Child Protection Policy
### Policy Document Information

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INTRODUCTION

Underlying philosophy

1. Children have a right to be safe in their places of learning. This includes being free of the risk of any form of abuse or any other danger by taking the necessary precautions and ensuring safety networks are in place.

2. In recognition of the need to ensure the safety of children, the law has imposed a legal obligation on Schools to protect children from any form of foreseeable abuse or danger while in their care.

3. In keeping with the vision of providing Biblically grounded, culturally engaging and academically rigorous education, Christian Education Network (CEN) Schools are committed to achieving the highest standards of education while fostering the dignity and integrity of the school community: students and staff alike.

Scripture indicates the nurture of children is a great responsibility given to the community with specific responsibility given to their parents. The family is the most important agency for nurturing children (Deut 6:4-7, 11:18-21 Ps 78).

Parents are given an injunction to ensure balance and natural justice. ‘Fathers, do not exasperate your children, instead, bring them up in the training and instruction of the Lord.’ Ephesians 6:4 (NIV)

Nurturing goes beyond the family and the immediate church. Scripture indicates the broader Christian community has a responsibility to teach children. ‘... do not forget the things your eyes have seen or let them slip from your heart as long as you live. Teach them to your children and to their children after them.’ Deuteronomy 4:9 (NIV) ‘Love the Lord your God with all your heart and with all your soul and with all your strength. These commandments that I give you today are to be upon your hearts. Impress them on your children. Talk about them when you sit at home and when you walk along the road, when you lie down and when you get up. Deuteronomy 6:4-7 (NIV)

The school purposes to support parents and students to each effectively pursue their God-given nurture responsibilities.

It is the staff’s responsibility to love the children in their care. This love will guide staff’s actions and direction as they stand in the place of parents. ‘Love does not delight in evil, but rejoices with the truth. It always protects, always trusts, always hopes, always perseveres.’ 1 Corinthians 13:6,7 (NIV)
When a child is enrolled at Kuyper Christian School the school enters a contract with the parents to assist the parents with the God given responsibility of the nurture of their children. Specifically the school focuses on the education of the child. The school strives to fulfill this contract and support the family unit but not at the detriment of the welfare of the children. In every action related to child abuse the best interest of the child is of paramount consideration.

Child abuse has horrific consequences for the child concerned and can damage children for the rest of their lives, and the school will make every effort to protect children from this, it must be recognised that we all fall short of what the Lord would have us do. Therefore all persons allegedly involved in situations where abuse is suspected or disclosed are to be treated with sensitivity, dignity and respect because they too, are loved by the Lord.

4. All staff must therefore endorse and embrace the principles of child protection as a fundamental responsibility. To do this efficiently and effectively, all staff must be aware of their legal responsibilities and their compliance obligations with a prevention and response focus.

Overview of Child Protection Manual

5. CEN Schools have developed this Child Protection Manual to ensure best practice in child protection. All staff must read and agree to comply with the content of this Manual at the commencement of their employment.
6. The Manual comprises of:

(a) the Child Protection Policy which sets out, in relation to School employees (including volunteers):

   (i) their legal obligations;

   (ii) the procedures to be followed in various circumstances;

   (iii) a Glossary of terms at Appendix 1;

   (iv) a Guide to making a Risk of Significant Harm Report at Appendix 2;

   (v) forms to be used in various circumstances at Appendix 3; and

   (vi) useful contacts list at Appendix 4

(b) the Code of Conduct which sets out acceptable guidelines of behaviour for Staff; and

(c) the Pocket Guide to Child Protection which is an easy reference guide of do’s and don’ts.
CHILD PROTECTION POLICY

Purpose of the Policy

7. The purpose of a Child Protection Policy is to assist staff in understanding and fulfilling their legal and professional obligations in the critical area of child protection. In doing so, this Child Protection Policy will address the issues both from a prevention and a response perspective. This means that staff have obligations in relation to preventing incidents from occurring and also responding to incidents, should they occur. To that end, this Policy will:

(a) identify to staff their legal obligations in relation to child protection; and

(b) explain to staff what is required of them to comply with and implement those obligations at a practical level.

Legal Obligations

8. The legal obligations to ensure the safety of children at school are effected through the following framework:

(a) A common law duty of care;

(b) A legislative scheme focused on preventing child abuse in New South Wales; and

(c) Other requirements under New South Wales law.
THE COMMON LAW DUTY OF CARE

9. The general law of negligence provides that a person owes a duty not to injure another as a result of his or her negligent action. This means that a person may be negligent if another person suffers damage as a result of the failure of the first person to observe their duty of care in a manner that is reasonable in all the circumstances.

