



**EDMUND RICE EDUCATION
AUSTRALIA**

STUDENT PROTECTION PROCESSES

**FOR THE EDMUND RICE EDUCATION AUSTRALIA
NORTHERN REGION (QUEENSLAND) SCHOOLS,
FLEXIBLE LEARNING CENTRES AND INDOOROOPILLY
MONTESSORI CHILDREN'S HOUSE.**

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Preface

These processes have been developed by the *Queensland Catholic Education Commission* (QCEC), in consultation with Catholic School Authorities, in order to assist Catholic School Authorities to meet legislative and procedural processes for responding to, and reporting, abuse, harm and behaviour of a staff member that a student considers is inappropriate.

Nothing that is written in these processes below prevents a staff member or any other person from taking immediate action to notify Queensland Police Service and/or the Department of Child Safety, Youth and Women, particularly if he/she believes that it is essential to act to ensure a student's safety.

Effective Date

These processes are effective from 1 July 2020.

Review Schedule

These processes shall be reviewed every 12 months, or when necessary as required by changes to legislation, policy or procedure.

The Governing Body

The Governing Body is the **Trustees of Edmund Rice Education Australia**.

The Director/s of the Governing Body for the **Edmund Rice Education Australia Northern Region (Queensland) schools, Flexible Learning Centres and Indooroopilly Montessori Children's House** are **Br Paul Oakley cfc, Mr Graham John Goerke, Ms Kathleen Freeman, Mr David James White and Ms Philomena Mary Billington**.

Delegation

Pursuant to s 366B of the *Education (General Provisions) Act 2006*, the Directors of the Trustees of Edmund Rice Education Australia delegated to the person performing the duties of Regional Director of Northern Region EREA obligations under s366 and 366A of the *Education (General Provisions) Act 2006* and more particularly the obligations of the Director/s of a non-State school's governing body of receiving a report and giving a copy of the report to a police officer.

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School Student Protection Contacts

Under the *Education (Accreditation of Non-State Schools) Regulation 2017* (section 16(3)), St Ignatius Park College, Townsville, St Brendan’s College Yeppoon, St Patrick’s College Shorncliffe, St Joseph’s College Nudgee, St James College, Spring Hill, St Joseph’s College, Spring Hill, St Laurence’s College, South Brisbane, Ambrose Tracey College Indooroopilly, St Edmund’s College Ipswich, the Indooroopilly Montessori Children’s House Indooroopilly, the Marlene Moore Flexi Schools Network (Deception Bay, Hemmant, Noosa and Gympie), Xavier Flexi School Network (Kingston, Townsville, Inala and Ipswich) and the Wollemi Flexi Schools Network (Albert Park, Rockhampton, Southport and Mt Isa) administered by Edmund Rice Education Australia have at least two nominated staff members to whom a student can report behaviour of another staff member that the student considers inappropriate. The names of these Student Protection Contacts are made known to staff, students and parents and are published on the school’s website and maintained on a central register, updated regularly. See [Form C](#).

Complaints Procedure

Under the *Education (Accreditation of Non-State Schools) Regulation 2017* (section 16(5)), St Ignatius Park College, Townsville, St Brendan’s College Yeppoon, St Patrick’s College Shorncliffe, St Joseph’s College Nudgee, St James College, Spring Hill, St Joseph’s College, Spring Hill, St Laurence’s College, South Brisbane, Ambrose Tracey College Indooroopilly, St Edmund’s College Ipswich, the Indooroopilly Montessori Children’s House Indooroopilly, the Marlene Moore Flexi Schools Network (Deception Bay, Hemmant, Noosa and Gympie), Xavier Flexi School Network (Kingston, Townsville, Inala and Ipswich) and the Wollemi Flexi Schools Network (Albert Park, Rockhampton, Southport and Mt Isa) administered by Edmund Rice Education Australia have a written complaints procedure to address allegations of non-compliance with student protection processes. Information about the complaints procedure is available from Edmund Rice Education Australia Northern Regional office and or the local school or entity.

Awareness and Implementation

If staff members, parents or students require further information in relation to any of the processes described in this document and/or other student protection compliance requirements, advice should be obtained from the Principal, the school’s Student Protection Contacts or Edmund Rice Education Australia Northern Regional office P: 07 3737 6700 and/or the EREA Director of Safeguarding P: 03 9426 3216.

Edmund Rice Education Australia through its schools and entities is responsible for ensuring that:

- this document is freely available to staff members, students and parents;
- staff members, students and parents are made aware of the student protection processes;
- staff are trained in implementing the processes; and
- the processes are being implemented within the school.

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This is achieved by:

Edmund Rice Education Australia through the local Principal or the entity leader, will meet these requirements listed above including:

- This document titled **Student Protection Processes for the Edmund Rice Education Australia Northern Regions (Queensland) Schools, Flexible Learning Centres and Indooroopilly Montessori Children’s House** be available online via the school website and in hard copy at the school.
- Staff and volunteers at the point of induction will be made aware of the document **Student Protection Processes for the Edmund Rice Education Australia Northern Regions (Queensland) Schools, Flexible Learning Centres and Indooroopilly Montessori Children’s House**.
- Students and parents are made aware of the student protection processes, at the point of enrolment and schools/entity website.
- All staff, College Board members and volunteers will complete the EREA online training within four weeks of starting their employment or engagement.
- All staff and volunteers are to complete the EREA online child protection training every two years.
- All staff annually are to receive professional development into the student protection processes.
- Schools/Entity are to report annually to their Boards as to how the processes are being implemented within the school, monitored and oversighted. The report needs to be minuted in the Board minutes.

This document should be read in conjunction with the [Student Protection Guidelines for the Edmund Rice Education Australia Northern Regions \(Queensland\) Schools, Flexible Learning Centres and Indooroopilly Montessori Children’s House](#).

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1. Our responsibilities

Edmund Rice Education Australia is committed to creating and maintaining safe environments for students. A critical area of importance is how to respond to, and report abuse, harm and the behaviour of a staff member that a student considers is inappropriate. This document sets out the responsibilities for staff members in schools where they have a concern for the protection of a student, including addressing processes required by law:

- processes for how Edmund Rice Education Australia schools/entities will respond to harm, or allegations of harm, to students;
- a process for the reporting by a student to a stated staff member of behaviour of another staff member that the student considers is inappropriate;
- a process for how the information reported to the stated staff member must be dealt with by the stated staff member;
- a process for reporting sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366; and a suspicion of likely sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366A; and
- a process for reporting a reportable suspicion under the *Child Protection Act 1999*, section 13E.

These processes apply to all staff members employed by Edmund Rice Education Australia in the Northern Region –the State of Queensland.

2. Reporting Processes

This section of the processes sets out a summary of the actions that must be taken if a staff member has concerns or suspicions, or makes allegations about [abuse](#) of, or [harm](#) to, a student or if there is a report of behaviour by a staff member that a student considers is [inappropriate](#). Further detail around these key child protection concepts are contained within the Student Protection Guidelines.

In general terms the process for responding to and reporting student protection concerns is as follows:

Identify

Identify student protection concerns through recognising the [signs of abuse](#) and harm, and through [disclosures](#) or receipt of information;

Confer

Seek guidance and support – if necessary, [confer](#) with the Principal or appropriate colleagues, or use resources such as the [Child Protection Guide](#) to establish whether a [‘reasonable suspicion’](#) has been formed;

Report

Where a [reasonable suspicion](#) of [abuse](#), [harm](#) or [inappropriate behaviour](#) is formed – report the concerns according to the specific processes outlined in this document;

Support

Remain focussed on the [support](#) needs of the student and liaise with the Principal around any planning or actions that are required.

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2.1 Conferral with colleagues and accessing support

Engaging in appropriate consultation processes is an important element of responding to concerns around the safety and well-being of students, in order that any decision making process is fully informed.

Staff members may confer with colleagues, for example the Principal or Student Protection Contacts, in order to establish whether the information to hand may constitute a reasonable suspicion of abuse, harm or inappropriate behaviour. This process is encouraged as a means of ensuring the best possible response to a student concern.

Confidentiality is an important element of conferral processes, where information sharing should be limited to appropriate persons and to the extent necessary to respond to the safety and well-being of a student and to give effect to the processes outlined in this document. The Student Protection Guidelines contain further detail around [confidentiality and information sharing](#).

Again, the purpose of the conferral process is to assist a staff member in determining whether there is a reasonable suspicion of abuse, harm or inappropriate behaviour. A Principal, for example, may have additional information about a student or their family, not known by the staff member that:

- Provides greater context to the concerns identified by the staff member
- Changes the seriousness of the concerns, particularly as to whether harm to a student is “significant”
- Provides greater clarity around whether there is a parent able and willing to protect the student.

In addition to conferring with colleagues, a number of practical tools and resources exist to support staff members in their decision making, including the [Queensland Child Protection Guide](#) – an online decision support guide that has been developed to assist professionals to appropriately report or refer families to the Department of Child Safety, Youth and Women or other service providers in a timely manner.

The Queensland College of Teachers offers a range of professional standards resources that may assist in understanding and responding to inappropriate behaviour by a staff member.

Staff members can also access Edmund Rice Education Australia’s Director of Safeguarding through the Regional Office on 07 3737 6700.

2.2 Requirement to report sexual abuse or likely sexual abuse to the Queensland Police Service

In accordance with sections 366 and 366A of the *Education (General Provisions) Act 2006*, if a [staff member](#) becomes aware or reasonably suspects in the course of the staff member’s employment at the school that a student has been [sexually abused](#) or is [likely to be sexually abused](#) by another person, the staff member must immediately provide a written report using the **Student Protection Report - Form A** to the Principal or the Regional Director of Northern Region EREA. The Principal or the Regional Director of Northern Region EREA is required by law to immediately forward a copy of the **Student Protection Report - Form A** to the Queensland Police Service. See [Flowchart 1](#).

Where the first person is the Principal of the School, the Principal must immediately make a written report of the concerns directly to the Queensland Police Service and the Regional Director of Northern Region EREA using the **Student Protection Report - Form A**. See [Flowchart 2](#).

