



INTEGRITY | ALLEGIANCE | SINCERITY

UNITY
GRAMMAR

CHILD PROTECTION POLICY and PROCEDURES

Version 9

2020

Written By	Chief Executive Officer
Approved By	Board of Directors
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Relevant to	All Unity Grammar Staff, Students and Affiliates
Related College Documents	<ul style="list-style-type: none"> • AISNSW Advice for Member Schools • Code of Conduct Policy • Anti-Bullying Policy • Grievance Procedure • Student Behaviour Management Policy • Wellbeing Policy • Duty of Care Policy • Communications Policy
Legislation	<ul style="list-style-type: none"> • The Children and Young Persons (Care and Protection) Act 1998 (NSW). • The Child Protection (Working with Children) Act 2012. • Children and Young Persons (Care and Protection) Regulation 2000 • Commission for Children and Young People Act 1998 • Commission for Children and Young People Regulation 2009 • The Children's Guardian Act 2019 • A Guide for NSW Non-Government Schools on Reporting, Disclosing or Exchanging Personal Information for the purposes of Child Wellbeing. • Education Act 1990 (NSW) as amended by the Education Amendment (non-Government Schools Registration) Act 2004 (NSW). • Civil Liability Act 2002.
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Child Protection Policy

1. PURPOSE

- 1.1 This Policy document is intended to be provided and made available to staff and parents, including employees and contractors during their employment or engagement with the College to ensure a clear understanding of their duties and obligations under the key items of child protection legislation in NSW. This Policy outlines the key concepts and definitions under the relevant legislation including mandatory reporters, reportable conduct, and risk management. It also sets out expected standards of behaviour in relation to employees and contractors and their relationships with students.
- 1.2 The College's policies which are made from time to time are made pursuant to the requirements set out in section 47 of the *Education Act* and of the NESAs for registration of the College.

2. SCOPE

- 2.1 This Policy applies to:
 - 2.1.1 All Unity Grammar College staff.
 - 2.1.2 Children under the care of the College.
 - 2.1.3 Parents/external stakeholders.
 - 2.1.4 Visitors to the College.

3. DEFINITIONS

- 3.1 Noted throughout this Policy.

4. ACCOUNTABILITY

- 4.1 The Chief Executive Officer has the overall responsibility for the implementation, evaluation and for all final management decisions in respect of this policy.
- 4.2 All Unity Grammar Staff are accountable for implementing this Policy.

5. RATIONALE

- 5.1 The safety, protection and well-being of all students is of fundamental importance at Unity Grammar.
- 5.2 Both Staff and the College have a range of different obligations relating to the safety, protection and welfare of students including:
 - 5.2.1 A duty of care to ensure that reasonable steps are taken to prevent harm to students;
 - 5.2.2 Obligations under child protection legislation; and
 - 5.2.3 Obligations under work health and safety legislation.
- 5.3 The purpose of this Policy is to summarise the obligations imposed by child protection legislation on the College and on employees, contractors and volunteers at the College and to provide guidelines as to how the College will deal with certain matters.
- 5.4 Child protection is a community responsibility.

6. AIM

- 6.1 The aim is to remind staff annually of their Child Protection obligations and provide all students within the College a safe and secure environment.

7. POLICY GUIDELINES

Part A: The Care and Protection Act

7.1 The Care and Protection Act provides for mandatory reporting of children at risk of significant harm.

7.2 NOTE: Any concern regarding the safety, welfare or wellbeing of a student must be reported to the Chief Executive Officer.

1. Who is a mandatory reporter?

7.3 Under the Care and Protection Act persons who:

7.3.1 In the course of their employment, deliver services including health care; welfare, education, children's services and residential services, to children; or

7.3.2 Hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services and residential services, to children, are mandatory reporters.

7.4 All teachers are mandatory reporters. Other College employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter, you should speak to the Chief Executive Officer or their delegate.

2. When must a report be made Community Services?

7.5 What is the threshold?

7.5.1 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 the College Clinical Psychologist, Head of School or CEO. Community Services should then be contacted as soon as practicable, with the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

7.5.2 In addition, while not mandatory, the College 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 and well-being of the young person.

