


Document Title: Stakeholder complaint procedures about staff conduct, including staff misconduct and reportable allegations/convictions	 EMMANUEL ANGLICAN COLLEGE <i>Learning ~ Living ~ Leading</i>
Section: Child Protection	
Date Updated: March 2024	

Purpose

Emmanuel Anglican College (EAC) requires all staff to comply with the codes of conduct, policies, and procedures that are intended to prevent staff misconduct and reportable conduct. Staff are encouraged to report any breaches.

It is vitally important that the broader College community promptly raises with the College any genuine concerns or complaints about alleged staff misconduct and reportable conduct.

Complaints and concerns regarding allegations of staff misconduct and reportable conduct are managed in different manner to other concerns and complaints received by the College. This is because these concerns and complaints raise potential privacy and confidentiality issues and require the College to follow certain procedures to ensure procedural fairness is afforded.

Definition of Reportable Conduct

Reportable Conduct is defined in Section 20 of the Children's Guardian Act 2019 No 25 as 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 No 40
- (g) Behaviour that causes significant emotional or psychological harm to a child.

Examples of indicators of significant emotional or psychological harm include:

- 1. Displaying behaviour patterns that re out of character
- 2. Regressive behaviour
- 3. Anxiety or self-harm

Definition of Staff Misconduct

This is conduct that falls short of the College's standards and values, and includes conduct that:

- (a) Is a criminal offence.
- (b) Is reportable conduct.
- (c) Is disclosable conduct.
- (d) Endangers the safety and wellbeing of students or others at the College.
- (e) Breaches professional or occupational standards.
- (f) Crosses professional boundaries with a student.
- (g) Displays neglect of duties/responsibilities.
- (h) Involves alcohol and/or other substance abuse.
- (i) Is physically, verbally or emotionally abusive.
- (j) Breaches the College's Code of Conduct or other key policies/procedures.

Raising a concern or making a complaint

Concerns or complaints about alleged staff misconduct should be promptly raised with the Deputy Principal or any member of the Executive:

Principal E: principal@eac.nsw.edu.au

Deputy Principal E: fm McGuigan@eac.nsw.edu.au

Director of Teaching and Learning K-12 E: jfryer@eac.nsw.edu.au

Director of Secondary E: amiddleton@eac.nsw.edu.au

Director of Primary E: wcross@eac.nsw.edu.au

Telephone 02 6681 5054

Arranging an in-person or online meeting can be organised by the telephoning the College.

Writing a letter the College addressed to the Principal, Deputy Principal or any member of the Executive, at:

Emmanuel Anglican College
62 Horizon Drive
Ballina NSW 2478

Where a concern or complaint relates to the Principal then the Chair of College Council should be contacted by either telephoning or emailing the College or writing to the address above.

Responding to staff misconduct allegations

The College's response to alleged staff misconduct will generally feature the following steps:

1. Treating the allegation(s) seriously.
2. Classifying the type of staff misconduct which is being alleged and complying with any mandatory reporting requirements.
3. Providing guidance, to those who need to know, about the process which the College is following to deal with the alleged staff misconduct.
4. Providing adequate support to any staff and students affected by the substance of the allegations.
5. Seek formal advice about the matter from the Association of Independent Schools New South Wales.
6. When allowed to do so, investigate the alleged staff misconduct.
7. Determine appropriate outcomes.

It should be noted that the College may need to vary these steps (and the order) depending on the nature of the staff misconduct being alleged, and any associated risk to the education, safety and wellbeing of the College's students, or the safety and wellbeing of other persons.

Classification of Alleged Staff Misconduct

The College will consider all concerns and complaints regarding alleged staff misconduct to determine whether the alleged conduct would be:

1. Potentially a criminal offence, and if so will notify the police as soon as possible.
2. Grounds for making a mandatory report to the Department of Communities and Justice (DCJ), or a non-mandatory report to the DCJ under the College's Child Protection Policy. If the concern or complaint provides reasonable grounds to suspect that a child under the age of 16 years is at risk of significant harm, the College is required under the Children and Young Persons (Care and Protection) Act 1988 (NSW) No 157 (the Care and Protection Act) to notify the DCJ. If the complaint provides reasonable grounds to suspect that a young person aged 16 or 17 years of age is at risk of significant harm, and there are current concerns about the safety and wellbeing of that person, the College will notify the DCJ. Reports can be made via the Child Protection Helpline on 13 21 11.

3. Potentially, reportable conduct, the College is required by law to report the allegation to the Office of the Childrens Guardian (OCG) within seven (7) days. Following any allegation that includes conduct defined as reportable conduct, a risk assessment will be conducted to identify and mitigate any ongoing risks to student safety and wellbeing.
4. If the staff misconduct does not fall into any of the above categories, the concern or complaint, will be investigated and determined through the College's standard staff procedures or, in the case of contractors(including external providers) , the terms of the contractor's contract for services.

Sometimes the alleged staff misconduct may fall into more than one category. For example, a person may have reasonable grounds for suspicion that a child is at risk of significant harm, as well as a complaint about staff misconduct. In such cases, the College will deal with the relevant concern or complaint in a way which best aligns with its commitments and responsibilities. This may involve reports to multiple authorities.

If the College notifies a concern or complaint to the police or DCJ, the College may be required to wait for the relevant authority to conclude its own investigations before investigating the matter itself.

Findings regarding alleged reportable conduct

Information published by the OCG describes adverse and non-adverse findings. There are five findings that can be made in respect of an allegation regarding reportable conduct:

- **Sustained (substantiated)** finding that the alleged conduct did occur (adverse finding)
- **Not Sustained – Insufficient Evidence** finding that there is some, but insufficient, evidence available to reasonably establish that the alleged conduct did occur (non-adverse finding)
- **Not Sustained – Lack of Evidence or Weight** finding that the evidence available is of such poor probative value, or lacking weight, that on balance of probabilities the conduct did not occur (non-adverse finding)
- **False** finding that the alleged conduct did not occur (non-adverse finding)
- **Not Reportable Conduct** finding that the alleged conduct was not reportable – for example conduct that was reasonable in the circumstances or accidental. This may also include 'misconceived' matters, where allegations were made in good faith, however, this is based on a misunderstanding of what occurred, and therefore the conduct is not reportable, or a finding of misconduct that may breach standards, but is not reportable (non-adverse finding – under reportable conduct scheme).

Outcomes of Staff Misconduct

The College does not tolerate staff misconduct. Where the College determines that staff misconduct has occurred it will take appropriate action to demonstrate the importance of its standards and values, after having regard to all relevant circumstances.

Outcomes for staff misconduct may include:

- Employees: counselling, additional training, changed or alternate duties, increased supervision of work, a warning or termination of employment.
- Other staff: counselling, additional training, changed or alternate duties, increased supervision of work a warning, or termination of engagement.

When determining outcomes, the safety and wellbeing of students will be the College's paramount consideration.

Confidentiality

When allegations regarding staff misconduct (including reportable conduct) are raised, there will usually be confidentiality and privacy reasons, which limit the information the College, can share with the person who raises a concern or complaint, the person the subject of the concern or complaint and, where the allegation concern a student, that student's parents.

Similarly, to ensure the integrity of the College's investigation processes those involved (including staff, students and parents) will be required to maintain appropriate confidentiality.

No employee may comment to the media about alleged staff misconduct unless expressly authorised by the Principal to do so.

Any staff member who becomes aware of a breach of confidentiality in relation to alleged staff misconduct must advise the Principal.