

**T** EACHER

**R** EGISTRATION

**B** OARD

**NORTHERN TERRITORY**

## **Protective Practices**

For teachers in their interactions with children and young people

*Guidelines for teaching staff working in the Northern Territory*



**Northern Territory Government**

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## Foreword

The Teacher Registration Board of the Northern Territory has a number of functions set out under Section 11 of the *Teacher Registration (Northern Territory) Act*. These functions include developing and improving professional teaching standards as well as researching and promoting best practice in teaching in the Territory. Under this section of the Act the Board's functions also include developing and maintaining a code of professional ethics for the teaching profession and liaising with employers of teachers in the Territory in relation to developing the competencies of teachers during the early stages of the teachers' careers.

Mindful of these functions, the Board has compiled these guidelines to provide advice to teachers for the establishment of positive, caring and respectful relationships with children and young people in educational settings. The main intent of this document is to promote in adults an enhanced understanding of appropriate relationship boundaries and thereby help to safeguard the emotional and physical wellbeing of children and young people. Respecting these boundaries will assist teachers to feel confident about meeting their responsibilities to children and young people and about meeting the expectations of the professional community in which they work.

The Northern Territory has a diverse range of schools in a diverse range of contexts. These contexts are influenced by geographic location, cultural background, language differences, size and access to networks and services. Northern Territory schools include urban, rural, regional, remote, and very remote settings. Regardless of context it is always incumbent on teachers to maintain positive, caring and respectful practices in their interactions with the children and young people in their care.

Following these guidelines will contribute to safer, happier and more successful education and care environments for all the people who learn and work in them.



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## Glossary

For the purposes of this document the following definitions apply:

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<b>Teacher</b>	As defined in the <i>Teacher Registration (Northern Territory) Act</i> , and for the purposes of this document includes Authorised Persons under that Act
<b>Site</b>	All schools and preschools and associated boarding facilities, alternative education centres or off site learning programs, out of school hours care and vacation care services
<b>Site leader</b>	The individual who has responsibility for the welfare of children and young people on that site; for example, the principal, director, manager; or the person to whom the site leader has delegated relevant authorities
<b>Children</b>	All children and young people enrolled at or attending the education sites as defined in this document
<b>Parents</b>	Adults who have the parenting responsibility for children and young people, including biological parents, step-parents, legal guardians and extended family members such as grandparents
<b>The Act</b>	Unless otherwise stated this refers to the <i>Teacher Registration (Northern Territory) Act</i>
<b>The Board</b>	This refers to the Teacher Registration Board of the Northern Territory

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## Relevant convention, law and policy

<b>United Nations Convention on the Rights of the Child</b>	<ul style="list-style-type: none"> <li>▪ The Convention enshrines the entitlement of all children, regardless of race, colour, sex, religion or nationality, to be protected from sexual abuse, to receive special help if they are abused, to have their opinions heard about matters that affect them, to receive and share information, and to be treated with dignity if disciplined.</li> </ul>
<b>Law</b> <b>Relevant legislation includes:</b>	<ul style="list-style-type: none"> <li>▪ <i>Care and Protection of Children Act (NT)</i> defines harm and exploitation of children, mandates reporting, by any person, of a belief that a child has suffered harm or exploitation or is likely to suffer harm or exploitation or a belief that a child is (or is likely to be) a victim of a sexual offence and sets up the scheme for the issuing of Clearance Notices to work with Children (Ochre Cards).</li> <li>▪ <i>Northern Territory Criminal Code Act &amp; Summary Offences Act (NT)</i> define illegal criminal behaviour.</li> <li>▪ <i>Anti-Discrimination Act (NT)</i> defines sexual harassment and provides a complaint process through the NT Anti-Discrimination Commission.</li> <li>▪ <i>Sex Discrimination Act (Cth)</i> defines sexual harassment and provides a complaint process through the Australian Human Rights Commission.</li> <li>▪ <i>Teacher Registration (Northern Territory) Act (NT)</i> establishes and maintains a teacher registration system and professional standards for teachers such that the profession is represented by individuals who are competent and fit and proper to teach.</li> </ul>
<b>Information Sharing Guidelines</b>	Creates an information sharing framework to promote the safety and wellbeing of children by allowing people such as teachers, registered foster carers, doctors and child care workers (“Authorised Information Sharers”) to share information relating to the safety and wellbeing of a child without fear of criminal or civil liability.
<b>National Safe Schools Framework</b>	National principles for the promotion of student wellbeing through safe, supportive and respectful teaching and learning communities. The framework makes it clear how people and organisations can request and receive information from others who are helping a child and the child's family.
<b>National Quality Framework</b>	The National Quality Framework (NQF) is a single compliance and quality assurance system for education and care services, conducted and jointly governed by all jurisdictions. In-scope services are long day care centres, outside school hours care services, family day care schemes and preschools (excluding mobile preschools). The NQF comprises of a uniform legislative framework, an assessment and rating process (by which services are assessed and given a publically available quality rating against the seven quality areas in the National Quality Standard) and a governance structure including a regulatory authority in each jurisdiction and a national authority to oversee the consistency of application.

