

Child Protection Policy and Procedures

Policy Number: SAS014

Registered Entity	Nautilus Senior College
Policy Number	SAS014
Version	3.1
Policy Name	Child Protection Policy and Procedures
Compliance Standards	NESA: 3.6 Safe and Supportive Environment
Date Created	11/3/2024
Approved By / Date	Board / 19/5/2023 V3.1 CEO under delegation 11/3/24
Date Last Revised	11/3/24
Next Revision Date	1/3/2026
Related Policies	SAS017 Student Discipline and Procedural Fairness Policy SAS020 Complaints Management Framework and Policy with Complaints Procedure Attachment PP009 Code of Conduct

1. INTRODUCTION

Mid North Coast Community College (**MNCCC**) is committed to nurturing the wellbeing of students at the Nautilus Senior College (the **College**), comprising of Nautilus College & Yulinbal Campus, and seeks to create a safe environment where all individuals conform to the highest standards of ethical conduct in relation to the safety, care and support of students.

All people employed or engaged by MNCCC at the College have a part to play in maintaining practices that create a culture of safety within which students are supported and protected. The purpose of this document is to ensure all those connected with the College are aware of the College's expectations and NSW legislative mandatory reporting obligations, in relation to children or young persons who are, or may be, abused, neglected or at risk of significant harm. Direction for the management and the process of responding to of all child protection complaints and allegations made about employees and/or persons engaged by MNCCC at the College is provided within this document.

The College is committed to a supportive environment that facilitates and ensures all people employed or engaged by MNCCC at the College are equipped with the knowledge, skills and awareness to keep children and young persons safe through continual education, training, and maintaining professional standards of conduct, including expected behavioural standards. This document reflects best practice in accordance with the guidance available from the Office of the Children's Guardian (**OCG**), legislation, and recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse. This document embraces the ten Child Safe Standards which form a framework for making organisations safer for children. This document is consistent with the requirements of the National Educational Standards Authority (**NESA**) with respect to ensuring the College remains a safe and supportive environment for all students.

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1.1. Aboriginal and Cultural and Linguistic Differences

Culture and experience influence parenting and care giving practices. As such, mandatory reporting should not occur for behaviour or practices that are culturally unfamiliar unless the reporter considers that the impact or effects of these place a child or young person at risk of significant harm. Conversely, behaviour that is suspected of causing risk of significant harm should not be minimised or dismissed on cultural grounds.

The principles in relation to care and protection for Aboriginal and Torres Strait Islander people includes the promotion of self-determination through programs and strategies, as well as participation in decision making by Aboriginal communities and families.

Any information, such as cultural, linguistic, refugee, migration and/or settlement factors that may assist in the assessment of a case should always be included in a report to the Child Protection Helpline (132 111).

2. SCOPE

This document applies to all persons employed or engaged by MNCCC at the College, whether or not they are employed or engaged in connection with work or activities that relate to children or young persons in a paid or volunteer capacity.

This policy is to be used when there is concern about the safety, welfare or wellbeing of a child or young person, and a person employed or engaged by MNCCC at the College is a mandatory reporter or is required to identify, report and address abuse or neglect of a child or young person.

3. POLICY

3.1. Responsibilities and Obligations

Responsibility of Persons Employed or Engaged by MNCCC at the College

3.1.1. Persons employed or engaged by MNCCC at the College must:

- maintain the care and protection of children and young persons as paramount.
- be familiar with, comply with and maintain at all times, the required standards of professional behaviour as set out in the MNCCC *General Code of Conduct and Ethics* in their relationships and conduct with children and young persons, and promote the safety, wellbeing and protection of all students.
- comply with the applicable legislation and MNCCC policies and procedures with respect to safeguarding and child protection, at all times.
- maintain professional standards at all times, including not engaging in any conduct that could reasonably be assessed as conduct that falls below standards of expected conduct towards or in the presence of children or young persons or conduct that falls within the definition of Reportable Conduct.

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- take reasonable measures, consistent with their legal and moral obligation to maintain duty of care, to ensure that children and young persons are not harmed and are protected from reasonably foreseeable risks of harm.
- comply with the reporting obligations set out in this policy.
- support the rights of students, caregivers, clients and people employed or engaged by MNCCC, to bring forward complaints or allegations and to be heard without fear of reprisal.
- report to the Principal (or their delegate) or Chief Executive Officer (**CEO**) any information they may have in relation to inappropriate conduct involving a child or young person, as soon as practicable after becoming aware of the information.
- keep confidential any information they are privy to with respect to any matter that is captured within this policy and its related procedures. Any breach of confidentiality under this policy may result in MNCCC taking disciplinary action. Maintaining confidentiality does not limit an employee's obligation to report to the Principal (or their delegate) or the CEO.
- must participate in a child protection induction and in annual professional standards update as directed by the Principal (or their delegate).
- at all times which they are employed or engaged MNCCC at the College in child-related work, must maintain a valid Working With Children Check (**WWCC**) clearance as regulated by the OCG.
- must report to the Principal (or their delegate) any information that is relevant for assessing their suitability to engage in child-related work pursuant to the *Child Protection (Working with Children) Act 2012* (NSW) or report if they no longer hold a WWCC, the status of their WWCC changes or are notified by the OCG that they are subject to a risk assessment.

