



SYDNEY JAPANESE  
INTERNATIONAL  
SCHOOL  
シドニー日本人国際学校

# Student Welfare/ Child Protection Policy

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# I. STUDENT WELFARE

## Safe and Supportive Environment

Sydney Japanese International School (SJIS) aims to provide a safe and supportive environment for its students to learn in.

### 1. Support

SJIS wishes to promote a learning environment where teachers and pupils should be mutually supportive. Our Students and Teachers should respect each other and not engage in conduct which undermines this mutual trust and support, and also respects the philosophy and ethics of our School. SJIS encourages consultation between all members of our school community in matters which affect them.

### 2. Security

SJIS will implement measures designed to promote the safety and wellbeing of our students, particularly having regard to its professional judgement as to what is required and will include in its consideration such matters:

- a) appropriate levels of supervision;
- b) security of buildings;
- c) procedures in case of fire;
- d) use of grounds and facilities;
- e) travel on School-related activities;
- f) other appropriate matters.

The implementation of these requirements and procedures will be monitored for compliance from time to time.

### 3. Supervision

Appropriate measures will be taken by SJIS staff to seek to ensure that all students are adequately cared for and supervised while undertaking both on-site and off-site activities, bearing in mind the type of activities and age of the students involved.

### 4. Conduct

SJIS has put in place a **Code of Conduct** for staff and students which may be supplemented from time to time by specific rules and directives. The Code of Conduct will include such matters as:

- a) the rights and responsibilities of students and staff within the school community;
- b) behaviour management;
- c) the role of any school leadership system (or equivalent) in the school and the monitoring of that system; and
- d) the management and reporting of serious incidents.

SJIS has continued to follow and implement appropriate behaviour management practices for students, consistent with the philosophy of the School and with other aspects of this policy.

## **5. Complaints and Grievances**

SJIS will have in place processes for dealing with complaints and grievances raised by students, teachers, staff and/or parents. These processes will incorporate, as appropriate, principles of procedural fairness. (**Complaints and Grievances Policy**)

## **6. Pastoral Care**

The School will take reasonable measures to identify students with special needs and provide them with an appropriate level of support to assist such students with their schooling with minimal disruption, taking into account the resources available.

Students requiring health and/or medical services and support or medication will be assisted to access these in an appropriate manner.

## **7. Communication**

The School will provide both formal and informal mechanisms to facilitate communication between those with an interest in the student's education and well-being. This may include communications between some or all of the following: student; parent or guardian or other significant family member of the student; teacher; principal; representative or an appropriate government, welfare, health or other authority.

Welfare procedures for students undertaking courses/subjects with an external provider for the purposes of their schooling.

All of the above policies and procedures will apply when the School has made arrangements for students of the School to undertake courses, subjects, tutoring or other education either on or off-site.

Teachers, staff and any other persons involved in the provision of education or other services for students of the School who are undertaking courses, subjects, tutoring or other education either on or off-site which have been arranged by the School, for the purposes of their schooling, will be subject to the requirements of relevant child protection legislation.

All of the above policies will be implemented in a manner that is appropriate to the School, its students and the School community and with regard to the relevant legislative requirements that apply to the School and the students within its care.

## **8. Conduct for the Care and Protection of Children**

Sydney Japanese International School is committed to the highest standards of education in which the security, protection and comfort of students is of a high priority. The following guidelines are to be adopted for the care and protection of students and staff.

### **Legislative Context**

Everyone who is concerned in a professional capacity with the care and protection of children needs to have a clear understanding of the essential elements of the law as it applies to the care and protection of children.

There are three key pieces of child protection legislation in New South Wales.

From 1 March 2020, these are:

- The Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Care and Protection Act);
- The Children's Guardian Act 2019 (NSW) (the Children's Guardian Act); and
- The Child Protection (Working with Children) Act 2012 (NSW) (the WWC Act).

Other legislation also applies, including the (NSW) Education Act, Crimes Act and Civil Liability Act. Collectively, this legislation forms a child protection framework in NSW.

From 1 March 2020, two key NSW government Agencies have responsibility under these Acts. They are the Department of Communities and Justice (DCJ) and the Office of the Children's Guardian (OCG).

## **9. Duty of Care and Legal Liability**

Staff can be deemed legally liable if they have been negligent in relation to their responsibilities under the legislation as it pertains to the care and protection of children.

Generally speaking, a person owes a duty not to injure another as a result of his or her own negligent act or omission. The duty does not usually extend to the taking of steps to prevent injury where one has not caused or contributed to the risk giving rise to the injury.

There exists, however, special duty relationships between some members of our society which give rise to more onerous duties of care. The relationship between teacher and pupil is one on these.

The general law of negligence provides that a person may be negligent if:

- S/he owes a duty of care to the person injured, that is, the standard judged reasonable in all the circumstances, and
- S/he did not carry out that duty to the legal standard required, and
- The person suffered damage as a result of the failure to observe the duty of care.

With regard to care and protection the following principles apply:

- Staff must take reasonable care to ensure that their students are not harmed. They have a duty to protect their students against foreseeable risks of personal injury or harm.
- The standard of care is that of a reasonably prudent parent. The degree of care depends on such factors as the age of the students.
- There must be an efficient system of supervision in operation in the school.

Duty of care applies while the students are under the care of the school. This applies equally to school based activities and after school activities. The same duty of care applies to employees who volunteer their services to the school.

Employees are required to follow good standards and approved practice. An example of good standards or approved practice would be compliance with the school's Code of Conduct.