10. The law imposes an overriding duty of care on schools to ensure that all reasonable care is taken to afford students a safe environment at school. This means that staff have a duty to protect their students against foreseeable risks of injury or harm.

11. The duty of care is the most important obligation a school has towards its students and underpins every aspect of a school’s role in its interaction with the students.

12. A duty of care is particularly applicable in the classroom, on the school grounds, on the sports fields, in relation to before and after school care and during after school activities.

13. In complying with a school’s duty of care, the biggest risk factors are knowledge and foresee-ability. Once any form of harm or danger comes to a school’s attention or ought to have come to the school’s attention, then it has a responsibility to act and take reasonable steps to protect students by preventing the harm, danger or abuse as the case may be from occurring or re-occurring.

14. It is therefore imperative that schools are constantly vigilant, have an efficient system of supervision in operation and that all school policies and practices recognise and give effect to this underlying duty of care.
Complying with the duty of care

15. All teachers must take the necessary steps to prevent and protect students from being harmed or exposed to harm in consultation with the school Principal or where the school Principal is unavailable at the time, in consultation with a designated teacher.

16. If no one is available to consult with, the teacher must take the necessary steps as required in the circumstances of the case and must make a written report to the Principal. In complying with the duty of care, it is essential that all staff are cognisant of the school’s Code of Conduct in relation to Child Protection.

Useful examples

17. The following are examples of situations where the school has a duty of care towards students:

(a) Duty of general supervision: Complying with the duty of care requires that school authorities and teachers owe students a duty of care of general supervision concerning their physical and emotional safety while students are on school premises or involved in a school related activity outside school premises.

(b) Duty to avoid foreseeable risks: The duty of care extends to circumstances where there is a foreseeable risk of harm or danger requiring the school to take all reasonable care to avoid such risks.

(c) Duty to prevent bullying: The duty of care also requires the school to take the necessary steps to protect students from psychological or emotional damage arising from issues such as bullying, and to take the necessary steps to avoid foreseeable risks of such behaviour. Non compliance with this duty of care can result in expensive litigation and damages claims. (NB: In a recent case, damages in excess of $450,000 were ordered by the Supreme Court of NSW where it was held that a school had failed to provide adequate protection from bullying to a student.)

(d) Duty of care outside school: Cyber bullying, the latest form of bullying is harder to tackle than ordinary bullying as most anecdotal evidence is that it occurs outside school. However, there have been cases where courts have extended the schools duty of care outside the school gates. In one such case where a student was injured when another student threw a stick at him as he boarded a bus outside the school, the court found that the existence of the school’s duty of care depended on the relationship between the school and the student, the foreseeability of injury to the student and the failure to do what was reasonable in the circumstances.
THE LEGISLATIVE SCHEME

18. The Parliament of New South Wales has enacted legislation to reduce the risk of abuse of children by those entrusted with their care.

19. The legislative scheme has three components:

   (a) reporting and investigating disclosures of child abuse as required under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (Care and Protection Act), (administered by the NSW Department of Community Services (DoCS)) ;

   (b) reporting to the Ombudsman to facilitate monitoring in-house systems for handling allegations of child abuse by employees as required by the Ombudsman Act 1974 (NSW) (Ombudsman Act), (administered by the NSW Ombudsman (Ombudsman); and

   (c) screening staff in child-related employment as required by the Commission for Children and Young People Act 1998 (NSW) (CCYP Act), (administered by the Commission for Children and Young People (CCYP)).

20. The focus of each of the above legislation is the protection of children and young people and is designed to be complementary.

21. Since the introduction of the above legislation, there have been a number of significant developments. Most recently, the Government of NSW has reviewed the way family and community services are delivered to improve the safety, welfare and wellbeing of children and young people resulting in the Keep Them Safe five year Action Plan. The Action Plan gives effect to the Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 (NSW) (Wood Amendments) which made notable changes to the legislative scheme dealing with child protection.

22. This policy describes each aspect of the legislative scheme including the recent changes and sets out how to comply with them.
REPORTING TO DEPARTMENT OF COMMUNITY SERVICES (DOCS)

Why should staff report to DoCS?

23. Under the Care and Protection Act, all staff in schools are mandatory reporters.

When should staff report?

24. Staff must report if they have reasonable grounds to suspect that a child, or a class of children, is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person's work.

25. Most laws define a “child” as a person under 18 years of age. The Care and Protection Act requirement to report concerns about the safety, welfare or well being only applies in relation to a child under 16 years. Reports concerning the safety, welfare or well being of a young person, aged 16 to 17 years, may also be made, but this is not a requirement.

26. Although the legislative requirement ends at age 16, CEN Schools consider a ‘child’ to mean any student enrolled at school thereby extending the duty of staff to report concerns to cover all students.