Responsibility of CEO

- 3.1.2.** The CEO, as Head of the Relevant Entity (**HRE**), must ensure that there is an appropriate procedure to manage and respond to complaints and/or allegations relating to the conduct of a person employed or engaged by MNCCC at the College towards a child or a young person. This includes complaints that do not fall within the scope of Part 4 of the *Children's Guardian Act 2019* (NSW) (the **Act**).
- 3.1.3.** The CEO is responsible for authorising any interim arrangements on the work status of an employee or a person engaged by MNCCC at the College following a risk assessment.
- 3.1.4.** The CEO is responsible for authorising any action taken by MNCCC in instances of an adverse finding of an employee or a person engaged by MNCCC at the College.

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Responsibility of MNCCC

3.1.5. MNCCC must:

- ensure that all employees and persons engaged by MNCCC at the College are made aware, on at least an annual basis, of the required standards of professional behaviour, this document, its associated procedures and the MNCCC *General Code of Conduct and Ethics*.
- Ensure that all employees and persons engaged are aware of their obligation to report any complaints or concerns relating to inappropriate conduct involving a child or young person or concerns about the safety, welfare and wellbeing of students that arise during the course of their work as soon as possible to the Principal (or their delegate) or CEO, for response, inquiry and/or investigation.
- ensure that all employees and persons engaged by MNCCC at the College are provided with support in maintaining professional standards related to relationships with students.
- ensure that all employees and persons engaged by MNCCC at the College are made aware, on at least an annual basis, of the requirements to prevent, identify, report and investigate allegations of reportable conduct in compliance with the Act.
- ensure that all allegations and complaints of a child protection nature are appropriately responded to and/or investigated in accordance with the principles of procedural fairness.
- must ensure that the person subject of an allegation is advised about the nature of support available to them.
- must ensure that a report is made to appropriate statutory bodies.
- ensure that all relevant child protection allegations and concerns are reported to the OCG pursuant to Part 4 of the Act within the prescribed timeframe.
- comply with all reasonable directions given by a statutory body in response to concerns, allegations or complaints relating to a person employed or engaged by MNCCC at the College.
- ensure any complaints and/or allegations that require reporting to external authorities which may include, the NSW Police, the Department of Communities and Justice, the OCG, NESAs or other agencies where appropriate, are reported in a timely manner and within prescribed timeframes.
- ensure that a risk assessment is undertaken at the commencement of a matter, to inform MNCCC of actual or perceived risks which are present or likely to arise in a particular matter, and assist with the strategies or interim measures necessary to mitigate risk and protect the integrity of the investigation.
- ensure that appropriate records of investigations and findings are stored securely, confidentially and separately from employee's personnel files.
- ensure that all records of child protection related incidents and allegations are securely retained for a minimum period of 45 years.

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Responsibility of the Principal

- 3.1.6.** The Principal (or their delegate) must:
- comply with mandatory reporting obligations for risk of significant harm of children and young persons pursuant to the *Children and Young Persons (Care and Protection) Act 1998* (NSW).
 - ensure that all complaints or concerns relating to the conduct of a person employed or engaged by MNCCC at the College towards a child or young person is reported as soon as possible to an appropriate member of MNCCC for response, inquiry and/or investigation.
 - comply with all reasonable directions given by MNCCC in response to concerns or complaint relating to a person employed or engaged by MNCCC at the College.

3.2. Duty of Care

- 3.2.1.** The College has a duty of care to take reasonable measures to protect students from harm and to provide a safe learning environment to its students that promotes opportunities to thrive with adults who safeguard and advocated for their health, safety and wellbeing.
- 3.2.2.** All employees and persons engaged by MNCCC at the College have a legal and moral obligation to take reasonable care for their own safety and the safety of children, young persons, students and others with whom they come into contact as part of their employment.
- 3.2.3.** The duty of care is a non-delegable duty (meaning it cannot be assigned to another party) to take reasonable measures to protect children and students against risks of injury which reasonably could have been foreseen.
- 3.2.4.** These obligations will arise from the specific role and responsibilities of the employee and may include the following:
- providing adequate supervision
 - providing suitable and safe premises
 - implementing strategies to prevent reasonably foreseeable injuries whether physical or psychological, to students (including injuries suffered as a result of bullying)
 - undertaking risk assessments for College activities and events
 - ensuring that appropriate medical assistance is provided to a sick or injured child, young person or student
 - compliance with all relevant child protection legislation and regulations
 - managing employee recruitment, conduct and performance
- 3.2.5.** The standard of care that is required needs to take into consideration various factors, such as a child, young person or student’s maturity and ability. Failure to exercise appropriate duty of care to a child, young person or student that results in actual harm or has the potential to cause significant harm may constitute misconduct, neglect or negligence and/or a breach of this policy and its related procedures.