## **10. OBLIGATIONS FOR STAFF TO REPORT**

**While the circumstances in which the legislation requires reporting of particular student protection issues are set out below. SJIS requires all staff to report any concern they may have about the safety or wellbeing of a student to The Principal (Kocho Sensei) or his delegate (Head of International Division)**

**Without limiting the above, consistent with legislative obligations, SJIS requires all staff to report all allegations about staff misconduct (including reportable conduct) promptly to The Principal (Kocho Sensei) or his delegate (Head of International Division). This may be done face to face, by telephone or by email.**

**If the allegation involves The Principal (Kocho Sensei) or his delegate (Head of International Division), the report must be made to the General Manager.**

**These obligations form part of the School's overall commitment to the safety and wellbeing of ALL SJIS STUDENTS.**

### **Roles and Responsibilities**

- Each employee of Sydney Japanese International School is expected to act as a role model for children at all times.
- Policy Manuals exist to cover all operational policies. Employees are expected to be familiar with and **follow** relevant school policies at all times.
- Employees should show respect at all times to children, fellow staff, parents and visitors. This includes maintaining an appropriate voice level and not using abusive language.
- When answering the phone staff must speak in a polite manner. All enrolment enquiries need to be referred to the Executive Assistant or Marketing Manager and managed in a way that encourages enrolments in the school.
- **Confidentiality:**
  - Positions of trust must not be exploited for an employee's advantage, or that of others, by use of privileged knowledge or information gained through work. In particular student records, meeting minutes and staff files are to be treated with the utmost confidentiality.
- **Press Statements:**
  - Staff are not permitted to give statements to the press without prior approval from The Principal (Kocho Sensei) and Head of International Division.
- **Security**
  - Security is the responsibility of all staff, who must be alert to dangers such as attacks on property, theft, violence, fire, natural disasters, vandalism and acts that jeopardise the safety of people. It is important that all staff know the emergency evacuation procedures at their workplace.
- **Parent Visitors**
  - When parents visit the classroom they must do so in a way that does not interfere with the work cycle of the children. Classroom observations often form part of the enrolment process. At these times the Head of International Division and/or Executive Assistant will accompany visitors. Observations should not interfere with the class.

# **II. General Guidelines**

As a school, we must concentrate on providing high-level education that prioritises the safety, protection and well-being of our students. Incorporate the following guidelines to protect students and staff.

## **1. Supervision of Students**

- 1) Staff must take all reasonable care to ensure that no student is exposed to any unnecessary risk of injury. Staff are to remember that they are in *loco parentis* – the standard of care required is that of a skilled professional.
- 2) Staff should be familiar with and adhere strictly to the school's evacuation procedures.
- 3) Ill or injured students should be attended to by the supervising staff member. Should additional assistance be required contact should be made with the office.
- 4) Students should not be left unsupervised either within or outside of class. Staff are reminded of their duty of care obligations in this regard. Staff should be punctual to class and allocated supervision.
- 5) In the case of an individual music lesson, it is permitted for an instructor to be in the same room with a student alone, however, the lesson should be conducted in full vision which can be monitored from a window or an opening.
- 6) Staff should remain with students at after school activities until all students have been collected. In the event that a student is not collected staff should remain with the student until collected.
- 7) Playground supervision is an integral part of the responsibility of staff. It must take precedence over other activities. It is unacceptable to be late. Staff should actively supervise their designated area, being vigilant and constantly moving around.
- 8) Staff should be alert to bullying or any other form of discriminatory behaviour, and report incidents to the appropriate staff member.

## **2. Relationship with Students**

- 1) Staff interactions with children are warm and friendly.
- 2) Staff treat all students equally and accommodate their individual needs. They respect diversity of background and treat both sexes without bias.
- 3) Staff use a positive approach in guidance and discipline. Students are guided towards positive and responsible behaviour.
- 4) Staff are responsive to student's feelings and needs.
- 5) Staff initiate and maintain communication with the students and their communication conveys respect.

- 6) Staff show respect for students developing competence, encourage and support self-reliance and foster their self-esteem and independence.
- 7) Staff interact with students to stimulate their curiosity and thinking.
- 8) Staff create a positive and pleasant atmosphere.
- 9) Staff ensure that students are not required to perform duties beyond their capabilities.
- 10) Staff ensure that the dignity and the rights of each student are maintained at all times. Child management techniques do not include physical, verbal or emotional punishment that humiliates, frightens or threatens a student. The student is not isolated from the class group for any reason other than illness or injury or a pre-arranged appointment with parental consent.
- 11) Staff should avoid situations where they are alone in an enclosed space with a student. Where staff are left with the responsibility of a single student they should ensure that this is in an open space in view of others. Where this is not possible or practical it should be discussed with The Principal (Kocho Sensei) and Head of International Division.
- 12) Staff may as part of their pastoral care role engage in discussion with students. This is entirely appropriate. However, staff must be cautious of making personal comments about a student or asking questions that probe their own or a student's sexuality or relationships.
- 13) When staff wish to conduct a private conversation with a student they should consider the time and venue carefully to avoid placing themselves in a vulnerable situation. It is preferable to leave the door open. The staff member should not locate themselves between the student and the door.
- 14) Staff should never drive a student in their car unless they have specific permission from their Principal to do so. In the event of an emergency staff should exercise discretion but then report the matter to The Principal (Kocho Sensei) and Head of International Division.
- 15) Staff should notify The Principal (Kocho Sensei) and Head of International Division immediately should they suspect a situation involving any form of reportable conduct (formerly referred to as child abuse). It is not staff responsibility to investigate. Similarly staff should report to The Principal (Kocho Sensei) and Head of International Division any suspected case of neglect.
- 16) A social relationship between a staff member and a student can easily lead to problems. Visiting students at their residence without the permission of The Principal (Kocho Sensei) and Head of International Division should be discouraged. Staff member should realise their position and duty as a teacher and always be aware of the risks involving social relationships with students.
- 17) Staff should not engage in tutoring or coaching students from the school for monetary return.
- 18) When physical contact with a student is a necessary part of the teaching/learning experience staff must exercise caution to ensure that the contact is appropriate and acceptable. Staff should seek reassurance from the student by asking for a volunteer to demonstrate a particular activity.
- 19) Attention to the toileting needs of your children should be done with caution. It may be appropriate to have the door open. In respect to students with a disability the management of toileting needs should be included in the student's individual management plan.

