Dubbo Christian School Policy

CHILD PROTECTION

<table>
<thead>
<tr>
<th>RANGS Reference</th>
<th>3.4, 3.5</th>
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<tbody>
<tr>
<td>Date of Last Review</td>
<td>21 April 2016</td>
</tr>
<tr>
<td>Ratified by the Board</td>
<td>May 2016</td>
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<tr>
<td>Owner</td>
<td>Principal</td>
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1. INTRODUCTION

Dubbo Christian School endeavours to ensure that the school is a safe environment where children are free of the risk of any form of abuse, or any other danger, by:

- Taking the necessary precautions to minimize harm;
- Ensuring safety networks are in place;
- Responding to indication or report of harm, abuse or danger to children;
- And acting in accordance with the legal obligation on all schools.

The school is committed to achieving the highest standards of education while fostering the dignity and integrity of the whole school community. The maintenance of a safe and supportive learning environment is essential to ensure that each student entrusted to our care is affirmed in his or her dignity and self-esteem as a person.

All staff must therefore endorse and embrace the principles of child protection as a fundamental responsibility.

1.1 Children are a precious gift from God. They are made in His image with the ability to relate, think, create, feel, plan and choose. They are valuable in God’s sight and worthy of the highest respect. They need nurture and discipline as an outworking of love and concern.

1.2 All appropriate measures will be taken to ensure students are protected from harm. All staff have a responsibility to protect and care for students under their care and to nurture them appropriately.

1.3 Dubbo Christian School is committed to fulfilling its duty of care to all its students by:
   1.3.1 providing them with a learning environment that is safe, supportive and caring;
   1.3.2 seeking to recognise promptly when any of its students are at risk of significant harm; and
   1.3.3 taking appropriate action to protect its students when the School or its staff become aware that its students are at risk of significant harm.

1.4 Accordingly, reportable conduct or other inappropriate or unprofessional behaviour by staff towards students will not be tolerated under any circumstances. The School expects all staff to honour the School’s commitment in this Policy and to work with the School to achieve a safe learning environment.
1.5 The School is committed to complying with its obligations under **NSW child protection legislation** and to educating its **staff** as to those obligations.

1.6 The School recognises that there is a danger that its **staff** could be seriously affected by false, vexatious or misconceived allegations against them. The School is therefore also committed to investigating all allegations promptly and fairly.

1.7 Terms that are defined in the Dictionary at the end of this policy are highlighted in **bold**.

2. **CHRISTIAN RATIONALE**

Dubbo Christian School has a commitment to honour and glorify God and to raise up effective leaders who will influence society for the glory of God.

Child Protection is part of the outworking of the Great Commandment to ‘love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind; and love your neighbour as yourself’. (Luke 10:27)

In the context of Dubbo Christian School, this love seeks to nurture and protect all people: with special regard to the children and young people placed into the School’s care by parents and guardians; but also fostering the welfare of staff, volunteers and visitors to the School, the families and friends that form the community of the School, and the greater community. The education of students within Dubbo Christian School aims to protect them from harm, and to train them to live according to the principles of God’s love in their future careers, families and communities.

Love honours each person as precious to God and desires their well-being in all ways. Therefore the School’s procedures seek to embody patience and kindness, honouring and serving others without prejudice or partiality. ‘Love does not delight in evil but rejoices with the truth. It always protects, always trusts, always hopes, always perseveres.’ (1 Corinthians 13:4-7)

Dubbo Christian School honours the authority God has given to the government of our nation, and upholds the laws of the land for the protection of children and young people, and the systems for the implementation of those laws. The School’s procedures in respect to these laws will be followed with compassion, sensitivity and humility towards all persons involved, as ‘love does no harm to a neighbour. Therefore love is the fulfilment of the law.’ (Romans 13:10)

3. **PUBLICATION AND DISTRIBUTION**

3.1 This Policy must be published on the school website.

3.2 This Policy must be given to all new **staff** who are required by the School to comply with their obligations under it, and, as part of their contract of employment, agree to its terms. Training will be provided by the Principal to all staff annually on the policy and any changes to legislation and consequent changes to the policy.

