



# HIGHVIEW COLLEGE

## CHILD SAFE CODE OF CONDUCT

### Person Responsible – Board

(Ratified Annually)

Developed by	Collins, Biggers & Paisley and Melinda Scash	2018
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### Contents

PART A: PREAMBLE .....	3
PART B: OVERVIEW OF CODE.....	3
Primary Obligations .....	3
PART C: OBLIGATIONS.....	4
1    CHILD SAFE .....	4
1.1    Care for Children .....	4
1.2. Interactions with Children .....	4
1.3    Sexual Misconduct.....	5
1.4    Adhering to Professional Role Boundaries .....	5
1.5    Grooming.....	6
1.6    Electronic Communication .....	7
1.7    Positive Guidance (Discipline).....	8
1.8    Supervision.....	8
1.9    Physical Contact .....	9

1.10	Boarding, Overnight Stays and Sleeping Arrangements.....	11
1.11	Transporting Children.....	11
1.12	Bathrooms and Changing Room .....	12
1.13	Images of Children .....	12
2	COLLEGE RESOURCES AND TRUST .....	13
2.1	Responsible Stewardship of College Resources .....	13
2.2	Ethical Decision Making .....	13
2.3	Fraud and Corruption Prevention.....	13
2.4	Use of Technology.....	13
	Workers must not: .....	14
3	EQUITY, SAFETY AND RESPECT .....	14
3.1	Equity and Respectful Treatment.....	14
3.2	Health and Safety .....	14
3.3	Privacy & Confidential Information.....	15
4	ACT WITH INTEGRITY .....	16
4.1	Conflict of Interest .....	16
4.2	Giving & Receiving Gifts .....	16
	PART D: WORKING WITH THE CODE .....	17
5.1	RESPONSIBILITIES .....	17
5.2	Breaches.....	17
5.3	Reporting Breaches.....	18
5.4	Procedures for Settling Disputes.....	18
5.5	Queries .....	18

5.6 Definitions..... 19

SUPPORT AGENCIES..... 25

**PART A: PREAMBLE**

Highview College (the **College**) is committed to creating and maintaining an environment that is safe, positive, enriching and supportive and which promote religious, educational, social, physical, professional and emotional development.

All who are involved in the work of the College are deeply committed to safeguarding all people, particularly Children and vulnerable adults.\*

**PART B: OVERVIEW OF CODE**

This Code sets out the College’s expectations on professional and personal conduct of all Workers, with the aim of promoting integrity and ethical behaviour, and to guide an individuals’ dealings with all others.

The Code is supplemented by College policies, including but not limited to the Workplace Bullying, Harassment, Sexual Harassment & Discrimination Prevention Policy. To the extent of any inconsistency, the Code prevails. The Code does not exclude or replace other civil or legally binding obligations.

Enquiries about the Code should be directed to the Board Chair

[BoardChair@Highview.vi.edu.au](mailto:BoardChair@Highview.vi.edu.au)

**Primary Obligations**

The overarching obligation of the College is to maintain the highest standards of professional and personal conduct at all times. To this end, the College has four primary obligations with respect to professional and personal conduct:

To demonstrate their commitment to observing the Code, and their understanding of the Code, all Workers of the College are required to sign a statement acknowledging they have read and understand its contents.

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\* Throughout the Code, the term ‘Child(ren)’ is used to refer to a person who is under 18 years and/or any person enrolled as a student at the College.

## **PART C: OBLIGATIONS**

### **1 CHILD SAFE**

#### **1.1 Care for Children**

Children are entitled to be and feel safe and protected. They have the right to be respected, listened to and have their particular needs addressed. The relationship between Workers and a Child requires unconditional trust and safety.

Child Abuse and arrangements that allow it to occur must never be tolerated.

Workers must be mindful of the inherent power imbalance that exists between them and Children. This imbalance may exist by virtue of the difference in age, maturity, physical size, life experience and position. Abuse arises from the misuse of authority or power, including religious authority. Any form of Child Abuse is never acceptable.

Workers must be aware that the Code applies regardless of:

- where or when an interaction with a Child occurs, on or outside College grounds, during or outside operational hours;
- the age of the Child;
- the consent of the Child;
- the consent of parents/guardians and families;
- any circumstances in which a Child initiates an interaction or relationship with them.

#### **1.2. Interactions with Children**

Workers must abide by professional boundaries, acknowledging that interactions with Children by their nature are open to scrutiny. They should avoid placing themselves or a Child in a compromising position and avoid actual or perceived breaches of the Code.

Workers must be familiar with, apply and act in accordance with all applicable Child Protection Legislation and Child Protection Policies as applicable in their local context, including and Reportable Conduct (Victoria).

They must, as soon as practicable, bring to the attention of the Principal of the College, any potential, perceived or actual contraventions of the Code regarding interactions with Children, whether by themselves or colleagues. The requirement is essential given the duty of care owed to Children and statutory reporting obligations under applicable Child Protection Legislation and Child Protection Policies.

Interactions with Children can extend beyond school settings, including outside of operational hours, outside of school grounds and by way of technology, including social media. Workers must ensure social interactions with Children do not give rise to the prospect of allegations against them by at all times complying with this Code. They must be conscious that their position places significant responsibilities and obligations on them.

