

PORT MACQUARIE STEINER SCHOOL

4.2 CHILD PROTECTION POLICY

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Associated Policies:	2.2 Student Code of Conduct 6.1 Parents, Guardians and School Community Code of Conduct 9.4 Work Health and Safety Policy 2.5 Student Welfare and Security Policy 2.3 Student Wellbeing and Pastoral Care Policy 8.9 Risk Management Policy <i>Keep Them Safe</i> Mandatory Reporter Guide Recommended Protocols for Internal Investigative Disciplinary Proceedings	
Associated Laws:	<i>Education Act 1990</i> <i>Child Protection (Working With Children) Act 2012 (NSW)</i> <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> <i>Commission for Children and Young People Act 1998 (NSW)</i> <i>Ombudsman Amendment (Child Protection and Community Services) Act 1998</i> <i>Crimes Act 1990</i> <i>Privacy and Personal Information Protection Act 1998</i> <i>Health Records and Information Privacy Act 2002</i>	

INTENTION

To summarise the obligations of the School under the child protection legislation. This Policy applies to the whole School - employees, contractors and volunteers at the School and is intended to provide guidelines as to how the School will deal with certain matters, should they arise. All staff and volunteers including employees and contractors at the commencement of their employment or engagement with the School are to have a clear understanding of these duties and obligations under the key items of child protection legislation in NSW. These are to be covered also at the first staff meeting of every year with the School.

This policy outlines the key concepts and definitions including mandatory reporters, reportable conduct and risk management. It also covers the expected standard of behaviour in relation to employees, contractors and volunteers and their relationships with students of the School.

INTRODUCTION

The safety, protection and well-being of all students are of fundamental importance to the School. The School is committed to providing a learning and teaching environment where children are safe from harm. This safe and supportive environment applies to the whole being - social, academic, physical and emotional aspects of a person. All care is taken to minimise risks in relation to child protection.

Child protection is a community responsibility and as such, all staff employed by the School including contractors and volunteers are expected to abide by the guidelines outlined in this policy.

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CONCEPTS AND DEFINITIONS

Safe environment - A safe environment at the School involves mitigating risk of harm so that the students feel safe and secure. Harm can involve the personal aspects including violence, physical threats, verbal abuse, threatening gestures, sexual harassment and racial vilification. It can also include the built structures of the environment as well. Such as, construction, lighting, space, facilities and safety plans.

Supportive environment – A supportive environment is one in which the spirit of each child is nurtured in order for effective teaching and learning to take place. A supportive environment is one in which students are treated with respect and fairness by teachers, other staff and fellow students.

Significant harm - 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.

Child is a person under the age of 16 years for the purposes of the Care and Protection Act. A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent.

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

Neglect is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punish a child (in a non-trivial way) is a crime.

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

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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.

Concern for Child Wellbeing - Child wellbeing concerns are those involving safety, welfare or wellbeing for a child or young person that do not meet the mandatory reporting threshold risk of significant harm. See the Policy details below for more information on this threshold.

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

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

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

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

A reasonable ground does not mean that you are required to confirm your suspicions or have clear proof before making a report.

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:

- a. the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- b. the parent/s or other caregiver/s have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- c. in the case of a child or young person who is required to attend School in accordance with *the Education Act 1990* - the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act;

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- d. the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- e. the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
- f. a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm; or
- g. under section 25 of the Care and Protection Act, a person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of significant harm after his or her birth may make a report. If the child was the subject of a pre-natal report, 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.

Reportable conduct - is defined as:

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

Reportable conduct does not extend to:

- a. conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- b. the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- c. conduct that is exempted from notification by a Class or Kind Agreement.

A Class or Kind Agreement is an agreement between the Ombudsman and an agency (eg the Association of Independent Schools of NSW on behalf of its member Schools) that allows for certain kinds of less serious reportable conduct to be exempted from notification to the Ombudsman however the Head of Agency (Teaching Principal) must still conduct an investigation.

Any alleged conduct which involves the reasonable use of physical force in an act of self-defence does not constitute reportable conduct.

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

Ill-treatment - Captures those circumstances where a person treats a child in an obviously or very clearly improper manner. The focus is on the alleged conduct rather than the actual effect of the conduct on the child. Ill-treatment can include disciplining or correcting a child in an obviously unreasonable or inappropriate manner; making excessive and obviously unreasonable demands on a child; malevolent acts towards children; and inappropriate and hostile use of force against a child.