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3.3. Reporting Concerns about Child Protection Matters

- 3.3.1. All employees and persons engaged by MNCCC at the College are deemed mandatory reporters pursuant to this policy and must report any concerns in relation to the safety, welfare or wellbeing of a child or young person to the Principal (or their delegate) or CEO, as appropriate, as soon as practicable after becoming aware of the information. This includes obligations to report any suspected child abuse offence, including sexual abuse, serious physical abuse or extreme neglect of a child or young person, where it arises within and outside the context of work.
- 3.3.2. Inappropriate behaviour by any employee or persons engaged by MNCCC at the College that involves a child or young person are to be reported regardless of whether the behaviour occurred inside or outside of work.
- 3.3.3. Any reported concern must be assessed by the Principal (or their delegate) or CEO to determine an appropriate response, including an assessment of whether the concern requires Mandatory Reporting.
- 3.3.4. The Principal (or their delegate) or CEO, as appropriate, has an obligation to ensure that a risk assessment is undertaken as soon as reasonably practicable, to inform MNCCC of actual or perceived risks which are present or likely to arise in a particular matter and assist with the strategies or interim measures necessary to mitigate the risk and protect the integrity of any workplace process or investigation.
- 3.3.5. Any concerns assessed as being an allegation of Reportable Conduct must be reported to the OCG and/or NSW Police by the Principal (or their delegate) or CEO, consistent with the applicable Reportable Conduct procedures and within the prescribed timeframes.
- 3.3.6. Under this policy, any concern about child protection matters relating to the Principal or the CEO must be reported to the MNCCC Board. The MNCCC Board must comply with obligations to report concerns to relevant statutory bodies.

3.4. Procedural Fairness

- 3.4.1. All parties to a complaint have a right to confidentiality insofar as permitted by the law.
- 3.4.2. All employees and persons engaged by MNCCC at the College who are subject of a complaint have the right to know what has been alleged in sufficient detail for them to respond, and the right to respond to any complaint or adverse comments made against them.
- 3.4.3. Any investigation of a complaint against an employee or person engaged by MNCCC at the College must be conducted sensitively and with consideration given to the care and support needs of all parties to a complaint.
- 3.4.4. Objectivity and impartiality during the investigation process must be ensured. All investigations of a complaint against employees or persons engaged by MNCCC at the College must be in accordance with the relevant procedures and incorporate an ongoing risk assessment.
- 3.4.5. Any conflicts of interest, be they actual, potential or perceived, must be identified and managed appropriately to reduce any adverse impacts on an investigation, or on the parties subject to the investigation of a complaint.

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- 3.4.6. Contact and reports to the NSW Police or other external authorities does not remove the requirement for an internal investigation at the appropriate time following receipt of clearance to commence an internal investigation from the statutory body.
- 3.4.7. Nothing in this policy limits or restricts the College and/or MNCCC from seeking specialist advice and/or support from a statutory entity or a specialist service in the management of any matter that falls within this document.

3.5. Breach of Policy and Related Procedures

- 3.5.1. Any breach or perceived breach of this policy and its related procedures may result in MNCCC taking disciplinary/appropriate action.
- 3.5.2. A finding of a breach of this policy may result in serious employment outcomes, including termination of employment for employees employed by the College or termination of any engagement agreement with respect to persons who are engaged by MNCCC at the College in any capacity.

4. PROCEDURES

4.1. Complaint/Allegation Received

- 4.1.1. When any complaint and/or allegation is received, the Principal (or their delegate) or CEO, as appropriate, will conduct an initial assessment to determine the nature of the complaint.
- 4.1.2. Depending on the nature of the complaint, the College may refer the complaint to a statutory body or a specialist service for advice and guidance in the management of the matter.
- 4.1.3. If a complaint is against the Principal or the CEO, the complaint will be referred to the MNCCC Board via email to chair@mnccc.edu.au.