- 20) Staff should not supply or condone the use of alcohol, tobacco or other drugs for themselves or any student in their care.
- 21) When congratulating a student, a handshake, a pat on the shoulder or a brief hug are acceptable as long as the student is comfortable with this action. Kissing of students is not acceptable.
- 22) Assessing a student who is injured or ill may necessitate touching. Always advise the student of what you intend doing and seek their concurrence.
- 23) Staff must always treat students with respect and without favouritism. There is no place for sarcasm, derogatory remarks, inappropriate familiarity or offensive comments.
- 24) Staff who communicate with students electronically must abide by the terms of the school's Computer/Internet Policy. Transmission of messages or files which are sexually explicitly or of offensive are totally inappropriate.
- 25) Sometimes during the course of your work you may be in receipt of a gift from a student. In such circumstances where the receipt of a gift could be considered outside of usual custom you are to inform The Principal (Kocho Sensei) and Head of International Division
- 26) Staff should ensure that they are familiar with and adhere to the school's policy in regard to the storage and administration of medical products to students.
- 27) Sometimes in ensuring duty of care staff may be required to restrain a student from harming him or herself or others using reasonable force. Any such strategy must be in keeping with the school's behaviour management practices.

### **3. Interactions between Staff**

- 1) Staff should communicate with each other in a courteous manner, express themselves clearly and listen to each other, and discuss and resolve conflicts amongst themselves. If issues remain unresolved, they are to be referred to The Principal (Kocho Sensei) or Head of International Division.
- 2) Staff show respect for other members of a team. They respect the knowledge and skills that each staff member brings to the centre and respect each other's feelings, views and opinions.
- 3) Staff are aware of a team approach. They provide a model of effective working relationships for children who are developing their own social skills.
- 4) A staff member with a complaint should take it to The Principal (Kocho Sensei) or Head of International Division and not air it generally among other staff members. A complaining staff member can place stress on other staff members and inhibit job satisfaction.

## **4. Discipline of Students**

- 1) All staff should be familiar with and adhere to the school's **Discipline Policy**.
- 2) Smoking is not permitted on the school premises. Furthermore, smoking is not permitted at any school function or activity whether these functions/activities are on the school premises or not.
- 3) Alcohol is not to be consumed on the school premises or at school camps or excursions. The only exceptions will be those occasions deemed appropriate by The Principal (Kocho Sensei) or Head of International Division, but in any case, will not include occasions where students are in attendance.
- 4) No student should be allowed to leave or be sent from a class other than for personal hygiene matters. In extreme cases students can be sent to the Head of International Division or Principal's office.
- 5) At all times when speaking with students care must be taken to use appropriate language. Please refer to the school Discipline Policy.

## **5. Communication Issues**

- 1) Staff are required to respect and adhere to the established lines of communication in the school.
- 2) Staff should be mindful of confidentiality when in discussion with parents. Staff can never guarantee confidentiality if the matter under discussion requires mandatory reporting.
- 3) Staff should not speak about another staff member to students or parents.
- 4) Staff should present a courteous professional manner to students, parents, visitors and other staff members. Confrontation and criticism in public is to be avoided at all times.
- 5) All matters discussed in staff meetings and staff memos are to be treated confidentially and not discussed with students.
- 6) The media should not be given access to students or allowed entry to the school without the expressed permission of The Principal (Kocho Sensei) or Head of International Division.

## **6. Excursions**

- 1) In the case of activities involving overnight accommodation of boys and girls, both genders should be represented in the group of supervisors.
- 2) Excursion information must be communicated to parents.
- 3) A school mobile phone must be taken on all excursions. The teacher in charge must always have a complete list of student contact numbers with them on the excursion.
- 4) In the case of an overseas trip, a trip coordinator will accompany the group. The coordinator should explain clearly about the communication means and measures to the parents/guardians.

- 5) Students on an overnight excursion should be able to contact a supervising staff member at any time. The supervising staff member should hold needs of the students as top priority. If the student does not wish to be at a particular place, he/she must be removed from the location or situation immediately.
- 6) Overnight excursion consent form and other health related forms must be submitted by the parents/guardians. If the students are staying with a host family, the host family must submit a Prohibited Employment Declaration.

## **7. Duty to Disclose**

- 1) Staff are required to report to The Principal (Kocho Sensei) and Head of International Division any allegations of 'reportable conduct' (formerly referred to as child abuse).
- 2) Staff who are the subject of an Apprehended Violence Order or a Reportable Conviction are required to inform The Principal (Kocho Sensei) and Head of International Division immediately they are in receipt of such an Order or Conviction.

# III. Child Protection Policy

## 1.1 Purpose and scope

This policy sets out staff responsibilities for child protection and processes that Sydney Japanese International School must follow in relation to child protection matters. This policy applies to all staff members, which includes employees, contractors and volunteers.

Staff members who fail to adhere to this policy may be in breach of their terms of employment.

Sydney Japanese International School (SJIS) aims to provide a safe and supportive environment for its students to learn in.

The purpose of this policy is the school's duty of care in the protection of children from abuse, maltreatment and harm. The procedures followed must also be in accordance with all relevant legislation, and will take into account other appropriate practices and guidelines aimed at the protection of children. The school's policy and detailed procedures will be amended from time to time to take into account amendments to legislation and regulations.

This document sets out the school's policy in broad and general terms. Further information and advice can be gained from the Head of Agency (Principal) and further detail can be found in the 'AIS Child Protection Policy Guidelines' as amended from time to time and from the various Acts and Regulations. References shown in brackets in this policy statement are to clauses in the 'AIS Child Protection Guidelines'.