If a Worker is unsure about the College's position in relation to this Code, they should seek further guidance from the Principal of the College.

Members of Staff can only engage in paid tutoring or coaching of Children outside of operational hours in accordance with relevant College policies and with the consent of the Principal of the College.

They must avoid, as far as reasonably possible, situations where they are alone with a Child, other than where they are the biological parent or guardian of the Child. In situations where their duties require them to work in a one-on-one situation with a Child, they must adhere to any relevant policies.

### **1.3 Sexual Misconduct**

Under no circumstances is any form of Sexual Misconduct to occur with, or in the presence of Children, particularly those participating in or visiting the College. Engaging in Sexual Misconduct with any Child is prohibited, even if the Child involved may be above the legal age of consent. In most cases, Sexual Misconduct will also be a Sexual Offence.

Sexual Misconduct needs to be interpreted widely, to encompass the entire range of actions that would reasonably be considered to be sexual in nature. Hence, Sexual Misconduct includes, but is not limited to:

- 'contact behaviour', such as sexual intercourse, kissing, fondling, sexual penetration or exploiting a Child through prostitution, inappropriate touching, or any form of Sexual Offence; and
- 'non-contact behaviour', whether in person or via any Technology, such as flirting, sexual innuendo, sexually explicit comments or conversations with or in the presence of a Child, inappropriate text messaging, inappropriate photography, exposure to pornography or nudity, encouraging or failing to discourage romantic or inappropriate advances, obscene gestures, language, or jokes containing sexual references, or deliberately exposing Children to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are set in an appropriate educational context.

Workers should be aware that, where an intimate relationship develops between a Worker and a Child previously enrolled in the College, the Principal of the College is entitled to consider whether the actions of the Worker when the Child was enrolled suggest an abuse of their position.

Where there is a reasonable belief that the emotional or physical intimacy of the relationship developed while the Child was enrolled, involved or engaged in the College, the Principal will determine whether the behaviour constitutes Serious Misconduct and may result in the Member of Staff's employment or engagement being terminated, together with reporting to the police and/or an appropriate regulatory body.

### **1.4 Adhering to Professional Role Boundaries**

Workers must not, of their own volition or at the request of anyone else, act outside the

confines of their duties (as specified in their role description) when undertaking their duties.

Without the express permission of the College, Workers must not:

- engage in activities with Children who are enrolled, involved or engaged in the College outside their role within the College, such as contacting Children via social media (including sending or accepting social media requests on non-official social media accounts) or undertaking social pursuits with them – unless it is reasonable to do so in the circumstances;
- provide any form of non-pastoral support to a Child or their family, unrelated to their role, for example, providing financial or non-monetary support;
- seek contact with Children outside College – unless it is reasonable to do so in all the circumstances.

In regard to invitations to attend any private family or social function at the request of a Child or their family, who is enrolled at the College, care must be taken not to overstep professional boundaries. Where the invitation concerns a Child and their family with whom there is a direct link in terms of responsibility (such as a coach and his/her team or a classroom teacher and a student in their class), then this needs to be disclosed to the Principal.

If any Worker becomes aware of a situation in which a Child requires assistance (including psychological) that is beyond the confines of that person's role or skills, or beyond the scope of the College's usual function, they should seek advice from the Principal at the earliest opportunity.

## **1.5 Grooming**

Grooming is a criminal offence in a number of Australian States and Territories and concerns predatory conduct undertaken to prepare a Child for sexual activity at a later time.

Grooming:

- includes actions deliberately taken with the aim of befriending and establishing an emotional connection with a particular Child for the purpose of lowering the Child's inhibitions; and
- occurs where an adult communicates, by words or conduct, with a Child or with a person who has care, supervision or authority for the Child, with the intention of facilitating the Child's involvement in sexual conduct, either with the groomer or another person.

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity (e.g. it may only involve establishing a relationship with the Child, parent or carer for the purpose of facilitating sexual activity at a later time).

Grooming behaviours may include:

- gaining a Child's trust by making promises and giving gifts;
- lavishing a Child with attention and praise so they enjoy spending time with the perpetrator;
- inappropriately allowing a Child to overstep College rules or legal boundaries;
- asking the Child to keep the relationship to themselves;

- testing the boundaries with the Child (by, for example, undressing in front of them, 'accidental' intimate touching);
- engaging with the Child in various forms of close physical contact so that they become comfortable with such contact e.g. roughhousing, tickling or patting;
- trying to isolate the Child from their parent or guardian, creating a situation where the Child wants to spend time with the perpetrator;
- spending time exclusively with the Child in order to create a 'special relationship';
- inappropriately extending a relationship with a Child outside of the College;
- inappropriate personal communication (including the use of Technology);
- providing cigarettes, drugs or alcohol to a Child;
- making sexual comments or jokes to a Child;
- showing pornography to commence sexual discussions with a Child.

### **1.6 Electronic Communication**

While the College values Electronic Communication as a way to connect with others, measures have been implemented to ensure safe and clear channels of communication are maintained between all.

Electronic Communication between a Worker and a Child should only occur through the email and/or learning management system established and maintained by the College wherever possible. The use of private email addresses by Workers to communicate with a Child should be avoided. Where this is not possible it should be reported to the Principal in writing.

Wherever possible, email and text messages sent to a Child should be copied to their parent/guardian unless work materials or messages are required to be emailed to an entire class, team, cohort, youth group etc.