4.2. Initial Assessment Procedure

- 4.2.1. An initial assessment undertaken by the Principal (or their delegate) or CEO includes, but is not limited to the matters listed below.
 - Clarifying the allegation, if appropriate.
 - Identifying whether the alleged conduct requires a report to external authorities such as the NSW Police, the Australian Federal Police and/or the Department of Communities and Justice. If the alleged conduct is considered to be criminal in nature, the College must make a report to the police regardless of whether or not the complainant wishes to make a police report. It is a matter for the police to determine whether the matter is within its jurisdiction.
 - If the alleged conduct is considered to be of a potentially criminal nature by the police, the complainant will be informed that they may also contact the police directly.
 - If the complaint and/or allegation identifies a child or young person at risk of significant harm, a report must be made to the Department of Communities and Justice in accordance with the mandatory reporting requirements pursuant to *Children and Young Persons (Care and Protection) Act 1998* (NSW).
 - Where information arises that identifies a need for a report to the NSW Police or the Department of Communities and Justice, the College will

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make that report at that time and suspend its own process until such time as clearance is given by the statutory body to continue the internal investigation.

- Identifying whether the complaint and/or allegation requires a notification to the OCG pursuant to Part 4 of the Act.
- Where a matter falls within Part 4 of the Act, the CEO (or the MNCCC Board in instances of matters involving the CEO or Principal) must report the matter to the OCG within seven (7) days.
- Identifying other agencies that should be informed of the process. For example, in the case of an external contractor, their own employer.
- Strategies to respond to an initial risk assessment are implemented.
- An investigation plan is developed:
 - i. All matters will be appropriately assessed and investigated;
 - ii. In some cases the CEO (or MNCCC Board) may engage an external investigator to undertake the investigation on behalf of MNCCC; and
 - iii. Matters that are exempt from reporting to the OCG in accordance with sections 30 and 41 of the Act, must also be investigated by the College in accordance with these procedures.
- For some matters pertaining to employee conduct towards students that are not captured under the definition of Reportable Conduct as prescribed by section 20 of the Act, the College may conduct a workplace investigation internally or through an external investigator, at the discretion of the CEO (or MNCCC Board). This includes but is not limited to complaints of inappropriate conduct by an employee or a person engaged by MNCCC at the College towards a student who is over 18 years of age.

4.3. Risk Assessment

4.3.1. A risk assessment is an ongoing process required in complaint and allegation procedures and investigations.

4.3.2. Risk assessment includes identifying risks and implementing strategies to reduce those risks to:

- children and young people;
- person subject of the complaint;
- other employees;
- broader College community including students and caregivers;
- reputation of employees or the College; and
- the integrity of the investigation.

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- 4.3.3.** A risk assessment may determine whether interim arrangements on an employee’s work status are required, in consultation with relevant external agencies. This may include standing down a person from their role or suspension of their duties. Any decision in relation to the employee’s work status will take into account factors such as:
- the seriousness of the alleged conduct;
 - whether there is a pattern of similar issues;
 - vulnerability of the child/children, young person/s or employee;
 - capacity of the work environment to manage any risk factors;
 - risks to breaches of confidentiality;
 - wellbeing of the person subject of the complaint and/or allegation;
 - involvement of statutory bodies; and
 - safety of the parties.
- 4.3.4.** Where the College is notified that an employee or a person engaged by MNCCC at the College has had their WWCC clearance cancelled by the OCG in accordance with section 23 of the *Child Protection (Working with Children) Act 2012* (NSW) or is subject to an interim bar, the College will take immediate steps in accordance with law to remove the person from child-related employment.
- 4.3.5.** Where the College is notified that an employee or a person engaged by MNCCC at the College is subject to a risk assessment by the OCG, the College may take appropriate steps to manage that person’s interaction with children and young persons, in consultation with the OCG.

4.4. Investigation Protocols

- 4.4.1.** The College complies with any advice or direction from the OCG in relation to best practice.
- 4.4.2.** The investigation protocols are constantly reviewed. The following protocols are applied:
- the person against whom the allegation is made, is advised in writing of the allegations;
 - sufficient time is provided to prepare a response;
 - persons interviewed in the investigation process are permitted to bring a support person, if required;
 - all reasonable inquiries are undertaken;
 - any party to the investigation is provided with an opportunity to nominate witnesses;
 - information obtained in interviews is written up in a form of statement or recorded, with consent, and transcribed;
 - if a student is being interviewed, they are offered an adult support person of their choice;
 - caregiver consent is obtained for a formal interview (depending on the student/s age); and
 - counselling services are made available to the child or young person, their family and/or caregivers and the employee, recognising that regardless of the seriousness of any complaint, most complaints are stressful and impact on those involved.