## 1.2 Key legislation

There are three key pieces of child protection legislation in New South Wales.

From 1 March 2020, these are:

- The Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Care and Protection Act);
- The Children's Guardian Act 2019 (NSW) (the Children's Guardian Act); and
- The Child Protection (Working with Children) Act 2012 (NSW) (the WWC Act).

Other legislation also applies, including the (NSW) Education Act, Crimes Act and Civil Liability Act. Collectively, this legislation forms a child protection framework in NSW.

From 1 March 2020, two key NSW government Agencies have responsibility under these Acts. They are the Department of Communities and Justice (DCJ) and the Office of the Children's Guardian (OCG).

## 1.3 Related policies

There are a number of other SJIS policies that relate to child protection that staff members must be aware of and understand including (but not limited to):

- **Code of Conduct** - sets out information about the standards of behaviour expected of all staff members;
- Work Health and Safety Statement - identifies the obligations imposed by work health and safety legislation on the School and staff members;
- Discrimination, Harassment and Bullying Statement - summarises obligations in relation to unlawful discrimination, harassment and bullying;
- Complaint Handling Procedures– provides the steps taken by the School in addressing complaints;
- Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct
- Working With Children Clearance Policy and Procedures

## **1.4 Compliance and records**

The Principal (Kocho Sensei) and Head of International Division monitors compliance with this policy and securely maintains School records relevant to this policy, which includes:

- register of staff members who have read and acknowledged that they read and understood this policy; (STORED IN HEAD OF INTERNATIONAL DIVISION OFFICE)
- working with children check clearance (WWCC clearance) verifications; (STORED with OFFICE ADMINISTRATOR)
- mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services; and
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions. (STORED in PRINCIPAL Kocho Sensei's OFFICE – Japanese Division, STORED in Head of International Division – International Division)

## **2. Child protection**

The safety, protection and welfare of students is the responsibility of all staff members and encompasses:

- a duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen; and
- obligations under child protection legislation.

### **2.1 Children protection concerns**

There are different forms of child abuse. These include neglect, sexual, physical and emotional abuse.

**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.

**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.

**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.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

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.

**Emotional abuse** can result in serious psychological harm, 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.

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.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

## **2.2 Child wellbeing concerns**

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 in section 5.1.2.

## **2.3 Staff member responsibilities**

Key legislation requires reporting of particular child protection concerns. However, as part of the School’s overall commitment to child protection, all staff are required to report any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to The Principal (Kocho Sensei) and Head of International Division.

If the allegation involves The Principal (Kocho Sensei) or Head of International Division, a report should be made to the General Manager.

## **3. Training**

### **3.1 The School**

The School provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in child protection training annually.

#### **COPY OF POLICY**

International Division staff – on January commencement or when joining the school

Japanese Division staff – on April commencement or when joining the school

All other staff – on commencement

### **CHILD PROTECTION TRAINING**

Whole School – Annually April/ May

All training to be organised by Head of International Division.

Student Welfare / Child Protection Policy to be reviewed and updated by Head of International Division, with consultation through ESCOM.

## **3.2 Staff members**

All new staff members must read this policy and sign the acknowledgement that they have read and understood the policy.

All staff members must participate in annual child protection training and additional training, as directed by Head of International Division. The training complements this policy and provides information to staff about their legal responsibilities related to child protection and School expectations, including:

- mandatory reporting;
- reportable conduct;
- working with children checks; and
- professional boundaries.

## **4. Working with children**

The WWC Act protects children by requiring a worker to have a WWCC clearance or current application to engage in child related work. Failure to do so may result in a fine or imprisonment.

The Office of the Children's Guardian (OCG) is responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- grant a WWCC clearance (generally valid for 5 years); or
- refuse a WWCC clearance (further applications cannot be made for 5 years).

In addition, the OCG may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OCG.

### **4.1 Responsibilities for working with children checks**

#### **4.1.1 Staff members**

Staff members who engage in child-related work and eligible volunteers (including those volunteers working at overnight camps) are required to:

- hold and maintain a valid WWCC clearance;
- not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- report to The Principal (Kocho Sensei) and Head of International Division if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OCG that they are subjected to a risk assessment; and
- notify the OCG of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

All volunteers are required to:

- be aware and follow the expectations of conduct expressed in the SJIS Code of Conduct.

#### **4.1.2 The School**

**AT SJIS, we are required to and will:**

- Only employ or engage persons including volunteers who have a valid Clearance.
- Verify online and record the status of each worker's Clearance or application for a Check.
- Maintain an up-to-date register of Working with Children clearances for all persons engaged in child-related work
- Remove from the child-related work any staff member or volunteer who, after commencement, received a bar or interim bar.
- Report findings of misconduct involving children made against child-related workers, including volunteers.

The Administration Officer (Kana Tada [kana.tada@sjis.nsw.edu.au](mailto:kana.tada@sjis.nsw.edu.au)) is responsible for the verification of each individual's application or Clearance.

The Administration Officer must not verify their own application or Clearance.

All documentation is to be maintained by the Administration Officer and copies of all documents are to be securely stored within the Ground Floor Administration Office.

All SJIS employees, after-school club coordinators, charter bus drivers, contract cleaners, university student teachers and volunteers engaged in classroom activities on a regular basis are child-related workers and are required to:

- Hold and maintain a valid Check (the School acknowledges some exemptions do apply to volunteers).
- Be aware of and follow the expectations of conduct expressed in the SJIS Staff Code of Conduct.
- Not engage in child-related work at any time that they are subject to an interim bar or a bar (whether at SJIS or elsewhere).
- Report to the Principal (Kocho Sensei) or his delegate (Head of International Division) if they are no longer eligible for a Check, the status of their Check changes or are notified by the OCG that they are subject to a risk assessment.
- It is the responsibility of the Administration Officer to assist new staff members from Japan with understanding and following the WWCC policy and procedures.

