



Code of Conduct when Working with Children and Students

Document Number	002 of 2020
Document Type	Policy
Approval Date	10 March 2020
Replaces Document & No.	Code of Conduct when Working with Children and Students (013 of 2019)
Owner Service Area	People and Culture
Review Date	March 2023
Audience	Internal

1. Introduction and Purpose

This Code of Conduct is to inform staff members of CSPD of the standards of behaviour and other requirements that must be adhered to when working in an organisation which delivers services to children and students.

Consistent with its mission and values, and in compliance with its legislative obligations, CSPD is committed to keeping children and students in its care safe and secure. This Code is part of the CSPD strategy to build child safe communities.

This Code aims to:

- Clarify the expectations of staff members who work in CSPD
- Provide a safe and supportive environment for children, students and staff members
- Build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

2. Scope

The Code applies to all staff members engaged to work in or provide services to CSPD.

This Code is to be read in conjunction with CSPD's *Safeguarding Procedures*.

This Code is not exhaustive and does not identify every potential scenario of concern in the workplace.

3. Definitions

Child or **children** refers to any person under the age of 18 years.

Young person for the purposes of reporting risk of significant harm, means a person who is aged 16 years or above but who is under the age of 18 years.

Manager means school principal, CELC director, COSHC operations coordinator or other workplace manager.

Staff member includes paid employees (whether employed on a permanent, temporary or casual basis), religious, volunteers, contractors, sub-contractors, consultants and students on work placements.

Students refers to all students in CSPD schools, including children and those who are aged 18 years or over.

4. Legislation Framework

Staff members are required to be familiar and comply with child protection legislation as varied from time to time, including but not limited to:

- Child Protection (Working with Children) Act 2012 (NSW)
 - Child Protection (Working with Children) Regulation 2013 (NSW)
 - Children and Young Persons (Care and Protection) Act 1998 (NSW)
 - Children and Young Persons (Care and Protection) Regulation 2012 (NSW)
 - Children's Guardian Act 2019 (NSW)
 - Crimes Act 1900 (NSW)
 - Education Act 1990
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5. Breaches of this code or legislation

Failure to comply with the responsibilities and obligations required by child protection legislation or this Code may result in disciplinary action including immediate termination of employment, termination of contractor agreement, notification to external agencies and/or criminal charges.

A staff member who becomes aware of a possible breach of this Code or legislation by another staff member must report this to their Manager. Failure to do so may result in disciplinary action.

Allegations against a staff member relating to a breach of this Code or child protection legislation will be dealt with in accordance with CSPD's Safeguarding Procedures.

6. Responsibilities and Obligations

6.1 Duty of care

A staff member has a legal obligation to take reasonable care for their own safety and the safety of children and students they come into contact with as part of their engagement with CSPD.

These obligations will arise from the specific role and responsibilities of the staff member and include (but are not limited to) the following:

- providing adequate supervision
- following procedures relating to child and student safety, behaviour management, welfare and wellbeing (for example, reporting procedures)
- demonstrating personal behaviours that promote the safety, welfare and wellbeing of children and students
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a child or student who is injured or becomes sick
- identifying and protecting a child or student from hazards that pose a risk of harm and which can be reasonably predicted
- taking appropriate action to reduce or remove risks impacting on a child or student's safety, welfare or wellbeing.

The standard of care that is required needs to take into consideration various factors, such as a child or student's maturity, ability and circumstances.

Duty of care to children and students applies during all activities and functions conducted or arranged by CSPD where children or students are in the care of staff members.

Staff members must assess and manage the risk associated with any activity before undertaking the activity.

Actual harm to a child, or potential to cause significant harm to a child or student, caused by:

- a single serious failure to exercise appropriate duty of care
- repeated less serious failures to exercise appropriate duty of care

may constitute misconduct, neglect or negligence and/or a breach of this Code.

Staff members should not put themselves in a position that may create a risk of an allegation of a child protection nature. For example, staff members must not:

- transport a child or student in a car alone, except with the prior consent of their Manager
- otherwise be alone with a child or student, unless they are in the view of others and/or there is a reasonable requirement to do so.

6.1.1 Professional conduct

Staff members must act professionally and appropriately when dealing with children and students they come into contact with as part of their engagement with CSPD. This includes using appropriate language and tone toward children and students. Rude or insulting behaviour, including verbal aggression; abusive, threatening, sarcastic or derogatory language or conduct; or intimidating words or actions towards children or students is unacceptable. It is also unacceptable to engage in such conduct towards others in the presence of children or students.

6.1.2 Physical contact

Staff members must not engage in inappropriate physical contact with children or students, or act in ways that may cause a child or student to reasonably fear that unjustified force will be used against them.