Where the reasonable suspicion of [sexual abuse](#) or [likely sexual abuse](#) is against the **Principal**, the **Student Protection Report - Form A** must be submitted by the first person to the Regional Director of Northern

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Region EREA, who must immediately forward a copy of the **Student Protection Report - Form A** to the Queensland Police Service.

The Principal or Regional Director of Northern Region EREA must, as a matter of urgency, advise the first person that the report has been forwarded to Police. This advice should be in writing where possible.

NOTE: If a reasonable suspicion of sexual abuse or likely sexual abuse is formed a report to the Queensland Police Service is to be made even if there is a [parent able and willing](#) to protect the child from harm.

Whilst the legislation relating to the mandatory reporting of sexual abuse and likely sexual abuse as outlined above relates only to students under 18 years of age, these processes extend the meaning to include students who are 18 years of age or above.

In addition, whilst the legislation limits the mandatory reporting of sexual abuse or likely sexual abuse of a student to reasonable suspicions formed in the course of the staff member's employment at the school, it is the policy of Edmund Rice Education Australia that all reasonable suspicions of sexual abuse or likely sexual abuse of students, regardless of when they are formed, are reported to Queensland Police in accordance with these processes.

2.3 Reporting significant harm or risk of significant harm to a student where there may not be a parent able and willing to protect the student from harm

Mandatory reporting responsibilities for approved teachers

Approved teachers have a **mandatory reporting** obligation under section 13E of the *Child Protection Act 1999* to make a report to the Department of Child Safety, Youth and Women when a teacher forms a 'reportable suspicion' about a child.

A reportable suspicion is a [reasonable suspicion](#):

- that a child has suffered, is suffering, or is at an [unacceptable risk](#) of suffering, [significant harm](#) caused by [physical abuse](#) or [sexual abuse](#); and
- there may not be a [parent able and willing to protect](#) the child from the harm.

A teacher fulfils this mandatory reporting obligation by:

- Making a written report using the **Student Protection Report - Form A** to their Principal of the reportable suspicion (or if the allegation is against the Principal, to the Regional Director of Northern Region EREA) and as a matter of urgency receiving written confirmation from the Principal or the Regional Director of Northern Region EREA of the date and time that the report was submitted to the Department of Child Safety, Youth and Women; or
- Making a report directly to the Department of Child Safety, Youth and Women via the [online reporting form](#).

When the Principal or the Regional Director of Northern Region EREA receives a report, where a teacher has formed a 'reportable suspicion', they **must**, as a matter of urgency, forward the report to the Department of Child Safety, Youth and Women.

Where a Principal themselves forms a 'reportable suspicion', they must make a report directly to the Department of Child Safety, Youth and Women.

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Teachers are encouraged to make mandatory reports to the Department of Child Safety, Youth and Women through their Principal (as described above). However, if a teacher forms a ‘reportable suspicion’ about a student, the teacher **must** satisfy themselves, as a matter of urgency, that the Principal has provided a report to the Department of Child Safety, Youth and Women.

If the teacher does not reasonably suppose that the Principal has provided the report to the Department of Child Safety, Youth and Women, the teacher **must, as a matter of urgency**, make the report directly to the Department of Child Safety, Youth and Women. Teachers are encouraged to confer with Edmund Rice Education Australia’s Child Protection Office on ph 3737 6700 for support in making the mandatory report themselves.

Again, the *Child Protection Act 1999* limits the mandatory reporting of reportable suspicions to those formed in the course of the teacher's engagement at the school. However, it is the policy of Edmund Rice Education Australia that all reasonable suspicions that student has suffered, is suffering or is at unacceptable risk of suffering significant harm and may not have a parent able and willing to protect them from the harm, regardless of when they are formed, are reported to the Department of Child Safety, Youth and Women in accordance with these processes.

Where a [staff member](#) reasonably suspects a student has suffered, is suffering or is at [unacceptable risk](#) of suffering [significant harm](#), due to [sexual](#), [physical](#), [emotional/psychological abuse](#) or [neglect](#) and may not have a [parent able and willing](#) to protect the student from the harm, then the staff member must make a written report of the concerns to the Principal using the **Student Protection Report - Form A**, who in turn must immediately forward the **Student Protection Report - Form A** to the Department of Child Safety, Youth and Women - Regional Intake Service. See [Flowchart 3](#).

Where the allegation is against the **Principal**, the staff member must submit the **Student Protection Report - Form A** to the Regional Director of Northern Region EREA who in turn must immediately forward the **Student Protection Report - Form A** to the Department of Child Safety, Youth and Women - Regional Intake Service.

The Principal or Regional Director of Northern Region EREA or delegate must, as a matter of urgency, advise the staff member that the report has been forwarded to the Department of Child Safety, Youth and Women. This advice should be in writing where possible.

Where a Principal themselves reasonably suspects a student has suffered, is suffering or is at unacceptable risk of suffering significant harm, due to sexual, physical, emotional/psychological abuse or neglect and may not have a parent able and willing to protect the student from the harm, they must make a report directly to the Department of Child Safety, Youth and Women.

Copies of all student protection reports are also submitted to the Regional Director of Northern Region EREA and must also be recorded on the risk management system by the Principal.

2.4 Requirement to respond to harm or allegations of harm to students

In accordance with section 16 (1) of the *Education (Accreditation of Non-State Schools) Regulation 2017*, a school must have written processes to respond to harm or allegations of harm to a student. Therefore, in addition to the requirements outlined in sections 2.2 and 2.3 above, staff members must respond to any reasonable suspicion in accordance with the required processes that a child has suffered, is suffering or is at

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unacceptable risk of suffering, significant harm caused by emotional abuse, neglect, self-harm, or harm caused by others - for example, by other students or by other persons in the community.

2.4.1 Harm or risk of harm to a student caused by self-harm

Where a staff member forms a reasonable suspicion that a student has self-harmed or is at risk of self-harm, the first priority is the immediate safety of the student, and determining whether the self-injury or risk of self-injury is significant, for example an injury requiring medical attention. The priority in cases of significant self-harm is therefore meeting the immediate medical and psychological needs of the student, which may require the administration of first aid and/or immediate contact with emergency services or mental health services.

The staff member then raises the concern of self-harm with the Principal, and contact should be made with the student’s parent/care-provider, unless doing so places the student at further risk of harm.

Where the staff member forms a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of significant harm, as a result of self-harming behaviour AND may not have a parent able and willing to protect the student from harm, (for example refusing to support the student in accessing medical or psychological care), then a written report must be made in accordance with the reporting processes detailed in [section 2.3](#) as a concern of neglect.

2.4.2 Harm or risk of harm to a student caused by another student

Where a staff member forms a reasonable suspicion that a student has been harmed or is at risk of being harmed by another student, the first priority is the immediate safety of the student, which will include determining whether the effect on the student is significant, for example, an injury requiring medical attention.

Where there is a significant injury or immediate risk of significant injury to a student, the priority is meeting the medical and safety needs of the student, which may require the administration of first aid, immediate contact with emergency services and contacting the student’s parent(s) or care-provider(s).

Behaviour between students is managed in accordance with Edmund Rice Education Australia’s written processes for the conduct of students, or relevant behaviour support guidelines. In cases where criminal offences have been alleged, for example the serious assault of a student by another student over the age of 10 years, parents and care-providers should be made aware of the option to pursue action through the Queensland Police Service. EREA Schools or entities will cooperate with any resulting investigation. Allegations of bullying behaviours, including online behaviours, are managed in accordance with individual School’s bullying procedures.

Where a staff member forms a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of significant harm, as a result of student to student behaviours AND may not have a parent able and willing to protect the student from harm, (for example an inability to provide supervision for the student), then a written report must be made in accordance with the reporting processes detailed in [section 2.3](#).

2.4.3 Responding to student sexual behaviour

Sexual behaviours of various kinds may be evident in children, particularly in the early years. Some forms of sexual behaviour may be considered developmentally appropriate for the child’s age and stage of development. Other behaviours may indicate that the child could have been exposed to inappropriate material or experiences (for example, reports of very young children knowing about and experimenting with oral sex). [Resources](#) such as those published by the Department of Child Safety, Youth and Women can assist in identifying age inappropriate sexual behaviour.

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Suspicion that a student has been sexually abused may also be formed in some circumstances where a student exhibits concerning sexual behaviour. In these circumstances, a report to the Queensland Police Service is required as outlined in [section 2.2](#) and an assessment of the requirement to report made under [section 2.3](#) is also required.

2.4.4 Harm or risk of harm to a student caused by a person not associated with the school or family

There may be some circumstances where a staff member becomes aware of a concern that a student has been harmed, or is at risk of harm, by a person not associated with the school or family. As with the broader responses to harm, consideration must first be given to whether the harm or risk of harm is significant and whether there is a parent able and willing to protect the student from harm.

In circumstances where there is a parent able and willing to protect the student from harm, then the parents must be notified of the concerns as soon as possible. Where there is not a parent able and willing to protect the student and there is a reasonable suspicion of significant harm or risk of harm, then the reporting process detailed in [section 2.3](#) must be followed.

Where the risk is immediate, for example the abduction of a student walking to school, then the Queensland Police Service must be contacted immediately.

2.5 Responding to concerns that do not meet the threshold for reporting

A staff member may identify concerns regarding a student that ultimately do not form a reasonable suspicion of sexual abuse, likely sexual abuse or significant harm, however, indicate that without support or intervention a student and/or their family are at risk of entering the child protection system.

These concerns should be raised with the Principal, who may refer the student/and or their family to the appropriate service. This may include support options through the school, such as the School Counsellor, or to community based options such as Family and Child Connect.

The Student Protection Guidelines provide detail around the options that are available to [support students and families](#).

2.6 Responding to allegations against staff members, including the Principal, and volunteers

In accordance with section 16 (2) of the *Education (Accreditation of Non-State Schools) Regulation 2017*, a school must have a process for the reporting of staff behaviour that a student considers to be [inappropriate](#).

Additionally, a school must have a process to respond to the reported staff inappropriate behaviour.

Therefore, if a staff member becomes aware of staff behaviour that a student considers to be inappropriate, the staff member must report this behaviour in accordance with the designated process without delay.

2.6.1 Allegations of sexual abuse or likely sexual abuse against a staff member, volunteer or other contracted group/Individual

A staff member may form a reasonable suspicion that a student has been sexually abused or is likely to be sexually abused by a staff member or volunteer.

