



A hope and a future.

Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct

Complaints regarding allegations of staff misconduct and reportable conduct are managed in a different manner to other complaints and grievances received by the College. This is because often these complaints are of a sensitive nature and raise potential privacy and confidentiality issues.

Summerland Christian College requires all staff to comply with a Code of Conduct and standards of behaviour that are intended to prevent staff misconduct and reportable conduct, and staff are encouraged to report any breaches of the Code or standards.

It is also critical that the broader College community reports staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that the College complies with its legislative reporting obligations. Summerland Christian College has a legal obligation to investigate and report to the Office of the Children's Guardian (OCG) all allegations of reportable conduct made against staff at the College as defined by the Legislation.

For the purposes of this policy, "staff" and "staff member" is defined to include teaching and non-teaching staff, College Board, volunteers, contractors and external providers.

Definition of Staff Misconduct

The College defines "staff misconduct" as conduct by a staff member that:

- breaches the College's Code of Conduct or other key policies/procedures;
- displays purposeful neglect of duties/responsibilities;
- involves alcohol and/or other substance abuse;
- is physically, verbally or emotionally abusive; or
- endangers the safety or wellbeing of students or others at the College.

Definition of Reportable Conduct

Under the Children's Guardian Act 2019, *reportable conduct* is defined as:

- a sexual offence;
- sexual misconduct;
- an assault against a child;
- ill-treatment of a child;
- neglect of a child;
- an offence under section 43B (failure to protect) or section 316A (failure to report) of the Crimes Act 1900; or
- behaviour that causes significant emotional or psychological harm to a child.

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Reportable Conduct:

- involves a child (a person under the age of 18 years) at the time of the alleged incident; and
- involves certain defined conduct as described in the Act (see below).

Reportable Conduct does not extend to:

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures; or
- conduct of a class or kind exempted from being considered 'reportable conduct' by the Children's Guardian Act under section 30.
- Section 29 of the Children's Guardian Act 2019 requires the Heads of Entities, including non-government schools in New South Wales, to notify the OCG of all allegations of reportable conduct and convictions involving an 'employee' and the outcome of the College's investigation of these allegations. Under the Children's Guardian Act 2019, allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Head of Entity.

The OCG

The OCG 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 and;

- must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions;
- is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable conduct or reportable convictions;
- must determine whether an investigation that has been monitored has been conducted properly and whether appropriate action has been taken as a result of the investigation;
- may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school, or the handling of or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation); and
- may investigate the way in which a relevant entity has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so.

Making a Complaint or Allegation of Staff Misconduct or Reportable Conduct

If you would like to make a formal complaint or allegation of staff misconduct or reportable conduct, you can do so by:

- Contacting the College and asking to speak to your child's Head of School (Primary or Secondary);
- Sending an email to the.principal@sccollege.nsw.edu.au; or
- Writing a letter to the College addressed to "Principal".

If the Head of School is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the College Principal via email. If the College Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Chairperson of the College Board via email.

Investigating and Managing Staff Misconduct and Reportable Conduct

The College initially investigates all complaints and allegations to determine whether the conduct in question amounts to staff misconduct, as defined in this policy, or reportable conduct that must be further investigated and reported to the Office of the Children's Guardian (OCG). All investigations uphold the principles of procedural fairness, confidentiality and information is only shared with those who need to know.

Staff Misconduct

When a complaint or allegation does not include conduct that is defined as reportable conduct following the College's initial investigation, and it is determined through the College's investigation that staff misconduct has occurred, the College will notify the complainant of the finding and corrective actions that will be taken. Staff misconduct is managed through our Human Resources policies and procedures relating to internal grievances, discipline and termination.

Reportable Conduct

When a complaint or allegation does include conduct that is defined as reportable conduct following the College's initial investigation, the College is required by law to report the allegation to the Office of the Children's Guardian (OCG) as soon as practicable.

The College also conducts a risk assessment following any allegation that includes conduct defined as reportable conduct to identify and mitigate any ongoing risks to student safety and wellbeing.

The College must conduct an internal investigation, led by the College Principal or an accredited investigator.

When conducting an internal investigation, the College follows the Office of the Children's Guardian (OCG)'s guide for conducting an investigation. A risk assessment is conducted during the internal investigation and at the end of that investigation.

There are five potential findings that the College can make following the internal investigation:

1. Sustained: finding that the alleged conduct did occur;
2. Not Sustained – Insufficient Evidence: finding that there is some, but insufficient, evidence available to reasonably establish that the alleged conduct did occur;
3. Not Sustained – Lack of Evidence of Weight: finding that the evidence available is of such poor probative value, or lacking weight, that on the balance of probabilities the conduct did not occur;
4. False: finding that the alleged conduct did not occur; or
5. Not Reportable Conduct: finding that the alleged conduct was not reportable – for example, conduct that was reasonable in the circumstances or accidental. This may also include 'misconceived' matters where allegations were made in good faith, however it was based on a misunderstanding of what occurred, and therefore the conduct is not reportable.

The College is required to notify the Office of the Children's Guardian (OCG) of the findings of the internal investigation as soon as possible once the internal investigation has been finalised.

Making a Finding of Reportable Conduct

If the College's internal investigation results in a finding of reportable conduct, following the College's notification to the Office of the Children's Guardian (OCG), we will conduct a final risk assessment of the conduct, the staff member

and the circumstances, and take action to mitigate ongoing risks, including reporting findings of workplace misconduct to the Office of the Children's Guardian who is responsible for administering Workingwith Children Checks.

Disclosing Information to the College Community

A parent or carer has a legitimate interest in being told of the process that is being followed to investigate an allegation that their child was a victim of staff misconduct or reportable conduct. Information can often be provided to the parent, carer or child without the need to consider legal impediments to disclosure. However, legal impediments real or feared may discourage the timely and appropriate release of information, particularly in the case of reportable conduct allegations. The College closely follows the Office of the Children's Guardian (OCG)'s guidance on this issue.

The College is permitted to disclose information to:

- the child who was allegedly the subject of the reportable conduct that forms the basis of the reportable allegation;
- any parent of the child; and
- if the child is in out-of-home care, any authorised carer of the child.

There are times when it may be appropriate to disclose information about the internal investigation to one of these involved parties but not another, for example, to disclose information to the child's parent, but not the child. The College is permitted to disclose the following information to involved parties:

- information about the progress of an investigation;
- the findings of the investigation;
- any action taken in response to those findings.

However the College Principal considers all the circumstances of the complaint/allegation and investigation when determining if information should be disclosed.

Where to Find More Information

The Office of the Children's Guardian (OCG) has several informative fact sheets on the topic of reportable conduct and the College's obligations to report. For more information about the College's Policies and Procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact the College Principal.