

Fairburn, Janine

From: Masterman, Tanya
Sent: Friday, 20 September 2019 2:00 PM
To: [REDACTED]
Subject: ACT Regulatory Authority - Caution Letter
Attachments: Caution - [REDACTED].pdf; Attachment A.pdf; Attachment B.pdf

UNCLASSIFIED

Dear [REDACTED]

Please find attached the Regulatory Authority's Decision regarding the recent investigation, together with Attachments A and B.

It is important that you read and fully understand the attached Decision, so please do not hesitate to contact me if you have any queries.

Yours sincerely

Tanya Masterman | A/g Assistant Director
Phone 02 6205 2012 | Email tanya.masterman@act.gov.au
Early Childhood Policy and Regulation | Education | ACT Government
Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611
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[REDACTED]
Brindabella Christian Early Learning Centre - Charnwood

Email: [REDACTED]@bcc.act.edu.au

Dear [REDACTED]

Decision to issue Caution Letter

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently investigated suspected contraventions of the *Education and Care Services National Law Act 2010*¹ (the Law), occurring at Brindabella Christian College Early Learning Centre – Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809, (the Provider) on 14 May 2019.
2. Electronic links to the Law and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this letter.

Facts

3. On 14 May 2019, a direct complaint was received by the Authority regarding the conduct of educators in the [REDACTED] room towards [REDACTED] children, known to be [REDACTED] at the Service earlier that day.
4. Due to the high risk to children when inappropriately disciplined, the Authority conducted an investigation. During the investigation, the Authority obtained documentation and conducted formal interviews with witnesses.
5. You were a [REDACTED] of the Service at the relevant time.
6. The Authority determined that there was sufficient evidence to support three allegations of failing to ensure no child was subjected to inappropriate discipline, contrary to section 166(2) of the Law. Accordingly, a Show Cause Notice (the Notice) was issued to you on 17 July 2019. Refer Attachment A.
7. Your response was received by the Authority on 31 July 2019. Refer Attachment B.
8. **Allegation One** - It was alleged that, on 14 May 2019, [REDACTED] told a child, [REDACTED]
 - a. words to the effect of "if you don't stop being naughty I'll send you somewhere else and you won't be able to come back here or see your mummy or daddy again";
 - b. words to the effect of "if you don't go to sleep right now, I'll call your mummy and daddy and tell them to not come and get you today".

¹ Adopted in the ACT by the *Education and Care Services National Law Act (ACT) 2011*

9. In your response to the Notice, you included a transcript of an interview with [REDACTED] and relied upon that as a response to Allegation One, including
- [REDACTED] is a difficult sleeper;
 - [REDACTED] has not used the word "naughty";
 - [REDACTED] recalled stating "you really really need to go to sleep otherwise I am going to have to call mum and dad and just let them know that you didn't sleep;
 - [REDACTED] does have a louder than normal voice;
 - [REDACTED] being swaddled was due to a request from parents;
 - The placing of log pillows on [REDACTED] was because [REDACTED] likes the weighted feeling.
10. **Allegation Two** - It was alleged that, on 14 May 2019, when lunch was being served in the [REDACTED] room and [REDACTED] had put [REDACTED] to bed, [REDACTED]
- Removed [REDACTED] from [REDACTED] bed and pulled [REDACTED] by the arm to the table, while [REDACTED] was crying and yelling that [REDACTED] wanted to go to bed; and
 - When [REDACTED] went back to [REDACTED] bed, [REDACTED] again removed [REDACTED] from [REDACTED] bed and dragged [REDACTED] to the table, while [REDACTED] was crying and yelling that [REDACTED] wanted to go to bed.
11. In your response to the Notice, you included a transcript of an interview with [REDACTED] and relied upon that as a response to Allegation Two, including:
- There have been many conversations with parents about the fact that [REDACTED] would often say [REDACTED] wanted to go to bed rather than eating;
 - [REDACTED] parents wanted [REDACTED] encouraged to come back to the table;
 - [REDACTED] actions as described by Witness A were "normal behaviour" for [REDACTED]
 - [REDACTED] removed [REDACTED] to calm [REDACTED] so asked [REDACTED] to deal with it for 5 minutes;
 - [REDACTED] tapped out, as has been discussed before;
 - Strategies have been discussed with the family regarding eating lunch because if [REDACTED] runs back to [REDACTED] bed constantly, all the other children will follow too;
 - The issues happen with morning tea, afternoon tea and lunch; [REDACTED] doesn't want it.
12. **Allegation Three** - It was further alleged that, on 14 May 2019, when [REDACTED] was at the lunch table and crying about wanting to go to bed, [REDACTED] took a spoonful of [REDACTED] lunch and put it in [REDACTED] mouth when [REDACTED] was yelling, held [REDACTED] chin to close [REDACTED] mouth and held [REDACTED] arms down when [REDACTED] tried to push [REDACTED] hands away.
13. In your response to the Notice, you relied on the transcript of interview with [REDACTED] as a response to Allegation Three, including:
- [REDACTED] had [REDACTED] at [REDACTED] that day;
 - From the start of lunch, [REDACTED] was crying and expressed [REDACTED] did not like the food and did want to try it;

- c. When shown the food, [REDACTED] "lost the plot" and "did not want a bar of it" to the point where [REDACTED];
- d. [REDACTED] took [REDACTED] out to the [REDACTED] room to see [REDACTED] who was able to calm [REDACTED] down;
- e. [REDACTED] then agreed to try the food, but when [REDACTED] put food in [REDACTED] mouth [REDACTED] started crying with it in [REDACTED] mouth, spitting some of it out;
- f. [REDACTED] held [REDACTED] hand under [REDACTED] chin to catch food;
- g. After washing [REDACTED] hands, [REDACTED] returned and [REDACTED] agreed to try again and was "happy as anything";
- h. [REDACTED] had been quite emotional all day;
- i. Normally when [REDACTED] is given food [REDACTED] will try it;

Law

14. Evidence obtained during the investigation engages Section 166(2) of *the Law*, which provides as follows:

Section 166 of the *Law*- Offence to use inappropriate discipline

- (2) A nominated supervisor of an education and care service must ensure that no child being educated and cared for by the service is subjected to:
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Reasons

15. The Authority is satisfied, on the balance of probabilities, that you have contravened section 166(2) of the *Law*, as the actions of [REDACTED] on 14 May 2019 can be described as discipline that is unreasonable in the circumstances. [REDACTED] are subject to strict liability regarding inappropriate discipline, as indicated by the words "must ensure" and the offence contains no fault element.
16. With regards to Allegation One, although there is some variance in the words used to [REDACTED] between what Witness A stated they heard and what [REDACTED] recalls saying, the use of a threat or warning of calling parents is not an appropriate method of discipline to use to try and encourage sleep or at any time. It also does not comply with the Provider's "Interactions with Children Policy".
17. Where there is a conflict in details between [REDACTED] account included in your response to the Notice and the evidence of Witness A, the Authority prefers the evidence of Witness A, due to the complaint being received by the Authority within hours of the incidents, the absence of motivation for exaggeration, and the level of distress of Witness A when making the complaint.
18. Although it is not a [REDACTED] offence under the *Law*, the Authority advises you that, in order to depart from accepted safe sleep practices, it is important to have supporting evidence, for your own protection as well as that of the child. An example would be a report from an Occupational Therapist recommending proprioceptive input through weight to encourage sleep.

19. Furthermore, if the “logs” are used to encourage the child to believe [REDACTED] is unable to move (rather than as weight), they constitute a restrictive practice. It is also pointed out that it is contrary to the Provider’s Sleep and Rest policy to use such strategies in an endeavour to promote sleep.
20. With regards to Allegation Two, it is noted that the allegation was not denied by [REDACTED] in [REDACTED] interview with [REDACTED]. The allegation was put to [REDACTED] at 0:02:41:0 and appears on page 2 of the transcript provided in your response to the Notice. When asked to elaborate, [REDACTED] did not address [REDACTED] own conduct, but talked about [REDACTED] behaviour.
21. With regards to Allegation Three, the accounts of [REDACTED] behaviour around eating were inconsistent. [REDACTED] stated the behaviour described was “normal”, whereas [REDACTED] agreed that it was “not a normal day” when discussing [REDACTED] behaviour. [REDACTED] had mentioned tapping out and handing care of [REDACTED] over to [REDACTED] after [REDACTED] was already upset and kept going back to [REDACTED] bed, whereas [REDACTED] account was that all the children came to the tables, did the grace song and gave out all the food, [REDACTED] was sitting there from the start, then started crying.
22. The details of [REDACTED] account and Witness A’s account differ in minor respects. Again, where there is conflict in details of the incident, the Authority prefers the evidence of Witness A for the reasons outlined above in paragraph 17.
23. Whilst resistance to or avoidance of eating can be difficult to manage, trying to make a child eat when they are showing clear signs of tiredness and significant distress is not appropriate, nor is putting food in a child’s mouth when they are distressed about eating. An acceptable option is to let a child sleep if they need/wish to and offer food (with alternatives if required) when they are in a more appropriate frame of mind, particularly when a child has difficulties with eating.
24. The Authority has noted the steps you and/or the Provider have taken in response to the allegations, including:
- a. If [REDACTED] will be provided mentoring and support, with key focus areas around interactions with children and behaviour guidance strategies, including direct supervision in a room with an early childhood teacher to support and monitor her interactions with children; and
 - b. Recruiting a lead educator to work with [REDACTED] in the [REDACTED] rooms to supervise and support [REDACTED] further development;
 - c. Change in leadership structure, to include an Assistant Director/Nominated Supervisor Non-Teaching for each Service and [REDACTED] across both Centres;
 - d. Behaviour Buster training with [REDACTED] and
 - e. Additional time to complete modules on ECA Learning Hub.
25. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has considered the

actions taken by yourself and/or the Provider to address the conduct of [REDACTED] and has decided not to take statutory compliance action, but to issue you with a Caution Letter.