In these circumstances, the reporting processes detailed in [section 2.2](#) must be followed. The processes detailed in sections 2.6.1.1 to 2.6.1.7 must then be followed.

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2.6.1.1 Action to be taken subsequent to a student protection report concerning the conduct of a staff member, volunteer or contracted group/Individual

2.6.1.2 Role of Edmund Rice Education Australia Northern Region Office staff

When a report is submitted Queensland Police that relates to the behaviour of a staff member, other employee, volunteer or contracted group/individual, overall case management will be provided by a delegate appointed by the Regional Director of Northern Region EREA who will work in association with the Principal/Entity Director. It is important for the case manager to establish communication with the Officer-in-Charge and/or the investigating officer within Queensland Police Service so that information may be shared as appropriate. This communication may be facilitated through the Principal/Entity Director. The EREA Director of Safeguarding is also available to provide assistance and support to students/children and staff in managing what can be complex issues.

Following the provision of the Student protection report to the Queensland Police Service, an investigation into the suspected abuse/harm should not be conducted by or on behalf of Edmund Rice Education Australia Northern Region until confirmation is received from the Queensland Police Service about the status of their enquiries. However, the Regional Director of Northern Region EREA (or delegate) will take immediate steps to ensure that a risk assessment is undertaken. As a result of the risk assessment, and following consultation with the Queensland Police Service regarding the timing of any proposed suspension, the staff member, other employee, volunteer or contracted group/individual may be suspended from his/her duties, or have his/her duties restricted. If the employee is not a staff member of Edmund Rice Education Australia Northern Region, the appropriate steps in this regard will be taken by Regional Director of Northern Region EREA (or delegate) in association with the person’s employer.

After discussions with the Queensland Police Service and upon their advice, Regional Director of Northern Region EREA or delegate will inform the parent(s) or carer(s) of the student/s – child/ren involved, that a Student protection report has been made in relation to suspected abuse/harm of the student/child by a staff member, other employee, volunteer or contracted group/individual. Appropriate confidentiality of the matter will be discussed.

The Regional Director of Northern Region EREA will keep a copy of the Student protection report in a confidential file. The Regional Director of Northern Region EREA (or delegate) will establish liaison with the Queensland Police Service to assist in the management of the issue.

Upon the commencement of any investigation by Edmund Rice Education Australia Northern Region into an allegation of harm of a student/child by a registered teacher, the Regional Director of Northern Region EREA (or delegate) will make a written notification to the Queensland College of Teachers.

If the Student protection report concerns the behaviour of a staff member or volunteer who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the Regional Director of Northern Region EREA (or delegate), after discussion with the Queensland Police Service and on their advice, will ensure that the relevant church authority is informed without delay. The Regional Director of Northern Region EREA will inform the Director of the Office of Professional Standards (Qld) (*Towards Healing*) as soon as practicable.

2.6.1.3 Notifying the staff member, volunteer or contracted group/individual

The Regional Director of Northern Region EREA (or delegate) will seek advice from the Queensland Police Service as to when the staff member, volunteer or contracted group/individual should be informed of

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the allegation. As soon as it is deemed appropriate to inform the staff member, volunteer or contracted group/individual, a meeting will be held between the staff member, volunteer or contracted group/individual and the Regional Director of Northern Region EREA (or delegate). The staff member, volunteer or contracted group/individual will be advised that he/she can have a support person at this meeting. At the meeting, the staff member, volunteer or contracted group/individual will be informed that a suspicion of harm or abuse/unacceptable risk of abuse has been reported about him/her and whether this information has been reported to the Queensland Police Service. The requirement for the staff member, volunteer or contracted group/individual to observe confidentiality will also be advised. He/she will also be given the details of a nominated person to contact who will be available to provide information regarding the processes being undertaken and to facilitate the accessing of other support. The information communicated verbally at the meeting will also be provided in writing. The staff member will be reminded that he/she may access the confidential counselling services available through the Employee Assistance Program. If the employee is not a staff member of Edmund Rice Education Australia Northern Region, the appropriate steps in this regard will be taken in association with that person's employer.

2.6.1.4 Suspension from duties

If as a result of a risk assessment it is decided that the staff member should be suspended from his/her duties, or have their duties restricted, the Queensland Police Service should be consulted to ensure that the timing and circumstances of the person being informed of this does not unnecessarily interfere with Queensland Police Service inquiries. Decisions regarding suspension will be made with the rights of an employee being balanced with the best interests of the student/child, however, the welfare and best interests of any students/children involved will be paramount.

The staff member concerned will be informed of the decision to suspend or restrict his/her duties. The basis for this decision will be provided to the staff member in writing following the meeting at which this information has been communicated verbally. He/she will also be given the details of a nominated person to contact who will be available to provide information regarding the processes being undertaken and to facilitate the accessing of other support.

In the case of a staff member being named as the cause of concern in a Student protection report he/she will be reminded that he/she may access the free confidential counselling services available through the Employee Assistance Program.

A staff member will normally continue on full pay during the suspension period unless disqualified or prevented from performing his/her duties by an external authority. The Regional Director of Northern Region EREA (or delegate) will discuss with the person what statement, if any, will be made to staff and or the school/entity/community concerning his/her absence from school/entity. The contents of any such statement may be limited by legislation.

If the employee is not a staff member of Edmund Rice Education Australia Northern Region, the appropriate steps will be taken in association with that person's employer in this regard.

2.6.1.5 Pastoral care and support

Pastoral care and support will be offered to the student/child and his/her family, to the staff member, employee or volunteer against whom the allegation has been made, and any others involved. The welfare and best interests of any students/children involved will be paramount and advice will be sought from the Regional Director of Northern Region EREA about appropriate support for the student/child and his/her family.

After a matter relating to the behaviour of a staff member, volunteer or contracted group/individual is

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reported to the Queensland Police Service there can be one of two outcomes. These can be summarised as follows:

- Conviction of a criminal offence; or
- No conviction. (Queensland Police Service may decide not to investigate, to discontinue an investigation or not to lay a charge following an investigation, a prosecution may not go ahead following a charge having been laid, or a matter may go to court but not result in a conviction).

In addition to the scenarios set out above, EREA Northern Region may become aware that a staff member, volunteer, contracted group/individual has been under investigation or has been prosecuted for an offence against a student/child in circumstances where a student protection report has not been made by an EREA Northern Region staff member.

The procedure below will be followed for the scenarios set out above. Where the matter involves a volunteer or contracted group/individual who is not a staff member of Edmund Rice Education Australia Northern Region, action will be taken, with the relevant employer if necessary, to deal with the matter in a manner that is consistent with the procedures outlined in this document as they apply to an employee of EREA Northern Region.

Where the staff member, employee or volunteer concerned is a cleric or member of a religious order, or was a cleric or member of a religious order at the time of the alleged behaviour the Regional Director of Northern Region EREA will ensure that the relevant church authority is informed without delay and this action documented. The Regional Director of Northern Region EREA will also inform the Director of the Office of Professional Standards Qld (*Towards Healing*) as soon as practicable.

2.6.1.6 Conviction

If a current staff member or volunteer is convicted in a court of law for an offence against a student/child that is deemed to be an act of serious professional misconduct, then the Executive Director, Edmund Rice Education Australia, will proceed to dismiss the staff member or volunteer. The Executive Director, Edmund Rice Education Australia, (or delegate) will document the outcome of the court proceedings in the formal communication regarding the termination of the staff member's or volunteer's employment.

If the staff member or volunteer who is convicted is a teacher, the Executive Director, Edmund Rice Education Australia, (or delegate) will inform the Queensland College of Teachers in writing of the conviction.

If the conviction is for a charge that is deemed to be less than serious misconduct but is contrary to the EREA *Code of Conduct*, then the Executive Director, Edmund Rice Education Australia, will proceed to take disciplinary action against the staff member or volunteer.

The pastoral care of student/s and staff will be monitored and support offered.

2.6.1.7 No conviction

The failure of a court to record a conviction against the staff member, volunteer or contracted group/individual against whom a charge has been laid or a decision by the Queensland Police Service not to charge or prosecute, does not necessarily mean that the allegation was unwarranted and that the staff member, volunteer or contracted group/individual has no case to answer as a staff member, volunteer or contracted group/volunteer within an EREA Northern Region school/entity. The fact that a staff member, volunteer or contracted group/individual has been found 'not guilty' of an offence does not automatically mean that a matter has been closed.

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The standard of proof required for disciplinary action within the employer-employee relationship is ‘*on the balance of probabilities*’, rather than the criminal standard of ‘*beyond reasonable doubt*’. In addition, a serious breach of the EREA *Code of Conduct* may not be a criminal offence. For this reason, the matter concerned must still be appropriately dealt with by EREA as a disciplinary matter.

A level 2 intervention process, as detailed in section 2.8, will be implemented in the situation where the outcome of a mandatory student protection report to either the Queensland Police Service or the Department of Child Safety in relation to a staff member is finalised by the relevant State Authority with no further investigation or action being taken on their part.

When EREA Northern Region becomes aware that a Queensland Police Service investigation or prosecution will not proceed, that a person has not been found guilty of an offense with which they have been charged or that a conviction has not been recorded, a risk assessment will be carried out by the Regional Director of Northern Region EREA and a recommendation will be made to the Executive Director, Edmund Rice Education Australia, in relation to the staff member’s employment. Documents on the public record as a result of court proceedings, and/or materials made available as a result of a Queensland Police Service investigation may be considered as part of any investigation conducted by or on behalf of Edmund Rice Education Australia Northern Region.

2.6.2 Allegations of sexual abuse or likely sexual abuse against a Principal

A staff member may form a reasonable suspicion that a student has been sexually abused or is likely to be sexually abused by the school Principal.

In these circumstances, the reporting processes detailed in [section 2.2](#) must be followed and the report from the staff member must be made to the Regional Director of Northern Region EREA, not the Principal.

The processes detailed in section 2.6.1.1 to 2.6.1.7 must then be followed.

IMPORTANT NOTE: Sexual Activity between staff members and students

The involvement of any staff member or volunteer within a school in sexual activity with, or sexual exploitation of, a student attending that school is always to be regarded as sexual abuse.

