations. The Principal is then to follow all instructions of the Police. This may be not to notify the 'employee subject of the allegation' (ESOA) and/or the child and their parents. All investigations at the College level will cease until further guidance is given from the Police.

2.3. The College reportable allegation investigation will commence after clearance has been provided by Police.

2.4 The member of staff will be notified immediately that she/he is to attend a meeting with the Principal at a specified time.

2.5 The ESOA will be informed of the allegation and will be given reasonable opportunity to respond to the allegation. At the meeting, the ESOA may be relieved from all duties on a period of paid leave pending an investigation if decided upon through the risk assessment. The ESOA will have the opportunity to have a support person (for example a relevant union representative) present during investigative and disciplinary interviews. This support person is present only as support to the ESOA and to witness the proceedings, not as an advocate or to take an active role.

2.6 The ESOA is required to not attend the workplace until the investigation is completed.

2.7 Information regarding any allegation will be restricted and is subject to the College policy on Confidentiality. The need for appropriate confidentiality will be communicated to all involved, including parents or guardians and witnesses. Normal practice is that immediate colleagues will be informed of the absence of the member of staff without specific details.

2.8 If there is any delay in the investigation, the ESOA is to be kept informed.

2.9 In order to preserve the integrity of the process, the period of investigation will be seen as leave for the ESOA and normal payment of salary will continue.

## 3. INVESTIGATING STEPS

3.1 Reportable allegations against a member of staff will be investigated according to the following Process.

*The steps followed in the investigation process will be guided by the Communications, Concerns and Complaints Policy.*

In an investigation, the Principal 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 provide a response to the allegations either in writing or at interview.
- Consider relevant evidence and make a preliminary finding in accordance with 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 prior to the matter moving to final findings.
- Consider any response provided by the ESOA.
- A recommendation is made to the Head of Entity in order to make a final finding in accordance with the OCG guidelines.
- The Head of Entity would decide on the disciplinary action, if any, to be taken against the ESOA.
- If it is completed, send the final Entity Report to the OCG within 30 days after having received the allegation, as per section 36 of the Children's Guardian Act 2019.
- Should the final report be unfinished within 30 days, the Head of Entity must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as per section 38 of the Children's Guardian Act 2019.

3.2 Submission of an interim report must include:

- A reason for not providing the final Entity Report within 30 days and an estimated time frame for completion of 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 in relation to 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.
- 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 matter is also being investigated by the DCJ or Police.

3.3 An ESOA 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.

3.4 Children or young people up to the age of 18 years will not be interviewed without a responsible supportive adult present. This should be a parent or guardian, or an adult nominated by a parent or guardian.

3.5 The Head of Entity, or nominee, will interview the child and separately any witnesses to gather all relevant documentation in relation to the allegation.

3.6 All interviews will be adequately recorded, and such records will be signed and dated by all involved and provided to the staff member if requested.

3.7 Following any investigation, it may be timely to remind all members of staff of expected standards of conduct and to monitor all work practices carefully.

## 4. RISK MANAGEMENT

Risk management throughout an investigation of a reportable 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 Principal, or nominee, 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

Following a reportable allegation against an employee, the Principal or nominee, 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
- the proper investigation of the allegation

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

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

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

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 Assessment

The Principal, or nominee, will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

### 4.3 Findings

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

### 4.4 Information for the Employee Subject of the Allegation (ESOA)

The ESOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation).
- the substance of the allegation, or of 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.
- 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 in relation to 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.

## 5. Findings of misconduct involving children

5.1 The College will report any finding of reportable conduct to the OCG.

5.2 When informing an ESOA of a finding of reportable conduct against them, the College will alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

5.3 The ESOA will then be given a letter stating that the proceedings are complete, and the findings of the investigation and outcome.

5.4 Under the Act, there are two available findings, adverse (sustained) or non-adverse (not-sustained). A non-adverse finding is when the Principal is no satisfied that the reportable allegation has been proven. An adverse finding is when the Head of Entity is satisfied that the case against the employee has, **on the balance of probabilities**, been proved. The decision-making documentation should make clear how the evidence has been weighed against this standard of proof to reach the final determination. An adverse finding is a finding of reportable conduct.