26. This Caution Letter serves to remind you of your obligations, as a [REDACTED] to ensure that your actions, and those of educators, in no way compromise the safety, health and well-being of children being educated and cared for.
27. Unreasonable discipline within the meaning of section 166 of the *Law* includes physical punishment or any behaviour management strategy likely to cause physical and/or psychological harm to a child. Smacking, pulling, yelling and threatening a child are the most common forms of conduct viewed as inappropriate discipline.
28. However, inappropriate discipline can be more subtle and include other forms of physical or psychological forms of coercion. Rough handling of children is a disciplinary issue when it is in a context that is intended to shape a child's behaviour. Likewise, harmful physical or psychological techniques to shape children's responses are also inappropriate discipline.
29. The Authority advises that further similar incidents may lead to formal compliance action, such as an undertaking not to accept a position as [REDACTED] either pending fulfilment of certain conditions or indefinitely.

Legislation

30. The *Law* applies to you as a Nominated Supervisor.
31. The *Law* is applied in the ACT by the Education and Care Services National Law (ACT) Act 2011
<http://www.legislation.act.gov.au/a/2011-42/default.asp>
32. The *Law* and *Regulations* can be viewed at:
<http://www.acecqa.gov.au/national-law> and
<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
33. If you have any questions in relation to this letter, please contact Authorised Officer Tanya Masterman on (02) 6205 2012 or by email at tanya.masterman@act.gov.au.

Yours sincerely,

[REDACTED]
 Clare Brookes
 Senior Director
 Early Childhood Policy and Regulation
 ACT Education Directorate

20 September 2019



Brindabella Christian College Early Learning Centre – Charnwood

Email [redacted]@bcc.act.edu.au

Dear [redacted]

Show Cause Notice – Proposed Compliance Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently investigated allegations of inappropriate discipline and inappropriate interactions by educators at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider).
2. Records confirm that you were the [redacted] at the relevant time.
3. Electronic links to the *Education and Care Services National Law* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.
4. I am considering compliance action based on suspected contraventions of the Law indicated by evidence gathered during the investigation. Potential compliance actions include, but are not limited to, an Enforceable Undertaking under section 179A.
5. The grounds for issuing this show cause notice arise from a direct complaint received by the Authority and subsequent investigation regarding the conduct of educators on 14 May 2019 whilst employed at the Service.

Background

6. On 14 May 2019, a direct complaint was received by the Authority regarding the conduct of two educators, being [redacted] in the [redacted] room at the Service that day.
7. On 23 May 2019, a notice allowable under section 215 of the Law was sent to the Provider to obtain relevant documents, including:
 - a. Working Directly with Children records;
 - b. Child attendance records;
 - c. Staff records; and

- d. Relevant policies and procedures.
8. Evidence gathered supports three allegations of inappropriate discipline which engage offence provisions under the *Law*.

Allegation One

9. It is alleged that, on 14 May 2019, [REDACTED] told a child, [REDACTED]
 - a. words to the effect of *"if you don't stop being naughty I'll send you somewhere else and you won't be able to come back here or see your mummy or daddy again"*; and
 - b. words to the effect of *"if you don't go to sleep right now, I'll call your mummy and daddy and tell them to not come and get you today"*

Evidence relevant to Allegation One

10. Documents produced from the Provider identified that:
 - a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 8:41am to 4:38pm.
11. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
12. Relevant excerpts from Witness A's statement are:





Contravention Supported by Allegation One

13. The evidence obtained by the Authority relevant to Allegation One supports a contravention of the following section of the *Law*, being an offence of strict liability:

Section 166 – Offence to Use Inappropriate Discipline

- (2) A nominated supervisor of an education and care service must ensure that no child being educated and cared for by the service is subjected to-
- (a) any form of corporal punishment; or
 - (b) any discipline that is unreasonable in the circumstances.

Allegation Two

14. It is alleged that, on 14 May 2019, when lunch was being served in the [redacted] room and [redacted] had put [redacted] to bed, [redacted]
- a. Removed [redacted] from [redacted] bed and pulled [redacted] by the arm to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed; and
 - b. When [redacted] went back to [redacted] bed, [redacted] again removed [redacted] from [redacted] bed and dragged [redacted] to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed.

Evidence relevant to Allegation Two

15. Documents produced by the Provider identified that:
- a. [redacted] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [redacted] was working directly with children in the [redacted] room on 14 May 2019 from 7:10-10:00am, from 10:15am to 12:30pm, and from 1:30 to 3:45pm;
 - c. [redacted] was a child enrolled in the [redacted] room and present on 14 May 2019 from 7:37am to 5:12pm.

16. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
17. Relevant excerpts from Witness A's statement are:



Contravention Supported by Allegation Two

18. The evidence obtained by the Authority relevant to Allegation Two supports a contravention of section 166 of the *Law*, as appears in paragraph 13 of this notice.

Allegation Three

19. It is alleged that, on 14 May 2019, when [REDACTED] was at the lunch table and crying about wanting to go to bed, [REDACTED] took a spoonful of [REDACTED] lunch and put it in [REDACTED] mouth when [REDACTED] was yelling, held [REDACTED] chin to close [REDACTED] mouth and held [REDACTED] arms down when [REDACTED] tried to push [REDACTED] hands away.

Evidence relevant to Allegation Three

20. On 23 May 2019, a notice allowable under section 215 of the *Law* was sent to the Provider to obtain relevant documents. Documents obtained identified that:

- a. [REDACTED] was an educator employed by the Provider working at the Service on 14 May 2019;
 - b. [REDACTED] was working directly with children in the [REDACTED] room on 14 May 2019 from 9:25 to 10:30am, from 10:45am to 1:30pm and from 2:30pm to 6:00pm;
 - c. [REDACTED] was a child enrolled in the [REDACTED] room and present on 14 May 2019 from 7:37am to 5:12pm.
21. During the process of investigating the complaints, the Authority obtained statements from witnesses, relevant excerpts from which are included below.
 22. Relevant excerpts from Witness A's statement are:



Contravention Supported by Allegation Three

23. The evidence obtained by the Authority supports a contravention of section 166 of the Law, as appears in paragraph 13 of this notice.

Potential Compliance Actions

24. Should the allegations (or any of them) be substantiated, the statutory actions available to the Authority to consider include, but are not limited to, an Enforceable Undertaking under section 179A of the Law as set out below:

Section 179A of the Law – Enforceable undertaking

- (1) This section applies-
- a) if a person has contravened, or if the Regulatory Authority alleges a person has contravened, a provision of this Law; or
 - b) in the circumstances set out in section 27(a), 72(a) or 184(3).
- (2) If subsection (1) (a) applies the Regulatory Authority may accept a written undertaking from the person under which the person undertakes to take certain actions, or refrain from taking certain actions, to comply with this Law.
- (4) If subsection (1)(b) applies in relation to a person other than the approved provider of an education and care service, the Regulatory Authority may accept a written undertaking from the person, under which the person undertakes to take certain actions, or refrain from taking certain actions in relation to an education and care service.

Right of response

25. You have a right to respond to the allegations set out in this notice. You may, within 14 days of receiving this letter, make a written submission for the Authority's consideration in deciding if a compliance action should be taken.
26. At Attachment A to this Notice is a '4 Step Guide to Responding to a Show Cause Notice' to assist in the development of your submission.
27. Please direct your written submission via email to Senior Investigator Tanya Masterman at tanya.masterman@act.gov.au or by post to:

Tanya Masterman
 Senior Investigator
 Children's Education and Care Assurance
 GPO Box 158
 CANBERRA ACT 2601

Caution


28. Please be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.

Legislation

29. The *Education and Care Services National Law Act 2010* (the *Law*) applies to you as a [REDACTED]
30. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011*
<http://www.legislation.act.gov.au/a/2011-42/default.asp>.

31. The *Law* is made up of an Act and Regulations which can be viewed at:
<http://www.acecqa.gov.au/national-law, and>
<http://www.Legislation.nsw.gov.au/#/view/regulation/2011/653>
32. Should you have any questions about this Show Cause Notice please contact Tanya Masterman by telephone on (02) 6205 2012 or email to tanya.masterman@act.gov.au.

Yours sincerely,


Clare Brookes
Senior Director
Children's Education and Care Assurance
Early Childhood Regulation
Education Directorate

17 July 2019



4 Step Guide to Responding to a Show Cause Notice

This resource has been developed to assist you in responding to a Show Cause Notice.