Where a parent/guardian is not included in the electronic communication, the Worker should restrict such electronic communication to issues directly associated with delivering College services, such as advising that a scheduled event is cancelled.

Social networking sites (for example, Facebook and Instagram) authorised and created by the College are the only social networking sites that may be used for communication between Workers and Children. Any such site must:

- be approved by the Principal;
- establish a clear link and purpose to the College;
- enable users to connect to services offered by the College;
- be regularly monitored.

Workers must not connect with, 'friend' or 'follow' Children (unless they are an immediate family member or it is reasonable in all the circumstances to do so) on any social media platform even if the request comes from the Child.

Depending on their role, Workers are required to provide appropriate monitoring of each

Child's use of the College's Technology, to mitigate against them inadvertently placing themselves at risk of abuse or exploitation via social networking sites, gaming sites or web searches, or through inappropriate electronic communication.

### **1.7 Positive Guidance (Discipline)**

Child behavioural education practices in the College aim to facilitate the development and experience of responsible self-discipline amongst Children and to promote the wellbeing, safety and effective management of College communities.

It is important that Children enrolled, engaged in or participating in the College are aware of the acceptable limits of their behaviour so that a positive experience for all Children can be provided. However, there are times when Workers may be required to use appropriate techniques and behaviour management strategies to ensure:

- an effective and positive environment;
- the safety and/or wellbeing of Children and Workers participating in the College.

Workers are required to use strategies that are fair, respectful and appropriate to the developmental stage of the Child involved. The Child needs to be provided with clear directions and given an opportunity to redirect their behaviour in a positive manner.

Under no circumstances are Workers to take disciplinary action involving corporal or physical punishment or any form of treatment that could reasonably be considered as degrading, cruel, frightening or humiliating. The use of corporal punishment may constitute a criminal offence and will be reported to the police and/or other bodies.

Workers must develop and use effective, consistent and appropriate behavioural education strategies in day to day interactions with Children. These strategies should include a clear, consistent and published method of dealing with inappropriate behaviours. These strategies should reflect and apply the values of the College and be developed in accordance with relevant policies.

### **1.8 Supervision**

Workers are responsible for supervising Children and adults as the College provides services and care to ensure those people:

- engage positively with the College;
- behave appropriately toward one another;
- are in a safe environment and are protected from internal and external threats.

Workers must avoid, as far as possible, situations where they are alone with a Child without a valid reason relating to their role. In situations where their duties require them to work in a one-on-one situation with a Child, they must adhere to any relevant policies.

Where possible, all activities and/or discussions with Children should be conducted in view of other Workers. For example, a teacher may talk privately with a Child in a classroom space



that has an open and/or transparent door or window(s).

## **1.9 Physical Contact**

Workers are required to develop and exercise prudent judgement and sensitivity regarding appropriate physical interactions with all people.

As any physical intervention involves some risk of injury, Workers must weigh this risk against the risks involved in failing to physically intervene when it may be warranted. Intervention may be warranted when someone is being harmed or is in imminent danger of being harmed or harming themselves.

Any physical contact with people (including Children) must be appropriate to the task being undertaken (such as restraining a Child involved in an altercation with another) and based on the needs of the person (such as to assist or comfort someone who is distressed) rather than on the needs of the Worker.

Under no circumstances should any Worker have contact with anyone participating in the College that:

- involves touching of genitals, buttocks, or the breast area, other than as part of delivering medical or allied health services;
- would appear to a reasonable observer to have a sexual connotation;
- is intended to cause pain or distress to anyone;
- is overly physical – as is, for example, wrestling, horseplay, tickling or other roughhousing;
- is unnecessary – as is, for example, assisting with toileting when a Child does not require assistance;
- is initiated against the person’s wishes, except if such contact may be necessary to prevent injury to that person or to others, in which case:
  - physical restraint should be a last resort;
  - the level of force used must be appropriate to the specific circumstances and aimed solely at restraining the person to prevent harm to others or themselves;
  - the incident must be reported to the Principal as soon as possible.

All Workers are required to report to the Principal any physical contact initiated by a Child that is sexual and/or inappropriate, as soon as possible, to enable the situation to be managed in the interests of the safety of the Child, the Worker or any other persons.

When physical contact with another person within a professional context is required, Workers must exercise caution to ensure contact is appropriate and acceptable for the task to be performed. Examples of situations where physical contact with another person may be necessary include:

- assisting with special needs, for example to allow engagement with an experience;
- assessing illness or injury. Where possible, the person should be advised of what the person undertaking the assessment intends to do and, where possible, his or her consent should be sought. Moreover, the person undertaking the assessment should have a colleague present where possible;

- teaching sport, music and other activities where physical contact is required to demonstrate a particular action or skill;
- comforting an upset person;
- guiding in a non-threatening manner;
- using a gentle tap on a shoulder to gain attention after verbal requests were unsuccessful; and
- applying physical restraint when others are being harmed or one is in imminent danger of harming themselves.

Any physical contact, as referred to in the above examples:

- is only acceptable if the contact was reasonable for the purpose of the management or care of the person;
- must be appropriate given the age, maturity, health or other characteristics of the person;
- should be consistent with any individual behaviour plan in place for a Child.