All volunteers engaged in classroom activities on a regular basis are required to:

- Read the School's Student Welfare / Child Protection Policy and Codes of Conduct.
- Be aware of and comply with the Code of Conduct.
- Be aware of and conduct themselves in a manner consistent with the Code of Conduct.

## 4.2 Working with children check clearance

Employers have legal obligations around working with children. It is against the law to engage anyone in child-related work without a Working with Children Check. If a worker or volunteer requires a Check, there are actions the employer must take.

Employers must:

**Register** - Sydney Japanese International School.

### Identify roles

Administration Officer (Kana Tada [kana.tada@sjis.nsw.edu.au](mailto:kana.tada@sjis.nsw.edu.au)) will verify Working with Children Check numbers online including

- new workers or volunteers, firstly using their Application (APP) number and then their WWCC clearance number (except those working in the Education sector where a Clearance number is required)
- a renewed Check, updated after five years.

People in charge of verifying WWCC numbers must make sure their own Check (if required) is verified online by an appropriate person in the organisation. Employers cannot self-verify.

### Keep records

Administration Officer (Kana Tada [kana.tada@sjis.nsw.edu.au](mailto:kana.tada@sjis.nsw.edu.au)) will keep records for each worker, including:

1. Full name
2. Date of birth
3. WWC number
4. Employment Date
5. Verification date
6. Verification outcome
7. Expiry date
8. Whether the worker is in paid or volunteer work.

SJIS will use the required template provided by the OCG. All records will be kept within the downstairs Administration Office and stored securely online within "OFFICE" DROPBOX FOLDER.

### Monitor and act

Administration Officer (Kana Tada [kana.tada@sjis.nsw.edu.au](mailto:kana.tada@sjis.nsw.edu.au)) must:

- keep details up to date.  
These details must be accurate so OCG can contact SJIS about any changes in someone's Check status.
- remind employees to renew which they can do up to three months before their Check expires.
- remove anyone whose Check status is barred, interim barred, whose Check cannot be found or has expired from child-related work. SJIS will only employ people who have an Application number or Check clearance in child-related work.
- Once verification has been completed, the Administration Officer (Kana Tada [kana.tada@sjis.nsw.edu.au](mailto:kana.tada@sjis.nsw.edu.au)) will inform via email
  - The Principal (Kocho Sensei)
  - Head of International Division
  - General Manager

## **4.2.1 Child-related work**

**Child Related Work** includes, but is not limited to work in the following sectors;

- Early education and child care including education and care service, child care centres and other child care;
- Education - schools and other educational institutions and private coaching or tuition of children;
- Religious services;
- Residential services including boarding schools, homestays more than three weeks, residential services and overnight camps; or
- Transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings.

Child-related Worker means a person engaged in child-related work.

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 at Services NSW and the fee has been paid (if in paid work).

If you are unclear if your role is child-related, you should speak with the Principal (Kocho Sensei) and Head of International Division.

Disqualified Person is a person who has been convicted of, or against whom proceedings have been commenced for, a disqualifying offence outlined in Schedule 2 of the WWC Act.

A disqualified person is barred from working with children in child-related work.

It is an offence for an employer to knowingly engage a child-related worker when they do not hold a Clearance or are subject to an interim bar.

It is an offence for a person to engage in child-related work when they do not hold a Clearance or are subject to an interim bar.

## **4.2.2 Application/Renewal**

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance, the holder will be issued with a number which is to be provided to the School to verify the status of a staff member's WWCC clearance.

## **4.2.3 Refusal/Cancellation**

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is then restricted from engaging in child-related work and not able to apply for another clearance for five years. Employers are notified by the OGC and instructed to remove such persons from child-related work.

## **4.2.4 Interim bar**

The OCG may issue an interim bar, for up to 12 months, to high risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to the Administrative Decisions Tribunal.

Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

## **4.2.5 Disqualified person**

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. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

## **4.3 Ongoing monitoring**

The OCG will continue to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

### **4.3.1 Risk assessments**

A risk assessment is an evaluation of an individual's suitability for child-related work.

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 and findings of misconduct involving children.

## **4.4 Process for reporting to OCG**

### **4.4.1 The School**

Independent Schools are defined as a reporting body by the WWC Act.

The School is required to advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault, must be referred to the OCG's WWCC Directorate. Information must also be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The School may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

### **4.4.2 Finding of misconduct involving children**

The School will report any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the School should alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

#### **4.4.3 Other information**

The School may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OCG's monitoring functions.

Please refer to the **SJIS WWCC Policy and Procedures** for more information.

### **5. Mandatory reporting**

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.

Under the Care and Protection Act, mandatory reporting applies to persons who:

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

All teachers are mandatory reporters. Other staff members may also be mandatory reporters. Any queries about whether other staff members are mandatory reporters should be directed to The Principal (Kocho Sensei) and Head of International Division.

#### **5.1 Reports to Communities and Justice**

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 Department of Communities and Justice (DCJ) as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, the School may choose to make a report to the DCJ 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.

In the independent school sector, a mandatory reporter will meet their obligation if they report to The Principal (Kocho Sensei) and Head of International Division in the School. This centralised reporting model ensures that a person in the School has all of the information that may be relevant to the circumstances of the child at risk of significant harm and addresses the risk of the School not being aware of individual incidences that amount to cumulative harm.

##### **5.1.1 Reasonable grounds**

'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.

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

### **5.1.2 Significant harm**

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:

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- 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;
- 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;
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- 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,
- 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;
- 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.

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.

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.

The significance can result from a single act or omission or an accumulation of these.