7.6 Reasonable grounds

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

- First hand observations of the child, young person or family
- What the child, young person, parent or another person has disclosed
- What can reasonably be inferred based on professional training and / or experience.

7.6.2 'Reasonable grounds' does not mean that you are required to confirm your suspicions or have clear proof before making a report.

7.7 Significant Harm

7.8 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:

7.8.1 The child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,

7.8.2 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,

7.8.3 In the case of a child or young person who is required to attend College 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,

7.8.4 The child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,

- 7.8.5 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,
- 7.8.6 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,
- 7.8.7 The child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

7.9 Other relevant definitions

7.10 Policy definition of significant harm

- 7.10.1 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.
- 7.10.2 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.
- 7.10.3 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.
- 7.10.4 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 after the child's birth.
- 7.10.5 The significance can result from a single act or omission or an accumulation of these.
- 7.10.6 Child is a person under the age of 16 years for the purposes of the Care and Protection Act.

7.11 Child abuse and neglect

- 7.11.1 There are different forms of child abuse. These include neglect, sexual, physical and emotional abuse.
- 7.11.2 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.
- 7.11.3 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.
- 7.11.4 Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.
- 7.11.5 Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime.
- 7.11.6 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.
- 7.11.7 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.
- 7.11.8 This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.
- 7.11.9 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.
- 7.11.10 Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm.
- 7.11.11 Young person means 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.

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

- 7.12.1 If you have a concern that a child or young person is at risk of significant harm you should contact the College's Clinical Psychologist, Head of School or Chief Executive Officer 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. A decision will be made as to whether a report should be made, and the above-mentioned staff will make the report with the notifying staff member.

- 7.12.2 If there is an immediate danger to the child or young person and the Chief Executive Officer or next most senior member of staff is not contactable you should speak to the Police and/or the Child Protection Helpline directly and then advise the Chief Executive Officer or next most senior member of staff at the College as soon as possible.
- 7.12.3 You are not required to, and must not, undertake any investigation of the matter yourself.
- 7.12.4 You are not to inform the parents or caregivers that a report to Community Services has been made.
- 7.12.5 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 obligations. Failure to maintain confidentiality will not only be a breach of this policy but could expose you to potential civil proceedings for defamation.

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

- 7.13.1 While the Care and Protection Act outlines a mandatory reporter's obligation to report to Community Services, as an employee of this College, any concern regarding the safety, welfare and wellbeing of a student must be reported to the Head of School or Chief Executive Officer.
- 7.13.2 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 Head of School or Chief Executive Officer. Failure to do so will be a breach of this policy.

PART B: THE CHILDREN'S GUARDIAN ACT

Responsibilities

7.14 General

- 7.14.1 Part 4 of the Children's Guardian Act requires the heads of certain agencies, including non-government Colleges in New South Wales, to notify the Guardian of all allegations of reportable conduct by an 'employee' and the outcome of the College's investigation of these allegations.
- 7.14.2 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.

7.15 The Guardian

- 7.15.1 The Guardian:
- Must keep under scrutiny the systems for preventing reportable conduct by employees of non-government Colleges and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions;
 - Must receive and assess notifications from non-government Colleges concerning reportable conduct or reportable convictions;
 - Is required to oversee or monitor the conduct of investigations by non-government Colleges into allegations of reportable 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 College, 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 undertake 'own motion' investigations of non-government Colleges where the Guardian considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

7.16 Head of Agency

- 7.16.1 The Head of Agency is the Chief Executive Officer of the College.
- 7.16.2 Under the Children's Guardian Act the Head of Agency must:
- Set up systems within their organisation to ensure that they are advised of any allegations of reportable conduct against employees;
 - Notify the Guardian as soon as possible and no later than thirty days after being made aware of an allegation;

- Notify the Guardian whether or not the College plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable; and
- Provide the Guardian with any documentary and other information as the Guardian may from time to time request to assist in the Ombudsman's monitoring of an investigation;

7.17 Your obligations to report

- 7.17.1 You must report any concerns you may have about any other employee engaging in reportable conduct or any allegation of 'reportable conduct' that has been made to you, to the Head of School or Chief Executive Officer, including 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.
- 7.17.2 If you receive a complaint or allegation of staff misconduct or reportable conduct regarding another staff member you should immediately inform the Head of School or Chief Executive Officer.
- 7.17.3 You must also report to the Head of School or Chief Executive Officer if you become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. This includes information relating to yourself.
- 7.17.4 If the complaint or allegation involves the Chief Executive Officer, you are required to report to the Chairman of the College Board.