Such interventions should be employed as measures of last resort required to ensure safety and protection e.g. physical interventions (including physical restraints, removals or escorts) to contain and/or control the behaviour of people in circumstances such as:

- a person attacking another person;
- people physically fighting;
- a person causing, or at risk of causing, injury to himself/herself or others;
- a person misusing dangerous materials, substances or objects where it is likely that this will cause imminent harm;
- a person placing themselves (deliberately or inadvertently) in a dangerous situation.

All Workers using physical interventions are responsible and accountable for the manner in which they exercise that use of force. They must report all physical interventions to the Principal.

The following list provides Workers with a non-exhaustive guide to behaviours that the College considers to be unacceptable as they are contrary to good professional practice and College values. Such behaviours include but are not limited to:

- using an object, such as a ruler, book or whiteboard marker to gain a person's attention in a hostile or inappropriate physical manner;
- restraining a person for any purpose other than when their actions cause or threaten to cause imminent harm to themselves or others;
- hitting or kicking a person;
- holding a person without a valid reason;
- pushing, pulling, shoving, grabbing, pinching or poking a person, including by their clothing;
- shaking or forcibly handling a person;
- intimidating a person;
- swearing at a person;

- using sarcasm to humiliate;
- using names or nicknames to undermine the self-confidence of a person;
- locking a person in a confined space;
- refusing biological needs as a means of punishment;
- criticising a person rather than their actions;
- practices which instil fear or using fear as a means of controlling a person; or
- practices which cause a person to feel alienated.

### **1.10 Boarding, Overnight Stays and Sleeping Arrangements**

Practices and behaviour by Workers during an overnight stay involving Children must be consistent with the practices and behaviour expected during the performance of College duties at other times.

Standards of conduct that must be observed by all Workers during activities involving an overnight stay include:

- providing Children with privacy when bathing and dressing;
- observing appropriate dress standards when Children are present – for example, Children must not be exposed to adult nudity;
- not allowing Children to be exposed to pornographic material of any nature, including but not limited to movies, television, the internet or magazines;
- not leaving Children under the supervision or protection of unauthorised persons – for example, hotel staff or friends – without parental authorisation;
- not allowing sleeping arrangements that may compromise the safety of Children – for example, unsupervised sleeping arrangements, or an adult sleeping in the same bed as a Child; and
- providing the means by which Children are able to contact their parents or guardians, or other suitable person, if they feel unsafe, uncomfortable or distressed during the stay.

### **1.11 Transporting Children**

Workers must not, without the express permission of the Principal or unless it is reasonable in all the circumstances to do so, provide transportation to Children (other than their own children if they are enrolled at the College), for example, to alternate sporting grounds after school or on weekends.

The transportation of Children must be directly linked to a College program, such as a camp, excursion, sporting trip or activity.

In most instances, the transportation of Children is contracted to private transport companies. When this is not the case, and a Worker is responsible for transporting a Child, they must do so with the following in mind:

- permission must be sought and gained from the Principal;
- the parent/guardian of the Child must be advised of the purpose of the travel, the

- details of who they will be travelling with and when the travel will take place;
- the parent/guardian must accordingly give permission for the travel to occur.

Once permission has been granted by the Principal and the parent/guardian, the Member of Staff should ensure that the use of private vehicles is avoided whenever possible, and only when the vehicle is registered with the College.

### **1.12 Bathrooms and Changing Room**

When a Child is required to change their clothing, for example, for sporting practice or a drama rehearsal, they must do so in a designated changing room or other appropriate location.

Workers:

- must avoid one-to-one situations with Children in changing room areas; and
- where possible, should avoid using any change room or bathroom facility for personal reasons when Children are present.

### **1.13 Images of Children**

Children should only be photographed or videoed by Workers if:

- permission has been gained by the College from parents/guardians and the Child expressly or through the enrolment process;
- the context is directly related to participation in College activities;
- the Child is appropriately dressed and posed;
- the image is taken in the presence of others.

Images are not to be distributed (including as an attachment to an email) to anyone outside the College other than the Child captured or their parent/guardian or immediate family, without the Principal's knowledge and approval.

Workers are advised:

- never to electronically post images of Children that offer personal information including contact information, home address, phone numbers, email address or instant messaging names;
- it is not appropriate for Staff Members to post images of Children connected to the College on their personal social networking sites without a specific purpose and the approval of the Principal;
- that it is illegal to post or transfer obscene or pornographic images of Children;
- to check the visual background of a picture for identifying information and ensure geographical identification metadata is not embedded prior to posting; and
- to be aware of and comply with the notifiable data breach scheme obligations under the *Privacy Act 1988 (Cth)*.

Images (digital and hard copy) are to be stored in a manner that prevents unauthorised access by others, for example if in hard-copy form, in a locked draw or cabinet; or if in electronic form, in a 'password protected' folder. Images (digital or hard copy) are to be destroyed or deleted as soon as they are no longer required and in keeping with any archival policies.

Images are not to be exhibited digitally (including on a website or social media page) without parent/guardian knowledge and approval or, if presented, in a manner that de-identifies the Child. Any caption or accompanying text must not identify a Child if such identification is potentially harmful.

## **2 COLLEGE RESOURCES AND TRUST**

### **2.1 Responsible Stewardship of College Resources**

Use of College resources needs to be carefully managed. If Workers wish to use College resources for personal use, they should seek guidance from the Principal.

