

Child Protection Policy & Procedures

16th July 2024

1. Audience

This policy applies to all employees.

2. Legislation

This document addresses the legislative requirements of Sydney Science College under:

- Children's Guardian Act 2019
- Children (Education and Care Services National Law Application) Act 2010
- Education and Care Services National Regulations 2011
- Child & Young Persons (Care & Protection) Act, 1998
- Ombudsman Amendment (Child Protection and Community Services) Act, 1998
- Commission for Children and Young People Act, 1998
- Children and Young Persons (Care and Protection) Act chapter 16A October 2009
- Child Protection (Prohibited Employment) Act, 1998
- Child Protection (Working With Children) Regulation 2013

3. Responsibilities of Staff Members

All staff members of the school are considered a Mandatory Reporter under Children And Young Persons (Care And Protection) Act 1998 - Sect 27 and are required to report as soon as practice to the Department of Family and Community Services if they have:

- reasonable grounds to suspect that a child is at risk of significant harm, and
- those grounds arise during the course of or from the person's work

4. Responsibilities of the Principal

The principal or the principal's delegate is responsible for:

- being aware of the reporting requirements associated with allegations of a child protection nature and concerns about risk of harm to children.
- to respond to allegations of a child protection nature against employees
- reporting to the Department of Community Services, the NSW Children's Guardian, the Commission for Children and Young People and the Independent Commission Against Corruption

The principal or the principal's delegate will ensure that:

- before any staff commence their employment at Sydney Science College, they will require a current Working With Children Check (WWCC). Before commencing work, the WWCC will be registered on the school's employer account on the Office of the Children's Guardian (OCG) website, and the confirmation of the check will be recorded on the school's register. A review is to be made at each quarterly board meeting to ensure that any WWCC that is due to expire within 90 days will be notified, and the relevant staff notified to renew registration.
- all new staff members are to be provided with a copy of the school's Child Protection Policy & Procedures (this document), and are to return a copy with a signed statement at the end that they have read and understood, and will abide by the guidelines in this document. New staff who are not able to provide certification of reportable conduct and child protection / mandatory reporters training that was completed within the past 12 months, will complete training on the first day of employment before any interaction with any students.
- all staff undergo training in all aspects of child protection, current legislation and its implications for their work. Also, ensuring all staff follow procedures
- these procedures are readily accessible to all employees and are incorporated into the initial child protection training provided at induction and annual child protection updates for all employees.
- parents of attending children are provided with information about relevant legislation and procedures
- any situation regarding an allegation of child abuse, or any concern for any child as being at risk of harm, is treated with discretion and regard for the privacy and confidentiality of the persons concerned, recognising however, that the rights of children to be free from abuse must be held paramount
- management of staff will be organised to maximise protection of children from abuse and minimise opportunities for abuse, as well as minimise opportunities for vexatious allegations against staff

5. Procedures

PART A: Reporting suspected Risk of Harm

If there is an immediate danger to the child, the local police station and/or the Child Protection Helpline should be contacted immediately.

Step 1 Raise the matter in confidence with the principal or a director of the board immediately.

A written observation, including the date and full name of child, identifying the concern/ incident must be documented immediately and be based on:

- first hand observation of the child, young person or family
- what the child, young person, parent or other person has disclosed
- what can reasonably be inferred based on professional training and/or experience
- Have written observations of the child available for discussion

Step 2 The principal along with the initial staff reporter will access the Mandatory Reporter Guide (MRG) (<https://reporter.childstory.nsw.gov.au/s/mrg>) to see if the child is at Risk of Significant Harm.

- Print out the decision report
- Retain report in the child's confidential file.

Alternatively, the following guidelines set by the legislation can be followed.

Definition of Significant Harm

What is meant by “significant” 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's or young person's safety, welfare, or wellbeing.

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.

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:

- 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 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.

Step 3 If the MRG or the legislative guidelines informs that the child is AT RISK of SIGNIFICANT HARM

- The staff reporter along with the Principal MUST make a report directly via the Child Protection Helpline on 132 111 as soon as possible.

OR

If the child is NOT at Risk of Significant Harm

- Continue to record clear, dated, objective observations.
- Maintain documentation in a confidential file
- Discuss with the principal or director before filing.
- Work closely to support the child and family.

OR

If the child is NOT at Risk of Significant harm BUT any staff member remains concerned, the Principal and the staff reporter should contact the Child Protection Helpline on 132 111 to seek further advice.

If required, staff may contact a child's doctor, paediatrician or prior early childhood centre to seek further assistance under the Children and Young Persons (Care and Protection) Act chapter 16A.