Examples of inappropriate physical contact include (but are not limited to):

- use of physical contact to have a child or student follow directions
- unjustified use of physical force
- throwing an object to gain a child or student's attention in a hostile way
- restraining a child or student (unless as part of an approved behaviour management plan)
- hitting, kicking, pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child or student.

Examples of conduct that involves the reasonable use of physical contact for exercising appropriate control over a child or student include (but are not limited to):

- disarming a child or student who is at risk of harming themselves or another person
- separating children or students who are fighting
- reasonable use of physical force for the protection of self or others

6.1.3 Discipline

Staff members must not correct or discipline a child or student in excess of what is reasonable or appropriate for the situation and the child or student's maturity, ability and circumstances. Discipline is excessive if it is a disproportionate response to a child or student's behaviour.

6.1.4 Medication, drugs and other substances

Staff members must not purchase for or offer, supply, give or administer to children or students, or condone or encourage the use of, illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy), alcohol or tobacco.

6.2 Appropriate professional relationships and boundaries

Staff members must act professionally and appropriately when dealing with children and students they come into contact with as part of their engagement with CSPD. This obligation also extends to relationships staff members have with children outside of work.

Staff members must maintain appropriate boundaries with children and students.

6.2.1 Relationships

Staff members must not behave in a way that could reasonably be construed as involving an inappropriate or overly personal relationship with or focus on a child, a student or a group of children or students.

Staff members must not invite children or students they come into contact with as part of their engagement with CSPD to join their personal electronic social networking or messaging sites/apps or accept children or student's invitations to join theirs. They must not attend parties or socialise with children or students or invite a child or student to their

home or attend a child or student's home without an appropriate professional reason and without the parents/carers' consent and the consent of their Manager.

Where there are existing personal relationships, such as a family relationship or close friendships that involve a staff member and a child or student, the staff member needs to take care to be transparent, prudent and behave appropriately and be mindful of any perceived conflict of interest.

A staff member who is unsure about the appropriateness of a relationship with a child or student or their family must disclose it to their Manager.

Staff members must not have an intimate, romantic or sexual relationship with any child or student who is under their care or supervision regardless of their age. It is irrelevant whether the relationship is consensual, non-consensual, known to or condoned by parents, guardians or caregivers.

Extreme care must be taken in any relationship between a staff member and a former child client or student, even if the person is now over 18 years of age.

A personal or sexual relationship with a former student entered into by any staff member may breach this Code if it is established that the staff member used his or her position to develop and/or maintain an inappropriate personal or intimate relationship with the person when they were a student of CSPD.

6.2.2 Professional boundaries

Staff members must not engage in high risk behaviours that breach professional boundaries with children or students.

Examples of behaviours which would breach this Code include:

- persuading children or students that they have a 'special' relationship, for example, by spending inappropriate special time with a child or student, inappropriately giving gifts or showing special favours to them but not other children or students, inappropriately allowing the child or student to overstep rules, or asking the child or student to keep this relationship to themselves
- testing boundaries, for example, by undressing in front of a child or student, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex (other than in an appropriate professional and educational context), or 'accidental' intimate touching

- inappropriately extending a relationship outside of work
- inappropriate or unnecessary personal communication (including emails, telephone calls, letters, text messages, social media and web forums) with children or students
- exploring sexual, intimate or other personal feelings with a child or student
- inappropriate conversations of a sexual nature
- unwarranted and inappropriate touching
- exposure of children or students to sexual behaviour of others
- watching children or students undress in circumstances where supervision is not required.

If there are reasons for a staff member to communicate with children or students or their families using electronic information and communication technology for reasons other than work purposes, it is important to discuss this with and gain the approval of the relevant Manager.

Staff members must not make sexually explicit comments or engage in other sexually overt or implied behaviour towards or in the presence of children or students.

Staff members must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child or student and includes indecent assault, sexual assault, possession/dissemination/production of child pornography or child abuse material.

6.2.3 Photography and Filming

Secretly taking photographs or other images of students or children is strictly prohibited. Staff members are not to photograph or film students or children other than for approved educational purposes and must only use the material for approved purposes.

6.3 Working With Children Checks

CSPD must ensure that verified Working With Children Checks are in place for all relevant persons as required by legislation. Staff members are responsible for the cost of obtaining the Working With Children Check.

A Working With Children Check is valid for five years. Staff members are responsible for ensuring their Working With Children Check is renewed.

Staff members who are required to have a Working With Children Check and do not have a current clearance, or are barred (or have an interim bar) from working with children, cannot continue to be engaged in child related work. Consequently, their employment or engagement with CSPD may be terminated.