3.3 This Policy must be given to all members of the School Board. This will occur at the June Board meeting each year.

3.4 This Policy must also be given to:
   3.4.1 any person who makes a **reportable allegation**; and
   3.4.2 any person, being a member of the School community, who requests a copy.
## 4. ROLES AND RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Responsibilities</th>
<th>Evidence of Compliance</th>
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<tbody>
<tr>
<td><strong>Principal</strong></td>
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<tr>
<td>Ensure compliance with the processes and policies set out in this document</td>
<td>Secure files; CPL Policy &amp; calendar</td>
</tr>
<tr>
<td>Review of this document as changes are made to the relevant laws</td>
<td>Version history</td>
</tr>
<tr>
<td>Ensure all relevant staff have current ‘Working With Children Check’ clearance</td>
<td>Recruitment Policy</td>
</tr>
<tr>
<td><strong>Compliance with guidelines and procedures as Head of Agency</strong></td>
<td>Records of investigations</td>
</tr>
<tr>
<td><strong>Maintain systems for a safe environment for students</strong></td>
<td>Welfare Policy; WHS Policy</td>
</tr>
<tr>
<td><strong>Ensure systems for reporting &amp; investigating incidents</strong></td>
<td>This document</td>
</tr>
<tr>
<td><strong>Ensure adequate record keeping for audit or inspection by government authorities or CEN</strong></td>
<td>Records of investigations; reports to CEN</td>
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<tr>
<td><strong>Authorised Investigator</strong></td>
<td></td>
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<tr>
<td>Compliance with guidelines and procedures as Authorised Investigator</td>
<td>Records of investigations</td>
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<tr>
<td><strong>All School Staff</strong></td>
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<tr>
<td>Read and agree to comply with the practices of Child Protection and their responsibilities under the law, as set out in this Policy, the commencement of their employment</td>
<td>Annual CPL register; Staff Induction Policy; CPL Policy</td>
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<tr>
<td>Read and agree to comply with the Staff Code of Conduct (annually)</td>
<td>Annual Staff Code of Conduct files</td>
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<tr>
<td>Report according to the provisions of the law</td>
<td>(database); Confidential report files</td>
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<tr>
<td><strong>School community</strong></td>
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<tr>
<td>Comply with requirements of this policy</td>
<td>Code of Conduct for Parents &amp; Visitors</td>
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<tr>
<td>Cooperate with any investigation</td>
<td>Records of investigations</td>
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5. **LEGAL OBLIGATIONS**

The legal obligations to ensure the safety of children at school are effected through:

5.1 **Common Law Duty of Care** – that a person is not injured as the result of the negligence of another.

5.2 Three complementary components in the New South Wales legislative scheme:
   - **Children and Young Persons (Care and Protection) Act 1998** – Provision for reporting and investigating disclosures of child abuse to NSW Community Services (CS) www.community.nsw.gov.au
   - **Ombudsman Act 1974 (NSW) [Part 3A]** – Provision for reporting to the Ombudsman regarding in-house systems for handling allegations of child abuse by employees www.ombo.nsw.gov.au; and

5.3 Other requirements under **NSW law**

6. **CREATING A SAFE LEARNING ENVIRONMENT**

6.1 The School must develop strategies to create a safe learning environment. These will include educating all members of the School community about child protection issues.

6.2 All **staff** must become familiar with these strategies.

6.3 All **reportable allegations** must be taken seriously.

6.4 The strategies developed by the School must be monitored continuously and reviewed regularly.

6.5 The School must provide professional development to meet the needs of the **staff** in implementing this Policy.

6.6 The Principal is responsible for the administration and conduct of the school and all that relates to it. In terms of the relevant Acts, the Principal as the Head of Agency:
   - 6.6.1 **Must** be informed promptly of any case where a student may be at risk of harm.
   - 6.6.2 **Will** consult as necessary to determine whether there are reasonable grounds for further action.
   - 6.6.3 **Must** notify Community Services (CS) if there are reasonable grounds to suspect that a child is at risk of harm.
   - 6.6.4 **Must** report allegations of child sexual assault to CS. (Other staff members may also report to CS).
   - 6.6.5 **May** report concerns regarding a young person to CS.
   - 6.6.6 **Must** inform the reporting teacher of the action which has been taken.
   - 6.6.7 **Must** notify the Ombudsman in the event of an allegation of reportable conduct by staff, or any conviction or disciplinary action in relation to reportable conduct by an employee of which he/ she becomes aware.
   - 6.6.8 Has the duty to investigate, or delegate the investigation of, an allegation of reportable conduct of a staff member.
   - 6.6.9 **Will** set up systems for providing a safe environment for children in the School’s care, to
prevent reportable conduct from happening.

