



**EDMUND RICE EDUCATION
AUSTRALIA**

CODE OF CONDUCT

Updated October 2016

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PREAMBLE

Edmund Rice Education Australia is a network of schools, entities and offices, offering a Catholic education in the tradition of Blessed Edmund Rice. Established by the Christian Brothers in 2007, Edmund Rice Education Australia governs the schools owned by the Brothers at that time, as well as schools established since then. As a Public Juridic Person (**PJP**), Edmund Rice Education Australia has its own canonical and civil identity but remains closely connected to the Christian Brothers and their ongoing ministry (The Design 2014).

This Code of Conduct (**Code**) details, clarifies and affirms the standards of behaviour expected by Edmund Rice Education Australia for members of the Edmund Rice Education Australia community. Central to the mission of a Catholic School in the Edmund Rice tradition is an unequivocal commitment to fostering the dignity, self-esteem and integrity of each and every person present within Edmund Rice Education Australia and each of its School communities. The provision of a safe, supportive and enriching environment is an essential element in achieving this objective.

Within Edmund Rice Education Australia School communities, it is expected that Students will develop skills and attributes for building positive relationships and it is these same skills that Edmund Rice Education Australia expects will be modelled by Workers.

This Code confirms general commitments, including a commitment to, and respect for the teachings and beliefs of the Catholic Church and the values of Edmund Rice Education Australia as espoused in the Charter and through the Touchstones. The Touchstones help set the direction and define goals as, following Blessed Edmund's example, Edmund Rice Education Australia seeks to make the Gospel a living reality in its communities. It is expected that the conduct of Edmund Rice Education Australia Workers will give evidence to these teachings, beliefs and values.

The Code includes obligations of persons who fulfil the definition of Worker and sets out responsibilities which include:

- interactions with Students, management of Students and physical contact with Students.
- interactions between colleagues.
- expectations regarding the use of Technology.
- Edmund Rice Education Australia's position on Sexual Harassment, Workplace Bullying, Sexual Misconduct, Sexual Offences, Discrimination and Illegal Drugs and alcohol.
- a process for reports and complaints to be made about breaches of the Code.

The principles of child protection (stated in the applicable Child Protection Legislation and Child Protection Policy) are a fundamental responsibility of all Edmund Rice Education Australia Workers.

There is an expectation that the Code will be applied in the context of natural justice, procedural fairness and due process.

The Code will be made available to all existing and new Workers and will be an essential component of the induction of all new Workers. The Code is supplemented by policies of Edmund Rice Education Australia and its Schools, including Child Protection Policies and Child Protection Legislation. Further, Child Protection Policies and Child Protection Legislation (or other statutes) will apply if there is any inconsistency with the Code.

The Code is a resource to assist persons within the Edmund Rice Education Australia community to ensure that their behaviour and conduct is in accordance with Edmund Rice Education Australia's standards and expectations, does not impact or otherwise cause Harm, and aligns with Edmund Rice Education Australia's Duty of Care.

It is of absolute importance that Workers within the Edmund Rice Education Australia community read, reflect upon, understand and respond accordingly to their responsibilities as set out in the Code.

This Code can be downloaded from: <http://www.erea.edu.au/about-us/code-of-conduct>

Enquiries on the Code should be directed to the Principal or the Director of Regional Support for the respective region.

CODE OF CONDUCT

1.0 INTRODUCTION

1.1 Purpose

The Code outlines the conduct and expectations required by Edmund Rice Education Australia for Workers within the Edmund Rice Education Australia community.

1.2 Applicability

The Code sets out obligations for all Workers within the communities of Edmund Rice Education Australia and its Schools and entities. The Code must be read carefully in conjunction with the definitions contained at the back of the Code.

1.3 Legal Implications

An agreement to uphold and comply with the Code is a requirement of your employment, and is specified in your applicable employment agreement with Edmund Rice Education Australia, its Schools or a related entity. This agreement also means that by signing the employment contract or its equivalent you have accepted responsibility to familiarise yourself on an ongoing basis with the Code and comply with it. Edmund Rice Education Australia reserves the right to vary the Code as necessary at its sole discretion, in order to reflect and respond to current legislative and organisational needs. Those changes are effective when communicated to you. The consequences of breaching the Code are set out in section 3.1. It is therefore imperative that you are aware of, and familiar with the Code.

