



1. Policy Information

Policy title	Child Protection Policy & Procedures
Policy number	S26
Classification	Students and Curriculum
Review cycle	1 year
Last review date	3 March 2021
Implementation date	11 March 2021
Next review date	3 March 2022
Approval Authority	Principal
Person/s responsible for policy	Executive

2. Overview

The College seeks to create a caring environment where Christian values inspire and affirm the highest standards of ethical conduct in relation to the care, support and wellbeing of students. Clarifying the parameters of appropriate and inappropriate conduct for all staff, contractors and volunteers is important in order to create a safe and supportive environment for students in accordance with the College's Purpose, Values and the Christian commitment we embrace.

All employees seek to create a compassionate, life-giving and faith-filled environment where the College's core values inspire and affirm the highest standard of ethical conduct. All employees have a privileged role of service that requires prudent judgement and exercise of appropriate relationships. The College actively supports the development of a culture that does not condone improper conduct, violation of relationships such as breach of professional boundaries, or abuse of power.

The College is committed to providing all students with a school environment that is safe. The College is also committed to the prevention and identification of any potential Child Protection concerns. This applies during all activities and functions conducted or arranged by the College. The risk associated with any activity needs to be assessed and managed by the College before the activity is undertaken.

This policy and procedures is an important document that establishes the requirements for reporting and the process through which the College responds to child protection complaints or allegations made against employees, contractors or volunteers employed or engaged by the College. It provides direction for the management of all child protection complaints and allegations made about employees and/or persons engaged by the College.

The College is guided by a fundamental mission to create a compassionate, life-giving and faith-filled environment where the College's core values inspire and affirm the highest standard of ethical conduct in relation to the care, support and wellbeing of students.

The College's *Child Protection Policy and Procedures* reflect best practice in accordance with the guidance available from the Office of the Children's Guardian, legislation and recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse. This document embraces the ten Child Safe Standards which form a framework for making organisations safer for children.

The guiding principles of this document are as follows:

- The College supports the right of any person, child or adult, to report any concerns pertaining

to child safety or make a complaint about the conduct of adults employed or engaged by the College in any capacity.

- Complaints can be reported directly to the College in accordance with the College's *Complaints Handling & Grievances Policy and Procedures*.
- All complaints and/or allegations must be responded to in accordance with this document.
- All complaints and/or allegations relating to the conduct of persons employed or engaged by the College towards a child or young person must be reported to the Principal/delegate as soon as possible for an initial assessment.

This document applies to all persons employed or engaged by the College whether or not they are employed or engaged in connection with work or activities that relate to children or young persons in a paid or volunteer capacity.

For explanatory notes and definitions, please refer to *Appendix A*.

3. Policy

3.1 Responsibility of the College

- 3.1.1 Ensure that there is an appropriate procedure within the College to manage and respond to complaints and/or allegations relating to the conduct of a person employed or engaged by the College towards a child or a young person. This includes complaints that do not fall within the scope of Part 4 of the *Children's Guardian Act 2019 (NSW)*.
- 3.1.2 Ensure that all persons employed or engaged by the College are aware of the required standards of behaviour, this document and the *Employee Code of Conduct*.
- 3.1.3 Ensure that all persons employed or engaged by the College are aware of their obligation to notify inappropriate conduct involving a child or concerns about the safety, welfare and wellbeing of students that arise during the course of their work.
- 3.1.4 Ensure that all persons employed or engaged by the College are provided with support in maintaining professional standards related to relationships with students.
- 3.1.5 Ensure that all allegations and complaints of a child protection nature are appropriately responded to and/or investigated in accordance with the principles of procedural fairness.
- 3.1.6 Ensure that the person subject of an allegation is advised about the nature of support available to them.
- 3.1.7 Ensure that a report is made to appropriate statutory bodies in accordance with the College's *Child Protection Procedures* outlined in Section 4 - Procedures.
- 3.1.8 Ensure that all relevant child protection allegations and concerns are reported to the Office of the Children's Guardian pursuant to Part 4 of the *Children's Guardian Act 2019 (NSW)* within the prescribed time frame.
- 3.1.9 Ensure any complaints and/or allegations that require reporting to external authorities which may include, the NSW Police, the Department of Communities and Justice, the Office of the Children's Guardian, National Educational Standards Authority (NESA) or other agencies where appropriate, are reported in a timely manner.
- 3.1.10 Ensure that a risk assessment is undertaken at the commencement of a matter, to inform the College of actual or perceived risks which are present or likely to arise in a particular matter, and assist with the strategies or interim measures necessary to mitigate risk and protect the integrity of the investigation.
- 3.1.11 Ensure that appropriate records of investigations and findings are stored securely, confidentially and separately from employee's personnel files.
- 3.1.12 Comply with mandatory reporting obligations for risk of significant harm of children and young person's pursuant to the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
- 3.1.13 Ensure that all records of child protection related incidents and allegations are securely retained for a minimum period of 45 years.