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- 4.4.3. Principles of procedural fairness must be adhered to at all times and all persons should be treated with dignity and respect at all stages of a complaint process.
- 4.4.4. Any employee who is the subject of a complaint has a right to obtain professional advice from their union or a legal practitioner, at any stage, and is encouraged to do so, if required.
- 4.4.5. Where the employee or a person engaged by MNCCC at the College resigns before the completion of the investigation, the College will assess whether the investigation should be concluded at that point. With respect to matters reportable to the OCG, a finding is required regardless of whether or not the employee remains employed.
- 4.4.6. When all relevant information is obtained, the evidence is assessed on the civil standard of proof. A determination is made as to:
 - whether or not the alleged conduct occurred;
 - the appropriate finding recorded;
 - appropriate action to be taken based on the finding;
 - any issues arising, such as system issues, performance or safety matters; and
 - review of the risk assessment.
- 4.4.7. An investigation report with all information relevant to the findings is prepared.
- 4.4.8. Findings and outcomes are communicated to the person who is the subject of the allegation, and other persons as appropriate.
- 4.4.9. If an adverse finding is made which may have employment implications, the CEO (or MNCCC Board) ensures that the employee is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.4.10. If an adverse finding is made which may have employment implications against the Principal, the MNCCC Board will ensure the Principal is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.4.11. Final reports to external authorities such as the OCG and NESA are made when appropriate.
- 4.4.12. The investigation file is secured confidentially with the College. Such records must be retained for a minimum of 45 years.

4.5. Anonymous Complaints or Reluctant Complainants and Witnesses

- 4.5.1. The steps and principles in this document apply equally to anonymous complaints.
- 4.5.2. Notwithstanding the complexities of investigating anonymous complaints, the College will take all complaints seriously, report if necessary and make reasonable inquiries where practical.
- 4.5.3. Reluctant witnesses (i.e. those individuals who can be identified but may not wish to proceed or take matters forward), will be advised about the College’s legal obligation to report and respond to certain complaints involving children and young persons.
- 4.5.4. The College undertakes to respond to all complaints sensitively, and where required, report to external authorities and investigate, even if the complainant does not wish for this to occur.

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4.6. Complaints of a Historical Nature

- 4.6.1. Complaints of a historical nature may involve allegations of conduct of a person who is no longer employed or engaged by MNCCC at the College.
- 4.6.2. Where the College is identified as being responsible for the matter, then the College will undertake reasonable inquiries consistent with the procedures outlined in this document, including notification of the complaint to external authorities, where required.
- 4.6.3. A person reporting an allegation of a potentially criminal nature is encouraged to make their report directly to the NSW Police. In accordance with legislative obligations under the *Crimes Act 1900* (NSW), the Principal (or their delegate) will make a report to the police if the information is identified as possibly criminal in nature, regardless of the decision of the complainant to report to the police, unless an there is a reasonable excuse under section 316 or 316A of the *Crimes Act 1900* (NSW).

4.7. Principles of Confidentiality

- 4.7.1. The principles of confidentiality are applied to all complaint procedures insofar as permitted by law.
- 4.7.2. The following principles are upheld in managing confidentiality in these processes:
 - All persons involved in a compliant process are requested to respect confidentiality of the process and other people involved;
 - Employees are required to comply with requests for confidentiality, and will be advised at the commencement of an investigation not to discuss with other employees, students and caregivers the complaint or the investigation of the complaint. Breaches of confidentiality by employees will be taken seriously and may result in disciplinary action;
 - Confidentiality does not restrict any person from obtaining any necessary professional advice or support at any time during the process, including, but not limited to, union advice, legal advice or professional counselling;
 - Confidentiality does not restrict MNCCC from making reports to the NSW Police or the Department of Communities and Justice or any other agency as required by law; and
 - MNCCC may be subject to strict confidentiality requirements from external authorities such as the OCG, the Department of Communities and Justice and the NSW Police.

4.8. Records and Disclosure

- 4.8.1. Where required for a relevant investigation or risk assessment, the College may seek or provide information from 'prescribed agencies' in accordance with Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW).
- 4.8.2. A record of the investigation must be held by the College, and where required, a copy must be provided to the OCG in accordance with Part 4 of the Act.
- 4.8.3. Investigations into matters that are assessed as being exempt from reporting obligations to the OCG are documented and retained confidentially at the College and the OCG may audit these records in accordance with the Act.

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- 4.8.4. Records at the College are kept securely, confidentially and separately from personnel files.
- 4.8.5. The Principal (or their delegate) or CEO, (or the MNCCC Board in matters pertaining to the Principal or CEO), must report all matters that are reportable to the OCG, when they arise.
- 4.8.6. A person who is the subject of a complaint may request access to records held by MNCCC in accordance with the *Government Information (Public Access) Act 2009* (NSW), or other relevant legislation, where such a right exists under law.

5. DEFINITIONS/EXPLANATORY NOTES

Act refers to the *Children’s Guardian Act 2019* (NSW).

Child means a person under the age of 18 years. With respect to matters notifiable to the Department of Communities and Justice, a child is defined as a person under 16 years.

College means the Nautilus Senior College, comprising Nautilus College & Yulinbal Campus.

Complaint/allegation means any issue raised regarding the conduct of an employee of the College or a person engaged by MNCCC at the College in relation to children or young people, including but not limited to conduct identified as reportable conduct or allegation of reportable conduct within Part 4 of the *Children’s Guardian Act 2019* (NSW).