## Legal Issues and professional boundaries for teachers

### Duty of care

In the education and care context, Duty of Care is a common law concept that refers to the responsibility of teachers to provide children and young people with an adequate level of protection against harm and/or injury. It is usually expressed as a duty to take reasonable care to protect children and young people from all reasonably foreseeable risk of harm and/or injury. The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case.

The courts have found that the standard of care owed by education and care providers to children and young people is very high. In their relationships with children and young people, teachers are required to ensure that the physical and emotional welfare of children and young people is safeguarded, and that their own behaviour is guided by this duty of care both within and beyond the education and care setting.

It is recommended that teachers refer to any documents on duty of care published by employers.

### Professional boundaries

Education relies on the fostering of positive relationships between adults and children and young people. Learning and care settings are places where teachers can have significant influence in the lives of children and young people because the relationship involves regular contact over relatively long periods of time. These features of education make it extremely important that teachers understand how to foster positive relationships in ways that do not compromise children and young people's welfare.

The professional boundaries outlined in these guidelines apply beyond specific education sites and beyond specific cohorts of children and young people. For example, where teachers are participating or have participated in interschool sport events or combined school trips or camps, they are expected to respect professional boundaries with all children and young people involved in those activities.

The following examples will assist teachers in establishing and maintaining expected boundaries. This list is not exhaustive.

Boundary	Example of Violation
<b>Communication</b>	<p>Inappropriate comments about a child/young person's appearance, including excessive flattering comments</p> <p>Inappropriate conversation or enquiries of a sexual nature (e.g. questions about a child or young person's sexuality or his/her sexual relationship with others)</p> <p>Disrespectful or discriminatory treatment of, or manner towards, young people based on their perceived or actual sexual orientation</p> <p>Use of inappropriate pet names</p> <p>Vilification or humiliation</p> <p>Jokes or innuendo of a sexual nature</p> <p>Obscene gestures and language</p> <p>Facilitating/permitting access to pornographic material</p> <p>Facilitating/permitting access to sexually explicit material that is not part of endorsed curriculum</p> <p>Failing to intervene in sexual harassment of children and young people</p> <p>Correspondence of a personal nature via any medium (e.g. phone, text message, letters, email, internet postings) that is unrelated to the teacher's role. This does not include class cards/bereavement cards etc.</p>
<b>Personal disclosure</b>	<p>Discussing personal lifestyle details of self, other staff or children and young people unless directly relevant to the learning topic and with the individual's consent</p>
<b>Physical contact</b>	<p>Unwarranted or unwanted touching of a child or young person personally or with objects (e.g. pencil or ruler)</p> <p>Corporal punishment (physical discipline, smacking etc.)</p> <p>Initiating, permitting or requesting inappropriate or unnecessary physical contact with a child or young person (e.g. massage, kisses, tickling games) or facilitating situations which unnecessarily result in close physical contact with a child or young person</p> <p>Inappropriate use of physical restraint</p>