What are ‘reasonable grounds’?

27. Reasonable grounds refer to the existence of an objective basis for suspecting a 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

(c) what can reasonably be inferred based on professional training and/or experience

It does not mean that reporters are required to confirm their suspicions or must have proof before making a report.

When is a child ‘at risk of significant harm’?

28. 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. ‘Significant’ in the phrase ‘to a significant extent’ means harm:

(a) that is sufficiently serious to warrant a response irrespective of a family’s consent;

(b) that is not minor or trivial;
(c) that may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or well-being; and

(d) that can result from a single act or omission or an accumulation of these.

Raising the mandatory statutory threshold from ‘risk of harm’ to ‘risk of significant harm’ in the Care and Protection Act is one of the most notable changes following the recent Wood Amendments.

What are the circumstances that indicate a risk of significant harm?

29. According to the Care and Protection Act:

- 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:
  
  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 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,
   
   b1 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,
  
  c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
  
  d) 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,
  
  e) 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,
  
  f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Note: Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.
Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

What is the procedure for reporting?

Step 1 - Refer Mandatory Reporter Guide

30. When a person has reasonable grounds to suspect risk of significant harm, the first step would be to use the Mandatory Reporter Guide available at www.keepthemsafe.nsw.gov.au to assess whether their concerns meet the risk of significant harm threshold.

31. The interactive online Mandatory Reporter Guide has been developed to assist front-line mandatory reporters such as teachers to determine whether a case meets the new risk of significant harm threshold for reporting children and young people at risk in NSW. A PDF version of the Guide is also available for those without internet access.

32. If there is immediate danger to the child or young person, the reporter should contact the Police using the emergency line 000 and/or Helpline on 133627 directly.

Step 2 - Prepare Information for report

33. If risk of significant harm is indicated after following the steps in the Mandatory Reporter Guide, prepare for making a report to the Child Protection Helpline. The detail and quality of the information that is provided will determine the quality of the decision making and action that follows.

34. The information provided must include details about:
   (a) the risk of significant harm;
   (b) the child or young person;
   (c) the family background;
   (d) the reporter; and
   (e) the context of the report as set out in Appendix 2 to this Policy.

35. The information prepared for the report must be submitted to the Principal or the Accredited Investigator.

36. Staff preparing the report or with access to the information regarding the risk of significant harm must observe strict confidentiality in relation to the entire matter.

Step 3 – Contact Helpline

37. The Principal or Accredited Investigator must contact the Child Protection Helpline as follows:
   (a) call on 133627;
38. They must also make a written notification of the report to DoCS on the prescribed form.

39. If the Principal declines to make a complaint and the staff member has a current concern of risk of significant harm, the staff member should make a report.

Step 4 – File documentation

The Principal must ensure that the documentation is completed and filed confidentially.

Step 5 – Provide information to DoCS

40. The Principal must comply with a direction from DoCS to provide information about a student who is the subject of an investigation following a notification of risk of significant harm.

Safeguards for reporters (extracted from NSW Interagency Guidelines)

41. Reports to Community Services are confidential and the reporter’s identity (if known) is protected by law if the report is made in good faith. The law offers the following protections:

   a) the report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct;
   b) no liability for defamation can be incurred because of the making of the report;
   c) the report, or its contents, is not admissible in any proceedings as evidence against the person who made the report;
   d) a person cannot be compelled by a court to provide the report or give any evidence as to its contents;
   e) a report is an exempt document under the Freedom of Information Act 1989 (NSW).

If law enforcement agencies require the identity of a reporter in order to investigate serious offences alleged to have been committed against children or young people, the identity of the reporter may be released to the police. The reporter will be notified that their identity is to be released to the police unless doing this would prejudice the investigation.

What are the consequences of not reporting?

42. Until recently, a mandatory reporter who did not make a report to DoCS when required could have been charged with a criminal offence. As of 24 January 2010, there is no longer any criminal penalty
for failing to report. However, reporting is still a legal obligation and failure to report could result in disciplinary action from an employer or professional body.

Other matters to be aware of regarding reporting a disclosure

43. Once a report is made to the Child Protection Helpline, no further report needs to be made unless new information comes to hand.

44. Reports should be made in one form only, i.e. either by phone or fax or eReport. Duplicating or confirming a report in writing is unnecessary. Note that the summary page or the decision report from the online Mandatory Reporter Guide can be printed and placed on your records.

45. Cases of abuse that are notified to DoCS should only be investigated in consultation with DoCS and with great care to ensure that there is no contamination of evidence. The investigation should normally be left entirely to DoCS or the Police unless there is some aspect of the case directly involving the School – such as if there is a School member or a School member’s family involved.