7.18 Contact for parents

- 7.18.1 The Head of School or Chief Executive Officer is the contact point for parents if they wish to report an allegation of reportable conduct against an employee. Parents will be notified in the College newsletter of the procedure for complaints handling.

What is reportable conduct?

7.19 Definition of reportable conduct

- 7.19.1 Reportable conduct is defined as:
- 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);
 - Any assault, ill-treatment or neglect of a child; and
 - Any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child.
- 7.19.2 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, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
 - Conduct that is exempted from notification by a Class or Kind Agreement.

7.20 Other relevant definitions

- 7.20.1 Set out below are definitions of the various terms referred to above in relation to reportable conduct.
- 7.20.2 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.
- 7.20.3 Child is a person under the age of 18 years for the purposes of the Children's Guardian Act.
- 7.20.4 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.

- 7.20.5 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.
- 7.20.6 **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.
1. 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
 - An intentional or reckless failure to adequately supervise 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 to a child.
 2. 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.
 3. Failure to protect from abuse:
 - An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.
 4. Reckless act (or failure to act):
 - A reckless act, or failure to act, that:
 - Involves a gross breach of professional standards, and
 - Has the potential to result in the death of, or significant harm to, a child.
- 7.20.7 **Physical Assault** is 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'.
- 7.20.8 '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.
- 7.20.9 Assaults can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.
- 7.20.10 PSOA 'person subject to the allegation'
- 7.21 **Sexual Misconduct** includes:
- 7.21.1 Conduct with, towards or or in the presence of a child that is sexual in nature.
- 7.21.2 Examples of Sexual Misconduct**
- 7.21.2.1 Descriptions of sexual acts without a legitimate reason to provide the descriptions
 - 7.21.2.2 Sexual comments, conversations or communications
 - 7.21.2.3 Comments to a child that express a desire to act in a sexual manner towards the child or another child
- 7.21.3 **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:
1. Indecent assault
 2. Sexual assault
 3. Aggravated sexual assault
 4. Sexual intercourse and attempted sexual intercourse
 5. Possession/ dissemination/ production of child pornography or child abuse material
 6. Using children to produce pornography
 7. Grooming or procuring children under the age of 16 years for unlawful sexual activity
 8. Deemed non-consensual sexual activity on the basis of special care relationships
- 7.21.4 **Grooming** refers to patterns of behaviour or conduct aimed at engaging with an alleged victim for sexual activity. Such conduct is reportable whether or not the police have preferred charges.
- 7.21.5 Types of grooming behaviours by an adult may include:
- Exposing a child to indecent material
 - Providing a child with an intoxicating substance or with any financial or other material benefit

- Has an intention of making it easier to procure the child for unlawful sexual activity with the adult or any other person
- Persuading child/ren that there is a 'special' relationship'
- Inappropriate gift giving
- Special favours / breaking rules
- Inappropriate amounts of time spent with the child
- Secret relationship, tactics to keep relationship secret
- Testing boundaries (touching, physical contact, undressing in front of child, talking about sex)
- Extending relationship outside of work
- Personal communication about personal or intimate feelings

7.21.6 Definitions of 'grooming', within child protection legislation, are complex. Under the *Crimes Act*, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a **sexual offence**. The *Crimes Act* (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1(2) of the *Child Protection (Working With Children) Act*, grooming is recognised as a form of **sexual misconduct**. The *Children's Guardian Act 2019* and this Child Protection Policy reflect all of these definitions within the context of the Reportable Conduct Scheme (Part 4).

What happens when an allegation of reportable conduct is made?