Employee includes paid employees (whether employed on a permanent, temporary or casual basis), volunteers, contractors, sub-contractors, consultants, tertiary practicum placements and students on work placements or work experience.

Mandatory Reporters are persons who, in accordance with the *Children and Young Persons (Care and Protection) Act 1998* (NSW):

- (a) in the course of his or her professional work or other paid employment delivers health care, welfare, education, children’s services, residential services, or law enforcement, wholly or partly, to children;
- (b) 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;
- (c) a person in religious ministry, or a person providing religion-based activities to children; or
- (d) a registered psychologist providing a professional service as a psychologist; in the course of their professional work or other paid employment.

Mandatory Reporting means reporting obligations pursuant to the *Children and Young Persons (Care and Protection) Act 1998* (NSW) with respect to the safety and wellbeing concerns about a child or a class of children and child abuse matters to the Department of Communities and Justice in NSW. This extends to mandatory reporting requirements for potential criminal matters to NSW Police.

NESA means the NSW Education Standards Authority.

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Not Reportable Conduct means:

- (a) 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
- (b) 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; or
- (c) conduct of a class or kind that is exempted from being reportable conduct by the Children’s Guardian under section 30 of the *Children’s Guardian Act 2019* (NSW).

OCG means the NSW Office of the Children’s Guardian.

Relevant Legislation refers to the following Statutes:

- (a) *Child Protection (Offenders Registration) Act 2000* (NSW);
- (b) *Child Protection (Working with Children) Act 2012* (NSW);
- (c) *Children and Young Persons (Care and Protection) Act 1998* (NSW);
- (d) *Children’s Guardian Act 2019* (NSW);
- (e) *Crimes Act 1900* (NSW);
- (f) *Government Information (Public Access) Act 2009* (NSW);
- (g) *Privacy Act 1988* (Cth);
- (h) *Privacy and Personal Information Protection Act 1998* (NSW);
- (i) *Public Interest Disclosures Act 1994* (NSW); and
- (j) *Work Health and Safety Act 2011* (NSW).

Relevant Entity means a public authority or Schedule 1 entity or a religious body pursuant to sections 12(c) and 15A as identified in the *Children’s Guardian Act 2019* (NSW).

Report refers to a copy of the investigation file that may be provided to the Office of the Children’s Guardian in accordance with Part 4 of the Act. The Office of the Children’s Guardian will review the file and advise the College whether or not it is satisfied with the process prior to closing the matter.

Reportable Allegation means an allegation that the employee has engaged in conduct that may be reportable conduct whether or not the conduct is alleged to have occurred in the course of the employee’s employment with the Relevant Entity.

Reportable Conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded—

- (a) a sexual offence;
- (b) sexual misconduct;
- (c) ill-treatment of a child;
- (d) neglect of a child;
- (e) an assault against a child;
- (f) an offence under section 43B or 316A of the *Crimes Act 1900* (NSW); and
- (g) behaviour that causes significant emotional or psychological harm to a child.

Sentral means the College’s online school management system.

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Standard of Proof refers to a civil standard, that is, whether the case have been proved on the balance of probabilities.

Student means any person enrolled at the College, whether or not they are over the age of 18 years.

Young person, for the purposes of reporting risk of significant harm to the Department of Communities and Justice, means a person who is aged 16 or 17 years.

6. VERSION HISTORY

Version No.	Implemented By	Revision Date	Approved By	Approval Date	Reason
1.0	V Evans	1/01/2017	V Evans	1/01/2017	Original
2.0	P Davis	28/12/2017	V Byrnes	28/12/2017	Improvements + framework
2.1	A Paterson	1/02/2019	V Byrnes	01/02/2019	Addition of policy number
2.2	A Paterson C Parkin	1/03/2019	V Byrnes	15/03/2019	Addition of procedural references to Child Protection, reformatting
2.3	J Beaumont P Davis (Integroe)	25/03/2021	V Byrnes	26/03/2021	References to Ombudsman and FACS updated throughout to reflect changes to relevant legislation / regulations. Other changes as required to reflect current requirements.
2.4	Kirsty Napper / P Davis (Integroe)	28/07/2022	Board	30/08/2022	References to Ombudsman and FACS updated throughout to reflect changes to relevant legislation / regulations. Other changes as required to reflect current requirements
3.0	Integroe / SAS	6/3/2023	Board	19/5/2023	Improvements
3.1	SAS	10/03/2024	V Byrnes	11/3/2024	Minor reformatting and inclusion of WWCC Register Procedure