46. The Principal or staff member must not inform the parents or care givers that a notification has been made as this is the responsibility of DoCS.

47. If a student is to be interviewed by DoCS officers or any other person, it is the Principal’s role and responsibility to inform the student of the right to refuse to be interviewed and the right to have a support person attend the interview should the student agree to be interviewed.

48. If the suspected abuse involves a family member or close family friend, the Principal is not to inform the parents or caregivers of an interview with the child as this is the responsibility of DoCS.

49. If the alleged offender is not a family member or close family friend, a student must not be interviewed unless a parent or care giver or their nominated representative is present.

50. The Principal or staff member should not attend as a nominee of the parents or care givers.

51. If the concerns do not fall within the category of ‘significant harm’ but are still matters of concern, the school may wish to deal with the matter internally or take other action including discuss the matter with the School counsellor and/or parents if appropriate in the circumstances, refer the matter to a Family Referral Service, contact the Human Services Net ServiceLink for information about available services in the area.

Information sharing between schools

52. Schools are required to exchange information relating to a child or young person’s well being and to take The Care and Protection Act has included non-government schools in the list of prescribed bodies that are required to exchange information relating to a child or young person’s well being. It
also requires them to take reasonable steps to co-ordinate decision making and service delivery regarding children and young people.

REPORTING TO THE OMBUDSMAN

What is the Ombudsman’s role?

53. The role of the Ombudsman’s office is to monitor the investigation of, and sometimes investigate itself, all such incidents to ensure that the processes in the organisations involved are adequate to ensure the systems for preventing reportable conduct are as effective as they can be.

54. Consequently, the kinds of incidents which must be reported to the Ombudsman are far broader than those which will be reported to DoCS, although any serious matters will be reported to both.

When is a report required?

55. A report to the Ombudsman is required to be made by the “Head of Agency”, ie usually the Principal or head of a school, when an employee of the school is implicated in any allegation of reportable conduct or is discovered to have a conviction for, or to have been subject to any disciplinary proceeding in relation to, reportable conduct.

What is ‘reportable conduct’?

56. Reportable conduct is:

(a) any sexual offence or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or

(b) any assault, ill treatment, or neglect of a child, or

(c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.
What is the procedure for reporting?

**Step 1**

57. When an allegation of a child protection nature is made against an employee, the Head of Agency, usually the Principal or head of school, is required to record and respond to the allegation. This process includes clarifying, on the face of it, if the allegation is reportable to the Ombudsman.

**Step 2**

58. If the allegation is reportable, the “Head of Agency” is required to make a notification to the Ombudsman on the prescribed form within 30 days of becoming aware of a reportable allegation or conviction. The notification must include details of the reportable allegation or conviction and what the agency proposes to do about it. It is not a requirement that the investigation be completed within 30 days of becoming aware of the allegation.

[This requirement enables the Ombudsman to intervene early in matters where an agency, as evidenced by its initial response to an allegation, risks compromising the safety of the child, the integrity of the investigation or fair processes for the employee]

**Step 3**

59. At the end of the internal investigation, the Head of Agency must send a report to the Ombudsman concerning the investigation. This report must include the agency’s findings in relation to the allegations, details of any action taken or to be taken, copies of documents on which the report is based and any comments about the report.
60. Once the notification and/or report is completed, the Ombudsman will assess the information and provide feedback. In doing so, it may be necessary to provide further information, as required by the Ombudsman.

Other matters to be aware of regarding notification

61. When an allegation of a child protection nature is made against the Head of Agency, the board chair is required to record and respond to the allegation. This process includes seeking support from the Ombudsman or CEN to clarify on the face of it, if the allegation is reportable to the Ombudsman. Upon clarifying the nature of the allegation the board chair may further seek advice and support from the Ombudsman or CEN in conducting an investigation of the allegation.

62. A Head of agency is also required to:

(a) set up systems for providing a safe environment for children in its care so as to prevent reportable conduct from occurring;

(b) ensure systems are in place for recording and responding to allegations or convictions of a child protection nature against employees; and

(c) make arrangements within the school to require all staff to inform the head of agency of any allegation or conviction of a child protection nature against an employee, of which they become aware as soon as practicable.
SCREENING STAFF IN CHILD RELATED EMPLOYMENT

What is the screening process about?

63. The CCYP through the CCYP Act aims to reduce the risk of abuse to children by establishing the Working With Children Check. This check is a screening mechanism to reduce the likelihood that unsuitable people be employed or engaged in child related employment.

What is child related employment?

64. Child related employment is defined as any employment that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of employment. The various types of employment that fall within this category are listed in the Glossary at Appendix 1.