3.2 Responsibility of the Principal

- 3.2.1 The Principal/delegate must ensure that all employees are aware of their obligation to report any complaints or concerns relating to the conduct of a person employed or engaged by the College towards a child or young person as soon as possible to the Principal/delegate for response, inquiry and/or investigation.
- 3.2.2 The Principal/delegate is responsible for authorising any interim arrangements on the work status of an employee or a person engaged by the College following a risk assessment.
- 3.2.3 The Principal/delegate is responsible for authorising any action taken by the College in instances of an adverse finding of an employee or a person engaged by the College.
- 3.2.4 The Principal/delegate must comply with all reasonable directions given by a statutory body in response to concerns, allegations or complaints relating to a person employed or engaged at the College.
- 3.2.5 If a complaint or concern is raised against the Principal/delegate, the Principal/delegate will not involve themselves and will direct the complainant to the Board Chair via email to boardchair@tcc.nsw.edu.au.

3.3 Responsibility of all Persons Employed or Engaged by the College

- 3.3.1 All employees must maintain the care and protection of children and young persons as paramount.
- 3.3.2 All employees must be familiar with and comply with the standards set out in the Employee Code of Conduct in their relationships with students and promote the safety, wellbeing and protection of all students.
- 3.3.3 All employees must participate in a child protection induction and in annual professional standards update as directed by the Principal/delegate.
- 3.3.4 Where directed by the Principal/delegate, all employees must participate in any additional training and/or workshops organised by the College with respect to ensuring the College is a child safe community.
- 3.3.5 All employees must adhere to the mandatory procedures for reporting risk of significant harm concerns to the Principal/delegate for reporting to the Department of Communities and Justice pursuant to the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*. If the concern is against the Principal/delegate, all persons must report the concern to the Board Chair for reporting to the Department of Communities and Justice via email to boardchair@tcc.nsw.edu.au.
- 3.3.6 All employees must support the right of students, parents/carers, employees and persons engaged by the College, to bring forward complaints or allegations and to be heard without fear of reprisal.
- 3.3.7 All employees must report information they may have in relation to inappropriate conduct involving a child or young person to the Principal or their delegate, as soon as practicable after becoming aware of the information.
- 3.3.8 All employees must keep confidential any information they are privy to with respect to any matter that is captured within this document. Any breach of confidentiality under this document may result in the College taking disciplinary action. Maintaining confidentiality does not limit an employee's obligation under section 3.3.7.

3.4 Procedural Fairness

- 3.4.1 All parties to a complaint have a right to confidentiality insofar as permitted by the law.
- 3.4.2 All investigations of a complaint against an employee or a person engaged by the College must be handled carefully and sensitively with consideration given to the care and support for all parties to a complaint.
- 3.4.3 Employees, who are subject of a complaint, have the right to know what has been alleged in sufficient detail for them to respond, and the right to respond to any complaint or adverse comments made against them.