Workers are required to:

- follow any relevant College guidelines;
- use College resources in a timely, proper and efficient manner;
- care for and maintain College resources within their possession or control;
- avoid improper use of College resources for private gain or the gain of a third party.

### **2.2 Ethical Decision Making**

When making decisions related to College or work matters, Workers are required to consider:

- whether the decision complies with the College's policies;
- whether there are any conflicts of interest arising from the decision;
- the possible impact of the decision on others and on the trust of the College.

### **2.3 Fraud and Corruption Prevention**

Managing the risk of fraud and corruption is everyone's business. Workers are required to:

- support the College's efforts to facilitate the implementation of appropriate processes to provide a framework of fraud prevention, detection, investigation and response mechanisms;
- report any suspected maladministration or fraudulent, corrupt, criminal, or unethical conduct. Individuals can report to the Principal.

### **2.4 Use of Technology**

Workers need to be aware that digital communication is not private or confidential when it is undertaken using Technology owned by the College.

Workers are required to:

- apply professional standards and professional boundaries when communicating with others;
- ensure that personal use of Technology is congruent with the professional standards expected of those engaged by the College;
- respect the integrity of Technology systems and programs provided by the College;
- protect the intellectual property of the College's Technology.

**Workers must not:**

- engage in inappropriate online contact with others;
- engage in Sexual Misconduct (which includes Grooming), Sexual Harassment, Sexual Offences, Harassment, Workplace Bullying or Discrimination using Technology;
- bring themselves or the College into disrepute by personal online behaviours, including the unauthorised distribution of photos or by the content of personal online technology (including social media);
- send 'whole of staff' emails that have not been authorised according to College policies.

**3 EQUITY, SAFETY AND RESPECT****3.1 Equity and Respectful Treatment**

Equity, respect, diversity and inclusion are considered essential to the College's mission. The College values diversity of thought and experience and believes that an equitable, inclusive and collaborative culture underpins learning and College excellence.

Workers are required to:

- ensure their approach and interactions with people are sensitive, respectful and inclusive of backgrounds and abilities;
- build an open atmosphere of collaboration, trust and mutual respect;
- ensure that they do not engage in behaviours which are or might reasonably be perceived as unlawful Discrimination, Workplace Bullying, Harassment and Sexual Harassment, Physical Abuse or Religious Abuse (including Spiritual Direction) as contained in this Code or applicable policies;
- understand and comply with the Disability Standards;
- not allow personal relationships to affect professional relationships;
- act and communicate professionally and courteously with others;
- foster unity, harmony and cooperation in working relationships;
- recognise and respect the individual potential and talents of colleagues without discrimination;
- give due credit to the contributions of others;
- observe the principles of natural justice in dealing with any complaints;
- consider the desirability of intervening constructively where a colleague's behaviour is clearly in breach of this Code.

Workers with concerns about the health (physical, mental, intellectual or spiritual) and welfare of colleagues or the safety of others should disclose their concerns to the Principal. Concerns about a Principal should be directed to the Board Chair.

**3.2 Health and Safety**

Workers are required to:

- take reasonable care for the health, safety and welfare of themselves and others in the College community;
- co-operate with the College to ensure compliance with all relevant health and safety laws.

In relation to drugs and alcohol, Workers must not:

- use, distribute or condone the use of illegal drugs;
- condone the misuse of legal drugs (i.e. medication);
- distribute alcohol to Children;
- condone use of alcohol by Children;
- be under the influence of alcohol (over the legal limit set at 0.05 BAC) during operational hours or during times where they have responsibility for people or are otherwise fulfilling responsibilities to the College.

The distribution of non-prescription medication to others engaged in the College must be done in accordance with policies, as directed by the Principal or their delegate and as set out in a medical plan with application to a particular person.

Workers experiencing difficulties in relation to drugs or alcohol are encouraged to access assistance by speaking with the Principal or a member of Executive.

In relation to tobacco, the College is a smoke-free area.

Workers must not:

- distribute tobacco or tobacco products to Children;
- condone the use of tobacco by Children.

In most Australian states and territories, it is illegal for any person under 18 years of age to purchase tobacco products including cigarettes.

### **3.3 Privacy & Confidential Information**

Workers are required to:

- respect an individual's rights to privacy and maintain privacy and confidentiality of information;
- take reasonable precautions to prevent unauthorised use or disclosure of confidential or personal information;
- keep records in accordance with relevant legislation and College policies;
- comply with the notifiable data breach scheme obligations under the *Privacy Act 1988* (Cth).

Workers must not use confidential information obtained in the course of their employment, or engagement, to gain any direct or indirect financial benefit or other improper advantage for themselves or any other person. Use of such information in this way may be a criminal offence.

## **4 ACT WITH INTEGRITY**

### **4.1 Conflict of Interest**

A conflict of interest involves a situation where a conflict arises for an individual between two or more competing interests. These are often, but not exclusively, interests of public duty versus private interests. A conflict of interest can be actual, perceived or potential.

Conflicts of interests are categorised as pecuniary or non-pecuniary. A pecuniary conflict of interest exists when a person has a financial interest or the capacity to make a financial gain or loss. Pecuniary interests include shareholdings, superannuation, spouse/partner financial interests, gifts and hospitality. A non-pecuniary conflict of interest does not have a financial component. It can arise from personal or family relationships, or involvement in sporting, social or cultural activities.