2.6.3 Allegations of harm against a staff member, volunteer or contracted groups/individual

A staff member may form a reasonable suspicion that a staff member, volunteer or other contracted group/individual has harmed a student. In these circumstances, follow processes detailed in Section 2.3 when there may be **no** parent willing and able to protect the student. In these circumstances, staff members should use the **Student Protection Report - Form A** and follow the processes outlined in Section 2.3.

Where there **is** a parent willing and able to protect the student, these allegations are reported and dealt with in accordance with Level 2 intervention processes detailed in Section 2.8. The staff member **must** report the matter to the Principal/Entity Director or another Student/Child Protection Contact and complete a Part A (Record of Concern) of the Student Protection Report – Form A and submit it to the Principal/Entity Director.

If the student/child has experienced significant physical harm, (for example, bruises and nonaccidental injuries), the Principal/Entity Director **must** inform the parents that they may notify the Queensland Police Service of the assault. The Principal/Entity Director **must** make a record of this discussion and keep it in a

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confidential file at the school/entity. Depending on the circumstances, the Regional Director of Northern Region EREA (or delegate) may make a report to the Queensland Police Service.

2.6.4 Allegations of harm against a Principal

A staff member may form a reasonable suspicion that a Principal has harmed a student. In these circumstances, follow processes detailed in Section 2.3 when there may be **no** parent willing and able to protect the student. In these circumstances, staff members should use the **Student Protection Report - Form A** and follow the processes outlined in Section 2.3.

Where there **is** a parent willing and able to protect the student, these allegations are reported and dealt with in accordance with Level 2 intervention processes detailed in Section 2.8. The staff member **must** report the matter to the Regional Director of Northern Region EREA and complete Part A (Record of Concern) of the Student Protection Report - Form A and submit it to the Regional Director of Northern Region EREA.

If the student/child has experienced significant physical harm, (for example, bruises and nonaccidental injuries), the Regional Director of Northern Region EREA **must** inform the parents that they may notify the Queensland Police Service of the assault. The Regional Director of Northern Region EREA **must** make a record of this discussion and keep it in a confidential file at the school/entity.

Depending on the circumstances, the Regional Director of Northern Region EREA (or delegate) may make a report to the Queensland Police Service.

2.6.5 Allegations of inappropriate behaviour against a staff member, volunteer or contracted group/individual

A staff member who:

- reasonably suspects inappropriate behaviour by a staff member towards a student/child, which does NOT involve sexual abuse or likely sexual abuse; or
- becomes aware of a complaint or report in relation to behaviour by a staff member towards a student/child that a student/child (or a student's/child's parent or another person) considers to be inappropriate, but which does NOT involve sexual abuse or likely sexual abuse, **must** report the matter to the Principal/Entity Director or another Student/Child Protection Contact and complete Part A (Record of Concern) of the Student Protection Report - Form A and submit it to the Principal/Entity Director. If the report is about the Principal/Entity Director, Part A (Record of Concern) of the Student Protection Report - Form A **must** be submitted to the Regional Director of Northern Region EREA.

2.6.5.1 Student Protection Contact (SPC)

If a concern is reported to a Student Protection Contact other than the Principal/Entity Director, the Student/Child Protection Contact **must** submit Part A (Record of Concern) of the Student Protection Report - Form A to the Principal/Entity Director without delay, unless the report of inappropriate behaviour is made against the Principal/Entity Director, in which case the Student/Child Protection Contact **must** submit Part A (Record of Concern) of the Student Protection Report - Form A to the Regional Director of Northern Region EREA.

2.6.5.2 Principal/Entity Director – Regional Director of Northern Region EREA

A Principal/Entity Director or Regional Director of Northern Region EREA who:

- reasonably suspects inappropriate behaviour of a staff member/Principal/Entity Director towards a student/child, which does **NOT** involve sexual abuse/likely sexual abuse; or

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- becomes aware of a complaint or report in relation to a staff member’s/Principal’s/Entity Director’s alleged behaviour towards a student/child that a student/child (or a student’s/child’s parent) considers to be inappropriate but which does **NOT** involve sexual abuse/likely sexual abuse, **must** take action in relation to the matter and document it in accordance with the following requirements for a **Level 1** or **Level 2** intervention as detailed in sections 2.7 and 2.8.

In some circumstances a **Level 2** intervention will also require a Student protection report to the Department of Child Safety under **section 2.3** of these processes (if the student has suffered, is suffering or is at unacceptable risk of suffering significant harm and there may not be a parent able and willing to protect the student from harm). Additionally, if the staff member’s alleged behaviour results in significant physical harm to a student/child a Student protection report to the Queensland Police Service may be required to be made. The Principal/Entity Director will be advised by Regional Director of Northern Region EREA if these actions are required following the submission of the **Level 2** intervention request to the Regional Director of Northern Region EREA.

2.6.6 Allegations of inappropriate behaviour against a Principal

A staff member may form a reasonable suspicion that a Principal has behaved inappropriately towards a student. In these circumstances, the staff member **must** report the matter to the Regional Director of Northern Region EREA and complete submit Part A (Record of Concern) of the Student Protection Report - Form A and submit it to the Regional Director of Northern Region EREA. The processes detailed in section 2.7 and 2.8 are then followed as applicable.

2.7 Dealing with inappropriate behaviour

2.7.1 Intervention and reporting levels

There are two intervention levels that may be used when responding to alleged inappropriate behaviour by a staff member towards a student/child:

Level 1 – Reports of minor inappropriate behaviour; or

Level 2 – Reports of repeated serious* or more complex inappropriate behaviour (which does **NOT** involve sexual abuse/likely sexual abuse which is reportable under **section 2.2** of this document).

The Principal/Entity Director (or Regional Director of Northern Region EREA where the report is against the Principal/Entity Director) will determine as quickly as possible the level of response required (Level 1 or Level 2 as detailed below) and action the appropriate procedures to be followed. Guidance on determining the appropriate response can be obtained from the Regional Director of Northern Region EREA. The EREA Student Protection Officer can assist the Regional Director of Northern Region EREA when required.

2.7.2 Level 1 intervention – situations that constitute minor inappropriate behaviour

A level 1 Intervention relates to reports of minor inappropriate behaviour by a staff member. A typical incident covered by Level 1 intervention could include a one-off report of minor inappropriate behaviour by a staff member.

Level 1 incidents relate to reports that, if substantiated, may constitute a minor breach of the EREA *Code of Conduct*. When reports relate to repeated or multiple minor breaches reported at the same time, they may need to be actioned differently as explained in **section 2.8** of this document.

A Level 1 Intervention **must not** be undertaken if there is a report or reasonable suspicion of significant harm/unacceptable risk of significant harm of a student/child caused by a staff member. A Level 2 Intervention **must be requested** in these circumstances (and in some cases, a student protection report may also be required to be made to the Department of Child Safety, Youth and Women if there may not be a

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parent able and willing to protect the student/child from the harm and/or the Queensland Police Service in the case of significant physical harm to a student/child).

A level 1 Intervention is carried out by the Principal/Entity Director (or the Regional Director of Northern Region EREA if the report is against the Principal/Entity Director). A documented record of the actions taken and of the outcomes is provided to the Regional Director of Northern Region EREA at the end of the intervention process.

Reports giving rise to a Level 1 Intervention are generally resolved through processes that are managed locally by the Principal/Entity Director and may include such responses as supervisory guidance and correction and in some cases mediation and/or conciliation. If the report involves the Principal/Entity Director, the response is coordinated by the Regional Director of Northern Region EREA.

2.7.3 Level 1 intervention responsibilities

(a) Principal/Entity Director (or Regional Director of Northern Region EREA)

The Level 1 Intervention response to a complaint or report against a staff member will be coordinated locally by the Principal/Entity Director (or Regional Director of Northern Region EREA where the report is against the Principal/Entity Director). The Principal/Entity Director (or Regional Director of Northern Region EREA) will determine how to best address the situation with the staff member (or Principal/Entity Director) and how to initiate any consequences that may be determined to be appropriate. This might involve consultation with relevant persons such as the EREA Director of Safeguarding.

Where a report of inappropriate behaviour is made against a staff member who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the Principal/Entity Director will inform the Regional Director of Northern Region EREA as soon as possible. The Regional Director of Northern Region EREA will ensure that the relevant church authority is informed. This action should be documented.

The resolution of all minor incidents remains the responsibility of the Principal/Entity Director (or the Regional Director of Northern Region EREA where the report is against the Principal/Entity Director). The Principal/Entity Director will normally seek advice from the Regional Director of Northern Region EREA or his delegate to formulate a plan to address the issue with the staff member. Strict confidentiality shall be maintained regarding the matter.

Should a staff member deny or contest the allegation of inappropriate behaviour towards a student/child, the Principal/Entity Director (or, if the matter involves the Principal/Entity Director, the Regional Director of Northern Region EREA) must decide whether or not further information gathering at the school/entity level is required or whether management guidance will suffice. The decision regarding whether to, and how to, gather further information will depend on factors such as the seriousness of the allegation, the attitude of the complainant(s), any record of past reports of inappropriate behaviour on the part of the respondent and the likelihood of an allegation being able to be substantiated given the circumstances.

A Level 1 Intervention Report should be completed by the Principal/Entity Director (or Regional Director of Northern Region EREA). The Level 1 Intervention Report will include:

- the details and circumstances of the reported matter;
- the action taken by the Principal/Entity Director (or Regional Director of Northern Region EREA) to assess the matter; and
- the outcome.

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The outcome should also:

- document the staff member’s account of the incident;
- state whether or not the behaviour alleged has been admitted to or not by the staff member; and
- should contain clear details of the advice/guidance that has been provided to the staff member.

The outcome should also indicate if the behaviour alleged is assessed to be contrary to the EREA *Code of Conduct*.

A staff member may admit inappropriate behaviour. The inappropriate behaviour will then be addressed through documented management guidance and/or correction. Conciliation/mediation may be provided if desired by the complainant.

At the completion of the intervention process and following review of the matter by the Regional Director of Northern Region EREA (or delegate) the staff member will be formally advised of the outcome. The parent/carer of the student/child concerned is to be advised in writing of the completion of the intervention unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented. Any other complainants (including students) are also advised of the completion of the intervention.