Step 1: Read your Show Cause Notice and Identify the reasons that you have been required to show cause

The ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, has a function to monitor and enforce compliance in respect to Education and Care Services operating in the ACT. You can access the complete *Education and Care Services National Law Act (ACT) 2011* (the Law) and the *Education and Care Services National Regulation* (the Regulation) at <http://www.acecqa.gov.au/national-law>.

If you are sent a Show Cause Notice, it is your opportunity to formally respond to the Authority to the allegations discussed in the notice. If you don't respond to the notice at all, or within the allowed timeframe, the Authority can only take into account what it already knows when deciding if any compliance action should be taken.

You should read your Show Cause Notice carefully, make note of the prescribed timeframe to respond (generally within 14 days) and the specific alleged contraventions of *Law* or *Regulation* that has resulted in you receiving a Show Cause Notice.

You may choose to consult a legal practitioner to assist you to understand your rights and responsibilities. Legal Aid ACT helps people in the ACT with their legal problems. You can call the Legal Aid Helpline on 1300654314 or visit <http://www.legalaidact.org.au/>

Step 2: Commence drafting your show cause response

It is important to note that:

- Your show cause response should be formal and formatted as an official business letter.
- Your show cause response must address each allegation set out in the notice.
- If your response is refuting allegations of non-compliance, then your response must clearly explain how, and why, the allegations are incorrect. Include any evidence to support your explanation.
- If your response is agreeing to non-compliance, then your response could explain the context within which the non-compliance occurred including what has led to the non-compliance.
- Your response could also set out any steps you have taken, or will take, and the strategies you have implemented to ensure future compliance.
- It is strongly recommended that you include any documentation or evidence supporting your response. Supporting documentation will be used as evidence by the Authority in

considering an outcome. Depending on your circumstances, your supporting documentation may differ. Some examples of supporting documentation include employment records, attendance rosters, policy and procedure, photographs, records of communication and incident reports.

- Please note that it is a criminal offence to supply false and misleading information. Any documents, or evidence, must be genuine.

Step 3: Analyse and reflect on your show cause response

Remember, responding to a show cause notice is your opportunity to address allegations put to you in relation to a specific incident or circumstance.

Generally Part 6 of the *Law* sets out the majority of the specific offences related to operating an education and care service. Read through your response to the Show Cause Notice and confirm that all allegations have been addressed. Each separate alleged offence will be clearly outlined in the Show Cause Notice under a bold heading starting with the relevant section of *Law* or *Regulation*. Your response should also address allegations in the same way with clear references given for any attachment of supportive documentation/evidence.

Part 7 sets out the majority of the compliance actions that may be taken by the Authority in circumstances where offences have been found with the Law. The Show Cause Notice will indicate if the range of actions or a specific action is being considered by the Authority. In circumstances where your response is agreeing to any non-compliances, you may wish to suggest a compliance action that you feel is fair and appropriate in the circumstances.

Have you attached all relevant supportive evidence? Ensure that documentation you attach to your response is evidence to support any claims or statements you have made in regard to your compliance.

If you feel you haven't been afforded enough time to respond, contact the Authorised Officer identified in the Show Cause Notice as soon as you identify that you may need more time – extension for response is allowable dependant on the circumstances.

You can also contact an Authorised Officer if you have any questions about the Show Cause Notice or need some clarity in regards to specific requirements for response. Be aware that an Authorised Officer will not be able to assist you in how to word your response.

Step 4: Submit your show cause response

It is suggested that you should always make two copies of your show cause response and ensure you obtain proof of your submission.

If sending your response by email, request a read receipt. If sending by post, send via registered post to confirm receipt or request that the Authorised Officer who receives your submission notify you.



31 July 2019

Tanya Masterman Senior Investigator
Children's Education and Care Assurance GPO Box 158
CANBERRA ACT 2601

Dear Tanya,

I am writing to respond to the 'Show Cause Notice' issued by the ACT Regulatory Authority relating to allegations of inappropriate discipline and inappropriate interactions by educators at Brindabella Christian College Early Learning Centre Charnwood SE-00011290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider).

I can confirm that at the relevant time [REDACTED] and [REDACTED] were the [REDACTED] for Brindabella Christian Education Ltd.

Allegation One

It is alleged that, on 14 May 2019, [REDACTED] told a child [REDACTED]

- a. words to the effect of "if you don't stop being naughty I'll send you somewhere else and you won't be able to come back here or see your mummy or daddy again"; and
- b. words to the effect of "if you don't go to sleep right now, I'll call your mummy and daddy and tell them to not come and get you today"

Response

Both [REDACTED] (Charnwood Campus) conducted an interview with [REDACTED] on 25 July 2019 [REDACTED]. I have attached a copy of the transcript from that conversation and can provide an audio copy should you require.

As transcribed in that meeting, when asked, [REDACTED] explained [REDACTED] response. Please see Appendix A, [REDACTED] [0:01:47.8] and continuing.

[REDACTED] also explained the nature of the language used with [REDACTED] (eg; Burrito and icecream) as key words that help [REDACTED] to determine how [REDACTED] wanted to rest at that time. Please see Appendix A, [REDACTED] [0:04:50.4]

[REDACTED] discussed that there are key words that [REDACTED] responds to based on the information provided by [REDACTED] family. It had been disclosed that it was a practice requested by the parents to contact them if [REDACTED] did not sleep.

[REDACTED] explained that they were working with the children to develop their self expression by identifying their feelings and did confirm that [REDACTED] stated [REDACTED] would have to call [REDACTED] mummy and daddy, as per parent request if [REDACTED] did not sleep.



Allegation Two

It is alleged that, on 14 May 2019, when lunch was being served in the [redacted] room and [redacted] had put [redacted] to bed, [redacted]

- c. Removed [redacted] from [redacted] bed and pulled [redacted] by the arm to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed; and
- d. When [redacted] went back to [redacted] bed, [redacted] again removed [redacted] from [redacted] bed and dragged [redacted] to the table, while [redacted] was crying and yelling that [redacted] wanted to go to bed.

Response

[redacted] (Charnwood Campus) conducted an interview with [redacted] on 25 July 2019. I have attached a copy of the transcript from that conversation and can provide an audio copy should you require.

As transcribed in that meeting, when asked [redacted] explained [redacted] response. Please see Appendix B, [redacted] [0:02:04.0].

During this interview it was established that [redacted] often struggled during meal time and that in consultation with the family a strategy was developed to encourage [redacted] to sit at the table and try the meal provided. [redacted] also explained that [redacted] displayed a repetitive behavior of going back and forth to [redacted] mat. [redacted] also described in [redacted] statement that [redacted] did not want to get upset with [redacted] so [redacted] implemented the procedure of "Tapping Out" as is practice in the Centre.

As transcribed in that meeting, when asked, [redacted] explained [redacted] response. Please see Appendix B, [redacted] [0:04:25.6] and [redacted] [0:04:50.1].

Allegation Three

It is alleged that, on 14 May 2019, when [redacted] was at the lunch table and crying about wanting to go to bed, [redacted] took a spoonful of [redacted] lunch and put it in [redacted] mouth when [redacted] was yelling, held [redacted] chin to close [redacted] mouth and held [redacted] arms down when [redacted] tried to push [redacted] hands away.

Response

[redacted] (Charnwood Campus) conducted an interview with [redacted] on 25 July 2019. I have attached a copy of the transcript from that conversation and can provide an audio copy should you require.

As transcribed in that meeting, when asked, [redacted] explained [redacted] response. Please see Appendix A, [redacted] [0:12:04.1]



explained that vividly remembered that day as had
 explains that is a fussy eater and that there had been strategies discussed and developed with the parents and the team in as to how they would encourage to eat.

explained the steps took to calm down including going to
 for support, the explanation gave in response to the allegation of holding chin closed has been explained as placing hand under chin to catch the food as did not want clothes to get messy. In addition to this has explained in Appendix A, [0:15:01.4] that was having an emotional day and was
 has also described their focus with the children about learning to express their emotions and how to communicate.

Follow up

The will work closely with to ensure is given the appropriate mentoring and Support to extend skills and knowledge. At the service I will ensure that our key focus areas with and development is around interactions with children and behaviour guidance strategies. Pending the outcome will be placed under direct supervision and an Early childhood-Teacher, in a room that can closely support and monitor interactions and work with Children. Another Strategy that has been put in place in light of this is Within the change of the leadership team and support structure at Charnwood ELC. From this change we will also be able to have regular check in sessions with and the and as the to ensure this type of issue does not arise again.

With relation to our support plan and changes with the allegations against We are currently recruiting for a Lead Educator either Diploma or Degree Qualified in our room to work with and supervise and support further development of skillset as a Lead Educator.

The leadership team Structure Change explained in the above statement is outlined as follows:

- The position of Assistant Director is being advertised as Assistant Director/Nominated Supervisor Non-Teaching, with this change we will ensure that each of our Sites have a Nominated Supervisor allocated to each Centre to support the role.
- has been appointed in a as across both campuses to ensure that staff are adequately supported with regards to curriculum, practice, policy and procedure. This role will also allow for more one on one mentoring and the ability to focus on set goals for individual educators.