The Code is not intended to be legally binding on Edmund Rice Education Australia and its Schools. To the extent that the Code refers to obligations on Edmund Rice Education and its Schools, those obligations are guidelines only and not contractual terms, conditions or representations on which you should or may rely.

1.4 Review

The Code will be reviewed every three (3) years, with interim adjustments as necessary (i.e. changes to legislation, changes to other Policies which will have an effect on the Code).

2.0 CODE OF CONDUCT

2.1 Responsibilities of Workers

Section 2.1 is not intended to diminish responsibilities which may exist for Workers who have a contractual relationship with Edmund Rice Education Australia or its Schools. The following, non-exhaustive list, includes the responsibilities which Edmund Rice Education Australia expects of its Workers:

- accessing and reading the Code which will be available on the Edmund Rice Education Australia website.
- enacting the provisions of the Code in good faith.
- developing relationships based on mutual respect and courtesy, trust, collegiality, collaboration, and open communication.
- using constructive methods for resolving any conflict which may arise.
- abiding by all relevant Policies, including Child Protection Policy.
- enacting any Duty of Care applying personally to a Worker.
- contributing to Edmund Rice Education Australia and its Schools enacting a Duty of Care.
- refraining from conduct which may amount to Misconduct, Sexual Misconduct, a Sexual Offence, Serious Misconduct or otherwise warrant summary dismissal.
- demonstrating and modelling ethical and moral behaviours.
- complying with any risk management processes in place, including any risk assessment processes.
- maintaining appropriate professional qualifications and registrations.
- abiding by all responsibilities, commitments and duties set out in contracts applying to a Worker.
- maintaining confidentiality of information and enacting privacy obligations unless disclosure is required by law (including as prescribed by Child Protection Legislation and Child Protection Policy), or disclosure is required by a professional standard applicable to the Worker, or unless there is risk of Harm or the personal safety of a member of the community.
- serving Edmund Rice Education Australia and its Schools faithfully, diligently and with due care and skill.
- respecting the principles of natural justice and procedural fairness in dealing with any complaints against colleagues.
- avoiding behaviours which are or might objectively be perceived as Workplace Bullying or Sexual Harassment in accordance with Policies.
- being truthful when making statements about qualifications, experience and competencies.
- enacting obligations to a standard commensurate with professional skills and qualifications.
- using the resources of Edmund Rice Education Australia and its Schools only as prescribed in Policies or contracts applying to a Worker.
- declaring, or avoiding where appropriate, all Conflicts of Interest and otherwise refraining from acting or giving the appearance of acting contrary to the interests of Edmund Rice Education Australia or its Schools.

2.2 Interactions with Students

Interactions with Students can extend beyond the School setting, including outside of School hours, outside of School grounds and by any medium of Technology (including social media). Workers must ensure that social interactions with Students outside of School do not give grounds for allegations

against them. They must be conscious that their position places significant obligations on them and a requirement to follow all relevant Policies.

Workers must:

- abide by professional boundaries, acknowledging that interactions with Students by their very nature are open to scrutiny. Workers should avoid placing themselves or a Student in a compromising position and avoid actual and/or perceived breaches of the Code.
- be familiar with, apply and act in accordance with all applicable Child Protection Legislation and regulations and Child Protection Policies and procedures as applicable in their context – State, Diocese, or School.

Workers must take all reasonable steps to protect children from Harm. Sexual interaction, including Sexual Misconduct and Sexual Offences, between Workers and Students is never appropriate and is unlawful. Reporting obligations in relation to such matters apply under Child Protection Policies and Child Protection Legislation. Reporting obligations in relation to a 'reasonable belief' about Sexual Misconduct or a Sexual Offence also apply under section 3.2 of the Code.

Workers should be aware that where a relationship develops with an ex-Student, their employer is entitled to consider whether their actions suggest an abuse of their position as a staff member. A judgment that abuse of their position has occurred would constitute Serious Misconduct and may result in the Workers' employment being terminated, together with mandated reporting to appropriate child protection agencies.

Workers must avoid, as far as possible, situations where they are alone with a Student. In the conduct of their duties (professional or otherwise) Workers may be required to work in a one-on-one situation with a Student. In such situations Workers must adhere to the prescribed School Policy with specific reference to working alone with a student.

Workers must endeavour not to drive a Student in their car unless they have parental permission, and do so in accordance with Policies.

Workers must only engage in paid tutoring or coaching of Students outside of School hours in accordance with School Policies.