The original of the Level 1 Intervention Report should be kept on a confidential file at the school/entity level (or by the Regional Director of Northern Region EREA if the report concerns the Principal/Entity Director). A copy of the Level 1 Intervention Report is forwarded to the Regional Director of Northern Region EREA.

(b) Edmund Rice Education Australia Northern Region Office Staff

The Director EREA Northern Region Support (or delegate) is responsible for ensuring that Level 1 Intervention Reports are checked for completeness, accuracy, and relevance, and whether any previous Level 1 Intervention Reports have been received concerning the staff member.

Where previous level 1 Intervention Reports have been received concerning the staff member, the Regional Director of Northern Region EREA will determine what further action, if any, needs to be taken. The Regional Director of Northern Region EREA will receive and keep the level 1 Intervention Report in a confidential file.

2.7.4 Pastoral care and support

Pastoral care and support will be offered to the student/child concerned and their family, to the staff member against whom the report has been made, and any others involved. The welfare and best interests of any students/children involved will be paramount and advice may be sought from the EREA Student Protection officer about appropriate support for the student/child and his/her family.

2.8 Level 2 intervention – situations that constitute repeated, serious or more complex inappropriate behaviour

Level 2 Interventions relate to reports of repeated, serious or more complex inappropriate behaviour by a staff member towards a student/child (including significant physical or emotional harm to a student/child). Such behaviour, if substantial, would constitute misconduct and would justify a formal disciplinary sanction, against the staff member. A Level 2 Intervention **must not** be undertaken if there is a report or reasonable suspicion of sexual abuse or likely sexual abuse of a student/child. The appropriate interventions for such situations are covered in **section 2.2** of this document.

A Level 2 Intervention **must** be undertaken if there is a report or reasonable suspicion that significant harm/unacceptable risk of significant harm to a student/child has been caused by a staff member, volunteer

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or contracted group/individual where there is a parent able and willing to protect the student/child from the harm.

Examples of repeated, serious or more complex inappropriate behaviour requiring a Level 2 intervention request include but are not restricted to:

Repeated Behaviours

- repeated behaviour of a kind that has previously been dealt with by a Level 1 Intervention(s)
- multiple instances of behaviour, reported at or about the same time, of a type that would normally be dealt with by a Level 1 intervention, but which taken together could justify a formal disciplinary sanction
- significant repeated victimisation
- other repeated inappropriate behaviours

Serious Behaviours

- serious inappropriate physical contact *
- serious emotional abuse
- aggressive or abusive interactions (verbal/nonverbal/physical)
- other serious inappropriate behaviour

Complex Behaviours

- multiple boundary violations in one incident
- personal circumstances for the student/child such as mental health issues, history of trauma or disability
- personal circumstances for the staff member
- other complex inappropriate behaviour

**Even minor assaults can be criminal offences. The management of these matters will depend on factors like the seriousness and circumstances of the allegation, the wishes of the parties involved, whether the Queensland Police Service have been involved, and whether the staff member, volunteer or contracted group/individual has a previous history of similar conduct. If it is reasonably suspected that harm has been caused or there is an unacceptable risk of harm the Principal/Entity Director must also consider the appropriate response described under sections 2.3, 2.6.3 and 2.6.4 of this document.*

A Level 2 Intervention is carried out under the authority of the Regional Director of Northern Region EREA, or delegate. The matter is formally reported to the Regional Director of Northern Region EREA at the commencement and end of the intervention process.

A Level 2 Intervention is initiated by the Principal/Entity Director (or the Regional Director of Northern Region EREA in the case of a report against a Principal/Entity Director) formally notifying Regional Director of Northern Region EREA (or the Executive Director, Edmund Rice Education Australia if the report is against a Principal/Entity Director) of the report. If, in the opinion of the Principal/Entity Director a more formal investigation is warranted because the matter is repeated, serious or more complex, a Level 2 Intervention request, including the rationale for the request, should be made to the Regional Director of Northern Region EREA to obtain authorisation for an investigation. A formal investigation (as opposed to information gathering to allow an assessment of the case to be made) **must not** be undertaken at the school/entity level without the authorisation of the Regional Director of Northern Region EREA.

A Level 2 Intervention process will also be implemented in the situation where the outcome of a mandatory Student protection report to either the Queensland Police Service or the Department of Child Safety in

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relation to a staff member is finalised by the relevant State authority with no further investigation or action being taken on their part.

2.8.1 Level 2 intervention responsibilities

(a) *Principal/Entity Director (or Director EREA Northern Region Support)*

As soon as the Principal/Entity Director (or Regional Director of Northern Region EREA) is aware that the report is of such a nature as to require a Level 2 Intervention, a Level 2 Intervention request **must be** completed and forwarded to the Regional Director of Northern Region EREA without delay.

Where a report is made against a staff member who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the Principal/Entity Director (or Regional Director of Northern Region EREA where the report is against the Principal/Entity Director) will inform the Regional Director of Northern Region EREA as soon as possible. The Regional Director of Northern Region EREA will ensure that the relevant church authority is informed and that the actions taken are documented.

(b) *Edmund Rice Education Australia Northern Region office personnel*

On receipt of a Level 2 Intervention request, Regional Director of Northern Region EREA (or delegate) will assess the matter and determine how it is to be progressed. The Regional Director of Northern Region EREA (or delegate) will consider the details of the report and the rationale for the Level 2 Intervention request and as necessary will seek clarification of any issues related to it by consulting with relevant persons. The Regional Director of Northern Region EREA (or delegate) will also consider any previous reports on file of inappropriate behaviour made against the staff member.

If the Regional Director of Northern Region EREA forms the view that the matter should be handled as a Level 1 Intervention, the matter is referred back to the Principal/Entity Director.

If the Regional Director of Northern Region EREA forms the view that a Level 2 Intervention is appropriate, a decision is made as to who should most appropriately conduct an investigation into the allegation. The Regional Director of Northern Region EREA may authorise the Principal/Entity Director or an external party to conduct the investigation.

The Regional Director of Northern Region EREA (or delegate) will take immediate steps to ensure that a risk assessment is carried out to determine if the staff member subject to the allegations should continue to be allowed to work in the school/entity. As a result of the risk assessment, the staff member may be suspended from his/her duties, or have his/her duties restricted.

If the Regional Director of Northern Region EREA forms the view that the matter involves an allegation or reasonable suspicion of sexual abuse or likely sexual abuse of a student/child, the Director EREA Northern Region Support **must immediately** make a mandatory Student protection report (**see section 2.2**) if the matter has not already been reported by the Principal/Entity Director. If the student/child has suffered significant harm or an unacceptable risk of harm the Regional Director of Northern Region EREA must also consider the appropriate response to be made under **Sections 2.3, 2.6.3 and 2.6.4** of this document which includes assessing the appropriateness of making a Student protection report to the Queensland Police Service or the Department of Child Safety if the matter has not already been reported by the Principal/Entity Director.

The Regional Director of Northern Region EREA (or delegate) will inform the parent or carer of the student/child towards whom the inappropriate behaviour is alleged to have occurred in writing that an investigation into the matter has been authorised. The name of a contact person who can provide information about the process being followed will also be provided.

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2.8.2 Notifying the staff member

As soon as the Regional Director of Northern Region EREA (or delegate) deems it to be appropriate to inform the staff member, a meeting will be held between the staff member and the Regional Director of Northern Region EREA (or delegate). The staff member will be advised that he/she can have a support person at this meeting. At the meeting, the staff member will be informed that a report of inappropriate behaviour has been made against him/her, and will be provided with the details of the reported inappropriate behaviour and advised that an investigation into the matter has been authorised. The requirement for the staff member to observe confidentiality will also be advised. The staff member will be reminded that he/she may access the confidential counselling services available to all staff members through the Employee Assistance Program. He/she will also be given the details of a nominated person to contact who will be available to provide support regarding the processes being undertaken and to facilitate the accessing of other support. The information communicated verbally at the meeting will also be provided in writing. In circumstances where it is not possible to meet with the staff member, all required information will be advised in writing.

2.8.3 Suspension from duties

If as a result of a risk assessment it is decided that the staff member should be suspended from his/her duties, or have their duties restricted, the staff member concerned will be informed of the decision to suspend him/her or restrict his/her duties. The basis for this decision will be provided to the staff member in writing following the meeting at which this information has been communicated verbally. The staff member will be reminded that they may access the confidential counselling services available to all staff members through the Employee Assistance Program. He/she will also be given the details of a nominated person to contact who will be available to provide information regarding the processes being undertaken and to facilitate the accessing of other support.

The staff member will normally continue on full pay during the suspension period unless disqualified or prevented from performing his/her duties by an external body. The Regional Director of Northern Region EREA (or delegate) will discuss with the person what statement, if any, will be made to staff and the school/entity community concerning his/her absence from school/entity. Any such statement will be subject to restrictions contained in legislation.

2.8.4 Pastoral care and support

Pastoral care and support will be offered to the student/child and his/her family, the staff member against whom the report has been made, and any others involved. The welfare and best interests of any students involved will be paramount and advice should be sought from the Regional Director of Northern Region EREA about appropriate support for the student/child and his/her family.

2.8.5 Investigation process

The investigator shall as soon as possible arrange for a meeting to be held to inform the staff member of the specific nature of the allegation(s). Prior to the meeting, the staff member will be advised that he/she can have a support person at this meeting. He/she will be reminded of the free confidential counselling services available to all staff members through the Employee Assistance Program. A written record of the allegation(s) will be provided and the staff member will be asked to reply to the allegation(s) within a reasonable time (normally five but no more than ten working days).

The investigator will contact the parent(s) or carer of the student(s)/child/ren against whom the inappropriate behaviour is alleged to have occurred and the following issues will be discussed:

- the allegation that has been made and the decision to investigate;

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- the investigation process;
- the provision of parental/carer permission for the student to be interviewed;
- student/parent/carer views, concerns and support needs;
- the communication process for the parent/carer to be updated re the investigation and other related issues; and
- the need for confidentiality.

If the investigator determines that it is desirable for other students/children (e.g. students/children named as witnesses) to be interviewed, the above guidelines relating to parents/carers will be followed in relation to them.

