

<b>Title</b>	Reportable Conduct Policy NSW
<b>Description of policy</b>	This policy sets out the obligations and processes for Catholic Education Archdiocese of Canberra and Goulburn (CECG) workers to investigate Reportable Conduct and report it to the New South Wales Office of the Children’s Guardian. It applies to all CECG employees, and volunteers and contractors providing services to children, in NSW.
<b>Required because</b>	The head of CECG has legal obligations to notify the Office of the Children’s Guardian of any allegation of Reportable Conduct, and to ensure the organisation has processes in place to investigate and respond to any allegations.
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## 1. Summary

- 1.1 This policy sets out the obligations and processes for Catholic Education Archdiocese of Canberra and Goulburn (CECG) workers to investigate Reportable Conduct and report it to the New South Wales Office of the Children’s Guardian (OCG). It applies to all CECG employees, and volunteers and contractors providing services to children, in NSW.

## 2. Reportable Conduct Policy NSW

- 2.1 Under NSW legislation<sup>1</sup>, CECG must report to the Office of the Children’s Guardian any allegations that employees, or volunteers and contractors who provide services to children, have engaged in Reportable Conduct (defined below). It doesn’t matter whether the reportable conduct happened to a student or another child – any allegations which meets the legal definition of reportable conduct related to work or in a personal capacity must be reported to the OCG.
- 2.2 The Catholic Archdiocese of Canberra and Goulburn Education Ltd Board is accountable to the Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn for the conduct and performance of CACGEL. Day-to-day management is delegated to the Executive Director.
- 2.3 This policy sets out the practices and procedures to prevent Reportable Conduct, to enable CECG workers to notify the Executive Director and leadership of reportable conduct, and to enable CECG to manage and disclose reports of reportable behaviour.

## 3. Reportable Conduct Process

- 3.1 Reportable Conduct must be notified to the Children’s Guardian within 7 days of first being reported within the workplace (stages 2-6 must occur within 7 days). This is within 7 days when a CECG worker initially becomes aware of the allegation.
- 3.2 If the full Reportable Conduct process is not completed within 30 days of the allegation first being reported in the workplace (stages 2-8 within 30 days), an interim report must be sent to the OCG outlining progress and the reasons the completed investigation process is not complete and finalised. This will include any process where a finding has been sustained.

Step	Stage of Process	Actor and Action
One	Incident	An employee, volunteer or contractor becomes aware of concerning conduct or a criminal conviction that might be reportable conduct.
Two	Report to manager and CECG	That person must report the alleged conduct to their Principal, ELC Director, School-Aged Care Director or Service Area Leader as soon as practicable – within 24 hours. An ELC Director or School-Aged Care Director will usually report the matter to their school Principal. The Principal or Service Area Leader must contact the Child Protection team in CECG School and Family Services to notify them of the alleged reportable conduct.

<sup>1</sup> Children’s Guardian Act 2019 (NSW)

Three	Assess initial allegation	The Child Protection Team will assist the Principal or Service Area Leader to identify and respond to any risks.
Four	Immediate Action	The Principal, ELC Director, School-Aged Care Director or Service Area Leader must implement any mitigation strategies identified in the risk assessment that are immediately necessary to reduce risk.
Five	Notify CECG	<p>If the risk assessment determines the alleged conduct meets the definition of Reportable Conduct, the Child Protection Team must complete the following forms/documents which are required to be provided to the OCG at the time the Notification is made:</p> <ul style="list-style-type: none"> <li>• Notification Form.</li> <li>• An Investigation Plan.</li> <li>• Risk Assessment.</li> </ul> <p>Where a Letter of Allegation has been prepared this should also be provided as part of the Notification documentation.</p>
Six	Notify OCG	<p>The Child Protection team send the Reportable Conduct forms and attachments to the CECG Institute for Professional Standards and Safeguarding. The Institute for Professional Standards and Safeguarding must report to the OCG that an allegation of reportable conduct has been received and CECG will investigate.</p> <p><b>This must occur within 7 days of Stage 2 occurring.</b></p>
Seven	CECG Investigation	<p>The Child Protection Team (or an appointed external investigator) will investigate the allegations. The investigator will report the outcome of the investigation and supporting evidence to the School and Family Services Leader.</p> <p>The report makes a recommendation to the School and Family Services Leader, who determines whether there should be a finding whether Reportable Conduct occurred.</p> <p>The Head of School and Family Service provides the report and decision to the Institute for Professional Standards and Safeguarding.</p> <p>The OCG may monitor, oversee, or participate in the CECG investigation.</p>
Eight	Report to OCG	The Institute for Professional Standards and Safeguarding must formally report the outcome of the investigation and the decision to the OCG within 30 days of the allegation first being reported – or provide an interim report must be sent to the OCG outlining progress and the reasons the completed investigation process is not complete and finalised. This will include any process where a finding has been sustained.
Nine	Corrective Action	<p>If Reportable Conduct has occurred, the People and Culture team will assist the Principal, ELC Director, School-Aged Care Director or Service Area Leader to coordinate support for the people affected, to appropriately manage the worker involved, and to eliminate or reduce the risk of further Reportable Conduct.</p> <p>Where there is an employment sanction this must be determined by the People &amp; Culture, Service Leader.</p>