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

- a. **Supervisory neglect** - An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or a significantly careless act or failure to act that involves a gross breach of professional standards and has the potential to result in the death or significant harm of a child.
- b. **Carer neglect** - Grossly inadequate care that involves depriving a child of the basic necessities of life, such as the provision of food and drink, clothing, critical medical care or treatment, or shelter.

Failure to protect from abuse - An obvious or very clear unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

Reckless act (or failure to act) - Involves a gross breach of professional standards, and has the potential to result in the death of, or significant harm to a child.

Physical Assault - Any act by which a person intentionally inflicts unjustified use of physical force against another. An assault can also occur if a person causes another person to reasonably apprehend that unjustified force is going to be used against them. Even if a person who inflicts physical harm or causes another person to reasonably apprehend physical harm does not actually intend to inflict the harm or cause fear, they may still have committed an assault if they acted 'recklessly'.

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

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

Sexual Misconduct - Has two categories which include:

- a. crossing professional boundaries, and
- b. sexually explicit comments and other overtly sexual behaviour

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- c. The alleged sexual misconduct must have been committed against, with or in the presence of a child.

Crossing professional boundaries - Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate relationship with, conduct towards or focus on a child or young person, or a group of children or young persons.

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

- a. inappropriate conversations of a sexual nature;
- b. comments that express a desire to act in a sexual manner;
- c. unwarranted and inappropriate touching;
- d. sexual exhibitionism;
- e. personal correspondence (including electronic communications such as e-mails and text messages) with a child or young person in relation to the adult's sexual feelings for a child or young person;
- f. exposure of children and young people to sexual behaviour of others including display of pornography;
- g. watching children undress. For example, in change rooms or toilets when supervision is not required or justified.

Sexual Offences - Encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child'. These offences include (but are not limited to) the following:

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

HOA – Head of Agency

PSOA – Person subject of the allegation

These concepts and definitions are to be referred to when reading the following policy.

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POLICY

1. Staff Training and Responsibility

All staff, the Teaching Principal, all volunteers and the School Board have a range of different obligations relating to the safety, protection and welfare of students including:

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

The Teaching Principal is responsible for ensuring all staff who have direct contact with students are informed annually of their legal responsibilities related to child protection, mandatory reporting and other relevant School expectations outlined in this policy.

2. Mandatory Reporting – Staff Obligations

The School board and Teaching Principal require staff members to report any concern they may have about the safety, welfare or wellbeing of a child or young person to the Teaching Principal. Any concerns involving the Teaching Principal are to be reported to the President of the School Board.

In each case reported to the Teaching Principal (or President of the School Board), the Teaching Principal (or President of the School Board) will refer to the Mandatory Reporter Guide in order to ascertain the requirement to report the case further. The Mandatory Reporter Guide supports mandatory reporters in NSW to:

- determine whether a report to the Family and Community Services (FACS) Child Protection Helpline is needed for concerns about possible abuse or neglect of a child or young person; and
- identify alternative support for vulnerable children, young people and their families.

The **Mandatory Reporter Guide** provides access to 'Decision Trees' which enable an appropriate decision to be made in each specific circumstance.

If at any time a staff member is dissatisfied with the Teaching Principal's (or President of the School Board's) decision, they are encouraged to report their concerns to the Child Protection Helpline directly on 132 111.

If the allegation involves the Teaching Principal, the staff member is required to report to the President of the School Board who is then to manage the matter further and refer to the Mandatory Reporter Guide as above.

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

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Mandatory Reporting Under the Care and Protection Act

The *Children and Young Persons (Care and Protection) Act 1998 (NSW)* provides for mandatory reporting of children at risk of significant harm.

Any concern regarding the safety, welfare or wellbeing of a student must be reported to the Teaching Principal. If the allegation involves the Teaching Principal, the incident is to be reported to the President of the School Board who is then to manage the matter further.