Workers must be aware that the Code applies regardless of:

- the location of where an interaction occurs, whether during or outside School grounds or during or outside school hours.
- a Student's age.
- a Student's consent.

- the consent of parents/guardians and families.
- circumstances in which a Student initiates an interaction or relationship between the Worker and the Student.

2.3 Behaviour Education

Student behaviour education practices in Edmund Rice Education Australia Schools aim to facilitate the development and experience of responsible self-discipline amongst Students and to promote the well-being, safety and effective management of the School community.

Workers must develop and use effective, consistent and appropriate behaviour education strategies in day to day interactions with Students. These strategies should include clear, consistent and published methods of dealing with inappropriate behaviours. These strategies should reflect and apply the values of Edmund Rice Education Australia and be developed in accordance with relevant Policies and Disability Standards, where applicable.

Workers must promote the safety, participation and empowerment of children from diverse family or cultural backgrounds or with a disability and not discriminate against any child, including because of culture, race, ethnicity or disability.

Students who display recurring challenging behaviours, particularly unsafe behaviours, should be referred to the appropriate person in line with relevant Policies.

All forms of Corporal Punishment are prohibited.

2.4 Physical Contact with Students

Workers are required to develop and exercise prudent judgment and sensitivity regarding appropriate physical interactions with Students.

Edmund Rice Education Australia expects that when physical contact with a Student is necessary within the teaching/learning experience, Workers must exercise caution to ensure that the contact is appropriate and acceptable for the duty to be performed. Examples of situations where physical contact with a Student may be necessary, beneficial and/or supportive include:

- assisting Students with special needs, for example to allow a Student to engage with a teaching/learning experience or the curriculum in general in accordance with School Policies and Disability Standards.
- assessing a Student who is injured or ill. One should advise the Student of what they intend to do and, where possible, seek the Student's consent and have a colleague present.
- teaching sport, music and other activities where physical handling of a Student is required to demonstrate a particular action or skill.

- comforting in a pastoral manner an upset Student.
- guiding a Student in a non-threatening manner.
- using a gentle tap on a Student's shoulder to gain his/her attention after verbal requests were unsuccessful.
- restraining a Student when the Student, other Students, Workers or others are being harmed or are in imminent danger of being harmed.

Edmund Rice Education Australia expects that any physical contact as referred to in the above examples:

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

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 a Student, other Students, Workers or others are being harmed or are in imminent danger of being harmed. Such interventions should be employed as measures of last resort required to ensure safety and protection (i.e. physical interventions, including physical restraints, removals or escorts) or to contain and/or control the behaviour of Students in circumstances such as:

- a Student attacking a Worker or third party.
- a Student attacking another Student.
- Students physically fighting.
- a Student causing, or at risk of causing, injury to himself/herself or others.
- a Student misusing dangerous materials, substances or objects where it is likely that this will cause imminent harm.
- a Student placing themselves (deliberately or inadvertently) in a dangerous situation.
- a Student being attacked by a third party.

All Workers using physical interventions are responsible and accountable for the manner in which they exercise that authority. Workers must report all physical interventions to the Principal or Deputy Principal. Principals would then report the same to the Director of Regional Support or the Chair Youth+.

2.5 Care for Colleagues

In the spirit of nurturing individual and collective wellbeing, Edmund Rice Education Australia Workers are expected to:

- contribute to an atmosphere of respect, courtesy, trust, collegiality, collaboration, and open communication.
- recognise and respect the individual potential, professional practice and talents of colleagues.

- encourage openness and tolerance among colleagues.
- use constructive methods for resolving any conflict which may arise.
- respect the principles of natural justice in dealing with any complaints against colleagues.
- not engage in behaviours which are or might objectively be perceived as Discrimination, Workplace Bullying or Sexual Harassment in accordance with Policies.

Workers with concerns regarding the health and welfare of colleagues (physical, mental, emotional or intellectual) should take counsel from the Principal or the Deputy Principal. If Workers are not able to make such contact they should contact the Director of Regional Support or the Chair Youth+. Concerns about a Principal should be reported to the Director of Regional Support or the Chair Youth+.

Workers within the National or Regional Offices of Edmund Rice Education Australia should seek counsel from the Executive Director.