### **5.3 Process for mandatory reporting**

#### **5.3.1 Staff members**

Staff members must raise concerns about a child or young person who may be at risk of significant harm with **The Principal (Kocho Sensei) and Head of International Division** as soon as possible to discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and **The Principal (Kocho Sensei) or Head of International Division** or next most senior member of staff is not contactable, staff members should contact the Police and/or the **Child Protection Helpline (13 21 11)** directly and then advise The Principal (Kocho Sensei) and Head of International Division or next most senior member of staff at the School as soon as possible.

Staff members are not required to and must not, undertake any investigation of the matter. Staff members are not permitted to inform the parents or caregivers that a report to the DCJ has been made.

Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy, but could incite potential civil proceedings for defamation.

### **5.3.2 The School**

In general, the **The Principal (Kocho Sensei) and Head of International Division** will report these matters to the DCJ and where necessary, the Police. This is supported by the DCJ in accordance with best practice principles.

## **5.4 Process for reporting concerns about students**

### **5.4.1 Staff members**

The Care and Protection Act outlines a mandatory reporter's obligation to report to the DCJ concerns about risk of significant harm. However, to ensure centralised reporting, all staff members are required to report any concern regarding the safety, welfare and wellbeing of a student to The Principal (Kocho Sensei) and Head of International Division. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm', should report their concern to The Principal (Kocho Sensei) and Head of International Division regardless.

Staff members are required to deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose it to The Principal (Kocho Sensei) and Head of International Division and any other person nominates.

## **6. Reportable conduct**

Section 29 of the Children's Guardian Act 2019 requires the Heads of Entities, including non-government schools in New South Wales, to notify the OCG of all allegations of reportable conduct and convictions involving an 'employee' and the outcome of the School's investigation of these allegations. Under the Children's Guardian Act 2019, allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Head of Entity.

#### **Reportable Conduct:**

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

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

## **6.1 Reportable conduct**

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

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

Reportable conduct does not extend to:

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures; or
- conduct of a class or kind exempted from being reportable conduct by the Children’s Guardian Act under section 30.

## **6.1.1 Definitions**

The following definitions relate to *reportable conduct*:

**Sexual offence:** an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination or possession of child abuse material.

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 WWC Act, grooming is recognised as a form of sexual misconduct. The Children’s Guardian Act 2019 and this Child Protection Policy reflect these definitions within the context of the Reportable Conduct Scheme (Division 2).

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of sexual offence.

**Sexual misconduct:** conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act provides the following (non-exhaustive) examples:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Note – crossing professional boundaries comes within the scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, the conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

**Assault:** an assault can occur when a person intentionally or recklessly (ie. knows the assault is possible but ignores the risk):

- applies physical force against a child without lawful justification or excuse – such as hitting, striking, kicking, punching or dragging a child (actual physical force); or
- causes a child to apprehend the immediate and unlawful use of physical force against them – such as threatening to physically harm a child through words and/or gestures regardless of whether the person actually intends to apply any force (apprehension of physical force)

**Ill-treatment:** is defined as conduct towards a child that is:

- unreasonable; and
- seriously inappropriate, improper, inhumane or cruel.

Ill-treatment can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child.

**Neglect:** defined as a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a child that causes or is likely to cause harm - by a person who has care and/or has responsibility towards a child.

Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child's physical or psychological needs, or a single significant incident where a caregiver fails to fulfill a duty or obligation, resulting in actual harm to a child where there is the potential for significant harm to a child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

Behaviour that causes significant ***emotional or psychological harm*** to a child is conduct that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and which results in significant emotional harm or trauma to a child.

For a reportable allegation involving psychological harm, the following elements must be present:

- An obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable, and
- Evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm, and
- An alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

**Reportable allegation** is an allegation that an employee has engaged in conduct that may be reportable conduct.

**Reportable conviction** means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.

**Employee** of an entity includes:

- an individual employed by, or in, the entity
- a volunteer providing services to children
- a contractor engaged directly by the entity (or by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity; and
- a person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.

**ESOA** (Employee Subject of the Allegation).

## **6.2 Process for reporting of reportable conduct allegations or convictions**

### **6.2.1 Staff members**

Any concerns about any other employee engaging in conduct that is considered inappropriate, or reportable conduct, or any allegation of inappropriate or reportable conduct made to the employee or about the employee

themselves must be reported to **The Principal (Kocho Sensei) or Head of International Division**. Where it is uncertain if the conduct is reportable conduct but is considered inappropriate behaviour this must also be reported.

Staff members must also report to **The Principal (Kocho Sensei) or Head of International Division** when they 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 the employee themselves.

If the allegation involves The Principal (Kocho Sensei) or Head of International Division, the staff member must report to **the General Manager**.

## **6.2.2 Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct**

### **Introduction**

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

SJIS 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 SJIS community reports staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that SJIS complies with its legislative obligations. Sydney Japanese International School has a legal obligation to investigate and report to the NSW Children's Guardian all allegation of reportable conduct made against staff at SJIS as defined by the Children's Guardian Act 2019 (NSW) (Children's Guardian Act).

For the purposes of this policy, 'staff' and 'staff member' are defined to include teaching and non-teaching staff, volunteers, contractors and external providers.

### **Definition of Staff Misconduct**

Sydney Japanese International School defines 'staff misconduct' as conduct by a staff member that:

- breaches SJIS 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 SJIS.

### **Definition of Reportable Conduct**

The Children's Guardian Act defines reportable conduct as:

- any sexual offence or sexual misconduct committed against, with or in the presence of a child (including child pornography offences or an offence involving child abuse material) including grooming behaviours.
- any assault, ill-treatment or neglect of a child.
- any 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 a parent would like to make a formal complaint or allegation of staff misconduct or reportable conduct, they can do so by:

- Sending an email to
  - Principal (Kocho Sensei) Mr Shinichiro Sumida [shinichiro.sumida@sjis.nsw.edu.au](mailto:shinichiro.sumida@sjis.nsw.edu.au) or
  - Head of International Division, Mr Simon van Dinter [simon.vandinter@sjis.nsw.edu.au](mailto:simon.vandinter@sjis.nsw.edu.au)
- Writing a letter marked 'Private and Confidential' to
  - Sydney Japanese International School, 112 Booralie Road, Terrey Hills, NSW 2084 addressed to the Principal.
- Telephoning SJIS (02 9450 1883) and
  - asking to speak to the Principal (Kocho Sensei) or Head of International Division.

