



# Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct

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## Introduction

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

Edmund Rice College requires all staff to comply with a Code of Conduct and standards of behaviour that are intended to prevent staff misconduct and reportable conduct, and staff are encouraged to report any breaches of the Code or standards.

It is also critical that the broader College community reports staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that the College complies with its legislative reporting obligations. Edmund Rice College has a legal obligation to investigate and report to the NSW Children's Guardian all allegations of reportable conduct made against staff at the College as defined by the Children's Guardian Act 2019 (NSW) (Children's Guardian Act).

For the purposes of this policy, "staff" and "staff member" is defined to include teaching and non-teaching staff, College Advisory members, volunteers, contractors and external providers.

## Definition of Staff Misconduct

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

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

## Definition of Reportable Conduct

The Children's Guardian Act defines reportable conduct as including:

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

1. sending an email to [complaints@erc.nsw.edu.au](mailto:complaints@erc.nsw.edu.au)
2. writing a letter addressed to the Human Resources Manager.
3. telephoning the College and asking to speak to the Deputy Principal.

If the Deputy Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Principal or the EREA Director of NSW Colleges on (02) 8705 8609 or email [ereansw@erea.edu.au](mailto:ereansw@erea.edu.au).

## Investigating and Managing Staff Misconduct and Reportable Conduct

The College initially investigates all complaints and allegations to determine whether the conduct in question amounts to staff misconduct, as defined in this policy, or reportable conduct that must be further investigated and reported to the 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 College's initial investigation, and it is determined through the College's investigation that staff misconduct has occurred, the College will notify the complainant of the finding and corrective actions that will be taken. Staff misconduct is managed through our Human Resources policies and procedures relating to internal grievances, discipline and termination.

### Reportable Conduct

After the Principal becomes aware of a 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 **must** notify the Children's Guardian of the findings of College's internal investigation into the matter.

The Principal **must** inform the affected child and their parents/carers about any reportable conduct investigation unless it is "not in the public interest" to inform them.

Sometimes, where reportable conduct obligations arise, the College will also have other mandatory reporting obligations. In these situations, the College will prioritise its procedures for mandatory reporting to the Department of Communities and Justice and/or to 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 the College's internal investigation results in a finding of reportable conduct, following the College's notification to the NSW Children's Guardian, we will conduct a final risk assessment of the conduct, the staff member and the circumstances, and take action to mitigate ongoing risks.

### Disclosing Information to the College Community

A parent or carer has a legitimate interest in being told of the process that is being followed to investigate an allegation that their child was a victim of staff misconduct or reportable conduct.

Section 57 of the Children's Guardian Act imposes disclosure obligations and prohibitions on the Principal.

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" 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. Disclosures 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.

### Where to find more information

The NSW Children's Guardian provides information on reportable conduct and the College's obligations to report. For more information about the College's policies and procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact The Principal or Deputy Principal.