6.6.10 Will ensure systems for recording and responding to allegations or convictions of a child protection nature against employees.

6.6.11 Will make arrangements within the School to require all staff to inform the Head of Agency of any allegations or conviction of a child protection nature against an employee, of which they become aware as soon as practicable.

6.6.12 Must promote this Policy within the School, with particular regard to the professional development needs of staff; and

6.6.13 Must monitor the strategies to create a safe learning environment.

6.7 All staff are Mandatory Reporters under the Children and Young Persons (Care and Protection) Act, 1998. All staff:

6.7.1 Must be familiar with the School’s Code of Conduct in relation to Child Protection.

6.7.2 Must take the necessary steps to prevent and protect students from being harmed or exposed to harm, in consultation with the school Principal or, where the school Principal is unavailable, in consultation with a designated teacher.

6.7.3 Must report any suspicion, or disclosure, that a student is at risk of harm to the Principal, who must determine whether there are reasonable grounds for further action.

6.7.4 In the event that the Principal determines there are not reasonable grounds to report, and the teacher disagrees, that teacher is responsible to notify CS themselves.

6.7.5 In the event that no one is available to consult with, the teacher must take the necessary steps as required; and must make a written report to the Principal.

6.7.6 Must report all allegations of reportable conduct, prior conviction for, or disciplinary proceedings in relation to, reportable conduct by staff to the Principal.

6.7.7 Must report promptly in accordance with this policy whenever they:

6.7.7.1 have reasonable grounds to suspect that a student is at risk of significant harm; or

6.7.7.2 become aware of a reportable allegation against a member of staff whenever or wherever the reportable conduct took place.

7. REPORTING OBLIGATIONS
7.1 Any member of staff to whom a reportable allegation is made or who becomes aware of a reportable allegation or reportable conviction must report this to the Principal.

7.2 Any member of staff who has reasonable grounds to suspect that any student is at risk of significant harm must report the name, or a description, of the student and the grounds for suspecting that the student is at risk of significant harm to the Principal.

7.3 Any member of staff who has reasonable grounds to suspect that a child who is not a student and who is under the age of 16 is at risk of significant harm and those grounds arise during the course of or from the member of staff’s work must report the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm to the Principal.

7.4 Any member of staff who has reasonable grounds to suspect that a student who is under the age of 16 or a child who is not a student who is under the age of 16 is at risk of significant harm and those grounds arise during the course of or from the member of staff’s work must, in addition to reporting this to the Principal, satisfy himself or herself that the Principal has reported the matter to the Director-General of the Department of Family and Community Services (Community Services). Where, for any reason, the member of staff is unable to satisfy himself or herself that the Principal has reported the matter to the Director-General, the member of staff has a duty to report the name, or a description, of the student and the grounds for suspecting that the student is at risk of significant harm to the Director-General as soon as practicable.

7.5 If the reportable allegation is against the Principal or if the student is at risk of significant harm from the Principal, the report should be made to the Chairman of the School Board who must then comply with the obligations under this policy that would otherwise fall upon the Principal. The Board may delegate authority to the Deputy Principal as an authorized investigator under the Act, or another suitable person to initiate a report.

7.6 When the Principal receives a report from a member of staff under this section of this policy, the Principal must, where required by law, report the matter to the Police, Community Services and/or the NSW Ombudsman.

7.7 Where the report is to the Ombudsman, it must be made as soon as practicable and, in the case of the notification of a reportable allegation or reportable conviction, must be made, in any event, within 30 days of the Principal becoming aware of the allegation or conviction (or within such further period as may be agreed to by the Ombudsman).

7.8 The Principal must set up structures which make it easy for staff and other members of the School community to report to the Principal reportable allegations or reportable convictions and situations in which they suspect that a student is at risk of significant harm. The Principal must also educate the staff and the School community about these structures and actively encourage them to make use of these structures.

7.9 The Principal must ensure that no person reporting to the Principal under this section of this policy is disadvantaged as a result.