Please be aware that we have been actively working with the staff in the development of their skills and have provided a multitude of training and support over the past 6 months also With relation to



all allegations in the Show Cause notice/the services notice of a 215 request there have been a number of actions taken to ensure all staff are aware of best practice we have also had a major review of policy and procure during the last few months and this is now reflective in our management please see the following attachments for your reference:

- Appendix A [redacted] Interview voice recording
- Appendix B [redacted] Interview voice recording
- Staff meeting is taking place on Monday 12 August. During this meeting we will be revisiting policy and procedure relating to interactions with children as well as the Behaviour Buster workshop. I have attached a copy of our planned agenda, see Appendix C
- On 9 January 2019 All staff participated in Protective Behaviors Training and mandated reporting training, see Appendix D
- On 13 and 14 February 2019 [redacted] met with [redacted] to discuss their development and support plans for 2019, see Appendix E
- On 15 February 2019 an email was sent to all staff in relation to encouraging children to eat and interactions, see Appendix F
- 25 February email relating to [redacted] joint Belief statements in response to staff meeting, see Appendix G
- 29 April 2019 Minutes from staff meeting, Appendix H
- 14 May 2019 Email communication from [redacted] Appendix I
- 29 May 2019 Communication Record with [redacted] Appendix J
- 18 June 2019 Communication record, all Charnwood staff individually with [redacted] Appendix K
- 1 July Staff meeting agenda and SIDS training, Appendix L
- Appendix M; signed policy's reviewed

Also provided:

- Voice recordings of interviews (Can be provided upon request, see appendix A and Appendix B for transcribed notes.)
- *Appendix C Agenda for August Staff Meeting*
- *Staff Handbook*
- *Staff code of conduct*
- *Behaviour Buster with [redacted] is being scheduled for August to conduct in house training with all staff.*
- Staff will be given additional time to complete modules on ECA Learning Hub



This information and supporting documents have been provided, in response to the 'Show Cause Notice' issued by the ACT Regulatory Authority relating to allegations of inappropriate discipline and inappropriate interactions by educators at Brindabella Christian College Early Learning Centre Charnwood SE-0001.1.290 (the Service), operated by Brindabella Christian Education Ltd PR-00005809 (the Provider). Should you require any further information, please do not hesitate to contact me.

Regards



Early Learning Centres
Brindabella Christian College, Canberra
P: Lyneham (02) 6190 7371 | Charnwood (02) 6190 7431 | Mobile 0423 533 823
W: <http://www.bcc.act.edu.au>

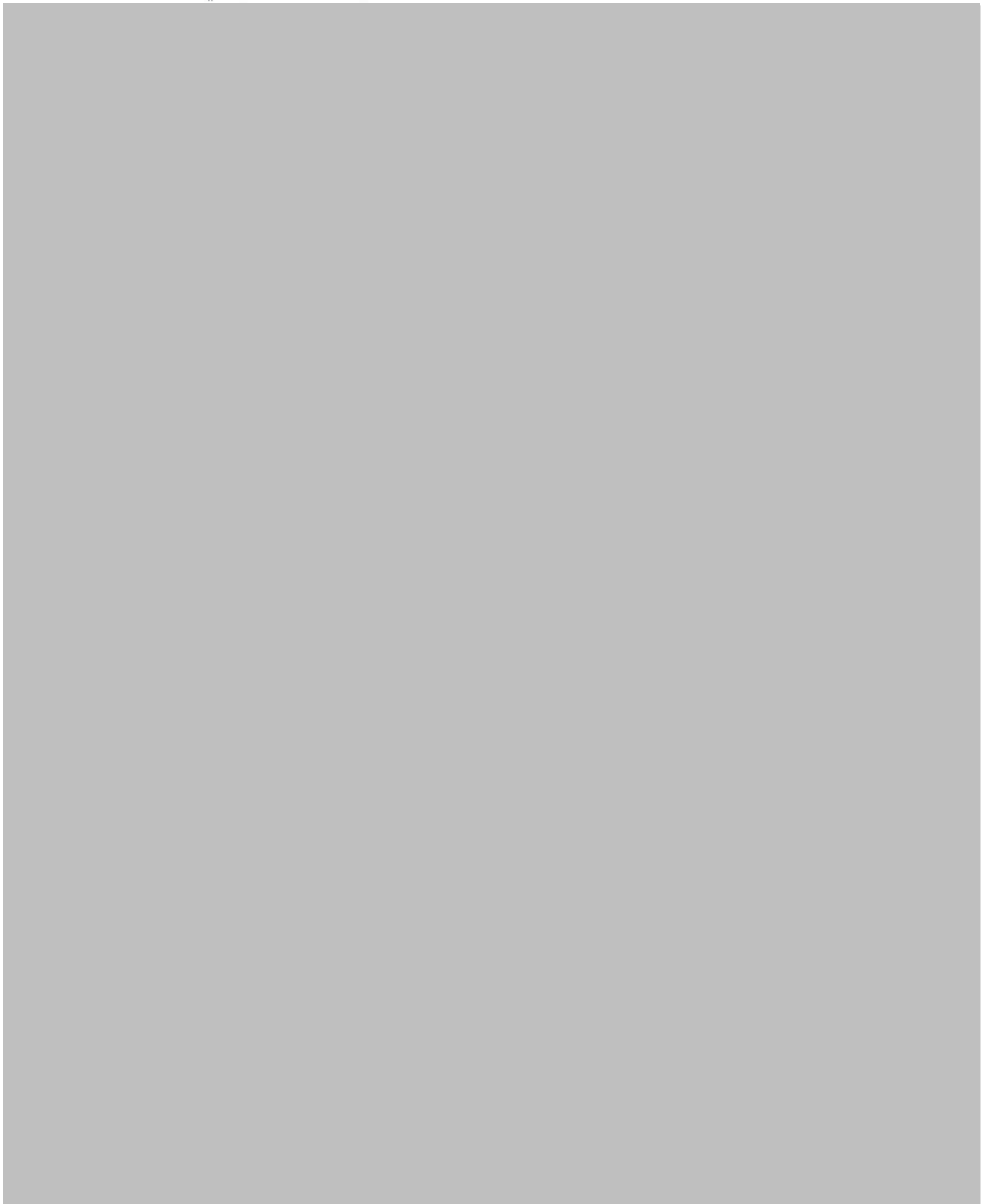
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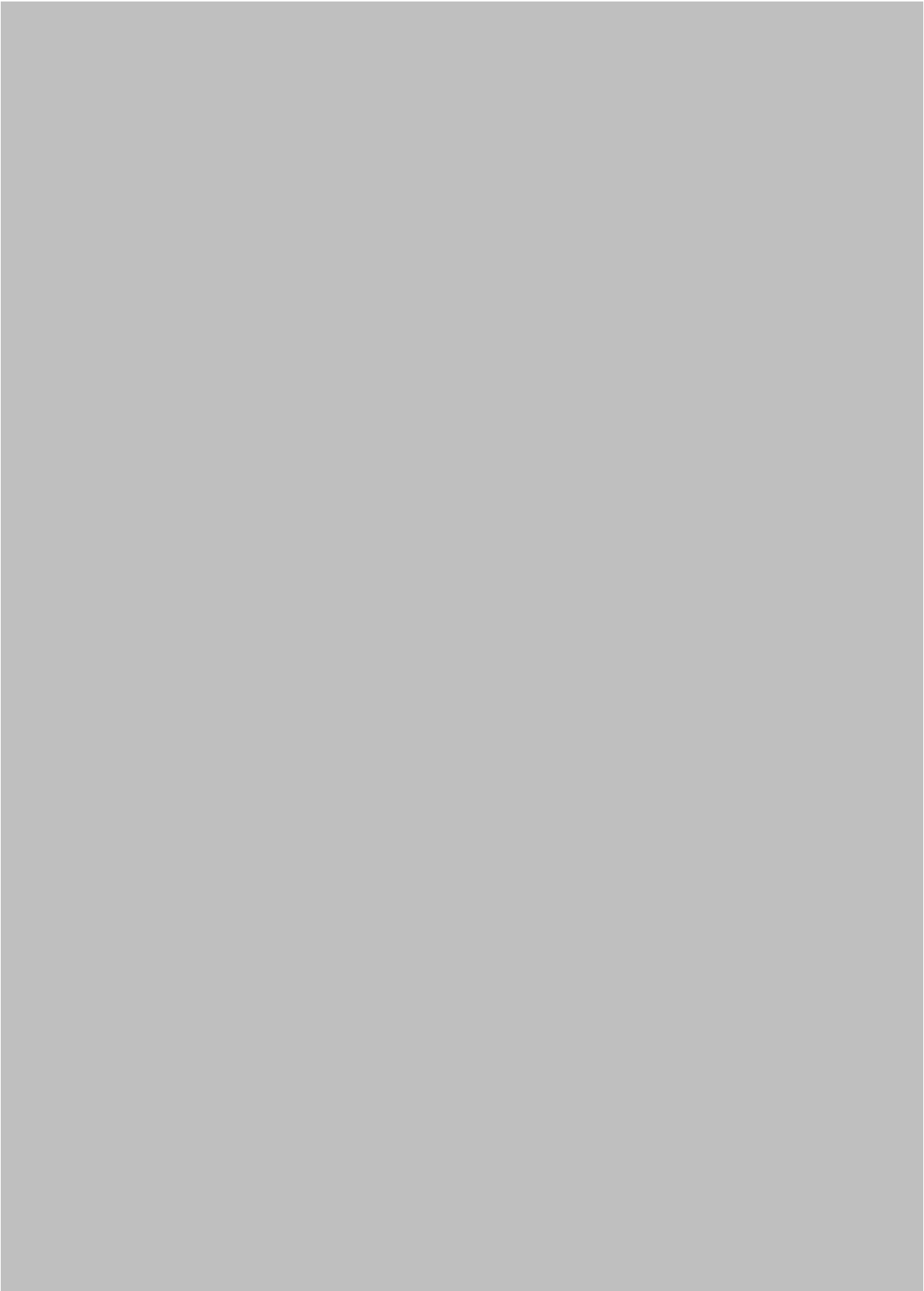
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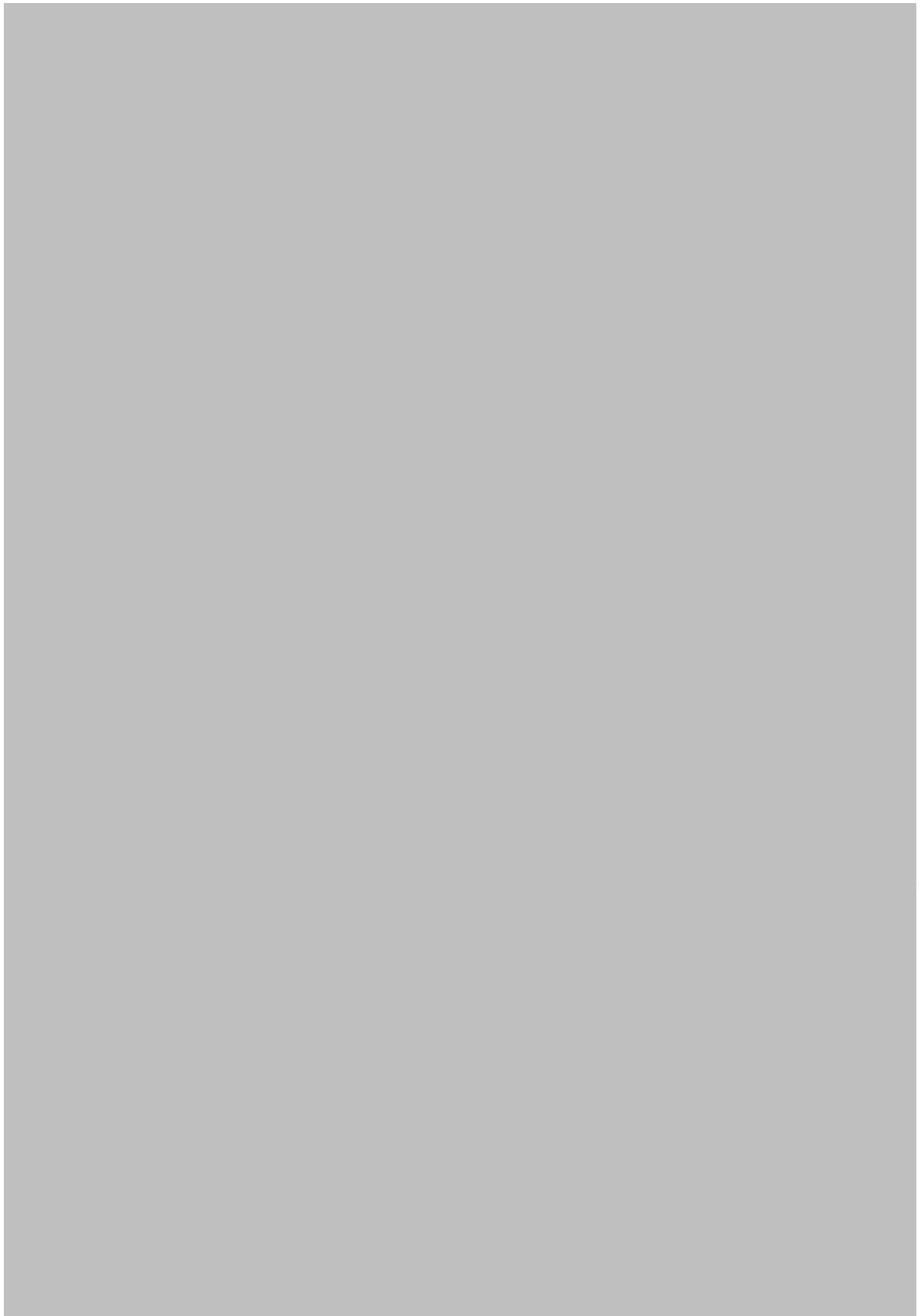
Date: 25 July 2019