In conducting the investigation the investigator shall ensure that appropriate confidentiality is maintained.

If during the course of the investigation the investigator forms the view that the matter involves an allegation or reasonable suspicion of sexual abuse/likely sexual abuse of a student/child or an allegation or reasonable suspicion that a student/child has suffered or is at an unacceptable risk of suffering harm caused by abuse/neglect to a student/child then:

- if the investigator is a staff member of Edmund Rice Education Australia Northern Region, he/she **must immediately** make a mandatory student protection report in relation to sexual abuse/likely sexual abuse (see **section 2.2**) and a student protection report to the Department of Child Safety where appropriate (see **section 2.3**); or
- If the investigator is not a staff member of Edmund Rice Education Australia Northern Region he/she **must immediately** make a written report to the Director EREA Northern Region Support (or delegate) who will then **immediately** make a mandatory student protection report in relation to sexual abuse/likely sexual abuse (see **section 2.2**) or a student protection report to the Department of Child Safety where appropriate (see **section 2.3**).

At the conclusion of the investigation, a written report, outlining the process of investigation, the evidence gathered, and the conclusions reached will be provided to the Regional Director of Northern Region EREA by the investigator. The report will indicate whether, in the investigator’s opinion, the allegation(s) are substantiated on the balance of probabilities and, where required, whether the EREA *Code of Conduct* has been breached.

The Regional Director of Northern Region EREA will receive and keep the investigation report in a confidential file and send a copy of the report to the Executive Director, Edmund Rice Education Australia.

The Regional Director of Northern Region EREA (or delegate) is responsible for informing the Principal/Entity Director of the outcome of the investigation. The Regional Director of Northern Region EREA (or delegate) advises the parent/carer of the student/child concerned of the outcome unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented.

The Regional Director of Northern Region EREA (or delegate) is responsible through the Principal/Entity Director for implementing appropriate support processes for students/children and staff to prevent further harm, enable students/children to feel emotionally and physically safe and repair relationships.

2.8.6 Determination of misconduct

If, following the presentation of the investigation report, the Director EREA Northern Region Support (or delegate) has determined that allegations of inappropriate behaviour are substantiated and that they constitute misconduct, the Regional Director of Northern Region EREA (or delegate) will communicate this in writing to the staff member and advise the Principal/Entity Director accordingly.

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If the Regional Director of Northern Region EREA is not considering terminating the staff member’s employment, the staff member will receive a letter stating the seriousness of the misconduct, any disciplinary action and a warning that further substantiated misconduct may lead to termination of the staff member’s services.

If on the evidence the Regional Director of Northern Region EREA is considering the termination of the staff member’s services, then the Regional Director of Northern Region EREA will provide the staff member with a timeframe within which the staff member is given the opportunity to show cause as to why his/her employment should not be terminated. The Regional Director of Northern Region EREA will consider any submission that the staff member chooses to make in response within the timeframe given. Following receipt of the submission from the staff member, the Regional Director of Northern Region EREA will make a decision in relation to the staff member’s employment status and will communicate this in writing to the staff member.

The relevant authorities will be advised, where appropriate, if a staff member’s employment is terminated by the Regional Director of Northern Region EREA.

2.8.7 No determination of misconduct

If, following the presentation of the investigation report, the Regional Director of Northern Region EREA has determined that the allegations of inappropriate behaviour are not substantiated and therefore no misconduct is substantiated the Regional Director of Northern Region EREA (or delegate) will communicate this in writing to the staff member and advise the Principal/Entity Director accordingly.

2.8.8 Finalisation

The Regional Director of Northern Region EREA (or delegate) will advise the parent/carer of the student/child concerned in writing of the completion of the Intervention unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented. Any other complainants (including students) are also advised of the completion of the intervention.

Pastoral care and support will be offered to the student/child and their family, the staff member against whom the allegation has been made, and any others involved. The welfare and best interests of any student/child involved will be paramount.

If the staff member continues to work at the school/entity, the Principal/Entity Director will support the pastoral care of the staff member, and the staff member will be reminded of the confidential counselling services available to all staff members through the Employee Assistance Program. Reasonable steps will be taken by the Principal/Entity Director to manage risks and to provide appropriate ongoing supervision of, and support for, the staff member.

If the staff member has been stood down during the investigation and returns to work at the school/entity, all reasonable steps will be taken by the Principal/Entity Director to assist the staff member to reintegrate into the school community.

2.9 Situations involving volunteers, or employees who are not staff members of Edmund Rice Education Australia or contracted group/individual

If the person against whom a report of inappropriate behaviour has been made is a volunteer or an employee who is not a staff member of Edmund Rice Education Australia or a contracted group/individual, the Principal/Entity Director will take appropriate steps, with the relevant employer as necessary, to deal

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with the matter in a manner that is consistent with the procedures outlined in this document as they apply to a staff member of Edmund Rice Education Australia Northern Region.

All staff members should report any concerns of inappropriate behaviour towards a student by a volunteer, other employees who are not staff members of EREA Northern Region or contracted group/individual to the Principal/Entity Director.

3. After the report is made

Once a report is made under these processes, consideration must be given to any ongoing or resulting action that is required. This includes:

- Follow up by the Principal with Queensland Police Service and/or the Department of Child Safety, Youth and Women to confirm both receipt of the report, and any action that these agencies may take;
- Implementing any risk management and pastoral [support processes](#) to address the safety and well-being of students, particularly in relation to allegations of sexual abuse between students, and maintain as far as possible, supportive relationships with parents, carers and families;
- Ensure that all parties involved respect the [confidentiality](#) and privacy of students and families involved; and
- Where relevant, make any preparation for the interview of a student by Queensland Police Service and/or the Department of Child Safety, Youth and Women at school – see the [QCEC guideline](#) and [sample record of interview form](#).

4. Advising parents

When a student protection report to the Queensland Police Service and/or the Department of Child Safety, Youth and Women is required, it is important that parents are not contacted before the student protection report is made.

If a student protection report submitted to Queensland Police Service and/or the Department of Child Safety, Youth and Women relates to suspected abuse or neglect by a member of the student’s family, the Principal will only inform the parent(s) or carer(s) of the student protection concern once confirmed as appropriate with the Queensland Police Service or the Department of Child Safety, Youth and Women. This is to ensure that any potential child protection or criminal investigation is not compromised.

In order to assist at the school level in the management of any situation and to ensure the immediate safety of any students involved, the school should request from the Queensland Police Service and/or Department of Child Safety, Youth and Women feedback on the possible timing of their intervention and obtain some guidance about when the school may discuss the matter with the student’s parent(s) or carer(s). This is particularly significant in cases of student to student sexual behaviour where it is important for the student’s well-being to enable the parent to support the student and take steps to protect them.

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Definitions

Child

A child is a person under 18 years of age

Colleague

As defined by section 13H of the *Child Protection Act 1999*, colleague, of a relevant person, means a person working in or for the same entity as the relevant person

Director of the Governing Body

As defined by section 364 of the *Education (General Provisions) Act 2006*: *director*, of a non-State school’s governing body, means a director of the governing body within the meaning of the *Education (Accreditation of Non-State Schools) Act 2017*, section 9.

First Person

The “first person” is a staff member who reasonably suspects, in the course of the staff member’s employment at the school, that a student under 18 years attending the school has been sexually abused by another person or is likely to be sexually abused by another person

Harm

As defined by section 9 of the *Child Protection Act 1999*:

- (1) Harm, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.
- (2) It is immaterial how the harm is caused.
- (3) Harm can be caused by—
 - (a) physical, psychological or emotional abuse or neglect; or
 - (b) sexual abuse or exploitation.
- (4) Harm can be caused by—
 - (a) a single act, omission or circumstance; or
 - (b) a series or combination of acts, omissions or circumstances.

Inappropriate behaviour

Inappropriate behaviour includes but is not limited to any behaviour, including words, towards a student that is contrary to what is required of staff members under the Edmund Rice Education Australia’s *Code of Conduct*. Further, any report from a person, including a student, about a staff member’s behaviour towards a student that the person making the report considers to be inappropriate is to be taken as an allegation of inappropriate behaviour and must be responded to in accordance with the processes contained within this document.

Reasonable suspicion

A *reasonable suspicion* is a suspicion that would be formed by a reasonable person based on a reasonable view of the evidence available to them. In other words, a reasonable suspicion is an objectively justifiable suspicion that is based on specific facts or circumstances.

Reportable suspicion

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As defined by section 13E of the *Child Protection Act 1999* means a reasonable suspicion that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect the child from the harm.

Relevant person (*Child Protection Act 1999*)

A relevant person for the purposes of mandatory reporting under section 13E of the *Child Protection Act 1999* is any of the following —

- (a) a doctor;
- (b) a registered nurse;
- (c) a teacher;
- (d) a police officer who, under a direction given by the commissioner of the police service under the *Police Service Administration Act 1990*, is responsible for reporting under this section;
- (e) a person engaged to perform a child advocate function under the *Public Guardian Act 2014*.

Sexual abuse

As defined by section 364 of the *Education (General Provisions) Act 2006*:

sexual abuse, in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances—

- (a) the other person bribes, coerces, exploits, threatens or is violent toward the relevant person;
- (b) the relevant person has less power than the other person;
- (c) there is a significant disparity between the relevant person and the other person in intellectual capacity or maturity.

Staff Member

A staff member is any person who is employed by Edmund Rice Education Australia on a casual, fixed term, or continuing basis, either pursuant to a contract of employment or appointed to a role at the school pursuant to an agreement with a religious order.

Student

A student is any person enrolled as such at a school/entity under the control of Edmund Rice Education Australia. This includes a “relevant person” for the purposes of mandatory reporting under sections 366 and 366A of the *Education (General Provisions) Act 2006*:

- (a) a student under 18 years attending the school;
- (b) a kindergarten age child registered in a kindergarten learning program at the school;
- (c) a person with a disability who—
 - (i) under section 420(2), is being provided with special education at the school; and
 - (ii) is not enrolled in the preparatory year at the school.