7.22 Initial Steps

- 7.22.1 Once an allegation of reportable conduct against an employee is received, the Head of Agency is required to:
- (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 (unless to do so would be likely to compromise the investigation or any investigation by Community Services or the Police);
 - (d) Notify the Guardian within 30 days of receiving the allegation;
 - (e) Carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
 - (f) Investigate the allegation or appoint someone to investigate the allegation.

7.23 Investigation Principles

- 7.23.1 The College will:
- (a) Be mindful of the principles of procedural fairness;
 - (b) Consider whether the reportable allegation relates to conduct that is in breach of established standards to the employee of the relevant entity, having regard to professional standards, codes of conduct (including any professional or ethical codes) and accepted community standards;
 - (c) Disclose information about the reportable allegation – including the progress of the investigation, the findings and action – to the alleged victim and their parent or carer unless satisfied that it is not in the public interest to do so;
 - (d) Complete and submit an 'entity report' unless they have a written exemption from the Guardian;
 - (e) 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;
 - (f) Make reasonable enquiries or investigations before making a decision;
 - (g) Make a finding of reportable conduct if satisfied, on the balance of probabilities, that the allegation has been proved;
 - (h) Avoid conflicts of interest;
 - (i) Conduct the investigation without unjustifiable delay;
 - (j) Inform the Guardian of their finding for each reportable allegation, including whether they have made a finding of reportable conduct, and the action taken;
 - (k) Handle the matter as confidentially as possible; and
 - (l) Provide appropriate support for all parties including the child/children, witnesses and the PSOA.

7.24 Investigation Steps

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

- (a) Interview relevant witnesses and gather relevant documentation;
- (b) Provide a letter of allegation to the PSOA;
- (c) Interview the PSOA;
- (d) Consider relevant evidence and make a preliminary finding in accordance with the Guardian 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 Guardian 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 Guardian and report to the CCYP (where required).

7.25 The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by Community Services or the NSW Police.

7.26 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.

Risk management

7.27 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.

7.28 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.

7.28.1 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 College, and
- (e) The proper investigation of the allegation.

7.28.2 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.

7.29 The Chief Executive Officer 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 College will take into consideration both the needs of the child(ren) and the PSOA.

7.30 Please Note: A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

7.31 Ongoing Risk Management

7.31.1 The Head of Agency will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

7.32 Risk management at the Conclusion of the Investigation

7.32.1 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.

What information will be provided to the PSOA?

7.33 The PSOA will be advised:

7.33.1 That an allegation has been made against them (at the appropriate time in the investigation); and

7.33.2 Of the substance of the allegation, or of any preliminary finding and the final finding.

7.34 The PSOA does not automatically have the right to:

7.34.1 Know or have confirmed the identity of the person who made the allegation; or

7.34.2 Be shown the content of the Guardian notification form or other investigation material that reveals all information provided by other employees or witnesses.

7.35 Under the CCYP Act once the 'relevant employment proceedings' have been completed a PSOA can seek access to the records held by the College on their 'relevant employment proceedings'.

Disciplinary Action

7.36 As a result of the allegations, investigation or final findings, the College may take disciplinary action against the PSOA (including termination of employment).

7.37 In relation to any disciplinary action the College will:

7.37.1 Give the PSOA details of the proposed disciplinary action; and

7.37.2 Give the PSOA a reasonable opportunity to respond before a final decision is made.

Confidentiality

7.38 It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

7.39 The College requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

7.40 Records about allegations of reportable conduct against employees will be kept in the staff file section (physically in the HR Office) and will be accessible by the CEO or delegated authority.

7.41 No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the Chief Executive Officer to do so.

7.42 If you become aware of a breach of confidentiality in relation to a reportable conduct allegation you must advise the Chief Executive Officer or their delegate.

PART C: WWC ACT

1. General

7.43 The **Office of the Children's Guardian (OCG)** is responsible for employment screening for child related employment. A Working With Children Check (Check) is a prerequisite for anyone in child-related work. It involves a national criminal history check and review of reported workplace misconduct findings. The result of a Check is either a clearance to work with children for five years, or a bar against working with children. Cleared applicants are subject to ongoing monitoring by the

OCG, and any relevant new records which appear against a cleared applicant's name may lead to the Check being revoked.