<b>Place</b>	<p>Inviting/allowing/encouraging children and young people to attend the teacher's home (see Working in Northern Territory Schools) without the site leader's authority</p> <p>Allowing children and young people access to a teacher's personal internet locations (e.g. social networking sites)</p> <p>Attending children and young people's homes or their social gatherings without the site leader's authority (except when legitimate reasons apply – see Working in Northern Territory Schools)</p> <p>Being alone with a child or young person outside of a teacher's responsibilities without the site leader's authority</p> <p>Entering change rooms or toilets occupied by children or young people when supervision is not required or appropriate</p> <p>Transporting a child or young person unaccompanied without the site leader's authority</p> <p>Using toilet facilities allocated to children and young people</p> <p>Undressing using facilities set aside for children and young people, or in their presence</p>
<b>Targeting individual children and young people</b>	<p>Tutoring (outside education sector's directions or knowledge)</p> <p>Giving personal gifts or special favours</p> <p>Singling the same children and young people out for special duties or responsibilities</p> <p>Offering overnight/weekend/holiday care of children and young people as respite to parents (unless employed by a respite organisation and with the site leader's knowledge)</p>
<b>Role</b>	<p>Adopting an ongoing welfare role that is beyond the scope of their position or that is the responsibility of another staff member (e.g. a counsellor) or an external professional, and that occurs without the permission of senior staff</p> <p>Photographing, audio recording or filming children or young people via any medium when not authorised by the site leader to do so and without required parental consent</p> <p>Using personal rather than school equipment for approved activities, unless authorised by the site leader to do so</p>
<b>Possessions</b>	<p>Correspondence or communication (via any medium) to or from children and young people where a violation of professional boundaries is indicated and where the correspondence has not been provided to the site leader by the teacher</p> <p>Still/moving images or audio recordings of children and young people on personal equipment or kept in personal locations such as car or home that have not been authorised by the site leader</p> <p>Uploading or publishing still/moving images or audio recordings of children and young people to any location, without parental and site leader's consent</p>

Professional boundary violations by teachers represent a breach of trust, a failure to meet a duty of care to children and young people, and may be regarded by their employer as a failure to follow conduct requirements. When teachers violate boundaries they risk:

- harmful consequences for the child or young person
- seriously undermining their professional reputation and the confidence of the education or care community in their suitability to work with children and young people
- seriously undermining the learning process
- formal directions or other disciplinary action from their employer or registering/regulating authority
- Criminal Prosecution

Any concern a teacher has about whether a situation may compromise or breach a professional relationship should be discussed with the site leader and an approved plan of action developed and followed.



## Legislation

Teacher misconduct can represent a breach of the following legislation:

- *Care and Protection of Children Act 2007 (NT)* – failure to make a mandatory report
- *Criminal Code Act 1987 (NT)* – illegal behaviour
- *Anti-Discrimination Act 1992 (NT)* – sexual harassment
- *Sex Discrimination Act 1984 (Cth)* – sexual harassment
- *Teacher Registration (Northern Territory) Act (NT)* – failure to meet the fit and proper person to teach standard
- *Public Sector Employment and Management Act 1983 (NT)* – breaches of discipline, such as negligence, improper conduct (for public sector employees only)

### Sexual relationships between legally consenting adults where a teacher-student relationship once existed

Teachers 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 teacher. Where there is a reasonable belief that the emotional intimacy of the relationship developed while the teacher-student relationship existed, a judgment that abuse of their position has occurred is likely. What are significant in teacher-student relationships are the differences in authority and power held by the teacher and levels of trust held by the student. These differences do not suddenly disappear at a specific point in time. They linger as an imbalance between the two individuals and as a potential impediment to their capacity to make decisions in their own and others' best interests.

Consequently, teachers cannot assume they will be protected from disciplinary action taken by their employer or registering/regulating authority because a relationship is claimed to have begun after the school term concluded or after exams finished.

The length of time between the conclusion of the teacher-student relationship and the beginning of an intimate relationship is only one of a number of critical factors employers or the Teacher Registration Board will take into consideration when judging the appropriateness of a teacher's conduct. Other significant factors include:

- the age difference between the teacher and the ex-student
- the developmental capacity of the ex-student
- the vulnerability of the ex-student
- evidence of the nature of the relationship while the teacher-student relationship existed
- other concerns or allegations regarding the teacher's conduct

The following questions may assist teachers in recognising when professional and/or legal boundaries are at risk of being breached:

- Am I dealing in a different manner with a particular child or young person than with others under the same circumstances?
- Is my dress/availability/language/demeanour different from the normal with a particular child or young person?
- Would I modify my behaviour with a child or young person if a colleague were present?
- Would I judge my conduct negatively if I observed it in another adult?
- Is it possible that the consequences of my actions will have negative outcomes for children and young people?
- Is it possible that the consequences of my actions will negatively affect people's confidence in my suitability to work with children and young people?