If the Principal or Head of International Division is the subject of the complaint or allegation of misconduct or reportable conduct please contact the General Manager, Mr Masao Miyairi [masao.miyairi@sjis.nsw.edu.au](mailto:masao.miyairi@sjis.nsw.edu.au)

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

SJIS 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 NSW Children's Guardian. All investigations uphold the principles of procedural fairness and confidentiality 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 School's initial investigation, and it is determined through the School's investigation that staff misconduct has occurred, SJIS will notify the complainant of the finding and corrective actions that will be taken. Staff misconduct is managed through our policies and procedures relating to internal grievances, discipline and termination.

#### **Reportable Conduct**

After the Principal or his delegate becomes aware of the reportable allegation or conviction against an employee, they must ensure that an appropriate investigation of the reportable allegation or conviction is conducted and completed within a reasonable time.

The Principal or his delegate must notify the Children's Guardian of the findings of the School's investigation into the matter.

The Principal or his delegate must inform the affected child and his parents/carers about any reportable conduct investigation unless it is "not in the public interest (Section 57 (3) Children's Guardian Act 2019) to inform them.

Sometimes, where reportable conduct obligations arise, SJIS will also have other mandatory reporting obligations. In these situations, SJIS will prioritise its procedures for mandatory reporting to the Department of Communities and Justice and/or to the police and will seek advice from those agencies on the best way to proceed with the reportable conduct internal investigation.

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

If SJIS's internal investigation results in a finding of reportable conduct, following the School's notification to the NSW Children's Guardian, SJIS will conduct a final risk assessment of the conduct, the staff member and the circumstances, and take action to mitigate ongoing risks.

### **Disclosing Information**

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.

Section 57 of the Children's Guardian Act imposes disclosure obligations and prohibitions by which the Principal and his delegate must abide.

The disclosure obligations and prohibitions apply to information about a reportable conduct investigation. This includes information about the progress of an investigation, the findings and any action taken in response to the findings.

The Principal or an investigator working for the Principal must inform the affected child and their parents/carers about the reportable conduct investigation unless it is "not in the public interest" (Section 57 (3) Children's Guardian Act 2019) to inform them.

The Principal or an investigator working for the Principal must not disclose information about a reportable conduct investigation to anyone other than the affected child and their parents/carers. However, there are some exceptions to this rule. Disclosure can be made to certain people and entities, such as investigators and carers, if the disclosure is made to promote the safety or wellbeing of the child.

For more information please refer to **Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct**.

### **6.2.3 The School**

The Principal (Kocho Sensei) or Head of International Division, as the Head of Entity under the Children's Guardian Act 2019, must:

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions
- Submit a 7-day notification form to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse),

The notification should include the following information:

- (a) that a report has been received in relation to an employee of the School, and
- (b) the type of reportable conduct, and
- (c) the name of the employee, and
- (d) the name and contact details of School and the Head of Entity, and
- (e) for a reportable allegation, whether it has been reported to Police, and
- (f) if a report has been made to the Child Protection Helpline, that a report has been made, and
- (g) the nature of the relevant entity's initial risk assessment and risk management action,

The notice must also include the following, if known to the Head of Entity:

- (a) details of the reportable allegation or conviction considered to be a reportable conviction,
- (b) the date of birth and working with children number, if any, of the employee the subject of the report,
- (c) the police report reference number (if Police were notified),
- (d) the report reference number if reported to the Child Protection Helpline,
- (e) the names of other relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

Maximum penalty for failure to notify within 7 business days —10 penalty units.

## **6.3 Process for investigating an allegation of reportable conduct**

The Principal (Kocho Sensei) or Head of International Division is responsible for ensuring that the following steps are taken to investigate an allegation of reportable conduct.

### **6.3.1 Initial steps**

Once an allegation of reportable conduct against an employee is received, The Principal (Kocho Sensei) and Head of International Division is required to:

- determine whether it is an allegation of reportable conduct;
- assess whether the DCJ or the Police need to be notified (ie, if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they have been notified, seek clearance from these statutory agencies prior to the School proceeding with the reportable conduct investigation;
- notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
- notify the OCG within 7 business days of receiving the allegation;
- carry out a risk assessment and take action to reduce/remove risk, where appropriate; and

- provide an initial letter to the ESOA advising that an allegation of reportable conduct has been made against them and the School's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019; and
- investigate the allegation or appoint someone to investigate the allegation.

### **6.3.2 Investigation principles**

During the investigation of a reportable conduct allegation the School will:

- follow the principles of procedural fairness;
- inform ESOA of the substance of any allegations made against them, at the appropriate time in the investigation, and provide them with a reasonable opportunity to respond to the allegations;
- make reasonable enquiries or investigations before making a decision;
- avoid conflicts of interest;
- conduct the investigation without unjustifiable delay;
- handle the matter as confidentially as possible; and
- provide appropriate support for all parties including the child/children, witnesses and the ESOA.