## 4. What is Reportable Conduct?

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4.1 In NSW, reportable conduct is:

- A sexual offence
- Sexual misconduct
- Ill-treatment of a child
- Neglect of a child
- An assault against a child
- An offence of failing to reduce or remove risk of child becoming victim of child abuse by another worker, or of concealing a child abuse offence (43B or 316A of the Crimes Act 1900)
- Behaviour that causes significant emotional or psychological harm to a child.

4.2 Examples might include:

- A teacher or a volunteer pushing or hitting a child
- A teacher repeatedly yelling at a child in manner that is considered to be seriously inappropriate, degrading or hostile
- Sexual assault of a child by a teacher or a volunteer (including before they started work/volunteering)
- Domestic violence or assault offences committed in the presence of a child
- Allegations that a teacher or a volunteer was looking at pornography, making sexualised comments, or had sexually explicit communication with students (beyond reasonable sex education purposes)
- A restrictive practice that was not appropriate in the circumstances.

4.3 Definitions and other examples can be found at sections 20-25 of the [Children's Guardian Act 2019](#).

## 5. What is Not Reportable Conduct

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5.1 Reportable conduct does not include reasonable discipline and other conduct that is appropriate under professional teaching standards.

5.2 In NSW the exact definition of what is not reportable conduct is:

- Conduct that is reasonable for the purposes of discipline, management or care of a child, having regard to
  - The age, maturity, health or other characteristics of the child, and
  - Any relevant code of conduct or professional standard, or
- The use of physical force if—
  - In all the circumstances, the physical force 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.

5.3 For example, the school receives a complaint that a teacher caused psychological harm to a child. The complaint will be assessed in line with the Reportable Conduct process and CECG Complaints Policy. If the investigation finds that the conduct was reasonable under professional teaching standards, or was negligible, it is not Reportable Conduct.

- 5.4 Reportable Conduct is different to Mandatory Reporting legislation. Reportable Conduct is conduct by a CECG employee, volunteer or contractor against any child. Mandatory Reporting is conduct by anyone against children that attend CECG schools or ELCs.
- 5.5 Reportable Conduct (conduct by a CECG worker) may also count as Mandatory Reporting if it places a student at risk of harm (see CECG [Mandatory and Voluntary Reporting Policy NSW](#)).
- 5.6 CECG workers can refer to NSW Government Office of the Children’s Guardian resources for more information about Reportable Conduct.

## 6. Stage 2 - What to do if you suspect Reportable Conduct?

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- 6.1 If a worker becomes aware of any concerning conduct – either because of their own behaviour (e.g. they are involved in an incident or convicted of an offence) or by a colleague – they must report that to their Principal, ELC Director, School-Aged Care Director or Service Area Leader.
- 6.2 Principals, ELC Directors, School-Aged Care Directors or Service Area Leaders who receive any report of alleged Reportable Conduct must notify the School and Family Services team as soon as possible.

## 7. Stages 3 and 4 – Risk assessment and Immediate action

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- 7.1 Under NSW law, an allegation of reportable conduct must be examined for the risks associated with the alleged conduct. The risk assessment must be documented and details of it provided to the Children’s Guardian when the Guardian is notified of the allegations (stage 6).
- 7.2 The Child Protection Team – or a worker they delegate – must complete the risk assessment and identify actions to mitigate risks to an acceptable or manageable level.
- 7.3 The risk assessment must be updated at the outcome of the investigation (stage 8), to record if any notable risks have changed during the investigation. This means a minimum of two risk assessments will be completed during a reportable conduct investigation in NSW.
- 7.4 Risks that might be assessed include:

### **Risks relating to children:**

- Does the child and other family members require specific protection and support?
- Is the welfare of the child threatened?
- Is the child or employee the subject of the allegation able to interact with parties involved in the allegation in the normal course of school activities?
- Does the allegation constitute a criminal offence?
- Is there risk of self-harm?