Workers are required to:

- identify any actual, potential or perceived conflict of interest between their personal interests or duties to other parties, and their duties and obligations to the College, and deal with such conflicts of interest in accordance with relevant policies; and
- promptly make full disclosure of all relevant facts and circumstances giving rise to an actual, potential or perceived conflict of interest to the Principal.

### **4.2 Giving & Receiving Gifts**

Workers must not accept or confer gift(s) or benefits from suppliers, contractors, parents, or Children unless the gift(s):

- do not exceed a value of \$100;
- cannot be construed as an attempt to win favour or gain an advantage; and
- is not solicited by the Worker.

Gifts that do not meet these criteria should be either politely refused or discussed with the Principal and, if accepted, registered in a College Gift Register as there may be taxation implications.



## PART D: WORKING WITH THE CODE

### 5.1 RESPONSIBILITIES

The following, non-exhaustive list, includes the responsibilities which the College expects in relation to the Code:

Position	Responsibility
Principal	<ul style="list-style-type: none"><li>• Implement the Code across the College.</li><li>• Ensure Members of Staff have access to and understand the Code.</li><li>• Provide training and advice in the application of the Code and as part of any induction to work in the College.</li></ul>
Principal/Board	<ul style="list-style-type: none"><li>• Review and update the Code and supporting resources in consultation with relevant stakeholders.</li></ul>
Line Managers	<ul style="list-style-type: none"><li>• Ensure the Code is adhered to by those for whom they are responsible and report any breaches to the Principal.</li></ul>
Workers	<ul style="list-style-type: none"><li>• Adhere to this Code and report any breaches to their Line Manager or the Principal.</li></ul>

The College has developed the Code to support all staff to maintain the highest standards of professional and personal conduct at all times. However, in those cases where professional standards are not met, there needs to be disclosure with clarity about reporting and resolution of issues.

### 5.2 Breaches

A breach of the Code may be:

- a disciplinary matter for the College (and may result in performance management, formal warning, suspension, demotion, or termination in accordance with industrial processes);
- a contractual matter (breach or repudiation);
- professional misconduct referred to relevant authorities;
- a breach of statute referred to relevant authorities;
- a criminal matter referred to relevant authorities; or
- a civil matter referred for legal advice and remedy.

Any disciplinary process in relation to a breach of the Code will be managed with procedural fairness and in keeping with the principles of natural justice.

The College retains discretion in how to respond to breaches of the Code unless legislation requires a definitive course of action.

A potential or actual breach of the Code may expose the College to significant damage to the trust afforded to it and to public scrutiny. These factors will be taken into account when

considering the scope of any allegations made under the Code, and any disciplinary action that may be taken as a result.

### **5.3 Reporting Breaches**

The Code requires the accountability of all staff. The Code requires them to report certain acts, omissions and/or failures to the Principal and other bodies.

Formal complaints, including complaints about breaches of the Code, must be made in accordance with the College's Grievance Resolution Policy.

Workers who are found to have made a vexatious complaint may face disciplinary action by the College.

Where a College holds a reasonable belief that Sexual Misconduct, a Sexual Offence or any other criminal offence has been committed against a Child, such belief must be immediately reported to the Principal and any other body as required, including the police. A 'reasonable belief' might be formed when:

- a Child states that they have been the subject of Sexual Misconduct or a Sexual Offence;
- a Child states that they know someone who has been the subject of Sexual Misconduct or a Sexual Offence (sometimes the Child may in fact be indirectly referring to themselves);
- someone who knows a Child states that they have been the subject of Sexual Misconduct or a Sexual Offence;
- observations of the Child's behaviour lead to a belief they have been the subject of Sexual Misconduct or a Sexual Offence; or
- signs of Sexual Abuse lead to a belief that the Child has been the subject of Sexual Misconduct or a Sexual Offence.

If applicable, full co-operation in any investigation will be expected by any Worker who reports a reasonable belief.

Appropriate protections will be afforded to Workers who in good faith makes a report based on a reasonable belief that proves to be unsubstantiated.

### **5.4 Procedures for Settling Disputes**

Disputes may be resolved by reference to the College's Grievance Resolution Policy.

### **5.5 Queries**

Any questions, comments or concerns in regard to the Code or its application should in the first instance be directed to the relevant Line Manager.

Further questions, comments or concerns in regard to the Code or its application should then be directed to the Principal on [mscash@highview.vic.edu.au](mailto:mscash@highview.vic.edu.au) or the Board Chair on [boardchair@highview.vic.edu.au](mailto:boardchair@highview.vic.edu.au)

## 5.6 Definitions

**Child(ren)** means any person who is under 18 years and is enrolled as a student at the College.

**Child Abuse** means the following conduct in relation to a Child:

- bullying;
- emotional abuse;
- harassment;
- neglect;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

**Child Exploitation Material** means material, including any film, printed matter, electronic data, computer image or any other depiction, that describes or depicts a person who is or who appears to be a Child:

- engaged in sexual activity; and/or
- in a sexual context.
- as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances, offensive.

**Child Pornography** means sexually explicit or suggestive material depicting Children. Child pornography is a form of Child and age-related exploitation material.