PART B: When a child makes a disclosure

Follow procedures in Part A and

- Remain calm and objective and comfort the child
- Listen to and believe the child
- Don't make promises that you cannot keep
- Convey messages that it is not their fault and it was right to tell
- Tell them you will need to talk to other people whose job it is to help keep children safe
- Report to the Principal or the principal's delegate, as soon as possible that same day.
- If a child makes a disclosure in a group situation, calmly follow through on issues discussed with all children regarding protective behaviours. As soon as possible without removing the child from the group inappropriately, move to a quiet area and follow the steps outlined above.

Note that our role is to support the wellbeing of the child, not to investigate the disclosure. Do not question the child about the details of the abuse/neglect as legal proceedings may be jeopardised.

PART C: Responding to an allegation of abuse by an adult at the school.

An allegation of child abuse may be made against a staff member, student or visitor by another employee, by a child's parents, or other caregiver, or may arise from advice received by an investigative agency including the Department of Education, the Police Service and/or the Children's Guardian. All steps must be carried out regardless of whether the allegations are found to be true or where the incident(s) occurred.

Step 1 Complete all steps as per Part A: Steps 1-3.

Step 2 Inform the Principal or the principal's delegate immediately. If the allegation involves the Principal, inform a Director of the Board (that is not the principal) immediately. Directors' contacts will be openly available from reception and on the school website.

Step 3 Determine whether or not the allegation is a reportable allegation ie "reportable conduct".

Section 20 of the Children's Guardian Act 2019 defines 'reportable conduct' as: — a sexual offence, sexual misconduct, ill-treatment of a child, neglect of a child, an assault against a child, an offence under s 43B (failure to protect) or s 316A (failure to report) of the Crimes Act 1900; and behaviour that causes significant emotional or psychological harm to a child.

Sexual offence

A sexual offence is an offence of a sexual nature under a law of NSW, another state/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.

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 a sexual offence.

Step 3 cont.

Sexual misconduct

The Act defines sexual misconduct to mean any conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence) and 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).

Assault

Technically, any form of unwarranted touching can, depending on the context in which it occurs, constitute an assault. However the Act explicitly exempts from notification assaults that are, in all the circumstances, trivial or negligible – as long as they are investigated under workplace procedures. Generally, physical force that does not result in more than transient injury and which had no potential to result in serious injury – with consideration to the context and circumstances in which the alleged assault took place – would be considered ‘trivial or negligible’.

Under the Act, an assault can occur when a person intentionally or recklessly (ie. knows the assault is possible but ignores the risk):

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

Allegations of ‘serious physical assault’, if proven, must be reported to the OCG for the purpose of the Working With Children Check. Therefore, it is important to obtain the information necessary to determine whether the alleged assault, if proven, will constitute a serious physical assault.

**Step 3
cont.**

What is serious physical assault?

A physical assault is not serious where:

- it only involves minor force; and
- it did not, and was not ever likely to, result in serious injury.

A physical assault is serious where:

- it results in the child being injured, beyond a type of injury like a minor scratch, bruise or graze; or
- it had the potential to result in a serious injury; or
- the injury suffered may be minor, but the assault is associated with aggravating circumstances (in this regard, aggravating circumstances might include associated inhumane or demeaning behaviour by the employee, for example kicking a child, pulling a child by grabbing the child around the neck).

What is ill-treatment?

The Act defines ill treatment as conduct towards a child that is:

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

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

What is neglect?

The Act defines neglect to mean a significant failure – by a person with parental responsibility for the child, or an authorised carer or an employee if the child is in the employee's care – to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child that causes or is likely to cause harm to the 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 or 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.

Step 3 cont. What is behaviour that causes emotional or psychological harm to a child?

Behaviour that causes significant psychological or emotional harm 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 employee knew or ought to have known was unacceptable, and
- evidence of psychological harm to the child that is more than transient, including displaying patterns of ‘out of character behaviour’, regression in behaviour, distress, anxiety, physical symptoms or self-harm, and
- an alleged causal link between the employee’s conduct and the significant emotional or psychological harm to the child.

What is not Reportable Conduct

The Act in section 41, also states that 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
- 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
- conduct of a class or kind exempted from being reportable conduct by the Children’s Guardian Act 2019

Some examples of conduct that would not constitute reportable conduct include touching a child to attract their attention, guide them or comfort them, a school teacher raising their voice to attract attention or restore order in the classroom, or conduct that is established to be accidental.

Step 4 Make a report to the Police if deemed appropriate.

Step 5 The principal or the notified director **MUST** notify the Children’s Guardian Child Protection Helpline on 132 111 and complete & submit the “7-day notification” form found at “www.kidsguardian.nsw.gov.au” as soon as possible within 7 days.

6. Guidelines for Investigation & Disciplinary Procedures

When there is an allegation against a staff member, verbally or in writing, the principal or the principal's delegate must be informed. This allegation may be for an incident in the workplace or elsewhere.