If an honest answer to any of the above questions is 'yes' then a teacher must alter his/her behaviour immediately and consider seeking professional support or counsel.

## Guidance for teachers in managing professional boundaries

### Working in Northern Territory Schools

Teachers working in Northern Territory schools face unique challenges in managing professional boundaries. They are more likely to have social relationships with the families of the children and young people with whom they work which extend beyond the classroom and school community. The Northern Territory has a diverse range of schools in a diverse range of contexts. These contexts are influenced by geographic location, cultural background, language differences, size and access to networks and services. Northern Territory schools include urban, rural, regional, remote, and very remote settings. Regardless of context it is always incumbent on teachers to maintain positive, caring and respectful practices in their interactions with the children and young people in their care.

Teachers may have legitimate reasons to attend social events in the presence of children and young people with whom they work, to visit their homes or to be visited by them in the company of their families. These social interactions are an important part of community life and a positive contribution to the wellbeing of teachers working in Northern Territory schools. Following the advice below will assist teachers to enjoy these social interactions while maintaining their professional responsibilities:

- communicate information regarding social interactions with their students to the families of those children
- avoid being alone with children and young people in these situations
- ensure behaviour does not give others reason to question their suitability to work with children and young people and does not create discomfort for children and young people in their learning relationship
- consuming alcohol may lessen capacity to judge when a professional boundary is at risk
- avoid discussing matters relating to the workplace in social settings and use professional judgement when discussing children and young people's learning or social progress
- concern about whether or not a situation may be compromising or breaching a professional relationship should be discussed with the site leader and an approved plan of action followed

### Using social networking sites

Teachers in education settings are expected to model responsible and respectful conduct for the children and young people with whom they work under the conditions of their employment. Teachers need to consider the electronic social environments they utilise as part of this community and employer expectation.

The internet does not provide the privacy or control assumed by many users. Teachers must appreciate that no matter what protections they place around access to their personal sites their digital postings are still at risk of reaching an unintended audience and being used in ways that could complicate or threaten their employment. Teachers must be aware of the following expectations in considering their use of social networking sites:

- they have considered the information and images of them available on their sites and are confident that these represent them in a way that is acceptable to their role in working with children and young people
- they do not have children or young people in their education community as 'friends' on their personal/private sites
- comments on a teacher's personal site about their workplace, work colleagues or children or young people must not be of a nature that would cause hurt or embarrassment to others, risk claims of libel or harm the reputation of the workplace, their colleagues or children and young people

### Working one-to-one with children and young people

The following summary of expectations applies to all situations where teachers are providing one-to-one learning assistance or feedback, behaviour assistance/monitoring, testing or assessment.

#### Make it public

The more visible, public and busy the location the better

Use the site's authorised IT systems  
Do not use personal email or websites to communicate with children and young people

#### Make it authorised

Parents must be informed/ give consent

Activity must be authorised by the site leader

#### Make it timely

As far as possible, provide support during normal work hours, and do not conduct excessively long sessions.

## Managing privacy expectations

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, teachers need to find a careful balance between respecting the sensitive and private nature of information shared and the professional's duty of care obligations for the safety and wellbeing of the child or young person. Teachers should utilize people such as school counsellors, guidance officers and wellbeing officers where this is an option. Teachers must be familiar with the Northern Territory Mandatory Reporting requirements.

Teachers working in boarding houses face particular challenges in providing a 'home-like' environment for children and young people in ways that do not compromise their professional boundaries or the welfare of children and young people.

## Boarding houses

Boarding houses should be relatively informal environments and ones where children and young people can receive respectful guidance and support from the adults in whose care they are placed. While this clearly involves the development of caring, and sometimes close, friendships it does not remove the teacher's responsibility to work within all the professional boundaries outlined in these guidelines and to follow its best practice advice.