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Child Protection Checklists

DAY-TO-DAY SAFEGUARDING MEASURES			
Who	Step	Action	Notes
All employees and persons engaged by MNCCC at the College	1.	<p>Maintain the care and protection of children and young persons and take reasonable measure to maintain duty of care to ensure that children and young persons are not harmed and are protected from reasonably foreseeable risks of harm.</p> <p>Remain mindful and identify children and young persons who are, or may be, abused, neglected and at risk of significant harm. Indicators include:</p> <ul style="list-style-type: none"> • Serious physical abuse; • Sexual abuse; • Extreme neglect; • Reports or witness of assault/s; • Evidence of significant emotional or psychological harm (including fear); • Physical or intellectual developmental delays; • Reports or evidence of extreme punishments; • Lack of basic needs provided such as supervision, medical care, nutrition, shelter, hygiene or education; • Presence of illegal substances and/or weapons. 	All employees and persons engaged by MNCCC at the College who have not exercised their duty of care towards a child or young person may be liable for criminal and/or civil action.
	2.	Identify and notify the Principal (or their delegate) or CEO of any improvements that can be made to College systems, services, programs or processes that will increase the safety, welfare and wellbeing of children and young persons.	

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REPORTING

Who	Step	Action	Notes
All employees and persons engaged by MNCCC at the College	1.	Report to the Principal (or their delegate) or CEO, as appropriate, any information in relation to inappropriate conduct or any concerns in relation to the safety, welfare or wellbeing of a child or young person, as soon as practicable after becoming aware of the information. Any concern, allegation or complaint relating to the Principal or the CEO must be reported to the MNCCC Board via email to chair@mnccc.edu.au .	Inappropriate behaviour occurring both inside and outside of work are to be reported. This includes if you believe a person does not hold a WWCC or there are other concerns regarding a person's suitability to work with children or young persons.
	2.	Document notes, complete the Feedback and Complaints Form and MNCCC Register entry, detailing the information relevant to the notification in Sentral, including the party recipient of the allegation, concern or complaint.	Maintain confidentiality regarding any information or matter raised.
Principal (or their delegate) or CEO. or MNCCC Board.	3.	Conduct an initial assessment to determine the nature of the complaint and an appropriate response, including whether the concern requires Mandatory Reporting.	Ensure all allegations and complaints are appropriately responded to and/or investigated in accordance with the principles of procedural fairness.
	4.	Ensure a risk assessment is undertaken as soon as reasonably practicable, to inform MNCCC of actual or perceived risks which are present or likely to arise in a particular matter.	
	5.	Identify whether the alleged conduct requires a report to external authorities such as the NSW Police, the Australian Federal Police and/or the Department of Communities and Justice.	
CEO (as Head of Relevant Entity) or MNCCC Board.	6.	If any concerns are assessed as being an allegation of Reportable Conduct, ensure that a report is made to the OCG within 7 days of receipt of the allegations and to any other statutory body, as appropriate (for example DCJ and/or police).	If the alleged conduct is considered to be criminal in nature, a report to the police must be made. MNCCC must not investigate the matter until clearance is received from the statutory body (where relevant).

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INVESTIGATION			
Who	Step	Action	Notes
CEO. or MNCCC Board.	1.	<p>Develop an investigation plan to appropriately assess and investigate all matters.</p> <p>Engage an external investigator to undertake the investigation on behalf of MNCCC, if necessary.</p> <p>The CEO may refer the matter to be investigated by an independent investigator. A risk assessment should be completed to assess any safety or other risks arising.</p>	<p>The allegations of reportable conduct must be investigated in accordance with the <i>Children's Guardian Act 2019</i> (NSW).</p> <p>Matters that are exempt from reporting to the OCG in accordance with sections 30 and 41 of the Act, must also be investigated.</p>
Investigator.	2.	<p>An investigator (as authorised by the CEO or the MNCCC Board) will conduct an investigation.</p> <p>Investigation protocols and procedural fairness principles must be adhered to at all times and constantly reviewed. This includes:</p> <ul style="list-style-type: none"> • providing the allegations in writing to the person subject of allegations (PSOA); • provide sufficient time for PSOA to respond to allegations; • permit support persons, if required, for interviewees; • undertake all reasonable inquiries; • provide the PSOA an opportunity to nominate witnesses; • obtain parental consent for a formal interview of student; • make available counselling services; • observe confidentiality obligations insofar as permitted by law. 	
	3.	<p>Once all relevant information is obtained, the evidence is assessed on the civil standard of proof.</p> <p>A determination is made as to:</p> <ul style="list-style-type: none"> • whether or not the alleged conduct occurred; • the appropriate finding recorded; 	