Student Protection Contact (SPC)

A Student Protection Contact (SPC) is one of at least two persons who are nominated in each school in compliance with *the Education (Accreditation of Non-State Schools) Regulation 2017 (section 16 (3))* to whom a student can report behaviour by a staff member that the student considers inappropriate.

Teacher

means an approved teacher under the *Education (Queensland College of Teachers) Act 2005* employed at a school.

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Legislative references

Child Protection Act 1999

Reporting of a child in need of protection	<p>Section 13 A states</p> <p><i>“(1) Any person may inform the chief executive if the person reasonably suspects—</i></p> <p><i>(a) a child may be in need of protection; or</i></p> <p><i>(b) an unborn child may be in need of protection after he or she is born.</i></p> <p><i>(2) The information given may include anything the person considers relevant to the person’s suspicion.”</i></p>
Forming a reasonable suspicion of significant harm	<p>Section 13C of the <i>Child Protection Act 1999</i> offers some guidance around forming a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of suffering significant harm:</p> <p><i>(2) (a) whether there are detrimental effects on the child’s body or the child’s psychological or emotional state—</i></p> <p><i>(i) that are evident to the person; or</i></p> <p><i>(ii) that the person considers are likely to become evident in the future; and</i></p> <p><i>(b) in relation to any detrimental effects mentioned in paragraph (a)—</i></p> <p><i>(i) their nature and severity; and</i></p> <p><i>(ii) the likelihood that they will continue; and</i></p> <p><i>(c) the child’s age.</i></p> <p><i>(3) The person’s consideration may be informed by an observation of the child, other knowledge about the child or any other relevant knowledge, training or experience that the person may have.</i></p>
Reportable Suspicions	<p>Section 13E of the <i>Child Protection Act 1999</i> includes the mandatory reporting requirement for teachers to report a reasonable suspicion to the Department of Child Safety, Youth and Women, that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse where there may not be a parent willing and able to protect the child from the harm (a “reportable suspicion”).</p> <p>Section 13G(5) states that a person does not commit an offence under the <i>Child Protection Act 1999</i> or any other act for failing to make a mandatory report under section 13E.</p>
Conferral with colleagues	<p>13H of the <i>Child Protection Act 1999</i> - Conferrals with colleague and related information sharing, states that:</p> <p><i>(1) A relevant person may give information to a colleague, and a colleague may give information to a relevant person, for any of the following purposes—</i></p> <p><i>(a) for the relevant person to form a suspicion about whether a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse;</i></p> <p><i>(b) in the case of a relevant person under section 13E—for the relevant person to form a suspicion about whether a child has a parent able and willing to protect the child from harm mentioned in paragraph (a);</i></p> <p><i>(c) for the relevant person to give a report under section 13G or keep a record about giving a report;</i></p> <p><i>(d) for the relevant person or colleague to take appropriate action to deal with suspected harm or risk of harm to a child.</i></p>

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Interviews with Children at School	Section 17 of the <i>Child Protection Act 1999</i> provides Department of Child Safety, Youth and Women and Queensland Police Service officers with the legislative authority to have contact with a child at a school prior to the parents being told of the contact with the child and the reasons for the contact, as part of an investigation and assessment.
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Education (Accreditation of Non-State Schools) Act 2017 and Education (Accreditation of Non-State Schools) Regulation 2017

The *Education (Accreditation of Non-State Schools) Act 2017* establishes an accreditation regime for the accreditation of non-state schools. The Act also establishes the penalties for non-compliance with the accreditation criteria.

The *Education (Accreditation of Non-State Schools) Regulation 2017* prescribes the accreditation criteria relevant for a non-state school’s accreditation as mentioned in section 11 of the Act. Sections 16(1) to 16(7) of the Regulation deal with the accreditation requirements relating to the conduct of staff and students and response to harm.

Education (General Provisions) Act 2006 and Education (General Provisions) Regulation 2017

The *Education (General Provisions) Act 2006* contains mandatory reporting requirements for all non-state school staff who become aware of or who reasonably suspect that a student has been sexually abused or is likely to be sexually abused by another person (sections 366 and 366A).

These requirements are designed to capture sexual abuse, suspected sexual abuse and likely sexual abuse of students by another person. A staff member or Principal who fails to comply with the mandatory reporting requirements in relation to the sexual abuse or suspected sexual abuse of a student commits an offence under section 366 of the *Education (General Provisions) Act 2006* and is liable for a penalty of up to 20 penalty units. However, a person does not commit an offence for failing to report the likely sexual abuse of a student under section 366A of the *Education (General Provisions) Act 2006*.

Staff making a report pursuant to the *Education (General Provisions) Act 2006* will be protected from civil or criminal liability e.g. from defamation or breach of confidence. However, staff making a knowingly false, malicious or vexatious report will not be protected by this immunity and may risk action for defamation, disciplinary action by their employer or disciplinary action by the Queensland College of Teachers.

Education (Queensland College of Teachers) Act 2005

The *Education (Queensland College of Teachers) Act 2005* requires an employing authority to notify the Queensland College of Teachers (QCT):

- about particular allegations
 - as soon as practicable, after starting to deal with an allegation of harm or likely harm to a child due to the teacher’s conduct (section 76)
- about the outcome of particular allegations
 - as soon as practicable, after dealing with the allegation, the employing authority must also inform QCT of the outcome (section 77)
- about certain dismissals
 - an employing authority must notify QCT within 14 days if the authority has dismissed a teacher in circumstances that call the teacher's competence to be employed as a teacher into question (section 78).

Evidence Act 1977

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Section 93A provides the legislative authority for the Queensland Police Service and the Department of Child Safety, Youth and Women to conduct an interview and obtain a recorded statement from a child under 16 years, or a person who was 16 or 17 years when the statement was made and who, at the time of the proceeding, is a special witness, or an intellectually impaired person who has personal knowledge of the matters dealt with by the statement.

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Form C

Student Protection Contacts and School Authority details Edmund Rice Education Australia (EREA) Northern Region

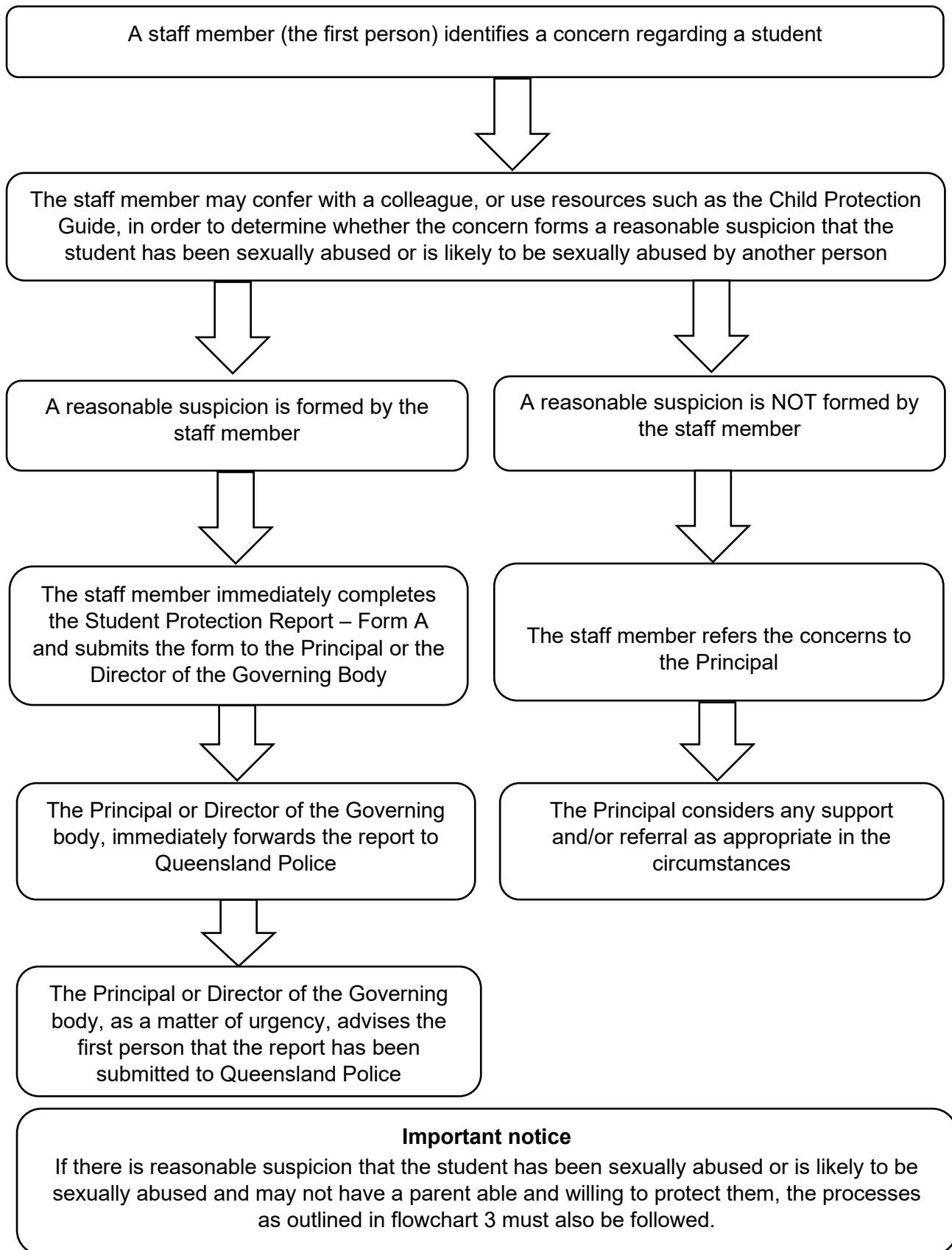
A current completed copy of this proforma must be kept at the school/entity and be freely available to staff, students and parents/caregivers. A current completed copy must also be given to each Student Protection Contact.