2.6 Use of Technology

Edmund Rice Education Australia expects that all Workers will abide by relevant School Technology Policies. In particular:

- observe copyright regulations and licensing terms and conditions relevant to the Technology.
- observe confidentiality and preserve confidential information of Edmund Rice Education Australia and its Schools when using Technology.
- not engage in Sexual Misconduct (which includes Grooming), Sexual Harassment, Sexual Offences, Workplace Bullying or Discrimination using Technology.
- not bring himself/herself, Edmund Rice Education Australia or the School into disrepute by inappropriate personal online behaviours.

2.7 Legal and Illegal Drugs, Alcohol and Tobacco: Introduction

Workers should be aware that personal conduct and lifestyle may have an adverse effect on Edmund Rice Education Australia, its Schools and their own personal or professional reputation. Workers must consciously act to maintain their personal and professional integrity on occasions when alcohol, drugs and tobacco may be present.

Workers experiencing difficulties in relation to Illegal Drugs, alcohol or tobacco are encouraged to access the Employee Assistance Program (ACCESS) or the Principal or Deputy Principal for assistance.

During employment or engagement, Edmund Rice Education Australia may require a Worker to undergo a drug and alcohol test, to monitor compliance with this Code and work health and safety legislation if Edmund Rice Education Australia or a School suspects, on reasonable grounds, that a Worker is working under the influence of Illegal Drugs or alcohol. Reasonable grounds for testing can be established if a Worker's behaviour, actions or conduct (whether observed by or reported to Edmund

Rice Education Australia or the School) suggests that the Worker is under the influence of Illegal Drugs and/or alcohol.

2.7.1 Legal and Illegal Drugs

Workers must:

- not distribute Illegal Drugs.
- not condone use of Illegal Drugs.
- not condone misuse of legal drugs (i.e. medication).
- only distribute legal drugs (i.e. medication) in accord with School Policies and as directed by the Principal, Deputy Principal, or Director of Regional Support, and as set out in a medical plan with application to a particular Student.
- not be under the influence of Illegal Drugs during business hours or during times where a Worker has responsibility for Students and/or Workers, or is otherwise fulfilling responsibilities to Edmund Rice Education Australia or its Schools.

2.7.2 Alcohol

Workers, during or after school hours, must not:

- distribute alcohol to Students.
- condone use of alcohol by Students.
- be under the influence of alcohol during business hours or during times where they have responsibility for Students and/or Workers, or are otherwise fulfilling responsibilities to Edmund Rice Education Australia or its Schools.

2.7.3 Tobacco

Edmund Rice Education Australia and its Schools are smoke free areas. Smoking is not permitted on Edmund Rice Education Australia premises or any School premises, or during times where a Worker has responsibility for Students.

Workers must not:

- distribute tobacco or tobacco products to Students.
- condone use of tobacco by Students.

2.8 Discrimination, Harassment and Sexual Harassment

Discrimination, Harassment and Sexual Harassment is never condoned by Edmund Rice Education Australia or its Schools and is unlawful under the following legislation:

Federal

- *Sex Discrimination Act 1984* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Disability Discrimination Act 1992* (Cth)

- *Age Discrimination Act 2004* (Cth)
- *Australian Human Rights Commission Act 1986* (Cth)
- *Fair Work Act 2009* (Cth)

State/Territory

- *Anti-discrimination Act 1991* (Qld)
- *Anti-discrimination Act 1977* (NSW)
- *Equal Opportunity Act 2010* (Vic)
- *Equal Opportunity Act 1984* (SA)
- *Discrimination Act 1991* (ACT)
- *Discrimination Act 1998* (Tas)
- *Anti-Discrimination Act 1996* (NT)
- *Equal Opportunity Act 1984* (WA)

The perpetrator of Discrimination, Harassment or Sexual Harassment can be subject to legal proceedings if they engage in the conduct described in this Code. Edmund Rice Education Australia and its Schools will not indemnify a Worker found to have acted in breach of anti-discrimination or human rights legislation.

Edmund Rice Education Australia and its Schools can also be held to be vicariously liable (i.e. be held responsible) for Discrimination, Harassment or Sexual Harassment in the workplace, and must take reasonable steps to prevent Discrimination and Sexual Harassment from occurring, and respond appropriately to resolve incidents of Discrimination and Sexual Harassment.

2.9 Workplace Bullying

Workplace Bullying is not acceptable and never condoned by Edmund Rice Education Australia or its Schools. Workers must not engage in Workplace Bullying and must abide by all relevant Policies. Reasonable management action carried out in a reasonable manner is not Workplace Bullying.