### **Risks relating to employees:**

- What personal support is required for the employee?
- Should the employee remain in their current position or be allocated to another role or suspended whilst the matter is investigated? This will depend on:
  - Nature and seriousness of the allegation
  - The requirements of the child/ren

- Reactions of employer to allegation with specific consideration to their current welfare
- School Community reaction to the allegation (if known) and the viability of the employer remaining in the current position whilst the matter is investigated
- Nature and type of work done by the employee
- Supervision controls that are in place or could be put in place
- Support mechanisms that could be put in place to support the employee in their current role
- The employee's workplace misconduct history and any current employment sanctions

**Risks relates to others, and what changes need to be actioned to ensure:**

- Safety
  - Wellbeing such as other students and staff who have witnessed or are aware of the allegation
  - The ability to continue their role and responsibilities.
- 7.5 If child welfare agencies or law enforcement agencies are involved, the actions of those organisations should be included in the report as these may affect the actions taken to manage and mitigate risk factors.
- 7.6 Risk should be managed on a dynamic and ongoing basis. If new risks are identified or risk ratings change, the Child Protection Team should identify, implement and record new strategies to manage the risks. If no new risks emerge, the fact of the assessment and no new risks should be noted in records.
- 7.7 Principal, ELC Director, School-Aged Care Director or Service Area Leader must implement any identified actions that are immediately required to mitigate risk, before moving on to further stages.

## 8. Stage 5 – Notifying CECG and Record Management

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- 8.1 The Child Protection Team must send the completed risk assessment and Reportable Conduct Form to the School and Family Services Leader.
- 8.2 The School and Family Services Leader will make the formal decision whether the allegation is reportable conduct, and provide the report and decision to the Institute for Professional Standards and Safeguarding.
- 8.3 All relevant CECG workers are required to keep copies of the reporting form and any other records of reportable conduct investigations in accordance with the CECG Record Keeping Policy.

## 9. Stage 6 – Notification to the OCG

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- 9.1 The objective of the Reportable Conduct scheme is to ensure the OCG receives notification of allegations of Reportable Conduct, within 7 days of them first being reported in the workplace. CECG must notify the OCG of any allegation, before proceeding to formal investigation that meets the legal requirements of reportable conduct.
- 9.2 The Institute for Professional Standards and Safeguarding handles the formal notification process for CECG, once the School and Family Services team forwards the Reportable Conduct form. The OCG may monitor or participate in the subsequent CECG investigation.

9.3 The notification must include<sup>2</sup>.

- That a report has been received in relation to an employee of the relevant entity
- The type of reportable conduct the subject of the report
- The name of the employee
- The name and contact details of the relevant entity and the head of the relevant entity
- For a reportable allegation—whether the Commissioner of Police has been notified of the allegation
- If a report has been made under section 24 of the Children and Young Persons (Care and Protection) Act 1998—that the report has been made
- The nature of the relevant entity’s initial risk assessment and risk management action, and
- Any other information prescribed by the regulations.

9.4 The notice must also include the following information, if it is known to CECG:

- Details of the reportable allegation or conviction considered to be a reportable conviction
- The date of birth and working with children number, if any, of the employee the subject of the report
- For a reportable allegation of which the Commissioner of Police has been notified—the police report reference number
- If a report has been made under section 24 of the Children and Young Persons (Care and Protection) Act 1998—the report reference
- 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.

### Procedural Fairness

9.5 CECG must provide procedural fairness to people that may be adversely affected by a decision. This includes ensuring:

- The decision-maker and process is free from bias
- Decisions are based on evidence that supports the facts, and
- Any person that may be adversely affected by decisions has an opportunity to present their case and have their input considered before a decision is made.

9.6 Because this stage is a legally mandated notifying of *allegations* (not a decision), the opportunity to provide a response will not occur before this stage. It is a formal part of the investigation (see subsection 34(2) of the Children’s Guardian Act 2019).

## 10. Stage 7 – Reportable Conduct investigation and relationship to other potential workplace investigations

10.1 The School and Family Services Team (or external investigation) will conduct all investigations of Reportable Conduct in line with the CECG Reportable Conduct and Workplace Misconduct Investigation Procedure. This procedure incorporates mandatory considerations in Division 6 of the *Children’s Guardian Act 2019*.