A mandatory reporter is a person who, under the Care and Protection Act:

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

All teachers are mandatory reporters. All School staff and volunteers have a responsibility to recognise and respond to safety, welfare or wellbeing concerns for children and young people and inform the Teaching Principal. It is the responsibility of the Teaching Principal to report suspected risk of significant harm concerns to the Family and Community Services (FACS) Child Protection Helpline on 132 111.

3. Working With Children Checks

All members of staff involved in child-related work at the School, regardless of paid or voluntary status, are required to apply for a Working With Children Check through the Office of the Children's Guardian prior to commencing employment or volunteer work. Once this has been completed the WWC check number is to be given to the Teaching Principal (or their nominee) for verification.

4. Child Safe Practices at the School

The Child Safe Practices at the School must always be implemented to ensure child safety. Friends and relatives of students attending a school festival, performance or working bee may not be required to hold a verified WWC check to visit the school for these special events if they are not involved in child related work. In these circumstances, the child safe practices of the School are imperative to ensure child safety.

The Child Safe Practices at the School are:

- **Two Adult Rule** – under no circumstances should students be alone with one adult visitor to the School. There must always be at least two adults accompanying

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students. At least one of whom is to be a staff member or volunteer previously inducted to the School by the Teaching Principal;

- **Visitor Sign In** – All visitors must complete the Visitor Sign In Sign Out Register and receive a visitor tag on arrival; and
- **Notify** – Staff and volunteers of the School are obliged to notify the Administration Officer of anyone on School grounds without a visitor tag so they can be followed up and referred to the Administration Office to sign in.

Please refer to the Professional Relationships between Employees and Students section of the Staff Code of Conduct for more information on child safe practices at the School.

5. Reportable Conduct and The Ombudsman Act

Part 3A of the *Ombudsman Act 1974 (NSW)* requires the heads of certain agencies, including non-government Schools in New South Wales, to notify the New South Wales Ombudsman of all allegations of reportable conduct by an employee and the outcome of the School's investigation of these allegations.

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

See section above on Concepts and Definitions for more information on **reportable conduct**.

The Ombudsman:

- a. must keep under scrutiny the systems for preventing reportable conduct by employees of non- government Schools and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions;
- b. must receive and assess notifications from non-government Schools concerning reportable conduct or reportable convictions;
- c. is required to oversee or monitor the conduct of investigations by non-government Schools into allegations of reportable conduct or reportable convictions;
- d. must determine whether a monitored investigation has been conducted properly, and whether appropriate action has been taken as a result of the investigation;
- e. may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government School, or the handling of

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or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation); and

- f. may undertake 'own motion' investigations of non-government Schools where the Ombudsman considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interest.

Head of Agency – This is the Teaching Principal. If a report is to be made about the Teaching Principal, the Head of Agency becomes the President of the School Board.

Under the Ombudsman Act, the Head of Agency must:

- a. set up systems within their organisation to ensure that they are advised of any allegations of reportable conduct against employees;
- b. notify the Ombudsman as soon as possible and no later than thirty (30) days after being made aware of an allegation;
- c. notify the Ombudsman whether or not the School plans to take disciplinary or other action in relation to an employee who is the subject of reportable conduct or a conviction, and the reasons for taking or not taking any such action as soon as practicable; and
- d. provide the Ombudsman with any documentary and other information as the Ombudsman may, from time to time request to assist in the Ombudsman's monitoring of an investigation.

Employee, Volunteer and Board Member Obligations under the Ombudsman Act

You must report any concerns you may have about any other employee, volunteer or board member engaging in reportable conduct or any allegation of 'reportable conduct' that has been made to you, to the Teaching Principal. This includes information about yourself. If you are not sure whether the conduct is reportable conduct but consider that it is inappropriate behaviour you must still report it to the Teaching Principal.

You must also report to the Teaching Principal if you become aware that an employee, volunteer or board member 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 also includes information relating to yourself.

If the allegation involves the Teaching Principal you are required to report these matters to the President of the School Board.

If you suspect that a report has not been made, then you are required to report the matter yourself.

Information for Parents - The Teaching Principal is the contact point for parents if they wish to report an allegation of reportable conduct against an employee. If the allegation involves

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the Teaching Principal they are required to report these matters to the President of the School Board.

6. Risk Management

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

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. Please refer to 8.9 Risk Management Policy for more information on the process.

