

# Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct

## Introduction

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

Warakirri College requires all staff to comply with a Code of Conduct and standards of behaviour that are intended to prevent staff misconduct and reportable conduct, and staff are encouraged to report any breaches of the Code or standards. It is also critical that the broader College community reports staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that the College complies with its legislative reporting obligations.

Warakirri College has a legal obligation to investigate and report to the Children's Guardian all allegations of reportable conduct made against staff at the College as defined by the Children's Guardian Act, 2019. For the purposes of this policy, "staff" and "staff member" is defined to include teaching and non-teaching staff, College Board members, volunteers, contractors and external providers.

## Definition of Staff Misconduct

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

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

## Definition of Reportable Conduct

Under the regulations of the Children's Guardian Act 2019, reportable conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded –

- (a) a sexual offence
- (b) sexual misconduct
- (c) ill-treatment of a child
- (d) neglect of a child

- (e) an assault against a child
- (f) an offence under section 43B or 316A of the Crimes Act 1900
- (g) behaviour that causes significant emotional or psychological harm to a child

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

### **Making a Complaint or Allegation of Staff Misconduct or Reportable Conduct**

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

- Writing a letter to the College addressed to the Principal
- Telephoning the College and asking to speak to the Principal

If the Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Chairperson of Warakirri's Board on:

[chairperson@warakirricollege.nsw.edu.au](mailto:chairperson@warakirricollege.nsw.edu.au)

### **Investigating and Managing Staff Misconduct and Reportable Conduct**

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

### **Staff Misconduct**

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

### **Reportable Conduct**

When a complaint or allegation does include conduct that is defined as reportable conduct following the College's initial investigation, the College is required by law to report the allegation to the Children's Guardian within seven days.

- The rights of children and young people, as well as Warakirri College employees, will be respected during the assessment and investigation of complaints that may arise

- All students and staff have a right to procedural fairness throughout any investigation process related to child protection matters.

### **Making a Finding of Reportable Conduct**

If the College's internal investigation results in a finding of reportable conduct, following the College's notification to the NSW Children's Guardian, we will conduct a final risk assessment of the conduct, the staff member and the circumstances, and take action to mitigate ongoing risks, including reporting findings of workplace misconduct to the Office of the Children's Guardian who is responsible for administering Working with Children Checks.

### **Disclosing Information to the College Community**

A parent or carer has a legitimate interest in being told of the process that is being followed to investigate an allegation that their child was a victim of staff misconduct or reportable conduct. Information can often be provided to the parent, carer or child without the need to consider legal impediments to disclosure. However, legal impediments, real or feared, may discourage the timely and appropriate release of information, particularly in the case of reportable conduct allegations.

The College closely follows the NSW Children's Guardian's guidance on this issue provided in the [Providing advice about reportable conduct investigations to children, parents and carers fact sheet](#)

The College is permitted to disclose information to:

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

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

- a. information about the progress of an investigation
- b. the findings of the investigation
- c. any action taken in response to those findings, however, considers all the circumstances of the complaint/allegation and investigation when determining if information should be disclosed.

### **Where to Find More Information**

The NSW Children's Guardian provides information on reportable conduct and the College's obligations to report.