8. RISK MANAGEMENT

8.1 Pending completion of any investigation (whether by the School or an external authority), the Principal may limit the contact the member of staff is to have with students or other staff,
direct the member of staff to undertake duties other than normal duties or at different locations or suspend the member of staff (but on normal pay). Before taking such action, the Principal must consider what risk, if any, the member of staff might pose to students. The Principal must take into account all relevant circumstances, including:

8.1.1 the nature of the allegation;
8.1.2 the vulnerability of the students (for example, because of their age);
8.1.3 the nature of the position occupied by the member of staff;
8.1.4 the extent to which the member of staff is supervised;
8.1.5 the disciplinary record of the member of staff;
8.1.6 the safety of the member of staff; and
8.1.7 the extent to which the investigation could be compromised by the member of staff continuing his or her normal duties.

8.2 Any action taken by the Principal under this section of the policy is not an indication that the Principal has made, or is likely to make, any particular findings in relation to the allegation against the member of staff.

9. INVESTIGATION

9.1 This section of the policy applies unless an investigation is being carried out by the Police, Community Services, the Ombudsman or some other state or federal authority. This section also applies to any investigation carried out by the School once an investigation carried out by an external authority has been completed.

9.2 The guidelines set out in Child Protection in NSW Christian Schools – Responding to complaints and investigating Reportable Conduct Manual (ESPC Services) must be followed in any investigation to which they apply.

9.3 The Principal is the Head of Agency at Dubbo Christian School and must investigate, or must cause to be investigated, all reportable allegations and all allegations that do not amount to reportable conduct because they involve:
9.3.1 the use of physical force that, in all the circumstances, is trivial or negligible, or
9.3.2 conduct of a class or kind exempted from being reportable conduct by the Ombudsman.

9.4 Investigations must be carried out in a way which affords procedural fairness to the member of staff involved. This means that, before completing an investigation of a reportable allegation, the member of staff must be informed of the substance of the allegation against them and provide them with a reasonable opportunity to put their case forward (if required by the member of staff, with the assistance of a support person of the member of staff’s choice). Normally, the Principal is to decide the timing and the particular form this will take, ensuring the investigation is not compromised. It also means that the Principal and the person conducting the investigation must:
9.4.1 act fairly and without bias;
9.4.2 conduct an investigation without undue delay;
9.4.3 ensure the case is not investigated or determined by someone with a conflict of interest;
9.4.4 ensure the outcome is supported by evidence;
9.4.5 take steps to maintain confidentiality for the sake of all parties involved in the investigation.
At the conclusion of the investigation, the Principal may:

9.5.1 if the breach is minor, resulting from a misunderstanding of how certain words or behaviour were understood, require from the member of staff an apology and a commitment not to repeat the offence;

9.5.2 if it is more serious, require from the member of staff:
   9.5.2.1 an undertaking to attend counselling;
   9.5.2.2 a written apology;
   9.5.2.3 a commitment not to offend again; and

9.5.3 in the most serious case, suspend or terminate the employment of the member of staff.

The Principal must advise the victim and the member of staff in writing of the result of the investigation and the action taken.

If the victim or the member of staff is unhappy with the conduct or result of investigation, they may take their complaint to the Principal and, if dissatisfied with the Principal’s response to their complaint, to the NSW Ombudsman, Community Services, the Police or any other relevant authority depending on the circumstances.

The Principal must, as soon as practicable after being satisfied that the investigation has been concluded:

9.8.1 send to the Ombudsman a copy of any report prepared by or provided to the Principal as to the progress or results of the investigation, and copies of all statements taken in the course of the investigation and of all other documents on which the report is based;

9.8.2 provide the Ombudsman with such comments on the report and statements as the Principal thinks fit;

9.8.3 inform the Ombudsman of the action that has been taken or is proposed to be taken with respect to the reportable allegation the subject of the investigation, and whether or not the School proposes to take any disciplinary or other action in relation to the member of staff and the reasons why it intends to take or not to take any such action; and

9.8.4 send to the Ombudsman any written submissions made to the Principal concerning any such allegation that the member of staff wished to have considered in determining what (if any) disciplinary or other action should be taken in relation to him or her.

The School must notify the Children’s Guardian of the name and other identifying particulars of any member of staff involved in child-related work against whom the School has made a finding that the member of staff has engaged in:

9.9.1 sexual misconduct committed against, with or in the presence of a child, including grooming of a child,

9.9.2 any serious physical assault of a child.

If the Children’s Guardian so requests, the Principal may also provide the Children’s Guardian with a statement setting out information specified by the notice relevant to an assessment of whether a person poses a risk to the safety of children.