2.10 Fraud, Theft and Corruption

Edmund Rice Education Australia and its Schools adopt a 'zero tolerance' approach to fraud, theft and corruption and any such acts will not be tolerated in any form. Examples include:

- theft of cash, consumables or equipment by Workers;
- false or misleading timesheets (i.e. dishonestly claiming payment for time not worked);
- false or misleading expense claims (i.e. dishonestly claiming a business expense);
- false invoicing (i.e. dishonestly providing invoices for goods or services not supplied in accordance with the description in the invoice);
- false accounting (i.e. dishonestly allowing the reporting of incorrect or misleading financial results); and

- the misuse of the Worker's position or authority for personal or financial gain.

Workers are required to immediately report any possible fraud, theft or corruption as soon as possible to Edmund Rice Education Australia or the relevant School.

3.0 WORKING WITH THE CODE

Edmund Rice Education Australia has developed the Code to be of support to Workers in Edmund Rice Education Australia and its Schools to uphold professional standards for the benefit of all. However, in those cases where professional standards are not met, there needs to be clarity about reporting and resolution of issues.

3.1 Breaches

A breach of the Code may be:

- a disciplinary matter for Edmund Rice Education Australia (and may result in performance management, formal warning, suspension, demotion or termination in accordance with industrial processes).
- a disciplinary matter for a School (and may result in performance management, formal warning, suspension, demotion or termination in accordance with industrial processes).
- a contractual matter (breach, termination).
- professional misconduct referred to relevant authorities.
- a regulatory matter referred to relevant authorities.
- a breach of statute referred to relevant authorities.
- a criminal matter referred to relevant authorities.
- 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.

Edmund Rice Education Australia (and if authorised by Edmund Rice Education Australia, its Schools) retain discretion in responding to breaches of the Code.

Workers acknowledge that a potential or actual breach of the Code may expose Edmund Rice Education Australia and its Schools to significant reputational damage and public scrutiny as a result of a Worker's conduct (which may include conduct outside of school hours). These factors will be taken into account when considering the scope of any allegations made under this Code, and any disciplinary action that may be taken as a result.

3.2 Reporting Guide

The Code requires the accountability of all Workers. The Code requires Workers to report certain acts, omissions and/or failures to the Principal, the Deputy Principal, the Director of Regional Support, the Chair Youth+, or the Executive Director as prescribed.

Formal complaints, including breaches of the Code, must be made according to Policies; that is, a complaints process or procedure in place for Edmund Rice Education Australia and its Schools.

Vexatious complaints will not be accepted. Employees or Volunteers who make vexatious complaints may face disciplinary action by Edmund Rice Education Australia or the Principal.

Where a Worker holds a reasonable belief that Sexual Misconduct, a Sexual Offence or any other criminal offence has been or may be committed against a Student, such belief must immediately be reported to the Principal and the Executive Director of Edmund Rice Education Australia. A “reasonable belief” might be formed when:

- a Student states that they have been the subject of Sexual Misconduct or a Sexual Offence;
- a Student states that they know someone who has been the subject of Sexual Misconduct or a Sexual Offence (sometimes the Student may be talking about themselves);
- someone who knows a Student states that the Student has been the subject of Sexual Misconduct or a Sexual Offence;
- observations of the Student’s behaviour leads to a belief that a Student has been the subject of Sexual Misconduct or a Sexual Offence; or
- signs of sexual abuse leads to a belief that the Student has been the subject of Sexual Misconduct or a Sexual Offence.

3.3 Procedures for Settling Disputes

These procedures shall apply to all grievances or disputes between a Worker and Edmund Rice Education Australia or a School in respect to any dispute relating to the Code.

In the event of a Worker having a grievance or dispute, the Worker shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such a request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the Worker may bypass this level in the procedure.

If the grievance or dispute is not resolved at the level it has been lodged, the Worker may refer the matter to the next level of management. Such discussion should take place in a timely manner.

3.4 Queries

Any questions, comments or concerns in regard to the Code or its application should in the first instance be directed to the Principal or the Deputy Principal.