7. The Outcome

The person subject of the allegation (PSOA) will be advised:

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

The PSOA does not automatically have the right to:

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

Under the *Commission for Children and Young People Act 1998 NSW* once the 'relevant employment proceedings' have taken place and been completed, a PSOA can seek access to the records held by the School on their 'relevant employment proceedings'.

8. Disciplinary Action

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

In relation to any disciplinary action the School will:

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

9. Confidentiality

It is important when dealing with allegations of reportable conduct that the matter is dealt with as confidentially as possible. The School requires that all parties maintain

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confidentiality during the investigation including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against employees will be kept in a secure filing cabinet and will be accessible by the Head of Agency or by another member of staff with the Head of Agency's express authority.

Under no circumstances can an employee make comment to the media about an allegation of reportable conduct unless expressly authorised by the School Board to do so.

If you become aware of a breach of confidentiality in relation to a reportable conduct allegation you must advise the Teaching Principal or President of the Board immediately.

PROCEDURE(S)

Staff Training and Responsibilities:

The Teaching Principal is responsible for ensuring all staff who have direct contact with students are informed annually of their legal responsibilities related to child protection, mandatory reporting and other relevant School expectations outlined in this policy. These responsibilities must be ensured through the following procedures:

- all staff must attend a compulsory training session at the beginning of each School year. This training is to be presented by the Teaching Principal (or their nominee), or by an appropriate registered training organisation such as the AIS, which the Teaching Principal engages;
- any staff or volunteers unable to attend must be followed up with a subsequent training session with the Teaching Principal (or their nominee) at another time during the year;
- any new staff or volunteer is to be inducted with a briefing on this policy by the Teaching Principal or a responsible person of the School acting on behalf of the Teaching Principal;
- a Register of Attendance for Child Protection Staff Training must be maintained by the Teaching Principal. This records the names of all staff who attended the annual training session, who was absent, subsequent training sessions and names of attendees, signatures of all attendees, and dates of attendance. This register must also include new staff or volunteers inducted throughout the year and signed confirmation that they have received the required training in regards to this policy. This register must be maintained and kept within the School's records for a minimum of seven years; and
- all staff are to be provided with the most up-to-date policy at the beginning of each School year or on initial induction. It is compulsory for staff and volunteers to read the policy, and sign and date that they have read and understood the policy, which must then be maintained within the School's records. Staff are also to be given the opportunity to ask any questions or raise any concerns regarding the policy.

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Working With Children Checks:

- Upon commencement of any new staff member or volunteer, the Administration Officer is required to verify the staff member's WWC clearance via the Office of Children's Guardian website <http://www.kidsguardian.nsw.gov.au>
- The Administration Officer must keep records of each staff and volunteer's WWC and verification on the Register of Working With Children Checks, which is to be updated and checked each month for expiries and on induction of any new staff member or volunteer;
- The Teaching Principal's WWC must also be verified by the Administration Officer and recorded on the register;
- The Working With Children Check Register must be maintained within the School records and is to include the full name, date of birth, WWC number, start date, verification date, verification outcome, expiry date, and volunteer or paid status.
- The Administration Officer is to set reminders for one month prior to each expiry and follow these up with the relevant staff member or volunteer and ensure that checks nearing their expiry date are renewed;
- The Administration Officer is to keep the WWC Register and printed verification hard copies in the Working With Children Check file in the Administration filing cabinet, on the School computer and external hard drive. These records are to be kept for a minimum of seven (7) years;
- If the verification outcome shows that a prospective employee or volunteer is barred from child-related work, the Administration Officer is to inform the Teaching Principal immediately and this person is not to be accepted for the position and is not to be permitted to enter into any child-related work within the School or organisation;
- In the case that the verification process shows that a staff member or volunteer has become barred from child-related work, then action must be taken by the Teaching Principal to inform the School Board immediately, and contact the employee to arrange an interview and explain that their employment will be terminated whilst such barres are in place; and
- In the event that a staff member or volunteer becomes barred, the Office of the Children's Guardian will contact two nominated responsible persons, being the President of the Board and the Teaching Principal.

Mandatory Reporting:

All staff of the School will be informed annually of their obligations in relation to child protection at the first staff meeting of every year with the School. Please refer to Staff Training and Responsibilities section of the Procedure for more information.