PASTORAL CARE

Where a student is at risk of significant harm or is the person to whom the reportable conduct has allegedly been directed, the Principal must as soon as possible advise the student’s parents or caregivers unless the Principal is satisfied that:
10.1.1 Community Services intends to notify the student’s parents or caregivers promptly; and
10.1.2 the School will not be in breach of its duty of care to the student or to other students by not advising the student’s parents or caregivers.

10.2 The School must:
10.2.1 make available its counselling staff to provide counselling and other support as required to:
   10.2.1.1 any student who is at risk of significant harm or is the person to whom reportable conduct has allegedly been directed; and
   10.2.1.2 any member of staff against whom a reportable allegation has been made; and
   10.2.1.3 where relevant, their families; and
10.2.2 refer these people to external agencies able to provide relevant care and support.

11. EMPLOYMENT

11.1 The School must not employ a person (whether as an employee or self-employed contractor) in child-related work if the School knows or has reasonable cause to believe that:
   11.1.1 the person is not the holder of a working with children check clearance that authorises that work and that there is no current application by the person to the Children’s Guardian for a clearance of a class applicable to that work, or
   11.1.2 the person is subject to an interim bar.

11.2 The School must verify that a person has a working with children check clearance before employing that person (whether as an employee or self-employed contractor) in child-related work.

11.3 Any child-related worker, paid or voluntary, who is subsequently barred under the Working With Children Check will be immediately removed from child-related work upon notification by letter to the School.

11.4 The School must not continue to employ a member of staff in child-related work in its secondary school from 31 March 2017 if the School knows or has reasonable cause to believe that:
   11.4.1 the member of staff is not the holder of a working with children check clearance that authorises that work and that there is no current application by the member of staff to the Children’s Guardian for a clearance of a class applicable to that work, or
   11.4.2 the member of staff is subject to an interim bar.

11.5 The School must not continue to employ a member of staff to whom the previous paragraph does not apply in child-related work from 31 March 2018 if the School knows or has reasonable cause to believe that:
   11.5.1 the member of staff is not the holder of a working with children check clearance that authorises that work and that there is no current application by the member of staff to the Children’s Guardian for a clearance of a class applicable to that work, or
   11.5.2 the member of staff is subject to an interim bar.

11.6 A member of staff whose working with children check clearance is cancelled must immediately inform the Principal and resign from employment with the School.

12. VOLUNTEERS, OUTSIDE TUTORS AND EXTERNAL PROVIDERS

12.1 The School must not engage a person as a volunteer in child-related work in its secondary
school until 31 March 2017 without first requiring that person to disclose whether or not that person is a **prohibited person**.

12.2 The School must not engage a person as a volunteer to whom the previous paragraph does not apply in **child-related work** until 31 March 2018 without first requiring that person to disclose whether or not that person is a **prohibited person**.

12.3 **All volunteers will sign a Prohibited Person Declaration which outlines their obligations under Child Protection Legislation when volunteering at Dubbo Christian School.**

12.4 The School must not engage, or continue to engage, in **child-related work** a person as a volunteer that the School knows is a **prohibited person**.

12.5 A volunteer who becomes a **prohibited person** must immediately inform the Principal and stop volunteering with the School.

12.6 The School must not engage, or continue to engage, a volunteer in **child-related work** in its secondary school from 31 March 2017 if the School knows or has reasonable cause to believe that:

12.6.1 the volunteer is not the holder of a **working with children check clearance** that authorises that work and that there is no current application by the volunteer to the Children’s Guardian for a clearance of a class applicable to that work, or

12.6.2 the volunteer is subject to an interim bar.

12.7 The School must not engage, or continue to engage, a volunteer to whom the previous paragraph does not apply in **child-related work** from 31 March 2018 if the School knows or has reasonable cause to believe that:

12.7.1 the volunteer is not the holder of a **working with children check clearance** that authorises that work and that there is no current application by the volunteer to the Children’s Guardian for a clearance of a class applicable to that work, or

12.7.2 the volunteer is subject to an interim bar.

12.8 Where either of the previous two paragraphs applies, the School must verify that a person has a **working with children check clearance** before engaging that person as a volunteer in **child-related work** in the School.