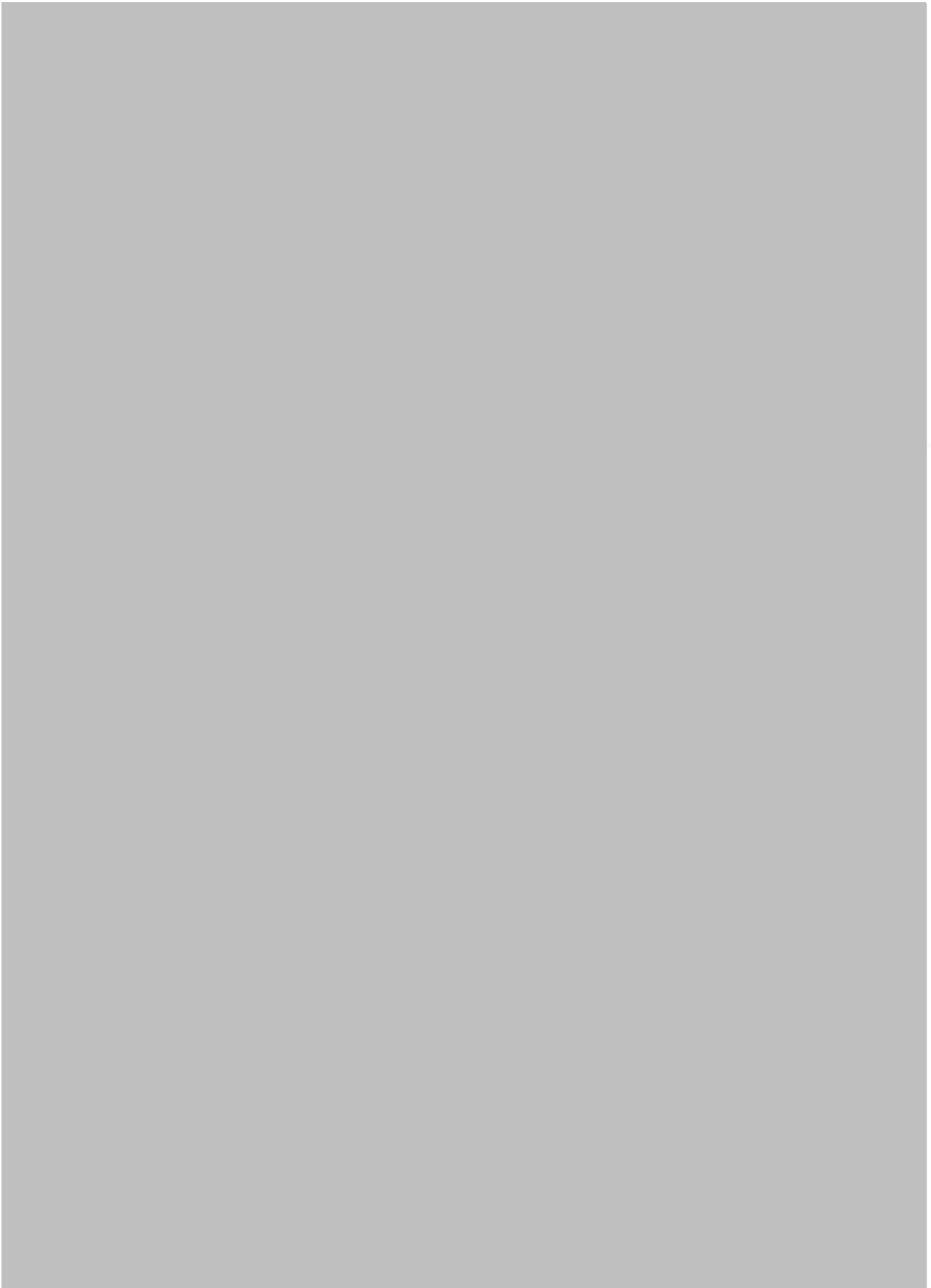
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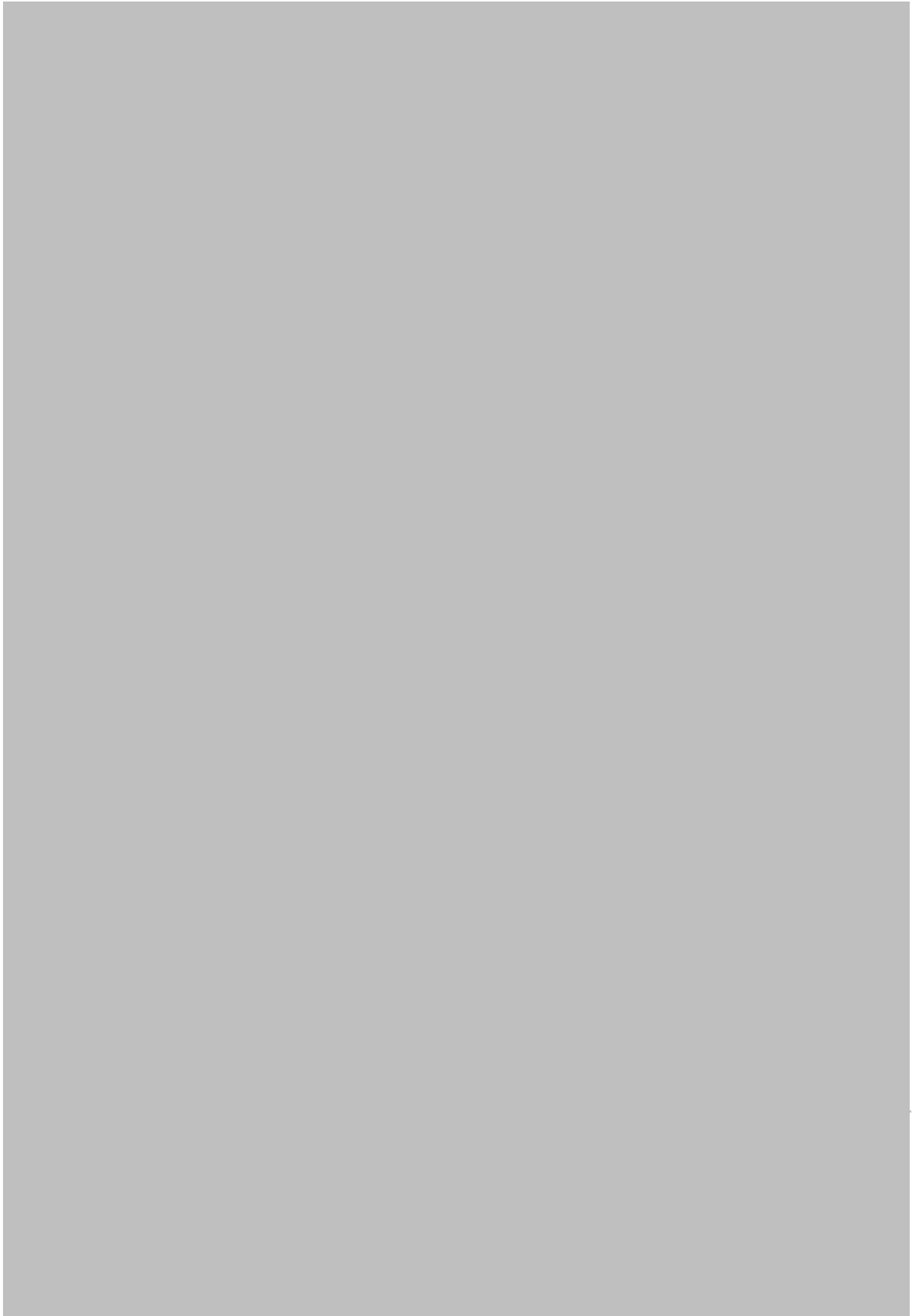
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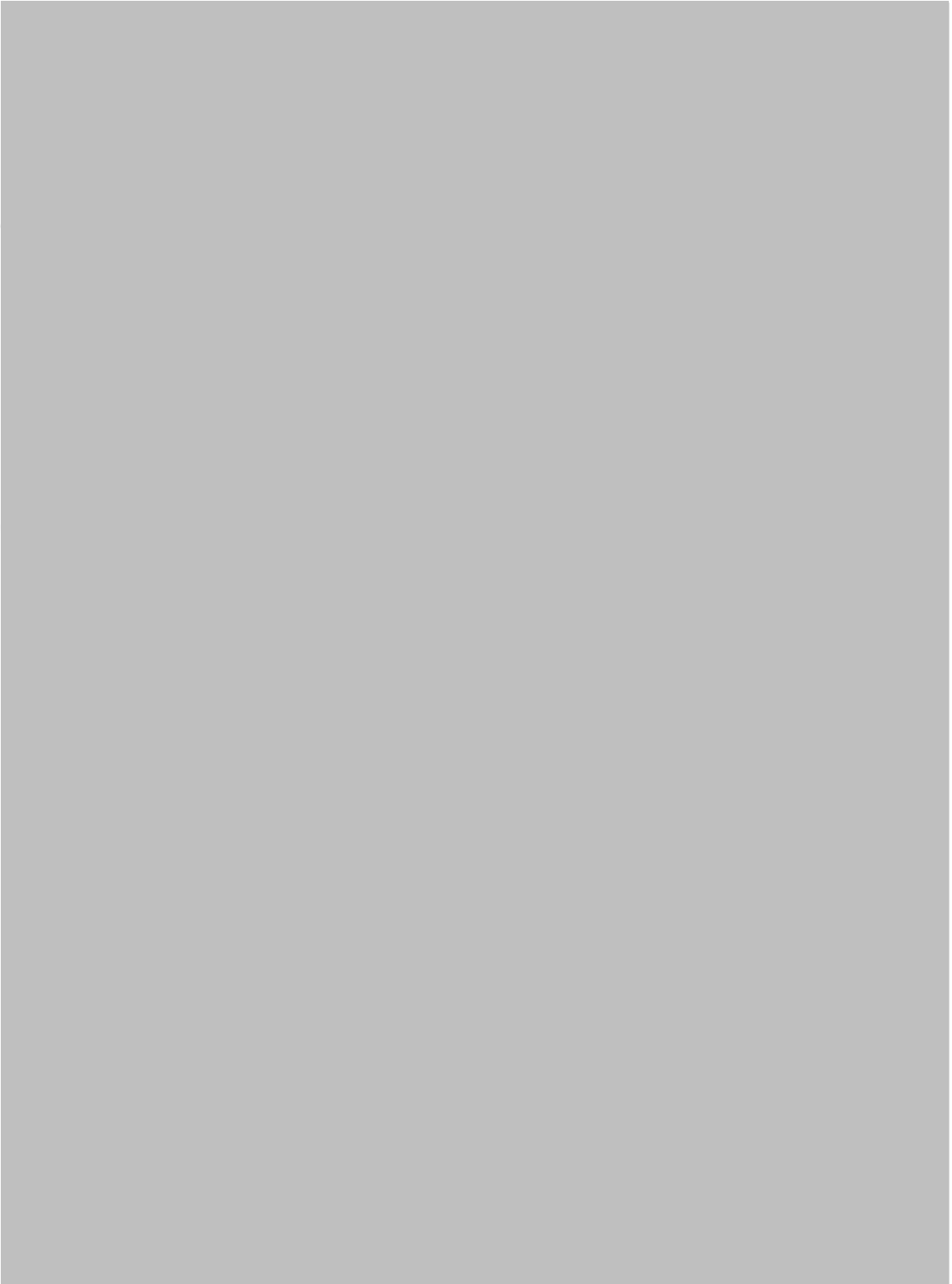