The guidance on managing privacy, working one-to-one, appropriate physical contact, responding to inappropriate sexual behaviour of children or adults, using social network sites, non-physical interventions and the examples of professional boundary violations are all particularly pertinent to all teachers working in boarding houses.

Following these guidelines will support the important role boarding house staff play in the wellbeing of children and young people and enhance respectful relationships between children and young people and adults sharing a 'home away from home'.

## Conducting home visits

There may be times when a home visit by a teacher is appropriate. Teachers must ensure they follow the specific home visiting protocols that apply to their local context. This may include utilizing Home Liaison Officers, Aboriginal and Islander Education Workers, and other staff as deemed appropriate. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed. A summary of general expectations is provided below.

- Inform** Home visits must be authorised and documented by the site leader and the school must have information about when and where visits are being undertaken and the expected return times
- Prepare** All available information about the safety of the proposed visit must be considered and risks managed  
Inform parents of intended visit, where appropriate  
Mobile phones must be taken, ID should be visible
- Protect** Do not enter the house if parents/guardians are not at home  
Speak with the student where the parent is present or clearly visible: do not interview students in their bedrooms  
Visit in the company of a colleague  
Document the visit

## Reporting obligations of teachers

### Regarding the behaviour of teachers and others towards children and young people

#### Suspected child abuse

Teachers, like all persons in the Northern Territory, are required under the *Care and Protection of Children Act* to report any belief of harm to or exploitation of a child (or the likelihood of same) or a belief that a child is (or is likely to be) a victim of a sexual offence to the Office of Children and Families Child Protection Hotline on 1800 700 250 or to NT Police on 131 444. Such a report must be made irrespective of who may be implicated whether the perpetrator is a colleague, friend, senior staff member, volunteer, parent, visitor or other child or young person.

The complexities of these situations are acknowledged. Nevertheless, teachers must manage their sensitivities or discomforts because their duty of care to the child or young person remains their paramount legal, professional and moral responsibility. Teachers need to ensure they fulfil their obligations as mandatory notifiers and act within their employer's guidelines and practices.

#### Inappropriate behaviour

Teachers may also observe behaviours in other adults they consider inappropriate or unprofessional rather than something requiring a mandatory report. Teachers must ensure, through their site leader, that the adult concerned is made aware of the potential of his/her actions to impact negatively on children and young people, and on themselves. Professional advice of this kind may be particularly valuable to young or newly appointed teachers. The site leader must document what is discussed.

All teachers must take action if children and young people disclose information about inappropriate behaviours of other adults on the site. It is not acceptable to minimise, ignore or delay responding to such information. For the wellbeing of all members of the education community, the site leader should be informed as a matter of urgency and a report made by the teacher to the Child Protection Hotline or police, if appropriate.

### Regarding the behaviour of children and young people towards teachers and others

Should a child or young person engage in inappropriate behaviour of a sexual nature, then immediate respectful steps must be taken to discourage the child or young person. The matter must be reported and documented promptly with the site leader and a plan of action developed to support the child or young person and relevant teacher.

Depending on the age/developmental capacity of the child or young person and contextual information, this plan of support may involve:

- communication with parents
- referral to and liaison with specialist counsellors
- formalised support within the site, e.g. closer monitoring or supervision of the child or young person in his/her interactions with other children and young people
- referral to and liaison with an appropriate agency with disability-specific expertise

Sometimes, the inappropriate sexual behaviour of younger children towards a teacher can form the basis of a belief that the child in question has been (or is likely to be) harmed, exploited or is the victim of a sexual offence. In these situations, teachers must:

- make a mandatory notification to the Hotline on 1800 700 250 or to police on 131 444
- consider the safety of other children and young people with whom the child has contact

Some children and young people may actively seek a relationship with a teacher that would constitute an inappropriate relationship. In such circumstances, teachers are advised to immediately report the information to the site leader and seek assistance from a senior staff member, school counsellor or pastoral care coordinator to actively manage the situation in a way that respects the emotional wellbeing of the child or young person and provides support to the teacher. Examples of behaviours to be reported and addressed are:

- receiving gifts of an inappropriate nature or at inappropriate times (e.g. not as part of end of the year gift giving that some children and families follow)
- flirtatious gestures and comments
- inappropriate social invitations
- inappropriate touching or invasions of personal space
- inappropriate postings using any medium
- correspondence or communication that suggests or invites an inappropriate relationship

The teacher and site leader should document the incident that initially prompted the concern and the plan of action that has been established. Contact with parents is recommended unless there are reasonable grounds to believe that this will create serious risks for the child or young person. Sexual harassment-via any medium\* at any time or place-or assault of a teacher by a child or young person must be brought to the attention of the site leader and dealt with following the behaviour management guidelines and practices of the employer. Police involvement may be necessary. As a part of this response, consideration must also be given to the most appropriate counselling and support that can be provided to the child or young person and family. It is important to use these incidents as opportunities to organise meaningful interventions that address early sexual and other offending behaviours.

\*Including postings on websites or through social media, whether 'private' or not.

## Good practice for teachers in their interactions with children and young people

### Appropriate physical contact by a teacher to assist or encourage a child or young person

At times, teachers will be required to give practical assistance to a child or young person who is hurt or needs particular assistance or encouragement. Examples of appropriate physical contact are:

- Administration of first aid.
- Supporting children and young people who have hurt themselves.
- Assisting with the toileting and personal care needs of a disabled child or young person (following individual plans for children and young people with previously negotiated with parents).
- Non-intrusive gestures to comfort a child or young person who is experiencing grief and loss or distress, such as a hand on the upper arm or upper back.
- Non-intrusive touch (e.g. congratulating a child or young person by shaking hands or a pat on the upper arm or back). Teachers should remember the importance of accompanying such touch with positive and encouraging words.

### Good practice with school-age children and young people

The following are examples of good practice with regards to interaction with school age children and young people:

- Seek children and young people's permission to touch (keeping in mind that a highly distressed child or young person may be incapable of expressing their wishes).
- Avoid being with a child or young person in a one-to-one, out of sight situation, and avoid touching a child or young person in such a situation.
- Do not presume that physical contact is acceptable to a particular child or young person. Even non-intrusive touch may be inappropriate if a child or young person indicates he/she does not wish to be touched.
- Respect and respond to signs that a child or young person is uncomfortable with touch.
- Use verbal directions rather than touch (e.g. ask a child or young person to move in a particular way, rather than physically place the child or young person in the required position). Use this approach for demonstrations in dance, sport, music and drama.
- Where touch is essential for safety reasons (e.g. with aquatic or gymnastic instruction), always tell the child or young person that you need to hold him/her in a particular way and seek his/her permission to do so.

### Good practice with children prior to school age

In situations where teachers are working with children prior to school age, teachers may be involved in toileting children, changing their clothes and comforting them for a range of distresses normal to the age group. In providing such care, teachers must be aware of the following good practice:

- When children indicate they want comfort, ensure that it is provided in a public setting and that it is in keeping with the guidelines provided above.
- Signs of discomfort in children such as stiffening, pulling away or walking away should be respected. In these situations the child must continue to be observed/ monitored until his/her distress is managed.
- Children must not be left in states of high distress for long periods. Parents need to be contacted under these circumstances.
- Teachers must follow the site's toileting and nappy changing policy and individual toileting plans where these have been documented with parents.

## Non-physical intervention in managing behaviour

Non-physical intervention is the recognised means of managing the behaviour of children and young people. Where a problem with a child or young person's behaviour becomes apparent, non-physical interventions include:

- directing other children and young people to move away from the situation
- talking with the individual child or young person (asking the child or young person to stop the behaviour, and telling the child or young person what will happen if he/she does not stop)
- directing the child or young person to a safe place
- directing other children and young people to a safe place
- sending for assistance from other staff, or in extreme cases, the police

Use of verbal directions is always preferred to physical intervention. It is not appropriate to make physical contact with a child or young person (e.g. pushing, grabbing, poking, pulling) in order to ensure they comply with directions. Teachers must not engage in conduct which might cause physical or emotional harm to children and young people.

Interventions in managing behaviour need to occur in accordance with employer's policies, guidelines and practices.