12.9 Outside tutors e.g. Music tuition must have a Working with Children Clearance. The school ensures this is the case with either the individual concerned or the organization they represent.

12.10 External providers e.g. TAFE must have a Working with Children Clearance and this will be established in writing with the relevant organization.

12.11 The School will ensure that employees, outside tutors, external providers and volunteers are informed of the requirements of the school to notify and investigate allegations of reportable conduct in compliance with Part 3A of the Ombudsman Act 1974.

13. **RECORD KEEPING**

13.1 The School is committed to keeping accurate records of all matters required by this policy.

13.2 Where the School collects and/or holds personal information pursuant to this Policy, it must do so in accordance with the **Privacy Act 1988** (Cth).
13.3 The School must keep records concerning allegations, investigations and findings concerning the subject of any such notification for not less than 30 years, unless the records are given to the Children's Guardian.

13.4 Accurate documentation must be kept by all parties concerning:
13.4.1 Reports made of any possible case of a student suspected to be at risk of harm, including:
   - details of any complaint, allegation or notification;
   - actions taken by the school as a result of such notification; and
   - any other details related to the report
13.4.2 All details relating to any investigation undertaken by the Principal, or authorised investigator
   All records will be kept indefinitely in a secure confidential file at the school.

13.5 A member of staff against whom a finding has been made that the member of staff has engaged in:
13.5.1 sexual misconduct committed against, with or in the presence of a child, including grooming of a child, or
13.5.2 any serious physical assault of a child, is entitled to apply for access under section 46 of the Child Protection (Working with Children) Act 2012 to any information about the finding.

14. CONFIDENTIALITY

Staff who have access to information regarding:
- students suspected to be at risk of harm
- allegations of reportable conduct by a staff member
- details of any investigation into a complaint
are to observe strict confidentiality in relation to the entire matter unless required by the Principal to disclose that information.

15. REVIEW OF POLICY

15.1 The Principal is to ensure that this policy is regularly monitored and revised in the light of legislative or best practice changes.

15.2 In any event, the School Board is to review this policy every three years.

16. DICTIONARY

16.1 Assault includes physical assault and sexual assault.

16.2 Child means a person under the age of eighteen years.

16.3 Child abuse material means material that depicts or describes, in a way that reasonable persons would regard as being, in all the circumstances, offensive:
   16.3.1 a person who is, appears to be or is implied to be, a child as a victim of torture, cruelty or physical abuse, or
   16.3.2 a person who is, appears to be or is implied to be, a child engaged in or apparently engaged in a sexual pose or sexual activity (whether or not in the presence of other persons), or
   16.3.3 a person who is, appears to be or is implied to be, a child in the presence of another person who is engaged or apparently engaged in a sexual pose or sexual activity, or
16.3.4 the genital area or anal area of a person, or the breasts of a female person, who is, appears to be or is implied to be, a child.

16.4 Child-related work means work involving direct contact by a member of staff with children.

16.5 Child-related personal violence offence means:
16.5.1 an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a child, or
16.5.2 an offence committed by an adult of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraph 16.5.1, but does not include an offence committed by an adult who is not more than 3 years older than the child concerned.

16.6 Grooming behaviour means a pattern of behaviour aimed at engaging a child as a precursor to sexual abuse. The grooming process can include:
16.6.1 persuading the child that a “special” relationship exists by spending inappropriate special time with the child, inappropriately giving gifts, showing special favours to them but not other children, allowing the child to overstep rules, etc.;
16.6.2 testing of boundaries by undressing in front of the child, allowing the child to sit on the lap, talking about sex, “accidental”= touching of genitals, etc. These behaviours may not indicate risk if occurring in isolation but, if there is a pattern of behaviour occurring, it may indicate grooming. Grooming behaviour constitutes a form of sexual misconduct.

16.7 Neglect occurs when a child is harmed by the failure of a person whose job includes care responsibilities towards a child to provide basic physical and emotional necessities of life, including failure of such a person to provide or arrange for the provision of adequate and proper food, nursing, clothing, medical attention or lodging for a child in that person’s care.