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		<ul style="list-style-type: none"> appropriate action to be taken based on the finding; any issues arising, such as system issues, performance or safety matters; and review of the risk assessment. 	
	4.	Prepare an investigation report with all information relevant to the findings and provide the report to the CEO (or the MNCCC Board, where appropriate).	If the investigation report is not completed within 30 days of reporting the allegation to the OCG, the CEO must ensure that an interim report is submitted to the OCG.
CEO or MNCCC Board.	5.	Consideration is given as to whether a report is required to NESA under section 42B of the <i>Teacher Accreditation Act 2004</i> (NSW) where the conduct relates to a teacher.	
	6.	Findings and outcomes are communicated to PSOA, and other persons, as appropriate. If an adverse finding is made which may have employment implications, a fair procedure must be afforded to allow the PSOA to respond further to the findings and outcomes prior to confirming that finding.	
	7.	After consideration of the investigation report and any further response provided by the PSOA, an outcome will be determined.	The possible outcomes include: <ul style="list-style-type: none"> no further action; disciplinary action identifying action to reduce or eliminate future risk of inappropriate behaviour (e.g., training)
	8.	Final reports to external authorities such as the OCG and NESA are made when appropriate.	The file is to be secured confidentially and retained for a minimum of 45 years.

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ADDRESSING CHILD SAFETY, WELFARE AND WELLBEING

Who	Step	Action	Notes
Principal (or their delegate)	1.	Ensure that all employees and persons engaged are made aware, on at least an annual basis, of the required standards of professional behaviour, the MNCCC <i>Child Protection Policy and Procedures</i> and the <i>General Code of Conduct and Ethics</i> .	
CEO			
MNCCC Board	2.	Reinforce the duty of care obligation to take reasonable measures to protect children and young persons, or other students, against risks of injury which reasonably could have been foreseen.	
School Executive Team	3.	Ensure that all employees and persons engaged are aware of their reporting obligation relating to inappropriate conduct involving a child or young person, or concerns about the safety, welfare and wellbeing of students.	
	4.	Ensure that all employees and persons engaged are provided with support in maintaining professional standards related to relationships with students.	
	5.	Establish local processes that promote the safety, welfare and wellbeing of young people, including organising, on at least an annual basis, resources and training for employees and persons engaged regarding the requirements to prevent, identify, report and investigate allegations of reportable conduct in compliance with the <i>Children's Guardian Act 2019</i> (NSW).	
	6.	Provide direction and encourage employees to identify; report and address issues of relating to the safety, welfare or wellbeing of children and young people. Recipients of disclosures are supported by a member of the School Executive Team, and the councillor (where needed) throughout the reporting and response process.	
	7.	Regularly monitor the effectiveness of the systems, programs, services and practices relevant to child protection	
	8.	Strive for continual improvement of the systems, programs, services and practices with the aim of creating a safe environment in which all individuals operate at the highest standards of ethical conduct in relation to the safety, care and support of children and young people.	
	9.	Develop and establish processes for the engagement and management of community members, volunteers and other stakeholders to ensure they are aware of conduct expectations.	
	10.	Ensure all employees and persons engaged hold and maintain a valid WWCC clearance as regulated by the OCG and address any relevant concerns arising.	

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Procedure for verifying and maintaining a Working with Children Check register for employees and volunteers.

Nautilus Senior College (the college) must establish and maintain a Working With Children register.

During the recruitment process, candidates (and all volunteers) will be asked for evidence of a valid WWC Check or evidence of an application being lodged for a WWC Check. Evidence will be noted in the employee or prospective employees (or volunteers) file in MNCCC’s employee database (Axcelerate) and noted on the induction checklist.

On appointment (and prior to commencement), validation of the WWC Check will be processed through the Office of the Children’s Guardian website by the MNCCC Administration/Finance team after receiving the “New Employee/Volunteer” notification from the hiring Co-Principal.

The college’s Working with Children Check Register will be maintained by the college’s compliance officer in consultation with the college’s Co-Principals.

A register will be maintained by the college and will be in line with requirements as set out in the Child Protection (Working with Children) Act 2012 and in the form recommended by the Office of the Children’s Guardian.

Entries in the WWC Register must be maintained for a period of seven years.

The register must contain the following:

- Full name (including first, middle and last name)
- Date of Birth
- WWC number
- Verification date (the date we verified via the OCG website)
- Verification outcome (cleared, barred, interim barred, app in progress, not found)
- Expiry date (when the WWC number expires)
- Status of the worker (Paid or volunteer)
- Start date (the first day the employee or volunteer was engaged in a Child related role)

For any verification result, other than cleared, the hiring Co-Principal must be immediately notified for action and discussion with prospective employee/volunteer. Verifications that are returned as APP IN PROGRESS must be followed through until final clearance is obtained.

The Co-Principal’s (or delegate) are responsible for checking the currency of the register and ensuring it is accurate, up to date and staff/volunteers with upcoming expiry dates are aware of their obligations to renew in advance of expiry dates.

Only the CEO or Co-Principals can approve the release of the register to any relevant agency upon appropriate request.

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