5.5 In both cases, the Principal needs to inform the employee in writing about the proposed finding, the reasons behind it, in as much detail as possible and any employment action that will occur. Once the employee has time to respond, they should be provided with confirmation of the finding.

5.6 Detailing the reasons for the finding when providing this to the employee is particularly important for adverse findings, however, it is best practice to do this for both outcomes. For an adverse finding, procedural fairness will generally mean some employment action is necessary. If this does not occur, it is important to document the reasons and provide them to the OCG.

5.7 The WWC Act enables an ESOA who has a sustained finding referred to the OCG to request access to the records held by the College in relation to the finding of misconduct involving children, once final findings are made. The entitlements of an ESOA 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.

5.8 The College may also be required to provide information to the OGC that is relevant to an assessment of whether an ESOA poses a risk to the safety of children or the OCG's monitoring functions.

## 6. 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.
- a reasonable opportunity to respond before a final decision is made.

## 7. Confidentiality

- It is important when dealing with reportable allegations that the matter be dealt with as confidentially as possible.
- The College requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.
- Records about reportable allegations against employees will be kept in a secure area and will be accessible by the Head of Entity or with the Head of Entity's express authority.
- No employee may comment to the media about a reportable allegation unless expressly authorised by the Principal to do so.
- Staff members who become aware of a breach of confidentiality in relation to a reportable allegation must advise the Principal immediately.
- The College can disclose information required by law through a Chapter 16A request, or to current employees to fulfill the College's duty of care to students.

## 8. Support is provided for those involved in allegations of abuse or reportable conduct

In cases where the allegation or reasonable grounds for suspicion are directed against a member of the College staff, there shall be appropriate provision for the care of all those directly involved. Referral to an external counselling service shall be offered as obliged by the Welfare Health and Safety Act 2000.

# PART E: MANADTORY REPORTING PROCEDURES

If a staff member has a concern that a child or young person is at risk of significant harm they should contact the College Principal, Deputy Principal Pastoral Care or the College Counsellor(s), 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.

If there is an immediate danger to the child or young person and the College Principal or next most senior member of staff is not contactable, staff members should contact the Police and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal or next most senior member of staff at the College as soon as possible.

Staff members are not required to, and **must not**, undertake any investigation of the matter. Staff members are not permitted to inform the parents or caregivers that a report to the Department of Communities and Justice (DCJ) has been made.

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 will not only be a breach of this policy but could incite potential civil proceedings for defamation.

Reporting by the College about these matters is undertaken by the College Counsellor(s). This is in accordance with best practice principles and is the expectation of the College.

**1. The Child Protection Policy of Monte Sant' Angelo Mercy College is informed by the requirements of mandatory reporting in dealing with an allegation of risk of significant harm**

1.1 Any person to whom a child discloses an allegation of risk of significant harm is required to inform the Principal. All allegations must be taken seriously.

1.2 Before proceeding to take action under the *Children and Young Persons (Care and Protection) Act 1988*, College personnel must satisfy themselves that there are 'reasonable grounds to believe' there is risk of significant harm.

1.3 You would probably have 'reasonable grounds to believe' there is risk of significant harm when:

1.3.1 A child tells you that she has been abused.

1.3.2 Someone else tells you, (perhaps a relative, friend, acquaintance or sibling of the child).

1.3.3 A child tells you that someone she knows has been abused. A child may be referring to herself.

1.3.4 A staff member or other person admits abusing a child or tells you that they have seen a child being abused.

1.3.5 Your own observation of a particular child's behaviour or your knowledge of children generally leads you to believe abuse has occurred.

***This is not an exhaustive list.***

1.4 In cases where the Principal or Deputy Principals, Counsellor or any member of staff at the College has reasonable grounds to suspect that a child at the College under the age of 16 years is at risk of significant harm, that person (as a mandatory reporter) is required to inform Department of Communities and Justice (DCJ) through the Principal, Deputy Principals or College Counsellor. This is referred to as Centralised Reporting. Should the Principal, Deputy Principals or College Counsellor fail to notify the matter then the member of staff in question must attend to the report immediately if they still believe there are reasonable grounds for making a report.