16.8 NSW child protection legislation means:
16.8.1 Children and Young Persons (Care and Protection) Act 1998;
16.8.2 Children’s Guardian Act 1998;
16.8.3 Ombudsman Act 1974;
16.8.4 Child Protection (Offenders Registration) Act 2000; and

16.9 Physical assault means an act:
16.9.1 which is committed on or towards a child; and
16.9.2 that involves the application of force to a child or that causes a child to think that immediate force will be used on the child; and
16.9.3 which is hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear, and ignores the risk).
Actual physical harm does not have to occur for an assault to have taken place. That is, the child does not have to be injured. Physical contact which is an inevitable part of everyday life does not amount to an assault.

16.10 Prohibited person means a person convicted of a serious sex offence, the murder of a child or a child-related personal violence offence or a person who is a registrable person within the meaning of the Child Protection (Offenders Registration) Act 2000.

16.11 Psychological harm means significant emotional harm or trauma.

16.12 Reportable allegation means an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.
16.13 **Reportable conduct** means:
16.13.1 any sexual offence, or **sexual misconduct**, committed against, with or in the presence of a **child** (including a child pornography offence or an offence involving **child abuse material**), or
16.13.2 any **assault**, ill-treatment or **neglect** of a **child**,
16.13.3 any behaviour that causes **psychological harm** to a **child**, whether or not, in any case, with the consent of the **child**.

**Reportable conduct** does not extend to:
16.13.4 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
16.13.5 the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
16.13.6 conduct of a class or kind exempted from being **reportable conduct** by the Ombudsman.

Examples of conduct that would not constitute **reportable conduct** include (without limitation) touching a **child** in order to attract a **child**’s attention, to guide a **child** or to comfort a distressed **child**; a school teacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental. Further examples of behaviours that are not **reportable conduct** include providing appropriate medical care to a **child** who is hurt; guiding a **child** by the shoulders, arms or hands; not providing supervision where this was for good reason, and for a short period of time and where the risk of harm was reasonably perceived at the time to be low; and actions found to have been appropriate physical contact in classes such as sport and drama.

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

16.15 A **child** is at **risk of significant harm** if current concerns exist for the safety, welfare or well-being of the **child** because of the presence, to a significant extent, of any one or more of the following circumstances:
16.15.1 the **child**’s basic physical or psychological needs are not being met or are at risk of not being met,
16.15.2 the parents or other caregivers have not arranged and are unable or unwilling to arrange for the **child** to receive necessary medical care,
16.15.3 in the case of a **child** 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** to receive an education in accordance with that Act,
16.15.4 the **child** has been, or is at risk of being, physically or sexually abused or ill-treated,
16.15.5 the **child** is living in a household where there have been incidents of domestic violence and, as a consequence, the **child** is at risk of serious physical or **psychological harm**,
16.15.6 a parent or other caregiver has behaved in such a way towards the **child** that the **child** has suffered or is at risk of suffering serious **psychological harm**, 
16.15.7 the **child** was the subject of a pre-natal report under the *Children and Young Persons (Care and Protection) Act 1998* 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.
Any such circumstances may relate to a single act or omission or to a series of acts or omissions. What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child’s safety, welfare or wellbeing. Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given. The Child Wellbeing and Child Protection - NSW Interagency Guidelines (www.keepthemsafe.nsw.gov.au/interagency_guidelines) provide a list of indicators that may raise concern about risk of significant harm.

A practical test when considering whether a child is at risk of significant harm is to ask whether the concern for the child is sufficiently serious to warrant a response by authorities such as the Police or Community Services irrespective of a family’s consent.

16.16 **Sexual assault** refers to a sexual offence against, with or in the presence of a child. It includes the involvement of children in sexual acts or acts of indecency and any sexual threat imposed on a child.

16.17 **Sexual misconduct** includes a range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts. Some of these behaviours may include:
- 16.17.1 inappropriate conversations of a sexual nature;
- 16.17.2 comments that express a desire to act in a sexual manner;
- 16.17.3 unwarranted and inappropriate touching; sexual exhibitionism;
- 16.17.4 personal correspondence (including electronic communication) with a child in respect of the adult’s sexual feelings for a child;
- 16.17.5 deliberate exposure of children to sexual behaviour of others including display of pornography;
- 16.17.6 possession of child pornography in the workplace;
- 16.17.6 grooming behaviour.

16.18 **Staff or member of staff** includes any School employee and any individual engaged by the School to provide services to its students (even as a volunteer, student teacher, gap student, private tutor or contractor).

16.19 **Working with children check clearance** means an authorisation that is in force under the Child Protection (Working with Children) Act 2012 to engage in child-related work.