When must a report be made to Community Services and what is the threshold?

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- A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to Community Services as soon as practicable, the name, or a description of the child and the grounds for suspecting that the child is at risk of significant harm; and
- in addition, while not mandatory, the School considers that a report should also be made to Community Services where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare or wellbeing of the young person.

See section above on Concepts and Definitions for more information on **significant harm** and **reasonable grounds**.

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

The first step should be to consult the Mandatory Reporter Guide (<https://reporter.childstory.nsw.gov.au/s/>). The Mandatory Reporter Guide supports mandatory reporters in NSW to:

- determine whether a report to the Child Protection Helpline is needed for concerns about possible abuse or neglect of a child or young person; and
- identify alternative support for vulnerable children, young people and their families.

The Mandatory Reporter Guide Provides access to 'Decision Trees' which enable an appropriate decision to be made in each specific circumstance.

Reporting by the School about these matters to the NSW Ombudsman, Community Services and, where necessary, the Police, is generally undertaken by the Teaching Principal. Where the concern is regarding the Teaching Principal, the President of the School Board should be notified to manage the report further.

- If you have a concern that a child or young person is at risk of significant harm, you are required to contact the Teaching Principal 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 a child or young person and the Teaching Principal or next most senior member of staff is not contactable, you should speak to the Police and/or the Child Protection Helpline on 132 111 directly, and then advise the Teaching Principal or next most senior member of staff at the School as soon as possible;
- **you are not required to, and must not undertake any investigation of the matter yourself;**
- you are **not** to inform the Parents or Guardians that a report to Community Services has been made; and
- you are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required, to comply with your mandatory reporting

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obligations. Failure to maintain confidentiality will not only be a breach of this policy, but could expose you to potential civil proceedings for defamation.

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

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

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

Reportable Conduct – Complaint Handling Procedures

Once an allegation of reportable conduct against an employee is received, the Teaching Principal (or President of the Board if the report is about the Teaching Principal) is required to carry out the following **initial steps**:

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

The School will adhere to the following **investigation principles**:

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

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

- a. interview the relevant witnesses and gather relevant documentation;
- b. provide a letter of allegation to the PSOA;
- c. interview the PSOA; A PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.
- d. consider relevant evidence and make a preliminary finding in accordance with the NSW Ombudsman guidelines;
- e. inform the PSOA of the preliminary finding and provide them with an opportunity to respond;
- f. consider any response provided by the PSOA;
- g. make a final finding in accordance with the NSW Ombudsman Guidelines;
- h. decide on the disciplinary action, if any, to be taken against the PSOA;
- i. apply the NSW Commission for Children and Young People (CCYP) Guidelines and decide if the matter is reportable to CCYP; and
- j. send the final report to the Ombudsman and where required, report to the CCYP.

The steps followed in the investigation process will be guided by the “Recommended Protocols for Internal Investigative and Disciplinary Proceedings, 2001” (IEU/AIS) as updated from time to time. This document is in the PMQSS Resources folder on the School Dropbox.

On occasion, the procedure outlined above may need to be adapted to align with particular circumstances. For example it may be necessary to take different steps where the matter is also being investigated by Community Services or the NSW Police.

Risk Assessment:

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

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

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

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

PORT MACQUARIE STEINER SCHOOL

4.2 CHILD PROTECTION POLICY

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

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 as an indication that the alleged conduct by the employee did occur.

Ongoing Risk Management - The Head of Agency will continually monitor risk during the investigation including in the light of any new relevant information that may emerge. All information is to be documented appropriately throughout the investigation.

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

This policy is available on the School's website, in the Dropbox PMQSS Current Policies Folder and in the Master Policies Folder in the School Administration Office.

RESOURCES

Register of Attendance for Child Protection Staff Training
Mandatory Reporter Guide
Register of Working With Children Checks
Recommended Protocols for Internal Investigative and Disciplinary Proceedings, 2001 (IEU/AIS)

REVIEW

This Policy will be reviewed annually.

PORT MACQUARIE STEINER SCHOOL
4.2 CHILD PROTECTION POLICY

STAFF ACKNOWLEDGEMENT

Staff / Volunteer Acknowledgement:

I (full name), have read and understood this
PMQSS Child Protection Policy.

Signed: _____

Date: _____