Further questions, comments or concerns in regard to the Code or its application should then be directed to the respective Director of Regional Support or the Chair Youth+:

Northern Region:	+61 7 3737 6700
Eastern Region:	+61 2 8705 8600
Southern Region:	+61 3 9426 3200
Western Region:	+61 8 6208 3900
Chair Youth+:	+61 3 9426 3209

Any reports required to be made to Edmund Rice Education Australia pursuant to the Code should be directed to:

Executive Director:	+61 3 9426 3209
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DEFINITIONS

Chair Youth+ refers to a person who is employed by Edmund Rice Education Australia and who undertakes the role of Chair Youth+; contact details of the current Chair Youth+ are set out in section 3.3.

Child Protection Legislation means child protection 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; and
- which bestows obligation and responsibility on Edmund Rice Education Australia and its Schools;

and is to be applied throughout the Code such that a Worker's obligations are in respect of the Child Protection Legislation applying in the jurisdiction in which the Worker engages with Edmund Rice Education Australia or its Schools.

Child Protection Policy(ies) means the child protection policies:

- encompassing the relevant Child Protection Legislation;
- developed and enacted by Edmund Rice Education Australia;
- developed and enacted by Schools;
- as it is in force and as it may be amended by Edmund Rice Education Australia or its Schools from time to time;

and is to be applied throughout the Code such that a Worker's obligations are in respect of the Child Protection Policy applying in the jurisdiction in which the Worker engages with Edmund Rice Education Australia or its Schools.

Conflict(s) of Interest refers to a situation where a conflict arises for an individual between two 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.

Corporal Punishment involves the application of physical force to punish or correct a Student.

The following list provides Workers with a guide to behaviours that are unacceptable as they are contrary to good professional practice and Edmund Rice Education Australia values. Such behaviours include but are not limited to:

- using an object, such as a ruler, book or whiteboard marker to gain a Student's attention in a hostile or inappropriate physical manner.
- restraining/holding a Student for any purpose other than when a Student's actions cause or threaten to cause imminent harm to himself/herself or others.
- hitting or kicking a Student.
- pushing, pulling, shoving, grabbing, pinching or poking a Student, including by their clothing.
- shaking or forcibly handling a Student.
- intimidating a Student.
- swearing at a Student.
- using sarcasm to humiliate.
- using names or nicknames to undermine the self-confidence of a Student.
- locking a Student in a confined space.
- refusing biological needs as a means of punishment.
- criticising a Student rather than the Student's actions.
- practices which instil fear or using fear as a means of controlling a Student.
- practices which cause a Student to feel alienated.

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

Deputy Principal refers to a person who is employed as a Deputy Principal of a School and who undertakes the roles of a Deputy Principal, including those delegated by the Principal.

Director(s) of Regional Support refers to a person who is employed by Edmund Rice Education Australia and who undertakes the roles of a Director of Regional Support. Contact details of current Directors of Regional Support are set out in section 3.3.

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 include:

- sex;
- relationship or parental status;
- race;

- age;
- impairment or disability;
- religious or political beliefs;
- union activities;
- gender identity;
- sexuality (including sexual preference, transgender status or homosexuality);
- lawful sexual activity;
- pregnancy;
- breastfeeding; and
- family or carer's responsibilities.

Duty(ies) Of Care is a duty imposed on Edmund Rice Education Australia and its Schools by common law or by statute, or otherwise a Duty of Care which attaches personally to a Worker.

Edmund Rice Education Australia includes its registered schools and early learning centres, educational facilities, national and regional offices (and any other associated entities).

Grooming (or **Grooming Behaviours**), includes actions deliberately taken with the aim of befriending and establishing an emotional connection with a Student, to lower the Student's inhibitions in preparation for sexual activity with the Student. Grooming behaviours include:

- persuading a Student or group of Students that they have a 'special' relationship, for example by:
 - spending inappropriate time with a Student;
 - inappropriately giving gifts;
 - inappropriately giving favours to them, but not other Students;
 - inappropriately allowing a Student to overstep the rules;
 - asking the Student to keep this relationship to themselves;
- testing boundaries, for example by:
 - undressing in front of a Student;
 - encouraging inappropriate physical contact (even where it is not overtly sexual);
 - inappropriately talking about sex;
 - 'accidental' intimate touching;
- inappropriately extending a relationship outside of the School; and
- inappropriate personal communication (including the use of Technology).

Harm caused to a Student encompasses any definitions set out in Child Protection Legislation and/or Child Protection Policy 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 Student'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 Student if allowed to continue.
- physical or emotional abuse or neglect or sexual abuse or exploitation or domestic violence or Student bullying or self-harm.

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

- (a) harassment in the workplace based on or linked to a person's disability or the disability of an associate; or
- (b) 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.