How does the Working with Children Check work?

65. The Working with Children Check has two components:

(a) Prohibited Employment Declaration – it is mandatory for any person working in, or seeking to work in child related employment, to declare that they are not a prohibited person, defined in the glossary at Appendix 1, before commencing work with children. The School commits an offence if it (as an "employer") employs or continues to employ in child-related employment anyone who is a Prohibited Person. It is also an offence for a Prohibited Person to apply for, undertake, or remain in child related-employment.

(b) Employment screening process - this process is also called background checking and must be conducted for preferred applicants for certain categories of child related employment, that is primary child related employment, defined in the glossary at Appendix 1. These checks are undertaken by Communities NSW (Commission for Children and Young People).

What is the procedure for complying with screening requirements?

66. The procedure for complying with screening requirements is:

(a) Register with the appropriate Approved Screening Agency (ASA) by completing and signing the Employer Registration Form.

(b) Let job applicants for primary child related employment know in advance that they will need a Working with Children Check. (Also let volunteers and students on placement know that they will need to sign a Volunteer/Student Declaration)
(c) Before you request a Working with Children Check, ask the preferred applicant to provide documents to verify their identity. This must include original documents adding up to a minimum of 100 points as required by the 100 Point Check under the Financial Transaction Reports Act 1988 (NSW)

(d) The applicant must complete the Applicant Declaration and Consent form and you must confirm that you have verified the identity of the applicant when you complete the Employer Request for Background Check form. Return the documents to the applicant once this is done.

(e) Attach a copy of the first page of the applicant Declaration and Consent form to the Employer Request for Background Check and send it to Communities NSW.
Records considered in the Working with Children Check

67. There are three types of ‘relevant records’ considered in the Working with Children Check:

(a) a check for any relevant criminal record;

(b) apprehended violence order (AVO), or

(c) relevant employment proceedings (REPs) against the prospective employee. See the glossary at Appendix 1 for the relevant definitions.

What happens if there is a relevant record?

68. If there is a relevant record, Communities NSW will do an estimate of risks to children that arise from the record. If the record is a prohibiting record, then you will be advised that the applicant is not eligible for child related employment. If the record is not a prohibiting record, you will be advised of the risks and how you can reduce the risks.

Making your employment decision

69. Once the estimate is complete, the ASA will inform you in writing of the outcome. It is your decision whether or not to employ the person. In making the decision, the safety and well being of children ought to be your paramount consideration.

70. If you refuse someone child related employment or you decide to offer the applicant a non-child related position, because of the outcome of the estimate of risk, you must notify the Commission for Children and Young People.

71. The Commission can take enforcement action if you fail to notify them. You must also protect the privacy and confidentiality of the preferred applicant.

Filling a position urgently

72. In most cases, the background check can be completed within 10 working days. If you need to employ a person urgently, before the check can be completed, you must make it clear that employment is conditional upon the outcome of the check.

Validity of Check

73. The check is valid while a person remains in the same position in child related employment. So people returning from leave or transferring to a similar position do not need to be re-checked.
Existing employees are only re-checked if they are recruited to a new position with a different range of child related contact within the organisation.

74. The same principle applies in relation to a volunteer’s engagement or a student’s placement whereby a new declaration is required only when a person enters into a new volunteer role or a new student placement.

**Short term employees**

75. If you are employing a person for less than 6 months and the person has been checked within the last 12 months for the same kind of child related employment, you do not need a new Working with Children check.

**Retaining forms**

76. Retain the Applicant declaration and Consent forms and the Check outcome for at least 2 years after the person leaves the employment.

**Screening self employed people in child related employment**

77. Self employed people in child related employment must apply for and obtain a Certificate to show they are not prohibited from child related employment.

**Other available pre-employment checks**

78. For employees in child related employment for whom background checking is not available other pre-employment checks such as reference checks and general criminal history record checks are available. The general criminal history record checks are available from NSW Police at a cost of $50.

**Additional tools for ensuring a safe environment**

79. While background checks are useful in managing risks around children’s safety, the school must also set in place organisational practices aimed at achieving safety and protection.

80. The CCYP has created web based resources to help employers keep children and young people safe and reduce the risk of abuse. These resources include templates and checklists on developing child safe policies, codes of conduct, recruitment and selection, induction, supporting staff and managing complaints. The Child-safe Child-friendly resources are on the CCYP website at [www.kids.nsw.gov.au/safefriendly](http://www.kids.nsw.gov.au/safefriendly)
OTHER REQUIREMENTS UNDER NSW LAW

Privacy concerns

81. Privacy is relevant in the context of child protection because the availability of personal information in the public forum can place a child in circumstances of potential harm and injury.