Step 1 The appointed investigator, the principal or a director of the board if the allegations are against the principal, will notify the Children's Guardian to determine the process and responsibility for investigation. They will ensure the case is not investigated or determined by someone with a conflict of interest and that the outcome is supported by evidence.

Generally the principal will interview relevant witnesses and gather relevant documentation.

Step 3 The principal will determine:
(a) whether the Police need to be informed
(b) when and how the child's parents are to be informed
(c) when, and how the staff member will be informed

Step 2 The appointed investigator will inform the staff member in writing of the allegations made. This is to include:
1. the substance of the allegation,
2. that they may make a submission on their own behalf for inclusion to the Children's Guardian.
3. that they do not have the right to know the identity of the person making the allegation or have access to other material provided by witnesses

Step 4 The appointed investigator will interview the staff member, inform them of the preliminary findings, and provide them with an opportunity to respond.

Step 4 The principal or director will determine the immediate employment status of the staff member against whom the allegation has been made. In the event of a serious allegation the staff member may be placed on suspension with or without pay.

Step 5 In the case of serious and wilful misconduct, instant dismissal will be actioned.

Step 6 At the conclusion of the investigation, all records will be sent to principal or the director to be kept in a confidential manner and accessible only to appropriate senior staff.

Step 7 At the end of the investigation, a final report is made by the appointed investigator and sent to the Children's Guardian using the "Entity Report Form". The staff member may make a verbal or written reply when the final finding is made to the Children's Guardian.

If the Final Report has not been completed within 30 days, an interim report is to be submitted by the investigator to the Children's Guardian using the "30-Day Interim Report Form"

- Step 8** If a matter is found to be vexatious, the matter will be dealt with by the principal or the principal's delegate. Vexatious complaints made by individuals in the school community may result in families' enrolment or staff employment being ceased.
- Step 9** If the employee and/or parent is dissatisfied with the process of the outcome of the investigation, a complaint can be lodged with the Principal and/or the Children's Guardian.

7. Requests by other agencies to share information

- Step 1** Collect the contact details of the person and agency making the request.
- Step 2** Seek clarification for the reason for the request.
- Step 3** Seek a written request from the agency for such information, write the report for the agency addressing key significant issues and keep a copy on file at the school.
- Step 4** Where the matter is urgent and a written process is not suitable, confirm contact details of the person requesting information, do not give information at this point. Phone back the organisation and seek evidence that the person requesting the information is from this agency, then share the required information. Inform the agency that you will be taking notes about the conversation and will maintain records at the school as well as forward them a copy.

8. When requesting other agencies to share information

- Step 1** Write a request regarding the child in question addressing key significant issues. Keep a copy on file at the centre. Once received seek further clarification where necessary.
- Step 2** Where the matter is urgent and written process not suitable, contact the agency by phone to request the information. Identify yourself and where you are from, stating "in line with Children and Young Persons (Care and Protection) Act chapter 16A" that you are requesting information regarding a particular child. Let them know you will be recording the conversation and information given and that you will forward this information to them for their records.

9. Informing Staff of their Reporting Obligations

This policy is communicated to all staff by the Principal within the first school term of each year, and during induction of new staff.

Annual Training

All staff will undertake training within the first school term of each year or part of the induction process of new staff on their obligations:

- as mandatory reporters via the online Mandatory Child Protection Training module found at <https://education.nsw.gov.au/mypl/community-members>, or an appropriate online course regarding child protection. Certification of completion is to be provided to the principal.
- to read the Child Protection Policy & Procedures, and the staff code of conduct and sign a form that states that they have read the code and acknowledge their expectations based on the code

Evidence of this is retained each year for each staff member (certificates & signed forms of completion to be stored in the staff member's file). Once documentation has been received by administration, the Principal will record and sign off "Mandatory Reporter's, Reportable Conduct, School Expectations Training Register" for each staff member.

The Principal will perform a check on the register at the beginning of each month to follow up staff members who have not been signed off. The principal will either:

- request the relevant evidences required for sign off
- organise for the staff member to undergo the annual training as soon as possible if they were absent from the initially organised annual staff training session or during staff induction.

10. Maintaining Working with Children Checks

The principal must log in to the Office of the Children's Guardian website to verify Working with Children Checks (WWC) of new paid workers, contractors & volunteers before they commence work at the school.

The principal is to verify the WWC status of all staff on a monthly basis.

After verification, the principal is to remove any persons from work at the school who is not of a "cleared" status.

A Working with Children Check Log is to be kept and maintained by the Principal for each worker, recording the following details:

- Full name
- Date of birth
- WWC number
- Verification date
- Verification outcome
- Expiry date
- Whether the worker is in paid or volunteer work

These records are to be maintained for 7 years.