## Physical restraint where a child, young person or adult's safety is threatened

Teachers may make legitimate use of physical restraint if all non-physical interventions have been exhausted or are impossible in the circumstances and a child or young person is:

- attacking another child or young person or adult
- posing an immediate danger to him/herself or others

Unless someone's safety is clearly threatened teachers are to use physical restraint only as a last resort and not as a response to:

- property destruction
- disruption to the education or care activity
- refusal to comply
- verbal threats
- leaving a classroom or the school
- maintain good order

Use of appropriate physical force may be permitted to ensure that the employer's duty of care to protect children and young people and staff from foreseeable risks of injury or harm is met. Common law defences such as self-defence and defence of others remain legitimate reasons for the use of physical restraint. All people have the right to defend themselves against an attack provided they do not use a disproportionate degree of force to do so.

It may be a valid decision for teachers not to use physical restraint in a situation involving several children and young people, or a physically larger child or young person, where the teacher believes that doing so would increase the likelihood of injury to themselves. In such cases, the teacher must direct other children and young people away from danger and seek immediate help from other staff or police. Teachers are not expected to place their own safety at risk in responding to violence or aggression in others and are supported by Workplace Health and Safety legislation in making this judgment.

## Safe practice when using physical restraint

The use of restraint with a child or young person in situations where the safety of others is threatened is to prevent injury. The restraint must be reasonable in the particular circumstances and must be in proportion to the circumstances of the incident. It must always be the minimum force needed to achieve the desired result, and take into account the age, stature, disability, understanding and gender of the child or young person. For example, if restraining a female, care should be taken to avoid contact with breasts. Restraint should cease as soon as there is no longer a clear safety threat. Records of restraint and incidents resulting in restraint must be kept in accordance with the employer's policies, guidelines and practices.



## Working with children and young people with special needs or disabilities

All sections of this document require careful interpretation when applied to children and young people with additional needs or disabilities. For example, children and young people with intellectual disabilities may engage in a much wider range of physical behaviours towards teachers and other children and young people as a result of their disability. Similarly, teachers may need to engage more often in physical contact with these children and young people as a means of meeting their duty of care to them.

Teachers need to be more vigilant and thoughtful in their physical interactions with children and young people with additional needs or disabilities. Children and young people with disabilities have an increased reliance on the adults providing their care to protect them from harm. Immediately reporting any inappropriate behaviour towards children and young people from other adults is a critical obligation of teachers and one that must not be delayed, minimised or delegated (see 'Reporting obligations of teachers section').

Specialized staff may be available to support children and young people with disabilities or special needs through various forms of education adjustment plans. The common features of these plans are that they involve all people who deal with the child or young person on a regular basis, including other service providers, and they document the agreed strategies that are to be used in supporting the child or young person. These plans are particularly important when challenging behaviours, personal care and hygiene and special physical considerations are an issue at the site (e.g. toileting, transport within and beyond the site environment, situations where physical restraint is occasionally required). The possibility of restraint and the nature of that restraint for children and young people must be addressed in the education adjustment plan as must alternative strategies for preventing harm to others. The plan process should involve the child or young person as far as possible. Teachers likely to need to use physical restraint should access training specific to that requirement.

The basic principles outlined elsewhere in this document remain applicable to all children and young people. Teachers have a duty of care to protect children and young people from physical and emotional harm and, while the ways of meeting the duty may differ for different groups, the duty itself remains unqualified. Teachers are expected to meet this duty in a manner that respects the dignity of all children and young people as well as their vulnerabilities.

## Cultural Considerations

Different cultures have different beliefs and protocols surrounding relationships and body language. Teachers have a responsibility to become as familiar as possible with the values of the various cultural groups enrolled in an education site. Many Indigenous school communities are very keen to share understandings relevant to their local cultural contexts. It is critical that teachers appreciate culturally specific expectations so that embarrassment or offence can be avoided for everyone, and particularly for children and young people.

Children and young people attending urban NT schools include those recently arrived in Australia. Some have backgrounds of severe trauma, ranging from the observation of extreme physical violence and abuse to being victims of such violence and abuse themselves. The needs of these children and young people and their families are acute and the issue of establishing what behaviours are appropriate is essential. Teachers need to employ considerable diplomacy, care and effort in their interactions with the children and young people and families that are known or suspected to have escaped traumatic circumstances.