82. With the internet becoming a popular tool for, and about children and with the ever increasing number of children participating in social networking websites, schools and staff must be aware of how to enhance the safety of children and young people, irrespective of legal responsibilities.

83. The Privacy Act 1988 (Cth) protects the privacy of people’s personal information, ie information that identifies or could identify a person in organizations that have a turnover of over 3 million dollars. It covers how personal information is collected, used and disclosed, its accuracy and the right to general access and how sensitive information, such as health or medical information, ought to be managed.

84. Although the Privacy Act only applies to organizations that have a turnover of over 3 million dollars, it is good practice to comply with the principles and to have a Privacy Policy that sets out the requirements of compliance.

85. Where the law requires that certain information be made available in the interests of the safety and welfare of children, divulging such information will not be illegal. Thus, the information sharing requirement imposed by the Care and Protection Act does not contradict the principles of the Privacy Act as its primary object is ensuring the safety, welfare and well being of children.

86. All staff have a duty of care towards students and are therefore required to take all reasonable steps and be able to demonstrate that they have made all reasonable effort to ensure that students are not exposed to harm by unauthorised intrusions to their privacy.

Occupational Health and Safety issues

87. The Occupational Health and Safety Act 2000 (NSW) (OHS Act) provides that employers must ensure that “people (other than employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer’s undertaking while they are at the employer’s place of work”. This category includes students.

88. The Occupational Health and Safety Regulation 2001 prescribes additional duties on an employer such as assessing risks, eliminating or controlling risks to health and safety, reviewing risk assessment and control measures. Failure to comply with any of these duties can result in a prosecution of the employer.
Criminal law

89. A person who knows or believes that a Serious Indictable Offence has been committed and who has information which might be of material assistance in apprehending or convicting the offender must provide the information to the Police or other authority (such as DoCS).

90. Concealing information about a serious indictable offence is an offence under the Crimes Act 1900 (NSW).
Appendix 1 - Glossary

Approved Screening Agency means the entity approved under the legislation to carry out all or any of the relevant procedures of employment screening required under the CCYP Act. The CCYP Act s.33 defines it as either “the Commission or an employer (or employer-related body) approved by the Minister”. The Approved Screening Agency which will be used by the School is the CCYP.

Care and Protection Act means the Children and Young People (Care and Protection) Act 1998.

CCYP means the Commission for Children and Young People.


Child means:

(a) for the purposes of the CCYP Act (that is for employment screening and prohibited employment), a person who is under 18 years of age.

(b) for the purposes of the Care and Protection Act (reporting of children and young people at risk of harm) "child" means a person under the age of 16 (except in Chapter 13 provisions regarding employment which defines a child as under 15 years, unless they are employed as a model), and "young person" is a person aged 16 and over and under 18.

Child-related employment is defined by s.33 of the CCYP Act as “any employment…that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of the employment”. The kinds of employment it lists includes pre-schools, kindergartens and schools. ¹

Designated Agency is defined by s.139 of the Care and Protection Act as:

(a) a Division of the Government Service (or branch or other part of a Division), or

(b) an organisation (or branch or other part of an organisation) that arranges the provision of out-of-home care,

if the Division or organisation (or branch or other part of the Division or organisation) is accredited for the time being in accordance with the regulations.

¹ The CCYP Act requires persons in child-related employment to be screened for particular kinds of offences. In this respect, the definition of “child-related employment” is not limited to listed kinds of child-related employment and is not limited to employment that primarily involves direct contact with children.
DOCS means the Department of Community Services of the State of New South Wales.

Employee is defined broadly by the CCYP Act as “any person who is engaged in employment”. This includes any person who is engaged in a child-related employment role in any of the following capacities in any of the following ways:

(a) paid employment;
(b) sub-contractors;
(c) volunteers;
(d) ministers of religion;
(e) members of religious organisations; or
(f) undertaking training as part of an educational or vocational course.

Employer is defined by the CCYP Act to include:

(a) a person who, in the course of business, arranges for the placement of a person in employment with others, or
(b) a person who engages a person under a contract to perform work

Guidelines for Employers means the guidelines to the Working with Children Check published by the CCYP.

Head of Agency means the chief executive officer or other principal officer of a Designated Agency. The Head of Agency of a particular Designated Agency may be specified by Regulation.

Ombudsman means the Ombudsman of the State of New South Wales.

Ombudsman Act means the Ombudsman Act 1974 as amended.

Police means the New South Wales Police Service (for the purposes of the reporting of child abuse) and the Australian Federal Police (for the purposes of checking of convictions).