Illegal Drugs means any mind altering or legally controlled substance. This includes any drugs listed in the *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); *Misuse of Drugs Act* (NT), or similar legislation relevant to any other State in Australia that Edmund Rice Education Australia 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). Edmund Rice Education Australia may 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".

Policy(ies) means material developed by Edmund Rice Education Australia and/or its Schools which provide policy statements, procedures and processes to be adhered to by Workers.

Principal refers to a person who has delegated responsibility for the day to day operations of a particular School for which Edmund Rice Education Australia is the governing authority.

School(s) means such registered educational entities owned or operated by Edmund Rice Education Australia, which provide educational services to Students within the Edmund Rice Education Australia system (including Youth+, Flexible Learning Centres and IMCH). The Code is intended to cover all authorised activities undertaken by Schools (including but not limited to teaching, sport, excursions,

camp, retreats, work experience and billeting) whether the activities are undertaken on designated School property or otherwise.

Serious Misconduct is the following conduct, adapted from the *Fair Work Regulations 2009* (Cth) as amended, which may give Edmund Rice Education Australia or its Schools 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 a person (including a Student)
 - the reputation, viability or profitability of Edmund Rice Education Australia or its Schools
 - the integrity of Technology of Edmund Rice Education Australia or its Schools
 - protection of intellectual property of Edmund Rice Education Australia or its Entities
- the Worker, in the course of the Worker's engagement, engaging in:
 - theft
 - fraud
 - assault
- a Worker being intoxicated by alcohol or under the influence of illegal drugs while at Edmund Rice Education Australia, at its Schools or otherwise with a responsibility for Students
- the refusal to carry out a lawful and reasonable instruction that is consistent with the Worker's engagement
- the Worker engaging in Discrimination, Harassment, Sexual Harassment, Workplace Bullying, Sexual Misconduct, Sexual Offence, 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 the 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.

Sexual Harassment may be physical, verbal or written and includes:

- staring or leering;
- unnecessary familiarity, such as deliberately brushing up against a person or unwelcome touching;
- suggestive comments or jokes;
- insults or taunts of a sexual nature;
- intrusive questions or statements about a person's private life;
- displaying posters, magazines or screen savers of a sexual nature;
- sending sexually explicit emails or text messages;
- inappropriate advances on social networking sites;

- accessing sexually explicit internet sites;
- requests for sex or repeated unwanted requests to go out on dates;
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications; and
- any of the above behaviours or conduct carried out using any Technology, including social media.

Sexual Misconduct includes but is not limited to:

- crossing professional boundaries, for example:
 - inappropriate, overly personal or intimate relationship with, or conduct towards, a Student;
- sexually explicit comments and other overtly sexual behaviour, for example:
 - sexual exhibitionism;
 - inappropriate conversations of a sexual nature with a Student;
 - unwarranted and inappropriate touching involving a Student;
 - personal correspondence or communications (including through any Technology) with a Student in respect of a Worker's romantic, intimate or sexual feelings for a Student;
 - suggestive remarks or actions of a sexual nature to or within the hearing or presence of a Student;
 - obscene gestures , language, or jokes containing sexual references (whether in person or communicated via any Technology), or deliberately exposing Students to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are contextual;
 - possession, distribution or display of pornography;
 - encouraging or failing to discourage romantic or inappropriate advances by a Student;
- any form of Sexual Offence.

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:

- 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;
- 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.

Student(s) means any person enrolled as a Student at a School (including Youth+, a Flexible Learning Centre or IMCH) regardless of the age of the Student.

Technology includes, without limiting its ordinary meaning, information and communication technologies (ICT), communication devices, storage devices or applications, encompassing: radio, television, mobile phones, computer (Laptops, Tablets), data storage, printers, faxes and network hardware and software, satellite systems and all other digital communications, as well as the various services and applications associated with them, such as web-based and mobile technologies (i.e. text and video messages, email, social media, file sharing, online data storage and videoconferencing).

The Charter means the statement of Touchstones proclaimed on 22 August 2011, for all Edmund Rice Education Australia Schools and educational entities giving ideals authentically linked with the charism of Blessed Edmund Rice and which underpin the ministry of Edmund Rice Education Australia Schools and educational endeavours.

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 a demonstrated absence of reasonable grounds for suspecting the improper conduct, and the report is made to cause distress, embarrassment or stress.