NAME OF SCHOOL/ENTITY	
Concerns about inappropriate behaviour of employees and all harm/likely harm to students at this school/entity may be reported to the Student Protection Contacts whose names appear below: There must be at least two staff members at the school/entity who are appointed as Student Protection Contacts by the Principal/Entity Director. One must be the Principal/Entity Director. In the context of the Flexible Learning Centres, the Head of Campus (HOC) must be one of the Student Protection Contacts.	
	(Principal/Entity Director)
	(Name and position)
	(Name and position)
	(Name and position)
	(Name and position)
	(Name and position)
	(Name and position)
THE REGIONAL DIRECTOR, NORTHERN REGION EREA MAY BE CONTACTED ON (07) 3737 6700 or 3737 6712	
The Catholic School authority for this school/entity is known as: Edmund Rice Education Australia	
For which the Governing Body is: The Trustees of Edmund Rice Education Australia	
The Directors of the School/Entity's Governing Body are: Bro. Paul Oakley cfc, Mr Graham John Goerke Ms Kathleen Freemam, Mr David James White and Ms Philomena Mary Billington.	
IMPORTANT INFORMATION	
Although employees are required to follow the Student Protection processes and guidelines laid down by EREA Northern Region, this does not limit the freedom of any person to take immediate action to notify police of any complaint or concern about the safety of a student, particularly if he/she believes that it is essential to ensure a student's safety.	

Please note: This form must be kept up to date and retained in this document to meet legislative requirements. A copy of this information must also be displayed in the foyer of the school/entity and on posters displayed throughout the school/entity. The form should also be put on the School's website.

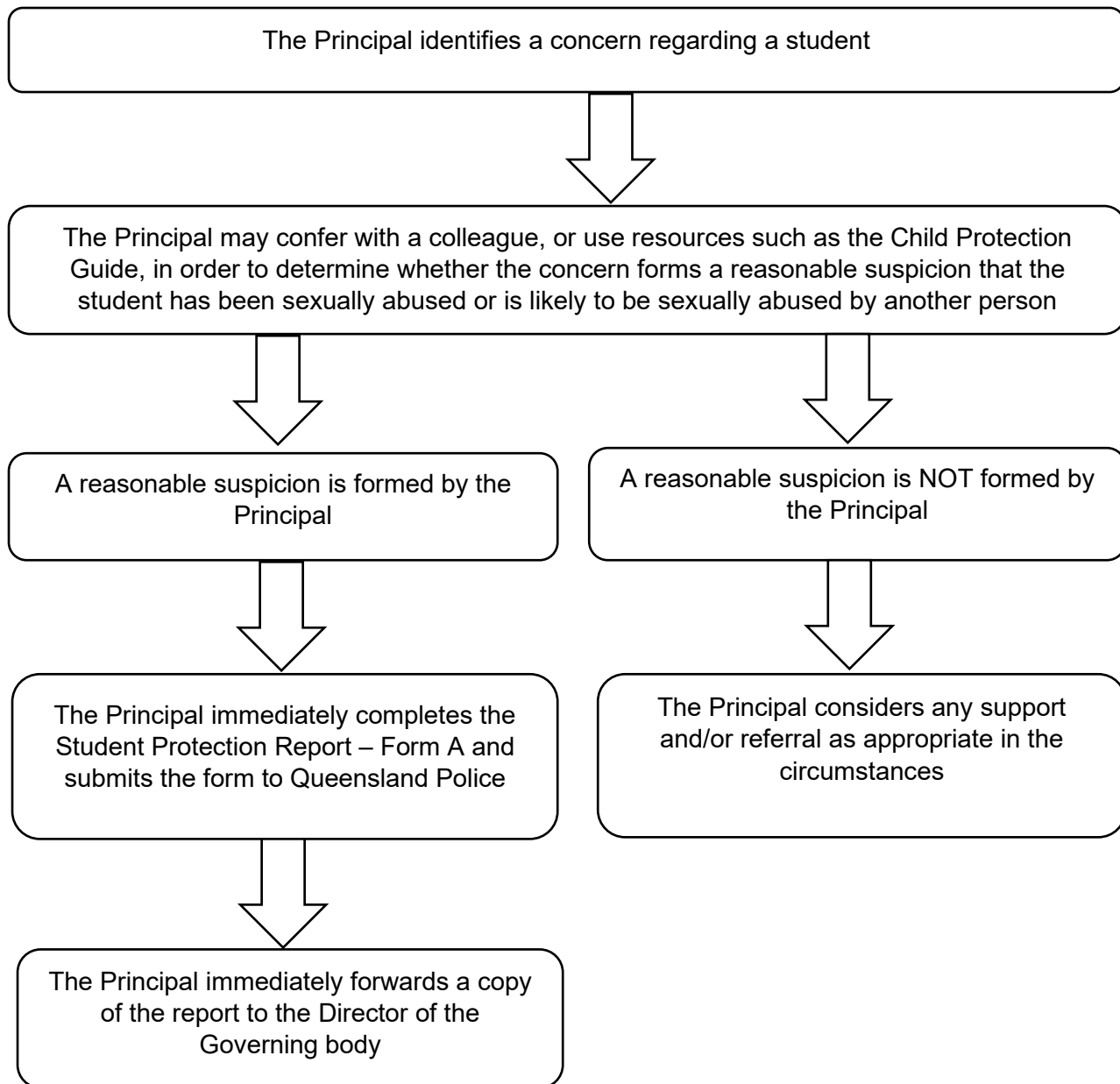
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Flowchart 1: Reporting Sexual Abuse & Likely Sexual Abuse



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Flowchart 2: Reporting Sexual Abuse & Likely Sexual Abuse where the first person is the Principal

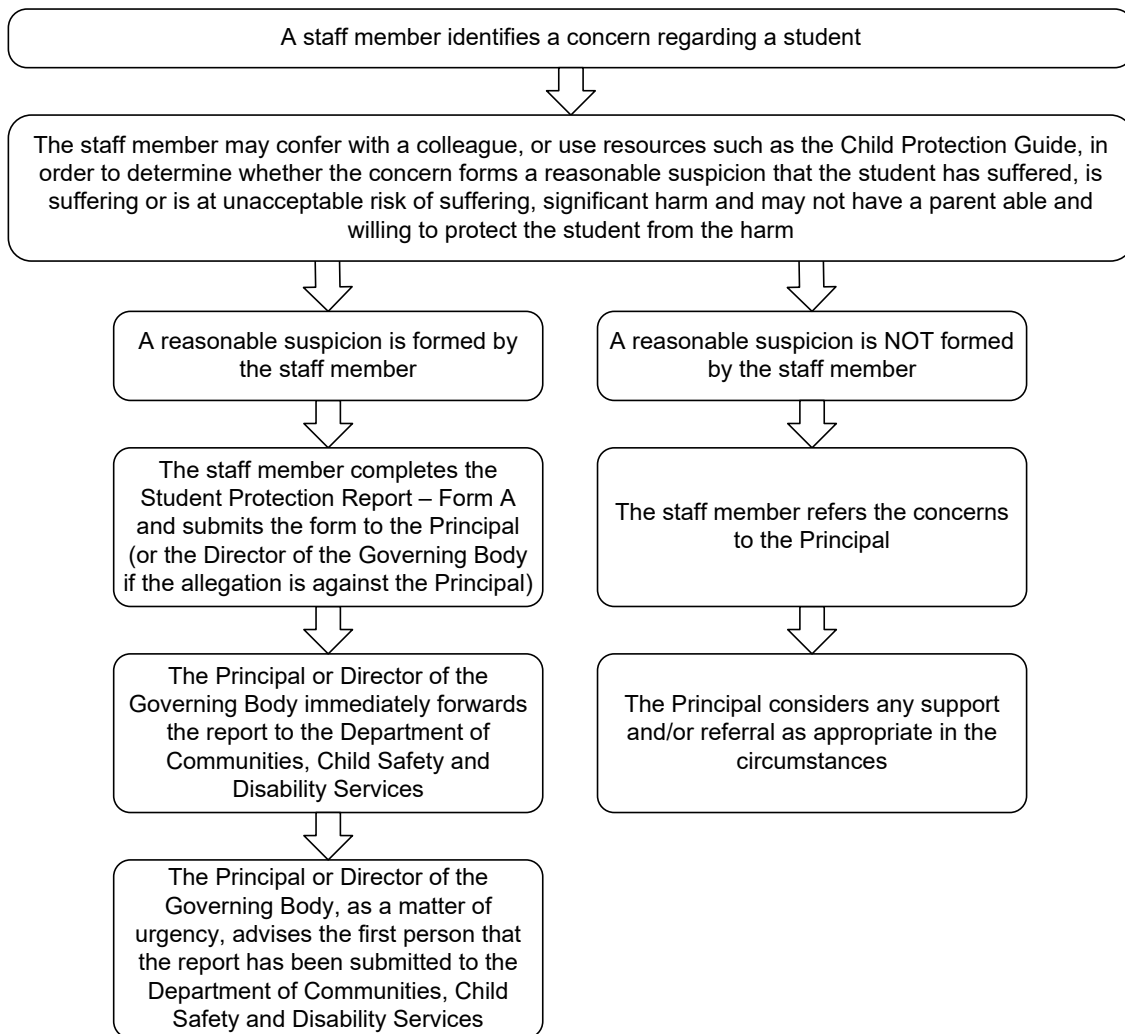


Important notice

If there is reasonable suspicion that the student has been sexually abused or is likely to be sexually abused and may not have a parent able and willing to protect them, the processes as outlined in flowchart 3 must also be followed.

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Flowchart 3: Reporting Significant Harm to Child Safety Services



Important notice

If there is a reasonable suspicion that the student has been sexually abused or is likely to be sexually abused by another person, then the processes as outlined in flowchart 1 must also be followed, or flowchart 2 if the first person is the Principal

Mandatory Responsibilities for Teachers

If the staff member is a teacher, and the reasonable suspicion is that the student has suffered, is suffering or is an unacceptable risk of significant harm caused by physical or sexual abuse and may not have a parent able and willing to protect the student from the harm (a reportable suspicion under section 13E of the *Child Protection Act 1999*), the teacher is responsible, as a matter of urgency, to ensure that the report has been submitted to the Department of Communities, Child Safety and Disability Services, unless they become aware, or reasonably suppose, that the matter has already been brought to the attention of the authorities.

If a teacher forms a reportable suspicion and is not able to progress a report through the process detailed in the flowchart above, they are able to meet their mandatory reporting obligation through reporting directly to Child Safety Services via the online reporting form:

<https://secure.communities.qld.gov.au/cbir/home/ChildSafety#>

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