- 3.4.4 Independence, objectivity and impartiality during the investigation process must be ensured. All investigations of a complaint against an employee or a person engaged by the College must be in accordance with the stipulated procedures.
- 3.4.5 Any conflicts of interest, be they actual, potential or perceived, must be identified and managed appropriately to reduce any adverse impacts on an investigation, or on the parties subject to the investigation of a complaint.
- 3.4.6 Internal workplace investigations must incorporate ongoing risk assessment.
- 3.4.7 Contact with and reports to the NSW Police or other external authorities does not remove the requirement for an internal investigation at the appropriate time following receipt of clearance to commence an internal investigation from the statutory body.
- 3.4.8 Nothing in this policy limits or restricts the College from seeking specialist advice and/or support from a statutory entity or a specialist service in the management of any matter that falls within this Policy and its related Procedures.

4. Procedures

4.1 Process for Investigation

4.1.1 Complaint/Allegation Received

- 4.1.1.a When any complaint and/or allegation is received, the Principal/delegate will conduct an initial assessment to determine the nature of the complaint.
- 4.1.1.b Depending on the nature of the complaint, the College may refer the complaint to a statutory body or a specialist service for advice and guidance in the management of the matter.
- 4.1.1.c If a complaint is against the Principal, the complaint will be referred to the Board Chair via email to boardchair@tcc.nsw.edu.au.

4.1.2 Initial Assessment Procedure

- 4.1.2.a An initial assessment undertaken by the Principal/delegate includes, but is not limited to the matters listed below:
 - 4.1.2.a.i Clarifying the allegation, if appropriate.
 - 4.1.2.a.ii Identifying whether the alleged conduct requires a report to external authorities such as the NSW Police, the Australian Federal Police and/or the Department of Communities and Justice. If the alleged conduct is considered to be criminal in nature, the College must make a report to the police regardless of whether or not the complainant wishes to make a police report. It is a matter for the police to determine whether the matter is within its jurisdiction.
 - 4.1.2.a.iii If the alleged conduct is considered to be of a potentially criminal nature by the police, the complainant will be informed that they may also contact the police directly.
 - 4.1.2.a.iv If the complaint and/or allegation identifies a child at risk of significant harm, a report must be made to the Department of Communities and Justice in accordance with the mandatory reporting requirements pursuant to *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
 - 4.1.2.a.v Where information arises that identifies a need for a report to the NSW Police or the Department of Communities and Justice, the College will make that report at that time and suspend its own process until such time as clearance is given by the statutory body to continue the internal investigation.
 - 4.1.2.a.vi Identifying whether the complaint and/or allegation requires a notification to the Office of the Children's Guardian pursuant to Part 4 of the *Children's Guardian Act 2019 (NSW) (the 'Act')*.
 - 4.1.2.a.vii Where a matter falls within Part 4 of the Act, the Principal (or the College Board Chair in instances of matters involving the Principal) must report the matter to the Office of the Children's Guardian within seven (7) days.
 - 4.1.2.a.viii Identifying other agencies that should be informed of the process. For example, in the case of an external contractor, their own employer.