**Child Protection Legislation** means legislation:

- enacted in each State and Territory of Australia;
- as it is in force and as it may be amended by the relevant legislature from time to time;
- which bestows obligation and responsibility on the College; and
- is to be understood throughout the Code such that a Worker's obligations are in respect of the Child Protection Legislation applying in the jurisdiction in which the College operates.

**Child Protection Policy(ies)** means the policies:

- encompassing the relevant Child Protection Legislation;
- developed and enacted by the College;
- as it is in force and as it may be amended by the College from time to time; and
- understood throughout the Code such that a Worker's obligations are in respect of the protection policy applying in their jurisdiction in which the Worker is engaged.

**Conflict(s) of Interest** refers to a situation where a conflict arises for an individual between two or more competing interests. These are often, but not exclusively, interests of public duty versus private interests. A Conflict of Interest can be actual, potential or perceived.

**Contractor** is a person engaged under a service contract to complete a specific job or project within a specified time frame for an agreed price. The Code of Conduct applies to Contractors who are permitted to be unsupervised while on College grounds (e.g. engaged using a tender process and formal induction). The Code does not apply to other Contractors attending the College (e.g. in an emergency) who must be supervised at all times.

**Corporal Punishment** involves the application of physical force to punish or correct a person. Such behaviours include but are not limited to those outlined in Section 1.9. Section 1.9 provides a guide to behaviours that are unacceptable as they are contrary to good professional practice and College values.

**Disability Standards** means the Disability Standards for Education 2005 formulated under the *Disability Discrimination Act 1992 (Cth)*. The Disability Standards clarify the obligations of Schools and seek to ensure that Children with a disability can access and participate in education on the same basis as other Children.

**Discrimination** (direct or indirect) occurs when a person is treated, or is proposed to be treated, less favourably than others because of an attribute protected by law. Attributes protected by law, unless exemptions or exceptions apply under legislation, include sex, relationship or parental status, race, age, impairment or disability, and religious or political beliefs.

**Duty(ies) of Care** is an obligation imposed by common law or by statute, to avoid conduct fraught with unreasonable risk of danger to others. Every Worker owes a duty of care to take reasonable care to ensure that their acts or omissions do not cause reasonably foreseeable injury to Children in their care or to others.

**Electronic Communication** means a communication of information in the form of data, speech, text or images by means of guided and/or unguided electromagnetic energy.

**Emotional Abuse** means acts or omissions that have caused or could cause emotional harm or lead to serious behavioural or cognitive disorders. It includes:

- subjecting a person to excessive and repeated personal criticism;
- ridiculing a person, including the use of insulting or derogatory terms to refer to them;
- threatening or intimidating a person;
- ignoring a person openly and pointedly; and
- behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected.

**Harassment** is prohibited by federal legislation, and is defined as:

- Harassment in the workplace based on or linked to a person's disability or the disability of an associate; or

- Offensive behaviour based on racial hatred, which is defined as something done in public that offends, insults or humiliates a person or group of people because of their race, colour or national or ethnic origin.

Harassment can be a single incident and can occur even if the behaviour is not intended to offend.

**Harm** caused to a Child encompasses any definitions set out in Child Protection Legislation and/or Child Protection Policies and includes:

- conduct by a Worker as a result of Sexual Misconduct, a Sexual Offence or Discrimination;
- any detrimental effect of a significant nature on the Child's physical, psychological or emotional wellbeing by any cause, other than confirmed accidental harm not involving negligence or misconduct;
- minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the Child if allowed to continue; and
- physical or emotional abuse or neglect or sexual abuse or exploitation or domestic violence or bullying or self-harm.

**Illegal Drugs** means any mind altering or legally controlled substance. This includes any drugs listed in the following legislation:

- *Drugs Misuse Act 1986 (QLD);*
- *Drug Misuse and Trafficking Act 1985 (NSW);*
- *Drugs of Dependence Act 1989 (ACT);*
- *Drugs, Poisons and Controlled Substances Act 1981 (VIC);*
- *Misuse of Drugs Act 2001 (TAS);*
- *Controlled Substance Act 1984 (SA);*
- *Misuse of Drugs Act 1981 (WA); and*
- *Misuse of Drugs Act (NT),*

or similar legislation relevant to any other State or Territory in Australia that the College may operate in, and any drugs listed in the *Australian Standards 4308:2008: Procedures for specimen collection and quantitation of drugs of abuse in urine* and *AS 4760:2006 Procedures for specimen collection and quantitation of drugs in oral fluid* (or successor Australian Standards). The College does also include drugs other than those listed in Australian Standards, such as those drugs referred to as 'designer drugs', including (but not limited to) *synthetic cannabinoids and herbal highs, as well as other synthetic drugs such as opioids, hallucinogens, piperazines, stimulants and sedatives in the definition of 'Illegal Drugs'.*

**Neglect** means the failure to provide the basic necessities of life so that the health and development of a Child is placed at risk of harm. It includes being deprived of:

- food;
- clothing;
- shelter;
- hygiene;

- education;
- supervision and safety;
- attachment to and affection from adults; and
- medical care.

**Physical Abuse** means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. An injury may take the form of bruises, cuts, burns or fractures, but is not limited to these. It does not include lawful discipline by a parent or guardian of their Child.