Worker(s) are persons involved in Edmund Rice Education Australia and its Schools, Youth+, Flexible Learning Centres and IMCH as:

- full time, part time, casual or fixed term employees;
- supply, relief, aide, volunteer, placed or work experience teachers;
- support and administration staff;
- contractors or sub-contractors;
- volunteers;
- members of Boards and Councils; and
- members of the Board and Council of Edmund Rice Education Australia.

Workplace Bullying is repeated unreasonable behaviour directed towards a person, or a group of persons, that causes a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, may consider unreasonable, for example because the behaviour is victimising, humiliating, undermining or threatening, and may include:

- putting Workers through "initiation rituals";
- verbal abuse, threats, sarcasm or other forms of demeaning or intimidating language or communication;
- constant unwarranted negative criticism or "nit-picking";
- threatening to take unjustified action against a person unless they comply with unreasonable requests;

- deliberately isolating a Worker by refusing to talk to or interact with them.

Reasonable management action carried out in a reasonable manner is not Workplace Bullying.

POLICY CHECKLIST

Policies to which the Code refers, or which may otherwise apply to Workers, may include:

- Acceptable Use (of Resources, of Technology)
- Alcohol
- Child Protection
- Coaching
- Complaints Process
- Cyberbullying
- Discipline
- Discrimination
- Dress
- Drugs
- One– on– One Interactions with Students
- Pastoral Care
- Protective Practices
- Sexual Harassment
- Social Media
- Student Management
- Technology
- Tobacco
- Transport
- Tutoring
- Workplace Bullying

(This list is non-exhaustive.)

REFERENCE LIST

The following material may provide context to provisions within the Code and may be accessed by Workers as set out below:

- Integrity of the Service in the Church: <http://www.catholic.org.au>
- The Charter of Edmund Rice Education Australia: <http://www.erea.edu.au/about-us/charter>
- United Nations Declaration Of The Rights Of The Child:
<http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>
- Melbourne Declaration on Educational Goals for Young Australians:
http://www.mceecdya.edu.au/mceecdya/melbourne_declaration,25979.html

The following resources may provide further context to provisions within the Code, as is relevant in each State and Territory, and may be accessed by Workers as set out below:

- Queensland
 - Brisbane Catholic Education: <http://www.bne.catholic.edu.au/>
 - Education Queensland: <http://education.qld.gov.au/>
- New South Wales
 - Catholic Education Office Sydney: <http://www.ceosyd.catholic.edu.au/>
 - Education and Communities: <http://www.dec.nsw.gov.au/>
- Victoria
 - Catholic Education Melbourne: <http://www.ceomelb.catholic.edu.au/>
 - Department of Education and Early Childhood Development:
<http://www.education.vic.gov.au/>
- South Australia
 - Catholic Education SA: <http://www.cesa.catholic.edu.au/>
 - Department for Education and Children's Services: <http://www.decd.sa.gov.au/>
- Western Australia
 - Catholic Education Office of Western Australia: <http://internet.ceo.wa.edu.au/>
 - Department of Education: <http://www.det.wa.edu.au/>
- Tasmania
 - Tasmanian Catholic Education Office: <http://www.catholic.tas.edu.au/>
 - Department of Education: <http://www.education.tas.gov.au/>
- Australia Capital Territory
 - Catholic Education Office: <http://www.ceocg.catholic.edu.au/>
 - Education and Training Directorate: <http://www.det.act.gov.au/>
- Northern Territory
 - Department of Education and Children's Services: <http://www.education.nt.gov.au/>

The material in this does not form a provision of the Code unless explicitly provided or in the Code.

Support Agencies

Australian Human Rights Commission (AHRC)

Level 3, 175 Pitt Street Sydney NSW 2000

The AHRC is the Commonwealth body that addresses complaints of discrimination and sexual harassment.

For resources education@humanrights.gov.au
To make a complaint complaintsinfo@humanrights.gov.au
Website www.hreoc.gov.au
Advice Line 1300 656 419

Each State and Territory have a separate authority. Contact details can be found online.

Beyondblue

Beyondblue provides people with access to information for depression and anxiety related matters. They can also make referrals to other relevant services.

Phone 1300 224 636
Website www.beyondblue.org.au

Life Line

Life Line provides people experiencing a personal crisis with access to 24 hour crisis support and suicide prevention services.

Phone 13 11 14
Website www.lifeline.org.au