- 4.1.2.a.ix Strategies to respond to an initial risk assessment are implemented.
 - 4.1.2.a.x An investigation plan is developed:
 - 4.1.2.a.x.1 All matters will be appropriately assessed and investigated
 - 4.1.2.a.x.2 In some cases the College may engage an external investigator to undertake the investigation on behalf of the College
 - 4.1.2.a.x.3 Matters that are exempt from reporting to the Office of the Children’s Guardian in accordance with sections 30 and 41 of the Act, must also be investigated by the College in accordance with these procedures.
 - 4.1.2.a.xi For some matters pertaining to employee conduct towards students that are not captured under the definition of Reportable Conduct as prescribed by section 20 of the Act, the College may conduct a workplace investigation internally or through an external investigator, at the discretion of the Principal. This includes but is not limited to complaints of inappropriate conduct by an employee or a person engaged by the College towards a student who is over 18 years of age.
- 4.1.3 Risk Assessment
- 4.1.3.a A risk assessment is an ongoing process required in complaint and allegation procedures and investigations.
 - 4.1.3.b Risk assessment includes identifying risks and implementing strategies to reduce those risks to:
 - 4.1.3.b.i children and young people
 - 4.1.3.b.ii person subject of the complaint
 - 4.1.3.b.iii other employees
 - 4.1.3.b.iv broader College community including students and parents/carers
 - 4.1.3.b.v reputation of employees or the College
 - 4.1.3.b.vi the integrity of the investigation.
 - 4.1.3.c A risk assessment may determine whether interim arrangements on an employee’s work status are required, in consultation with relevant external agencies. This may include standing down a person from their role or suspension of their duties. Any decision in relation to the employee’s work status will take into account factors such as:
 - 4.1.3.c.i the seriousness of the alleged conduct
 - 4.1.3.c.ii whether there is a pattern of similar issues
 - 4.1.3.c.iii vulnerability of the child/children or employee
 - 4.1.3.c.iv capacity of the work environment to manage any risk factors
 - 4.1.3.c.v risks to breaches of confidentiality
 - 4.1.3.c.vi wellbeing of the person subject of the complaint and/or allegation
 - 4.1.3.c.vii involvement of statutory bodies
 - 4.1.3.c.viii safety of the parties.
 - 4.1.3.d Where the College is notified that an employee or a person engaged by the College has had their Working with Children Check clearance cancelled by the Office of the Children’s Guardian in accordance with section 23 of the *Child Protection (Working with Children) Act 2012 (NSW)* or is subject to an interim bar, the College will take immediate steps in accordance with law to remove the person from child-related employment.
 - 4.1.3.e Where the College is notified that an employee or a person engaged by the College is subject to a risk assessment by the Office of the Children’s Guardian, the College may take appropriate steps to manage that person’s interaction with children and young persons, in consultation with the Office of the Children’s Guardian.
- 4.1.4 Investigation Protocols
- 4.1.4.a The College complies with any advice or direction from the Office of the Children’s Guardian in relation to best practice.

- 4.1.4.b The investigation protocols are constantly reviewed. The following protocols are applied:
 - 4.1.4.b.i the person against whom the allegation is made, is advised in writing of the allegations
 - 4.1.4.b.ii sufficient time is provided to prepare a response
 - 4.1.4.b.iii persons interviewed in the investigation process are permitted to bring a support person, if required
 - 4.1.4.b.iv all reasonable inquiries are undertaken
 - 4.1.4.b.v any party to the investigation is provided with an opportunity to nominate witnesses
 - 4.1.4.b.vi information obtained in interviews is written up in a form of statement or recorded, with consent, and transcribed
 - 4.1.4.b.vii if a student is being interviewed, they are offered an adult support person of their choice
 - 4.1.4.b.viii parental consent is obtained for a formal interview (depending on the student/s age)
 - 4.1.4.b.ix counselling services are made available to the child, their family and the employee, recognising that regardless of the seriousness of any complaint, most complaints are stressful and impact on those involved.
- 4.1.4.c Principles of procedural fairness must be adhered to at all times and all persons should be treated with dignity and respect at all stages of a complaint process.
- 4.1.4.d Any employee, who is the subject of a complaint, has a right to obtain professional advice from their union or a legal practitioner, at any stage, and is encouraged to do so, if required.
- 4.1.4.e Where the employee or a person engaged by the College resigns before the completion of the investigation, the College will assess whether the investigation should be concluded at that point. With respect to matters reportable to the Office of the Children’s Guardian, a finding is required regardless of whether or not the employee remains employed.
- 4.1.4.f When all relevant information is obtained, the evidence is assessed on the civil standard of proof. A determination is made as to:
 - 4.1.4.f.i whether or not the alleged conduct occurred
 - 4.1.4.f.ii the appropriate finding recorded
 - 4.1.4.f.iii appropriate action to be taken based on the finding
 - 4.1.4.f.iv any issues arising, such as system issues, performance or safety matters
 - 4.1.4.f.v review of the risk assessment.
- 4.1.4.g An investigation report with all information relevant to the findings is prepared.
- 4.1.4.h Findings and outcomes are communicated to the person who is the subject of the allegation, and other persons as appropriate.
- 4.1.4.i If an adverse finding is made which may have employment implications, the Principal/delegate ensures that the employee is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.1.4.j If an adverse finding is made which may have employment implications against the Principal, the Board Chair will ensure the Principal is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.1.4.k Final reports to external authorities such as the NSW Office of the Children’s Guardian and the National Education Standards Authority (NESA) are made, when appropriate.
- 4.1.4.l The investigation file is secured confidentially with the College. Such records must be retained for a minimum of 45 years.