**Policy(ies)** means material developed by the College which provide policy statements, procedures and processes to be adhered to by Members of Staff.

**Power Imbalance** is a situation where one person or group has a significant advantage over another that enables them to coerce or mistreat another for their own ends.

**Reportable Conduct** (Victoria) means:

- a sexual offence committed against, with or in the presence of a Child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- sexual misconduct, committed against, with or in the presence of a Child;
- physical violence committed against, with or in the presence of a Child;
- any behaviour that causes significant emotional or psychological harm to a Child; or
- significant neglect of a Child.

**Serious Misconduct** is the following conduct, adapted from the *Fair Work Regulations 2009 (Cth)* as it may be amended, which may give the College a right to immediately terminate the engagement of a Worker:

- wilful or deliberate behaviour by a Worker that is inconsistent with the continuation of the engagement.
- conduct that causes serious and imminent risk to:
  - the health and safety of any person
  - the trust, viability or profitability of the College.
- the Worker, in the course of their engagement, engaging in:
  - theft
  - fraud
  - assault.
- the Worker being intoxicated by alcohol or under the influence of illegal drugs while at the College or otherwise with a responsibility for Children.
- the Worker refusing to carry out a lawful and reasonable instruction that is consistent with their engagement.
- the Worker engaging in sexual harassment, workplace harassment or causing harm.

This definition of Serious Misconduct does not reduce the concept of Serious Misconduct as

it may be defined in any contract or agreement which otherwise applies to a Worker.

**Sexual Harassment** is any unwanted or unwelcome conduct of a sexual nature, which a reasonable person would find offensive, humiliating or intimidating. A single incident is enough to constitute Sexual Harassment which may be physical, verbal or written.

**Sexual Misconduct** means any form of sexual behaviour that occurs between, with, or in the presence of Children. Engaging in Sexual Misconduct with any child is prohibited, even if the Child involved may be above the legal age of consent. In most cases, Sexual Misconduct will also be a Sexual Offence.

Sexual Misconduct needs to be interpreted widely, to encompass the entire range of actions that would reasonably be considered to be sexual in nature. Hence, Sexual Misconduct includes, but is not limited to:

- 'contact behaviour', such as sexual intercourse, kissing, fondling, sexual penetration or exploiting a Child through prostitution, inappropriate touching, or any form of Sexual Offence; and
- 'non-contact behaviour', whether in person or via any Technology, such as flirting, sexual innuendo, sexually explicit comments or conversations with or in the presence of a Child, inappropriate text messaging, inappropriate photography, exposure to pornography or nudity, encouraging or failing to discourage romantic or inappropriate advances, obscene gestures, language, or jokes containing sexual references, or deliberately exposing Children to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are set in an appropriate educational context.

**Sexual Offence** means any criminal offence involving a sexual element that is committed against, with or in the presence of a Child, including but not limited to:

- Child abuse;
- Physical abuse;
- Indecent assault;
- Sexual assault and sexual abuse;
- Aggravated sexual assault;
- Sexual intercourse and attempted sexual intercourse;
- Possession/dissemination/production of Child Pornography or Child Abuse material;
- using Children to produce pornography;
- activities relating to Child Exploitation Material; and
- Grooming or grooming behaviours, including procuring Children under the age of 16 years for unlawful sexual activity.

All cases of Sexual Offence, or breaches of Child Protection Policies or Child Protection Legislation, also constitute Sexual Misconduct.

**Spiritual Abuse** means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes:



- using a position of spiritual authority to dominate or manipulate another person or group;
- using a position of spiritual authority to seek inappropriate deference from others;
- using a position of spiritual authority to isolate a person from friends and family members; and
- using biblical or religious terminology to justify abuse

**Student(s)** means any person enrolled as a student at a school regardless of the age of the student.

**Technology** includes, without limiting its ordinary meaning, information and communication technologies (ICT), computers, telephones, mobile phones, iPads, tablets, desktop computers, laptops, internet and network services, portable data storage devices, online data storage mediums, printers, fax machines and all other digital communications including web-based and mobile technologies (i.e. text and video messages, email, blogs, social media and file sharing).

**Vexatious complaints** are written or verbal reports of alleged improper conduct made to an authority intending the report to be acted upon, where there is demonstrated absence of reasonable grounds for suspecting the improper conduct, and the report is made to cause distress, embarrassment or stress.

### **Volunteers**

Volunteers work across the College and in a wide variety of situations. They are bound by the principles of this Code of practice as they are identified and expressed by the Principal.

**Worker** means a person involved in the College as:

- an employee;
- persons undertaking vocational work or work experience;
- directors or members of a Board or Sub-Committee;
- a volunteer;
- a consultant;
- a contractor.

**Workplace Bullying** is repeated unreasonable behaviour directed towards a person, or a group of people, that causes a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, may consider unreasonable. Some examples are behaviour that is victimising, humiliating, undermining or threatening.



**SUPPORT AGENCIES****Australian Human Rights Commission (AHRC)**

Level 3, 175 Pitt Street

Sydney NSW 2000

[complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)

[www.hreoc.gov.au](http://www.hreoc.gov.au)

1300 656 419

**Beyond Blue**

1300 224 636

[www.beyondblue.org.au](http://www.beyondblue.org.au)

**Life Line**

131114

[www.lifeline.org.au](http://www.lifeline.org.au)