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<sup>2</sup> s29 of the NSW Children’s Guardian Act 2019

- 10.2 An allegation of reportable conduct may also involve a breach of the CECG Enterprise Agreements, the Guidelines for Professional Conduct in the Protection of Children and Young Persons, Work Health and Safety Policy, or other policies and procedures.
- 10.3 The School and Family Services Team will investigate alleged breaches of other CECG requirements simultaneously with Reportable Conduct investigations, where possible by the same investigator. This assists to minimise any contamination of evidence, undue effect on the welfare of the parties, and improves the consistency of investigative processes.

## 11. Stage 8 – Final Report to the OCG

- 11.1 The Institute for Professional Standards and Safeguarding must report to the Children’s Guardian on the outcome of an investigation or determination within 30 days of the matter first being reported in the workplace (s 36 – see below for mandatory content)). If the final report will not be provided within 30 days, the Institute for Professional Standards and Safeguarding must provide an interim report before the 30 day deadline and a reason the final report is not complete (s 38 – see below for mandatory content).
- 11.2 Under section 36, the final report must include:
- In relation to a reportable allegation
    - The facts and circumstances of the reportable allegation
    - The findings made about the reportable allegation after the investigation, including whether the head of the relevant entity has made a finding of reportable conduct,
    - An analysis of the evidence and the rationale for the findings
  - in relation to a conviction considered to be a reportable conviction
    - Information about the conviction considered to be a reportable conviction
    - The determination the head of the relevant entity has made about the conviction
  - A copy of any written submission made by the employee under section 34(2)
  - Information about what action has been, or will be, taken in relation to the reportable allegation or conviction considered to be a reportable conviction, including
    - Remedial or disciplinary action in relation to the employee
    - Whether information about the matter has been referred to a different entity
    - Changes to systems or policies
    - If no further action is to be taken—that no further action is to be taken, and
    - The reasons for the action taken, including taking no further action.
- 11.3 The final report must be accompanied by any copies of documents that are relevant to the report, including transcripts of interviews and copies of evidence.
- 11.4 Under section 38, an interim report must include:
- In relation to a reportable allegation—if known, the facts and circumstances of the reportable allegation
  - In relation to a conviction considered to be a reportable conviction—any known information about the conviction
  - Action taken since the Children’s Guardian received a notification about the reportable allegation or the conviction considered to be a reportable conviction, and

- Further action the head of the relevant entity proposes to take in relation to the reportable allegation or conviction considered to be reportable.

## 12. Information sharing under the reportable conduct scheme

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- 12.1 Section 57 of the Children’s Guardian Act 2019 permits information about Reportable Conduct to be shared in specific circumstances. Other information-sharing and privacy legislation may also apply.
- 12.2 Any decision to share information with other agencies will be based on the alleged reportable conduct and identified risks to children and young persons. For example:
- If the reported worker is a registered teacher with the NSW Education Standards Authority (NESA), it may be appropriate to advise NESA of the reportable conduct given their role in teacher registration.
  - If the reported worker works with other organisations in a similar role, such as a casual teacher at CECG and Independent Schools, other organisations may be notified.
- 12.3 The OCG administers Working with Children Registration and it will consider whether the reported worker’s registration should be cancelled or suspended, at the time of the Initial Notification.
- 12.4 To ensure compliance with the reportable conduct scheme and privacy, child protection and other relevant legislation, only the School and Family Services team and the Institute for Professional Standards and Safeguarding are authorised to share information about reportable conduct and reportable convictions.
- 12.5 All requests relating to information sharing must be referred immediately to the Principal, ELC Director, School-Aged Care Director or Service Area Leader, who must refer it to the School and Family Services team.

## 13. Definitions

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- 13.1 **Child:** a person under 18 years of age.
- 13.2 **Reportable allegation:** an express assertion that reportable conduct has happened.
- 13.3 **Reportable conviction:** a conviction or finding of guilt:
- For an offence, under ACT or a State or Commonwealth law, involving reportable conduct; and
  - Entered against the person before or after the commencement of the Reportable Conduct and information Sharing Legislation Amendment Act 2016.
- 13.4 **Worker:** All people carrying out work for CECG including employees (permanent, casual, and temporary), contractors and sub-contractors, volunteers, apprentices, work experience students, or a minister, priest, or other religious leader or member of a religious organisation.

## 14. Related Documents and Legislation

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- 14.1 Related CECG Documents:
- [Child Safety Policy](#)

- [Reportable Conduct Fact Sheet NSW](#)
- [Mandatory and Voluntary Reporting Policy NSW](#)

#### 14.2 Legislation:

- [Children's Guardian Act 2019](#) (NSW)

#### 14.3 Other Resources:

- [NSW Office of the Children's Guardian Resources](#)

## 15. Contact

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- 15.1 For support or further questions relating to this policy, contact the CECG Child Protection Team.