7.44 It is the responsibility of the child-related worker to ensure that when they are eligible to apply for a Check or when their Check is up for renewal that they do so.

7.45 If you are an existing employee, employed at this College in paid child-related work prior to the commencement of the new Working With Children system, or you are a volunteer, your requirement to obtain a Check will be phased in over a five year period, according to the phase in schedule developed by the OCG.

2. Responsibilities

7.46 The object of the WWC Act is to protect children:

7.46.1 by not permitting certain persons to engage in child-related work; and

7.46.2 by requiring persons engaged in child-related work to have working with children check clearances.

7.47 Unity Grammar is required to:

7.47.1 verify online and record the status of each child-related worker's Check prior to the staff member beginning work (by the Office Manager or Executive Assistant to the CEO);

7.47.2 only employ or engage child-related workers or eligible volunteers who have a valid Check; and

7.47.3 report findings of misconduct involving children made against child-related workers or volunteers.

7.48 Child-related workers and eligible volunteers are required to:

7.48.1 hold and maintain a valid Check;

7.48.2 not engage in child-related work at any time that they are subjected to an interim bar or a bar; and

7.48.3 report to the Chief Executive Officer if they are no longer eligible for a Check, the status of their Check changes or are notified by the OCG that they are subjected to a risk assessment.

7.49 All volunteers are required to:

7.49.1 sign the Volunteer Statutory Declaration;

7.49.2 complete a Check;

7.49.3 to be aware and follow the expectations of conduct expressed in the College Staff Code of Conduct.

3. Relevant Definitions

7.50 Bars

7.50.1 Final bar - This bar is applied based on a decision made by the OCG, following a risk assessment. This person is barred against working with children.

7.50.2 Interim bar - An interim bar is issued to high risk individuals to prevent them from continuing to work with children while a risk assessment is conducted. An interim bar may be applied for up to 12 months. If an interim bar remains in place for six months or longer, it may be appealed against through the Administrative Decisions Tribunal.

7.50.3 Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children. Interim bars are issued only for risks considered likely to result in a final bar.

7.51 Child-related work

7.51.1 Child-related work includes, but not limited to work in the following sectors:

(a) early education and child care including education and care service, child care centres and other child care;

(b) education schools and other educational institutions and private coaching or tuition of children;

- (c) religious services;
- (d) residential services including boarding schools, homestays more than three weeks, residential services and overnight camps; or
- (e) transport services for children including College bus services, taxi services for children with disability and supervision of school road crossings.

7.52 Child-related worker

- 7.52.1 A person who has physical contact or face to face contact with children. This may include volunteer work.
- 7.52.2 A child-related worker may commence work once they have completed the Check application process. An application is completed when the online application form is complete, and the worker's identity has been proven and the fee has been paid (if in paid work).
- 7.52.3 If you are unclear if your role is child-related you should speak with the Chief Executive Officer.

7.53 Disqualified person

- 7.53.1 A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWC Act.
- 7.53.2 A disqualified person is a person who has a bar preventing them from working with children in child-related work.
- 7.53.3 It is an offence for an employer to knowingly engage a child-related worker when they do not hold a Check or who has a bar or an interim bar.
- 7.53.4 It is an offence for an employee to engage in child-related worker when they do not hold a Check or has a bar or an interim bar.

7.54 Findings of misconduct involving children

- 7.54.1 The CEO will report to the OCG when a finding has been made that the person (an employee of the College) subject to the finding engaged in:
 - (a) sexual misconduct committed against, with or in the presence of a child, including grooming of a child; or
 - (b) any serious physical assault of a child.
- 7.54.2 The CEO will advise the person that the OCG has been notified of a finding of misconduct involving children.
- 7.54.3 The WWC Act enables a person who has a finding referred to the OCG under the Act to request access to the records held by the College in relation to the finding of misconduct involving children.

7.55 Reporting body

- 7.55.1 Independent Schools which are members of the AISNSW are defined as a reporting body by the WWC Act.
- 7.55.2 Section 35 of the WWC Act requires this College to notify the OCG findings of misconduct involving children made against a child-related worker. The College may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act.