4.2 Anonymous Complaints or Reluctant Complainants and Witnesses

- 4.2.1 The steps and principles in this document apply equally to anonymous complaints.
- 4.2.2 Notwithstanding the complexities of investigating anonymous complaints, the College will take all complaints seriously, report if necessary and make reasonable inquiries where practical.
- 4.2.3 Reluctant witnesses (i.e. those individuals who can be identified but may not wish to proceed or take matters forward), will be advised about the College's legal obligation to report and respond to certain complaints involving children and young persons.
- 4.2.4 The College undertakes to respond to all complaints sensitively, and where required, report to external authorities and investigate, even if the complainant does not wish for this to occur.

4.3 Inter-agency Cooperation

- 4.3.1 In cases where a complaint results in more than one Relevant Entity being responsible for reporting to the Office of the Children's Guardian, the College will work with the other identified Relevant Entity, where appropriate, to assess and manage the risks.
- 4.3.2 The Office of the Children's Guardian may issue a written exemption to a Relevant Entity pursuant to section 31 of the Act.
- 4.3.3 Principles of privacy and confidentiality will be carefully considered and managed in such situations.
- 4.3.4 In the context of fulfilling obligations under the Reportable Conduct Scheme, information may be requested and/or shared with a prescribed body pursuant to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

4.4 Complaints of a Historical Nature

- 4.4.1 Complaints of a historical nature may involve allegations of conduct of a person who is no longer employed or engaged by the College.
- 4.4.2 Where the College is identified as being responsible for the matter, then the College will undertake reasonable inquiries consistent with the procedures outlined in this document, including notification of the complaint to external authorities, where required.
- 4.4.3 A person reporting an allegation of a potentially criminal nature is encouraged to make their report directly to the NSW Police. In accordance with legislative obligations under the *Crimes Act 1900 (NSW)*, the Principal/delegate will make a report to the police if the information is identified as possibly criminal in nature, regardless of the decision of the complainant to report to the police.

4.5 Principles of Confidentiality

- 4.5.1 The principles of confidentiality are applied to all complaint procedures insofar as permitted by law.
- 4.5.2 The following principles are upheld in managing confidentiality in these processes:
 - 4.5.2.a All persons involved in a compliant process are requested to respect confidentiality of the process and other people involved
 - 4.5.2.b Employees are required to comply with requests for confidentiality, and will be advised at the commencement of an investigation not to discuss with other employees, students and parents/carers the complaint or the investigation of the complaint. Breaches of confidentiality by employees will be taken seriously and may result in disciplinary action
 - 4.5.2.c Confidentiality does not restrict any person from obtaining any necessary professional advice or support at any time during the process, including, but not limited to, union advice, legal advice or professional counselling
 - 4.5.2.d Confidentiality does not restrict the College from making reports to the NSW Police or the Department of Communities and Justice or any other agency as required by law

4.5.2.e The College may be subject to strict confidentiality requirements from external authorities such as the Office of the Children’s Guardian, the Department of Communities and Justice and the NSW Police.