6.4 Notification and reporting

To satisfy reporting and notification requirements under the law, including:

- mandatory requirements under the Children and Young Persons (Care and Protection) Act 1998
- reportable conduct requirements under Part 4 of the Children's Guardian Act 2019
- reporting requirements to the Office of the Children's Guardian under the Child Protection (Working with Children) Act 2012
- reporting child abuse offences under section 316A of the Crimes Act 1900.

and in line with CSPD's values, staff members are required to notify or report certain matters of concern as outlined in the following sections.

Staff members must make reports to their Manager in accordance with sections 6.4.1 to 6.4.3 below. The Manager must follow the CSPD Safeguarding Procedures regarding reporting or notification to relevant authorities, including the Office of the Children's Guardian, Department of Communities and Justice and/or the Police.

6.4.1 Reporting of Children and Young Persons at Risk of Significant Harm

Staff members who deliver education or children's services, wholly or partly, to children as part of their paid or professional work are mandatory reporters of children who are at risk of significant harm. This also applies to staff members in a management position with direct responsibility for or supervision of such services.

A child or young person¹ is at risk of significant harm if current concerns exist for the safety, welfare or wellbeing of a child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

¹ For the purposes of reporting risk of significant harm, a child is aged up to 15 years and a young person is aged 16 to 17 years.

- (1) (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.

- (2) Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

If a mandatory reporter has reasonable grounds to suspect a child is at risk of significant harm and those grounds arise during the course of or from their work, they must make a report to their Manager.

While it is not mandatory under the legislation to report about young persons (children aged 16-17 years), staff members must still report risk concerns for young persons to their Manager.

It is advised that the Manager complete the ChildStory Reporter: Mandatory Reporter Guide (MRG) (click [here](#)) on each occasion they have risk concerns, regardless of their level of experience or expertise to determine whether a report to the Child Protection Helpline is needed. It is also helpful to consult the ChildStory Reporter: Mandatory Reporter Guide, to identify alternative ways to support a child/ young person and their families where a mandatory reporter's response is better served outside the statutory child protection system.

6.4.2 Reporting of Inappropriate Conduct of Staff Members

Staff members must report to their Manager:

- any convictions or allegations of reportable conduct² involving any other staff member. The Children's Guardian Act provides immunity from liability for any person who gives a report, makes a complaint, gives the Children's Guardian a notification of a reportable allegation or complies with Part 4
- if they are charged with or convicted of an offence relevant to working in child-related employment, or if they have had any reportable conduct allegation made against them
- any information or concerns about inappropriate behaviour by any staff member that involves children or students, including behaviour that has occurred either inside or outside of work. Inappropriate behaviour includes behaviour which is inconsistent with Sections 6.1 and 6.2 of this Code.

A staff member who is unsure of whether they are required to make a report should discuss the matter with their Manager.

6.4.3 Reporting Child Abuse Offences³

There may be situations where a staff member suspects that a child abuse offence has occurred but it is not covered by the reporting obligations set out in sections 6.4.1 or 6.4.2.

² "Reportable conduct" refers to the definition under Part 4 of the Children's Guardian Act 2019 (NSW) and is any sexual offence, or sexual misconduct or any ill treatment, neglect or assault against a child or any behaviour that causes significant emotional or psychological harm to a child or any offence under section 43B or 316A of the *Crimes Act 1900* (NSW).

³ "child abuse offences" are set out in section 316A(9) of the *Crimes Act 1900* (NSW).

Staff members must report this to their Manager where it arises in the employment context.

Any suspected child abuse offence that has not arisen in the employment context must be reported by staff members to the Police.

6.5 Confidentiality

Staff members must maintain confidentiality in relation to any matters of a child protection nature or which otherwise relate to this Code, and only discuss the matter with those required to be notified or reported to. A breach of this requirement by any staff member may result in disciplinary action being taken, including termination of employment.

Staff members who are subject to an allegation of a breach of this Code or child protection legislation may discuss the matter with their advisor or support person, in which case confidentiality is similarly required of the advisor or support person.

Where a staff member is in doubt as to the requirements of confidentiality, they should seek advice from their Manager.

6.6 Victimisation

Staff members must not take detrimental action against a complainant or person who reports information as required by legislation and this Code. Such action is unlawful.

6.7 Record keeping

A staff member must maintain appropriate records and data in relation to their professional practice in the care and protection of children and students. Records may include case notes, student/client files and behaviour management plans.

A staff member must keep contemporaneous records of any disclosure, observations and discussions regarding a child protection matter or any alleged breach of this Code with such records including date, time and signature.

These records must be kept in a secure location as provided for by CSPD.

7. Further information

Further information on child protection allegations, child protection pre-employment screening and training can be obtained from CSPD Safeguarding on (02) 9840 5674 or by email at safeguarding@parra.catholic.edu.au

Further information on risk of significant harm reports or assistance can be obtained from Wellbeing Coordinator on (02) 9407 7008 / 0439 886 245 or by email at lrowell@parra.catholic.edu.au