Prohibited Employment Declaration means a declaration by a person that he or she is or is not a Prohibited Person.

Prohibited Person means someone who has been convicted of a Serious Sex Offence, of murdering a child or of a child-related personal violence offence; or someone who is a registrable person under the Child Protection (Offenders Registration) Act 2000. The only exception to these criteria is where there is an order in force declaring that Division 2 of the CCYP Act does not apply to the person in respect of the offence.
Relevant Employment Proceedings is defined by the CCYP Act as proceedings (including disciplinary proceedings), in NSW or elsewhere, against an employee by the employer or by a professional or other body that supervises the professional conduct of the employee, being proceedings involving:

(a) reportable conduct by the employee, or
(b) an act of violence committed by the employee in the course of employment and in the presence of a child.

Reportable conduct means:

(a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
(b) any child pornography offence or misconduct involving child pornography, or
(c) any child-related personal violence offence, or
(d) an offence under sections 91J, 91K, 91L or 91M of the Crimes Act 1900 committed against, with or in the presence of a child, or
(e) an offence that was reportable conduct at the time that it was committed, or
(f) any assault, ill-treatment or neglect of a child, or
(g) 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 circumstance, 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 of a class or kind exempted from being reportable conduct under section 35.

These offences in the Crimes Act relate to voyeurism and unauthorised filming of people.

The CCYP Act enables the guidelines to exempt conduct for the purposes of that Act. The Working with Children Check Guidelines also exclude conduct that is appropriate medical attention, guiding a child by the shoulders, arms or hands, not supervising for a short period for good reason in a low risk environment, appropriate physical contact in sport, drama, dance, etc. (at 5.1.2).
Note: Examples of conduct that would not constitute “reportable conduct” include (without limitation) touching a child in order to attract a child’s attention, to guide a child or to comfort a distressed child; a school teacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental.

School means the company limited by guarantee owning and operating the school known as Kuyper Christian School.

Serious Indictable Offence means an indictable offence that is punishable by imprisonment for life or a term of 5 years or more, including such offences as:

   (a) refusing or neglecting to provide food, clothing or lodging to a child for whom the person is legally liable;
   
   (b) performing, procuring, aiding, abetting or counselling female genital mutilation;
   
   (c) sexual assault (or aggravated sexual assault if the victim is under 16 years of age);
   
   (d) indecent assault (or aggravated indecent assault if the victim is under 16 years of age);
   
   (e) committing an act of indecency on a child under the age of 10 years;
   
   (f) having sexual intercourse with a child under 10 years or between the ages of 10 and 16 years;
   
   (g) persistent sexual abuse of a child under 18 years old;
   
   (h) sexual intercourse with a person with intellectual disability;
   
   (i) carnal knowledge or attempted carnal knowledge by a father or step-father of a daughter or step-daughter 16 or 17 years of age;
   
   (j) carnal knowledge or attempted carnal knowledge by a father or step-father of a daughter or step-daughter 16 or 17 years of age;
   
   (k) incest;

Serious Sex Offence\textsuperscript{4} includes:

   (a) an offence involving activity or acts of indecency (of any kind not just those related to children), whether committed in New South Wales or elsewhere, which is punishable by penal servitude or imprisonment for 12 months or more; or
   
   (b) an offence involving child prostitution or child pornography; or

\textsuperscript{4} Serious Sex Offences are defined in and prosecuted under the \textit{Crimes Act 1900}.
(c) an offence of attempting, conspiring or inciting others to commit such offences

**Working with Children Check** means the system of employment screening and checking established by the CCYP under the CCYP Act.
Appendix 2 – Guide to making a Risk of Significant Harm report

(The following information has been extracted from the Child Wellbeing & Child Protection – NSW Interagency Guidelines)

a) When to report

The Mandatory Reporter Guide has been developed to assist reporters to decide if any of the following conditions are present to a significant extent:

- physical abuse
- neglect
- supervision
- physical shelter/environment
- food
- medical care
- mental health care
- education
- sexual abuse
- problematic sexual behaviour
- psychological harm
- relinquishing care
- carer concerns
- parent/carer substance abuse
- parent/carer mental health
- parent/carer domestic violence
- unborn child.

Concerns must be current - that is, significant harm arising from abuse or neglect is recent or likely in the foreseeable future should circumstances continue unchanged. Current concerns may also arise from a child
or young person having contact with someone who is known to be responsible for causing harm to a child in the past.

Current concerns also refer to situations where the abuse or neglect of the child or young person occurred some time in the past but continue to have an impact on the child or young person’s safety, welfare or wellbeing.