4.6 Records and Disclosure

- 4.6.1 Where required for a relevant investigation or risk assessment, the College may seek or provide information from ‘prescribed agencies’ in accordance with Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
- 4.6.2 A record of the investigation must be held by the College, and where required, a copy must be provided to the Office of the Children’s Guardian in accordance with Part 4 of the Act.
- 4.6.3 Investigations into matters that are assessed as being exempt from reporting obligations to the Office of the Children’s Guardian are documented and retained confidentially at the College and the Office of the Children’s Guardian may audit these records in accordance with the Act.
- 4.6.4 Records at the College are kept securely, confidentially and separately from personnel files.
- 4.6.5 The Principal/delegate (or the Board Chair, in matters pertaining to the Principal) must report all matters that are reportable to the Office of the Children’s Guardian, when they arise.
- 4.6.6 A person who is the subject of a complaint may request access to records held by the College in accordance with the *Government Information (Public Access) Act 2009 (NSW)*, or other relevant legislation, where such a right exists under law.

5. References

- Prepared by Integro Partners
- AISNSW



EXPLANATORY NOTES AND DEFINITIONS

S26: APPENDIX A

Act refers to the Children's Guardian Act 2019 (NSW).

Child means a person under the age of 18 years. With respect to matters notifiable to the Department of Communities and Justice, a child is defined as a person under 16 years.

Complaint/allegation means any issue raised regarding the conduct of an employee of the College or a person engaged by the College in relation to children or young people, including but not limited to conduct identified as reportable conduct within Part 4 of the *Children's Guardian Act 2019 (NSW)*.

Employee includes paid employees (whether employed on a permanent, temporary or casual basis), volunteers, contractors, sub-contractors, consultants, tertiary practicum placements and students on work placements or work experience.

Not Reportable Conduct means:

- conduct that is reasonable for the purposes of discipline, management or care of a child, having regard to the age, maturity, health or other characteristics of the child, and any relevant code of conduct or professional standard
- the use of physical force if in all the circumstances, the physical force 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
- conduct of a class or kind that is exempted from being reportable conduct by the Children's Guardian under section 30 of the *Children's Guardian Act 2019 (NSW)*.

Relevant Legislation refers to the following Statutes:

- *Child Protection (Offenders Registration) Act 2000 (NSW)*
- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children's Guardian Act 2019 (NSW)*
- *Crimes Act 1900 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Privacy Act 1988 (Cth)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *Work Health and Safety Act 2011 (NSW)*.

Relevant Entity means a public authority or Schedule 1 entity or a religious body pursuant to sections 12 (c) and 15A as identified in the *Children's Guardian Act 2019 (NSW)*.

Report refers to a copy of the investigation file that may be provided to the Office of the Children's Guardian in accordance with Part 4 of the Act. The Office of the Children's Guardian will review the file and advise the College whether or not it is satisfied with the process prior to closing the matter.

Reportable Allegation means an allegation that the employee has engaged in conduct that may be reportable conduct whether or not the conduct is alleged to have occurred in the course of the employee's employment with the Relevant Entity.

Reportable Conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

- a sexual offence
- sexual misconduct
- ill-treatment of a child

- neglect of a child
- an assault against a child
- an offence under section 43B or 316A of the *Crimes Act 1900 (NSW)*
- behaviour that causes significant emotional or psychological harm to a child.

Standard of Proof refers to a civil standard, that is, whether the case has been proved on the balance of probabilities.

Student/s means any person enrolled at the College, whether or not they are over the age of 18 years.

Young person, for the purposes of reporting risk of significant harm, means a person who is aged 16 or 17 years.