### **6.3.3 Investigation steps**

In an investigation The Principal (Kocho Sensei) and Head of International Division or appointed investigator will generally:

- interview relevant witnesses and gather relevant documentation;
- provide a letter of allegation to the ESOA;
- provide the ESOA with the opportunity to provide a response to the allegations either in writing or at Interview;
- consider relevant evidence and make a preliminary finding in accordance with the OCG guidelines;
- inform the ESOA of the preliminary finding in writing by the Head of Entity and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings;
- consider any response provided by the ESOA;
- make a final finding in accordance with the OCG guidelines;
- decide on the disciplinary action, if any, to be taken against the ESOA;
- if it is completed, send the final report to the OCG within 30 days after having received the allegation, as per section 36 of the Children's Guardian Act 2019.

- should the final report be unfinished within 30 days, the Head of Entity must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as per section 38 of the Children's Guardian Act 2019.

Submission of an interim report must include;

- a reason for not providing the final report within 30 days and an estimated time frame for completion of the report.
- specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG received a notification about the reportable allegation or reportable conviction; further action the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations; and
- be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

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 the DCJ or Police.

An ESOA 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.

## **6.4 Risk management throughout an investigation of a reportable conduct allegation**

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.

The Principal (Kocho Sensei) or Head of International Division 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.

### **6.4.1 Initial risk assessment**

Following an allegation of reportable conduct against an employee, The Principal (Kocho Sensei) or Head of International Division conducts an initial risk assessment to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation;
- other children with whom the employee may have contact;
- the ESOA;
- the School, and
- the proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

- the nature and seriousness of the allegations;
- the vulnerability of the child(ren) the ESOA has contact with at work;

- the nature of the position occupied by the ESOA;
- the level of supervision of the ESOA; and
- the disciplinary history or safety of the ESOA and possible risks to the investigation.

The Principal (Kocho Sensei) and Head of International Division will take appropriate action to minimise risks. This may include the ESOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the ESOA.

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.

#### **6.4.2 Ongoing risk assessment**

The Principal (Kocho Sensei) and Head of International Division will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

#### **6.4.3 Findings**

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by The Principal (Kocho Sensei) and Head of International Division regarding what action, if any, is required in relation to the ESOA, the child(ren) involved and any other parties.

#### **6.4.4 Information for the ESOA**

The ESOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation); and
- of the substance of the allegation, or of any preliminary finding and the final finding.

The ESOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation; or
- be shown the content of the OCG notification form or other investigation material that reveals information provided by other employees or witnesses.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

#### **6.4.5 Disciplinary action**

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

In relation to any disciplinary action the School will give the ESOA:

- details of the proposed disciplinary action; and
- a reasonable opportunity to respond before a final decision is made.

#### **6.4.6 Confidentiality**

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

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

Records about allegations of reportable conduct against employees will be kept [in a secure area] and will be accessible by [the Head of Entity or with the Head of Entity's express authority].

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by The Principal (Kocho Sensei) or Head of International Division to do so.

Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise The Principal (Kocho Sensei) or Head of International Division.

### **7. Criminal offences**

In 2018 the Crimes Act was amended to adopt recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the Police.

#### **7.1 Failure to protect offence (Crimes Act 1900 – NSW)**

An adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.

This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

#### **7.2 Failure to report offence (Crimes Act 1900 – NSW)**

Any adult, and therefore all staff members, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to Police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to The Principal (Kocho Sensei) and Head of International Division and is aware that The Principal (Kocho Sensei) and Head of International Division has reported the matter to the Police.

#### **7.3 Special Care Relationships (Crimes Act 1900 – NSW)**

It is a crime in NSW for a staff member, volunteer or contractor to have a sexual relationship with a student where there is a special care relationship. The Act provides that a young person is under an adult's special care if the adult is a member of the teaching staff of the School at which the young person is a student; or has an established

personal relationship with the young person in connection with the provision of religious, sporting, musical or other instruction.

The Special Care (sexual intercourse) offence under s73 was supplemented by an additional special care offence involving sexual touching now under s73A of the Crimes Act. The new offence under s73A will expand special care offences to also apply to non-penetrative sexual touching. The offence will protect children aged 16-17 years from inappropriate sexual contact with teachers and others who have special care of the child.

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### **Acknowledgement**

I \_\_\_\_\_ have read, understood and agree to comply with the terms of this Child Protection Policy.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

### **ATTACHMENTS**

The following documents are attached to this policy:

1. School Incident Report.

### **REFERENCES**

NSW Department of Communities and Justice

<https://www.dcj.nsw.gov.au>

The Office of the Children's Guardian

<https://www.kidsguardian.nsw.gov.au>

Department of Premier and Cabinet – Keep Them Safe

[www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au)

# 事故報告書 INCIDENT REPORT

## 1. 児童生徒の詳細 Student profile

クラス・氏名 Class & Name	Y — ,
生年月日、年齢 DOB & Age	年 Year:      月 Month:      日 Date: (Age:      歳)
保護者氏名 Parent's name	
住所 Address	
電話番号 TEL	

## 2. 事故の詳細 Details of Incident

発生日時 Date, Time of the incident	年 Year:      月 Month:      日 Date: 時刻 Time: 授業中 In lesson / リセス中 In Recess
発生場所 Place	
発見者 First witness	
怪我の内容 Injury details	
事故の状況 Detailed account of incident	
校内での医療処置、対応 Medical treatment & action in the school	あり Yes / なし No 内容 Treatment provided:
処置、対応の判断者 Treatment & action authorized by	
学校長への報告、報告者 Report to The Principal (Kochō Sensei) and Head of International Division (Kochō Sensei) and Head of International Division	月 Month:      日 Date: 報告者 Reported by:
医師（病院）名 Name of Doctor/Hospital	
保護者への連絡、保護者の対応等 Details of report to parent, guardian, Response or repercussion from parent guardian	
児童生徒のその後の様子 Student's condition after incident	
その他 Other comment	
	報告書記入日 Report date: _____ / _____ / _____ 報告書記入者 Reported by: _____

Principal 校長		Deputy 教頭		Life Sec.Chief 生活指導部長		Class Teacher 担任	
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