Reports to the Child Protection Helpline must be made by phone where:

- the child is at high or imminent risk of significant harm due to:
  - serious physical injury to a child or young person requiring medical attention
  - Serious neglect to a child or young person of an immediate nature
  - domestic violence involving serious injury and/or use of a weapon
  - sexual harm involving serious current concerns
  - a high risk prenatal report where the birth is imminent
  - immediate safety issues
  - death of a sibling in circumstances which are reviewable by the NSW Ombudsman (See www.ombo.nsw.gov.au for further information)

the report concerns:

- a group of children / young people other than a sibling group
- a child or young person who resides outside of NSW
- an alleged person causing harm who has access to the child AND there is concern that the child may experience harm in the foreseeable future
- complex information which is more easily communicated verbally than in writing

b) Information required in a report

The kind of information which is useful includes risk of significant harm information, as prompted by the Mandatory Reporter Guide, as well as information about the child or young person, the family, the reporter, and the context of the report, as follows:

- Child’s information
  - Name of child or young person (or alias) or other means of identifying them
  - Age and date of birth (or approximation)
• If child is Indigenous – Aboriginal, Torres Strait Islander or both

• Cultural background of child, language(s) spoken, religion and other cultural factors

• Name, age of other household children or young people

• Address of child and family

• School or child care details

• If child has a disability – nature/type, severity, impact on functioning

• Is the child/young person subject of an Apprehended Violence Order?

• Is the child or young person under the care of the Minister or residing in out-of-home care?

• Family information

• Name, age of parents/carer and household adults

• Home and/or mobile phone number

• Cultural background of parents, language(s) spoken, religion and other cultural factors

• Information about parental risk factors and how they link to child’s risk of harm

• domestic violence

• alcohol or other drug misuse

• unmanaged mental illness

• intellectual or other disability

• Protective factors and family strengths

• Non-offending carers’ capacity to protect child

• Any previous suspicious death of a child or young person in the household?

• Is the parent/carer pregnant?

• Is the parent/carer the subject of an Apprehended Violence Order?

• Description of family structure (for example, biological parents, single parent, blended family)

• Name, age, gender of siblings. Do siblings live with the child or young person?
• **Reporter Details**
  - Name, agency address, phone and email details
  - Position
  - Reason for reporting today
  - Nature of contact with child or family
  - Nature of ongoing role with child or family (include frequency, duration and type)
  - If report is being made by someone else in the agency, name of the agency worker who sourced the report

• **Other information**
  - Services involved with child/family if known
  - Principal language of family and whether an interpreter for a spoken or signed language is required
  - If parent knows of report and their response
  - If child or young person knows about the report and their views
  - Information related to worker safety issues

There are seven major categories of abuse and neglect of children and young people in the Mandatory Reporter Guide. They are:

- physical abuse
- neglect
- sexual abuse
- child/young person problematic sexual behaviour
- psychological harm
- relinquishing care
- unborn child
Appendix 4 - Useful Contacts

Community Services
General Enquiries 02 9716 2222
Help line: 132 111 (for general public and clients)
TTY: 02 9366 7698
133627 (for mandatory reporting)
Web: www.community.nsw.gov.au

Commission for Children and Young People
General Enquiries: 02 9286 7276
Fax: 02 9286 7267
Email: kids@kids.nsw.gov.au

Working with Children Check
Phone: 02 9286 7219
Fax: 02 9286 7201
Email: check@kids.nsw.gov.au
Web: www.kids.nsw.gov.au

NSW Ombudsman
General Enquiries: 02 9286 1000
TTY: 02 9264 8050
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
POCKET GUIDE TO CHILD PROTECTION

DO:
1. Treat students, staff, volunteers, parents and visitors with respect and honesty
2. Be a positive role model to students
3. Set clear boundaries of appropriate behaviour between yourself and students
4. Follow organizational policy for the safety of students as outlined in the Child Protection Policy and Code of Conduct
5. Abide by the terms of the School’s internet policy if communicating with students electronically
6. Have another adult present or in sight when conducting one-on-one coaching,
7. Be alert to bullying or any other form of discriminatory behaviour
8. Record and act on concerns of risk of harm
9. Comply with all school policies

DO NOT:
10. Develop any ‘special’ relationships with students, such as: offering gifts, favouritism.
11. Do things of a personal nature that a student can do for themselves, such as going to the toilet or changing clothes
12. Remain alone with a student in an enclosed space
13. Leave students unsupervised either within or outside class
14. Conduct relationships with students outside school that is unprofessional.
15. Supply or condone the use of alcohol, tobacco or other drugs
16. Communicate with students on social networking sites for purposes unrelated to employment
17. Use inappropriate language, sarcasm, teasing or physical force when interacting with students
18. Breach confidentiality requirements