7.56 Risk assessment

- 7.56.1 Risk assessment is an evaluation of an individual's suitability for child-related work.
- 7.56.2 The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children, findings of misconduct involving children or notification made to OCG by the Ombudsman.

7.57 Working With Children Check Clearance

- 7.57.1 A Working with Children Check (Check) means authorisation under the WWC Act to engage in child-related work. An employee will be issued with a number which is to be provided to the College to verify the status of an employee's Check.

- 7.57.2 Records for the WWCC will be kept by the Office Manager and EA to the CEO. Records will include
- Full name (including first, middle and last name)
 - Date of birth
 - WWC number
 - [Verification date \(the date you verified them\)](#)
 - Verification outcome (clearance, barred, interim barred or not found)
 - Expiry date (when the WWC number expires)
 - [Status of the worker \(paid or volunteer\)](#)
- 7.58 Records will be updated with changes in staffing and always at the beginning of the school year.

8. PROCEDURE FOR IMPLEMENTING THE CHILD PROTECTION POLICY

- 8.1 All staff are required to attend annual professional development training on Child Protection. This will occur during a planned session on Professional Development days before Term 1 of the next school year. Staff who miss the initial training will be followed up as soon as possible by the EA to the CEO to complete their training.
- 8.2 The presenter will be the CEO or Head of School. The presentation will focus on the key elements of the Policy to ensure all staff clearly understand their role and responsibility in actioning the Child Protection Policy.
- 8.3 All staff will receive the latest version of the Policy via email within 3 days of the professional development session. Policy updates will be notified to staff via email.
- 8.4 Staff will speak with their Head of School if they have further questions or require clarification on any components of the Policy.
- 8.5 All staff will sign off on having received the training at the venue. This will occur on the day that training was received. Staff who are new or who may have missed the training will be required to complete the training on another day arranged by the EA to the CEO.
- 8.6 Sign off sheets will be digitised and saved onto the College HR network folder by the Office Manager or EA to the CEO.

9. BREACHES OF THIS POLICY

- 9.1 The Chief Executive Officer will be informed of all suspected breaches of this Policy. The Chief Executive Officer or nominee is responsible for initiating action to investigate suspected breaches and will liaise with appropriate officers of Unity Grammar to ensure that breaches are dealt with and appropriate corrective action taken.
- 9.2 All suspected breaches of this Policy should, in the first instance, be reported to the relevant supervisor, who will forward the information to the Chief Executive Officer.
- 9.3 Breaches of this Policy will be dealt with in accordance with the relevant Enterprise Agreement, the Code of Conduct, and other rules of Unity Grammar relating to staff discipline and relevant laws.
- 9.4 Breaches of this Policy may result in disciplinary action which may include, but is not limited to, limitation or removal of access to Unity Grammar's systems or termination of an employee's or contractor's engagement with Unity Grammar.

10. ROLES AND RESPONSIBILITIES

A. Chief Executive Officer

- 10.1 The CEO has overall responsibility for the implementation and management of this Policy.

B. Staff

- 10.2 Staff have a responsibility to, where possible:

- 10.2.1 Ensure colleagues are aware of appropriate practices
- 10.2.2 Act in the best interests of Unity Grammar
- 10.2.3 Model in their own conduct the principles of this Policy

REFERENCES

NSW Family and Community Services

The Children's Guardian

Department of Premier and Cabinet – Keep Them Safe

¹ The New Working With Children system commenced in NSW on 15 June 2013. The previous Working With Children system ceased 7 June 2013.

¹ As of 15 June 2013, existing employees and volunteers are subjected to a phase in schedule developed by the OCG. This can be found at www.kids.gov.nsw.au.

¹ Further information at Part 2 Division 1 Section 6 Child Protection (Working With Children) Act 2012 found at <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+51+2012+cd+0+N>

¹ Schedule 2 disqualifying offence can be found at: <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+51+2012+cd+0+N>

¹ Further details of obligations of employers can be found in the *Information for Employers* guidelines and/or *Information for reporting bodies* factsheet developed by the OCG found at www.kids.nsw.gov.au