1.5 The identity of the person reporting to the Principal, whether a member of the College staff or of the public is not to be revealed to any person or officer of any department without that person's knowledge and consent.

1.6 The Principal or delegate would:

1.6.1 Follow the Mandatory Reporters Guide (MRG).

1.6.2 Keep an exact and full record of events, using a checklist of reporting procedures for children and young people at risk of significant harm.

1.6.3 Keep acuate records on the student's file locked in the counsellor's office.

1.6.4 Confidentiality is paramount and the family unit is of primary concern however not to the detriment of the student's safety.

1.6.5 Work with the Department of Communities and Justice (DCJ) on any follow-up that may result.

1.7 The Principal should NOT inform parents or guardians that a report has been made. This is the responsibility of Community Services. However, the Principal or Deputy Principals should raise with Community Services at the earliest opportunity appropriate steps to be taken to inform parents/guardians that a report has been made.

**2. All adults have the responsibility to care for children, to ensure they are safe, protect them from any kind of harm and positively promote their welfare**

2.1 Responding to the allegation of risk of significant harm is to be accorded urgency.

2.2 Throughout the processes and procedures involved in child protection, the wellbeing of the child always remains the primary concern.

2.3 The value of the family unit and the College community is to be respected, but the primary consideration is the wellbeing of the child.

**3. All persons involved in situations where risk of significant harm is suspected or disclosed are treated with sensitivity, dignity and respect**

3.1 The person against whom the allegation is made is presumed innocent until proved otherwise and has the right to remain silent.

3.2 College personnel who have access to information regarding suspected or disclosed risk of significant harm have an obligation to observe appropriate confidentiality in relation to the entire matter.

3.3 College personnel who have access to information regarding suspected or disclosed risk of significant harm should not disclose that information except for the purposes of reporting to Community Services or the Police or taking such steps as may be directed by the Principal or Deputy Principals.

3.4 A person's good reputation may not be unlawfully harmed; this applies both to the alleged victim and to the person against whom an allegation has been made.

3.5 A report to Community Services under Section 29 of the Act attracts certain protections under the law if made in good faith and with reasonable care.

3.6 College personnel must avoid any false, exaggerated or unjustified assertions that may infringe the good name of or honour due to another person.

**4. Support is provided for those involved in allegations of abuse or reportable conduct**

The Principal is to ensure that the College's pastoral care structures address the problem of child abuse, making appropriate provision for the support of children, families and members of staff who may be directly involved with this issue. Opportunities for support and debriefing may be provided by an external counselling agency where appropriate.

## PART F: TYPES OF REPORTABLE CONDUCT FOR EXTERNAL ALLEGATIONS

*In accordance with the Children and Young Persons (Care and Protection) Act 1998 (NSW)*

For the purposes of this Act, 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.
- (b1) 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.
- 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, as a consequence, 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.

Neglect

A person, whether or not the parent of the child or young person, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child or young person in his or her care, is guilty of an offence.

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 that 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.

Emotional abuse can result in serious psychological harm, 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.

**SOURCES AND ACKNOWLEDGEMENTS**

- **Independent Schools of New South Wales Child Protection Support Document**
- 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
- Child Protection Code of Professional Standards for Catholic School Employees, Catholic Commission for Employment Relations

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|---|---|
| ENDORSED BY: | COLLEGE BOARD |
| MANAGEMENT RESPONSIBILITY: | DEPUTY PRINCIPAL PASTORAL CARE |
| DISTRIBUTION: | ALL STAFF |
| EFFECTIVE FROM: | 16/02/2026 |

| MSAMC Child Protection Policy and Procedures |
| --- |
| **1. Declaration**<br><br>*I have read and understood the above Policy.*<br><br>*Name:* _____<br><br>*Signed:* _____<br><br>*Date:* _____ |