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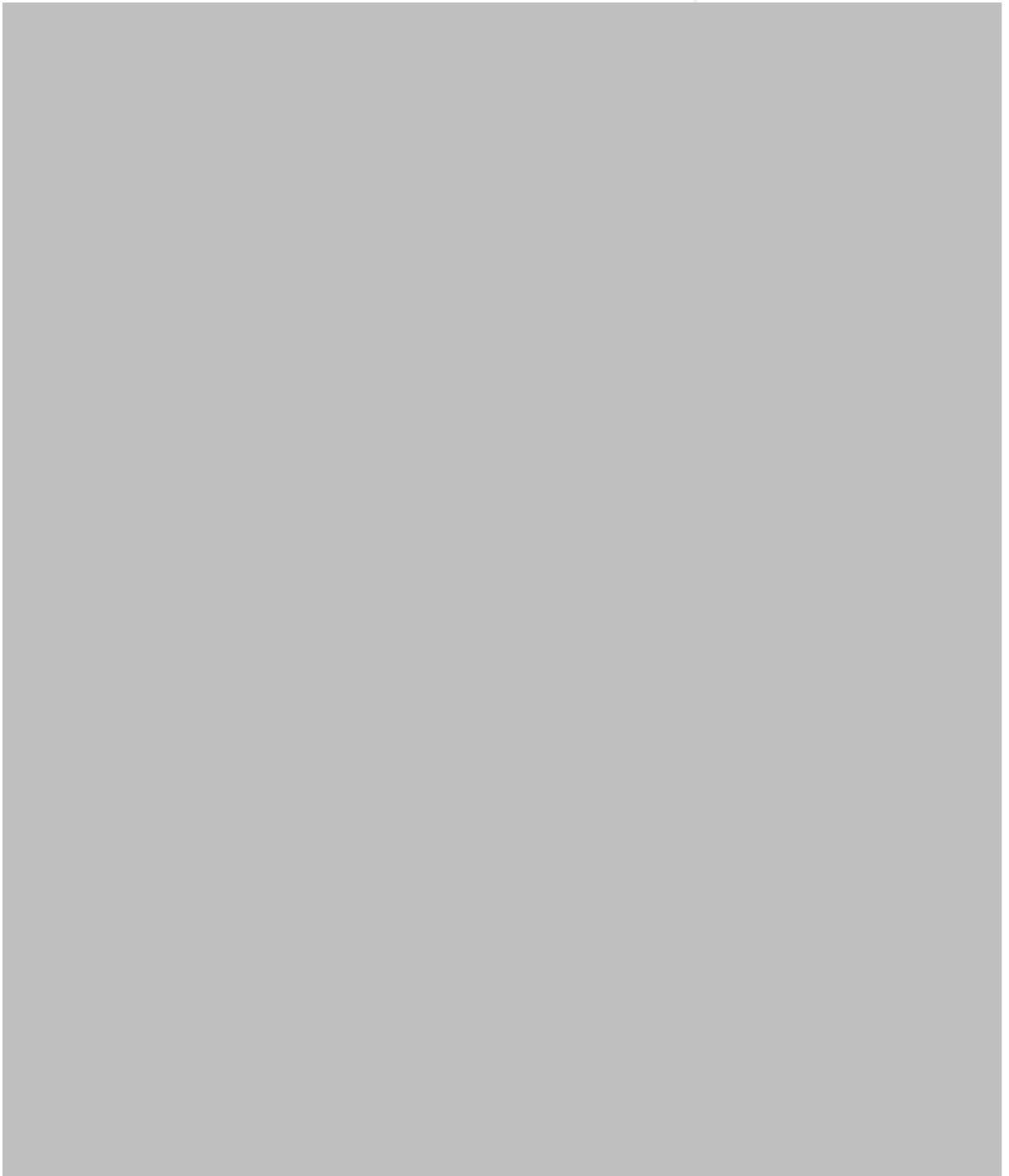
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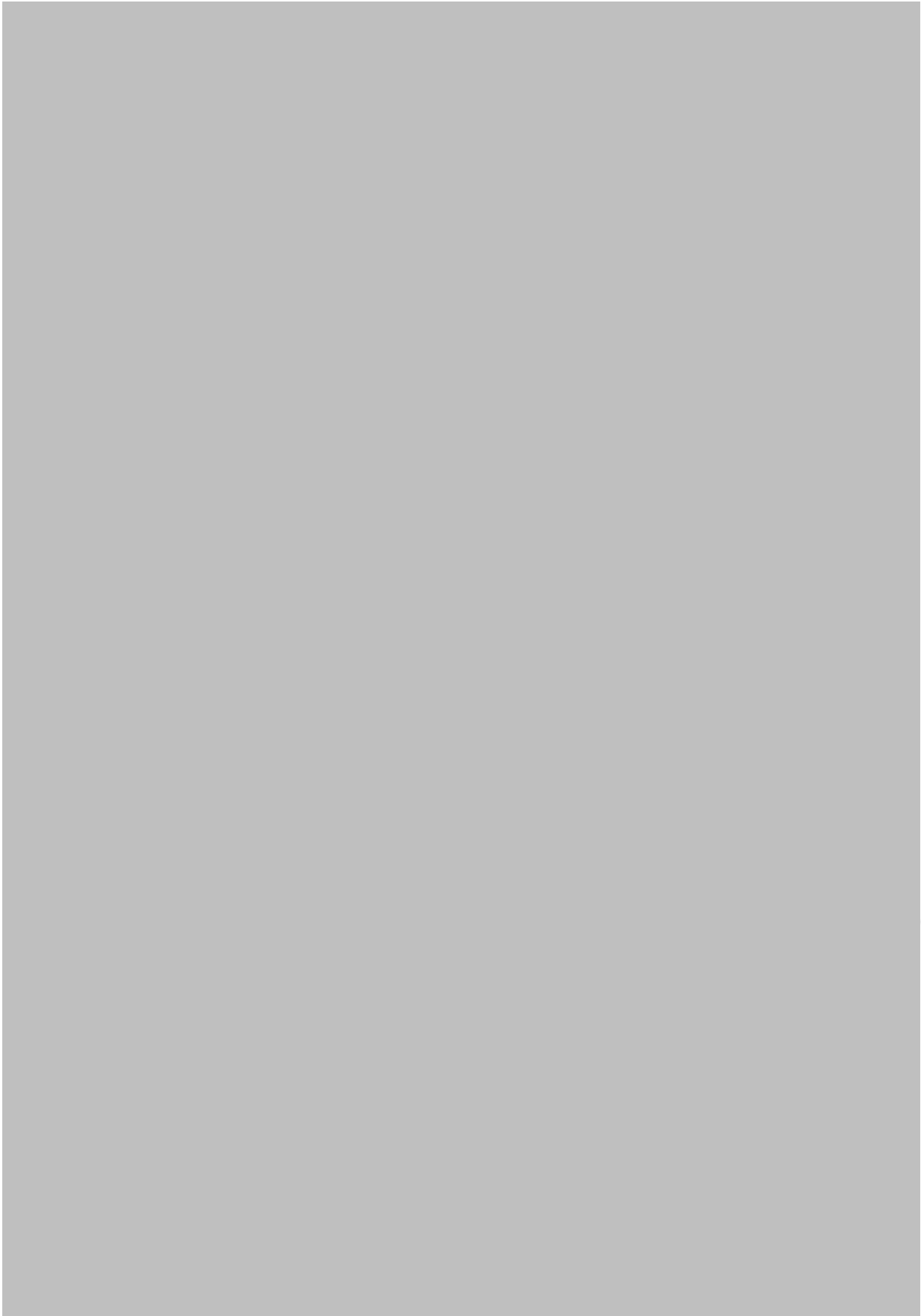
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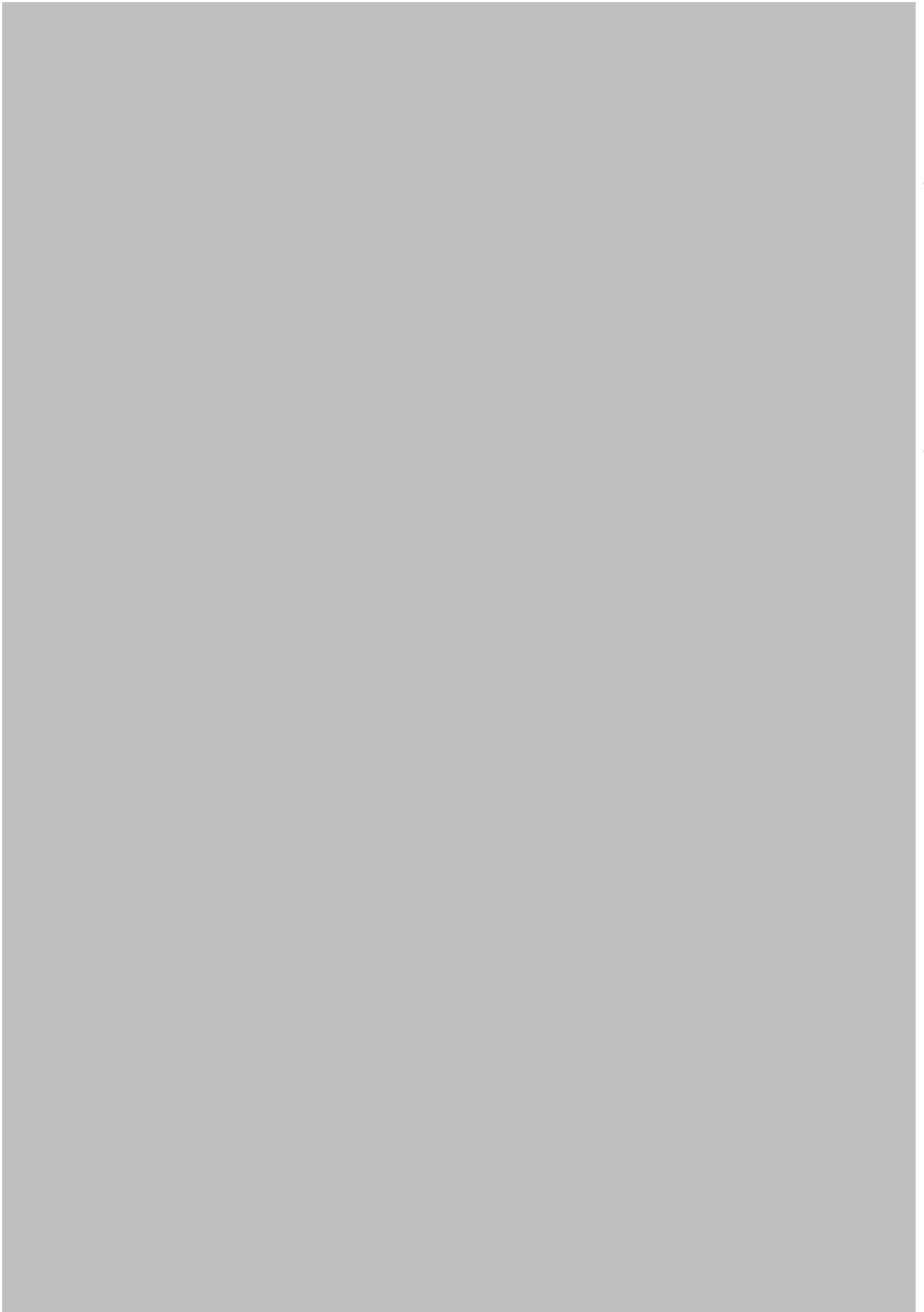
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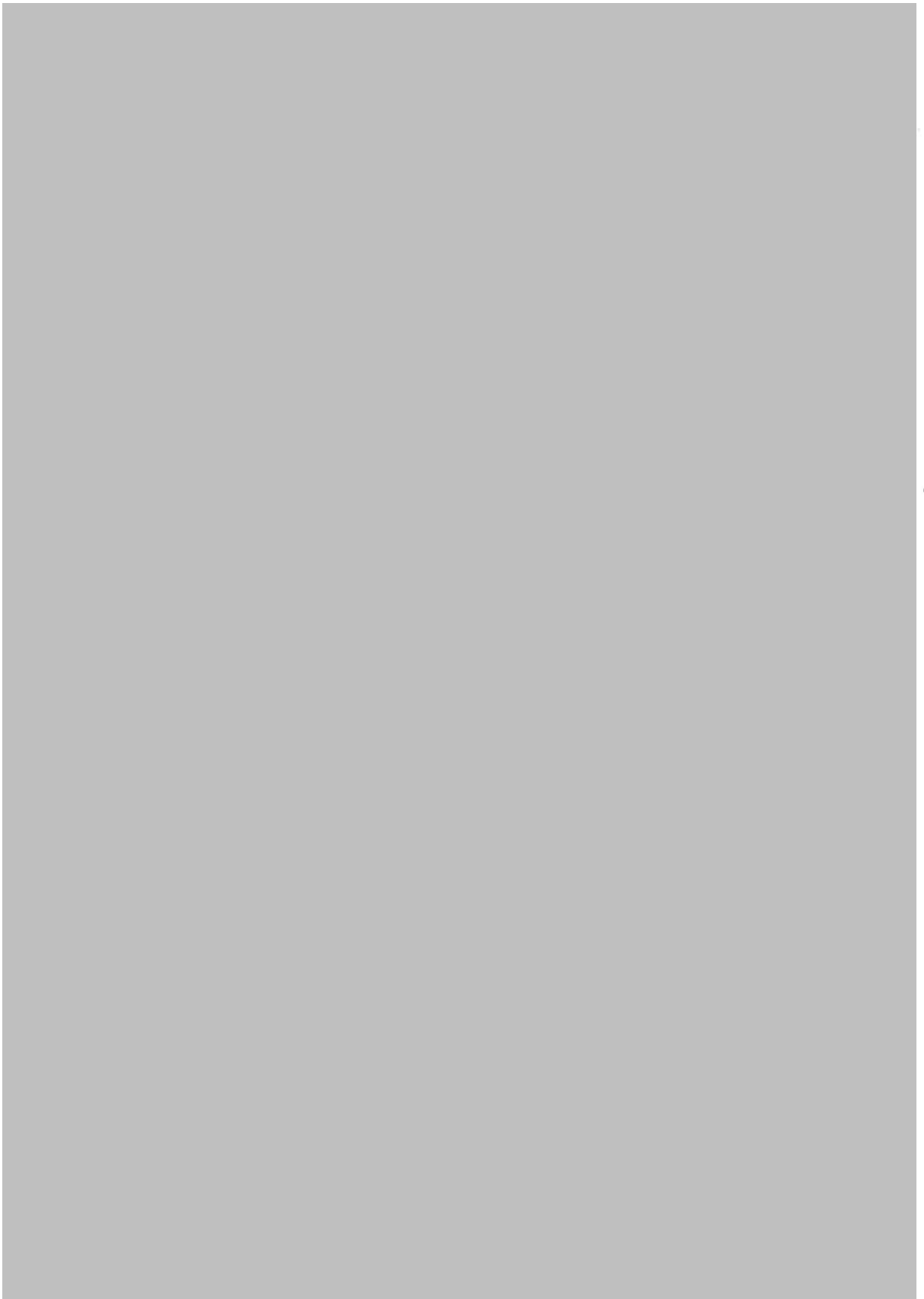
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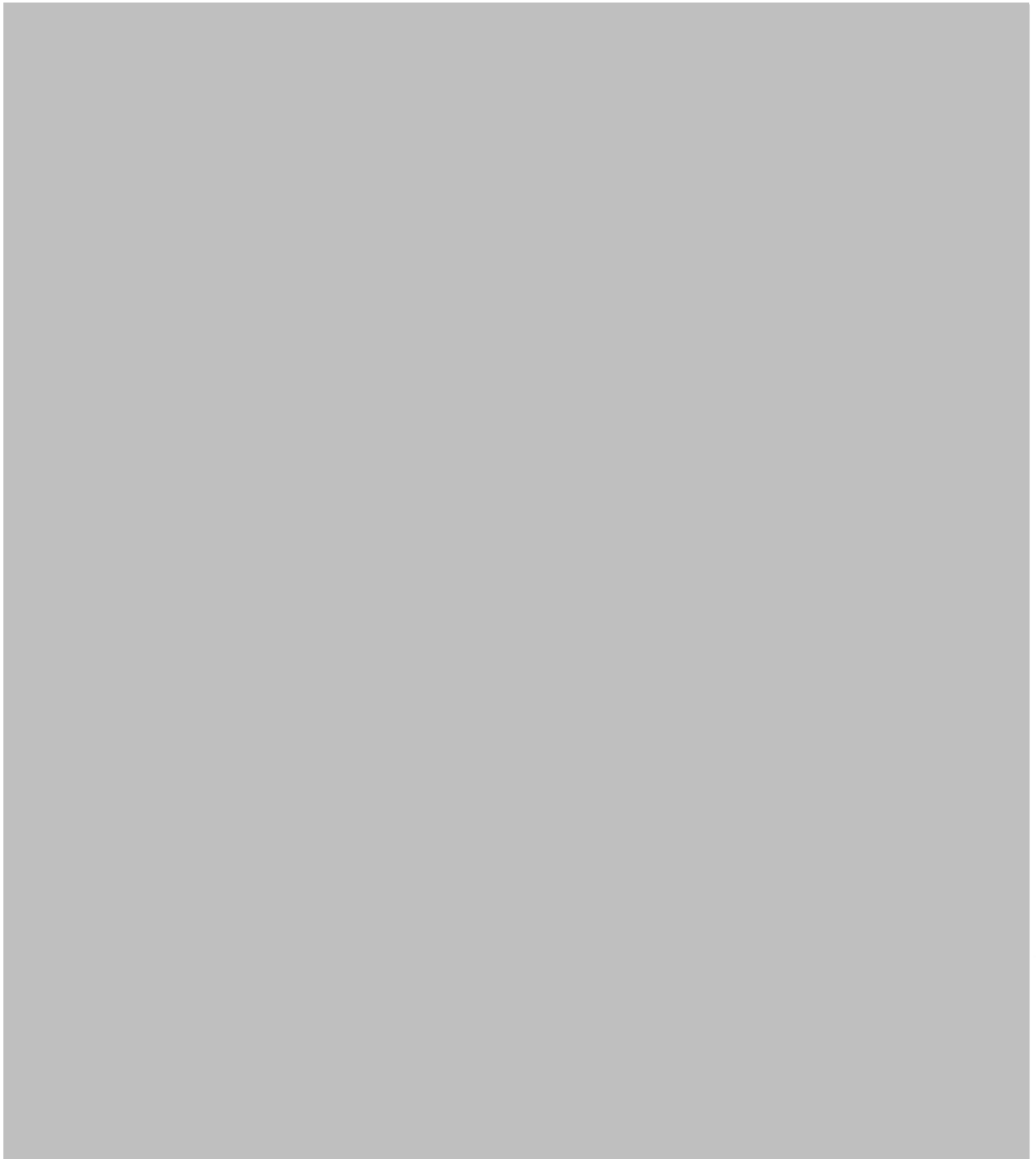












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Appendix C

Whole ELC & OSHC Staff-Team Meeting Date: Monday 12th August 2019

Welcome everyone sign in on attendance sheet please.

Prayer – Open for anyone to lead prayer.

Housekeeping:

- New roles for management, new leadership roles.
 1. Assistant Director for Charnwood Recruitment we sent a letter that out to families and staff on the 31/7/2019 explaining this change.
 2. [redacted] role to oversee all Curriculum & Educational programs, Staff training and development.
 3. Staffing/organisational Structure:
 - o [redacted]
 - o [redacted]
 - o [redacted]
 - o [redacted]
 - o [redacted]
 - o [redacted]

- Changes and recruitment update on staffing placement:
 1. [redacted]
 2. [redacted]
 3. [redacted]

- Changes re College and how that affects us in ELC & OSHC
- Staff appraisal notices everyone will have their meetings in coming month

Opening Devotion:

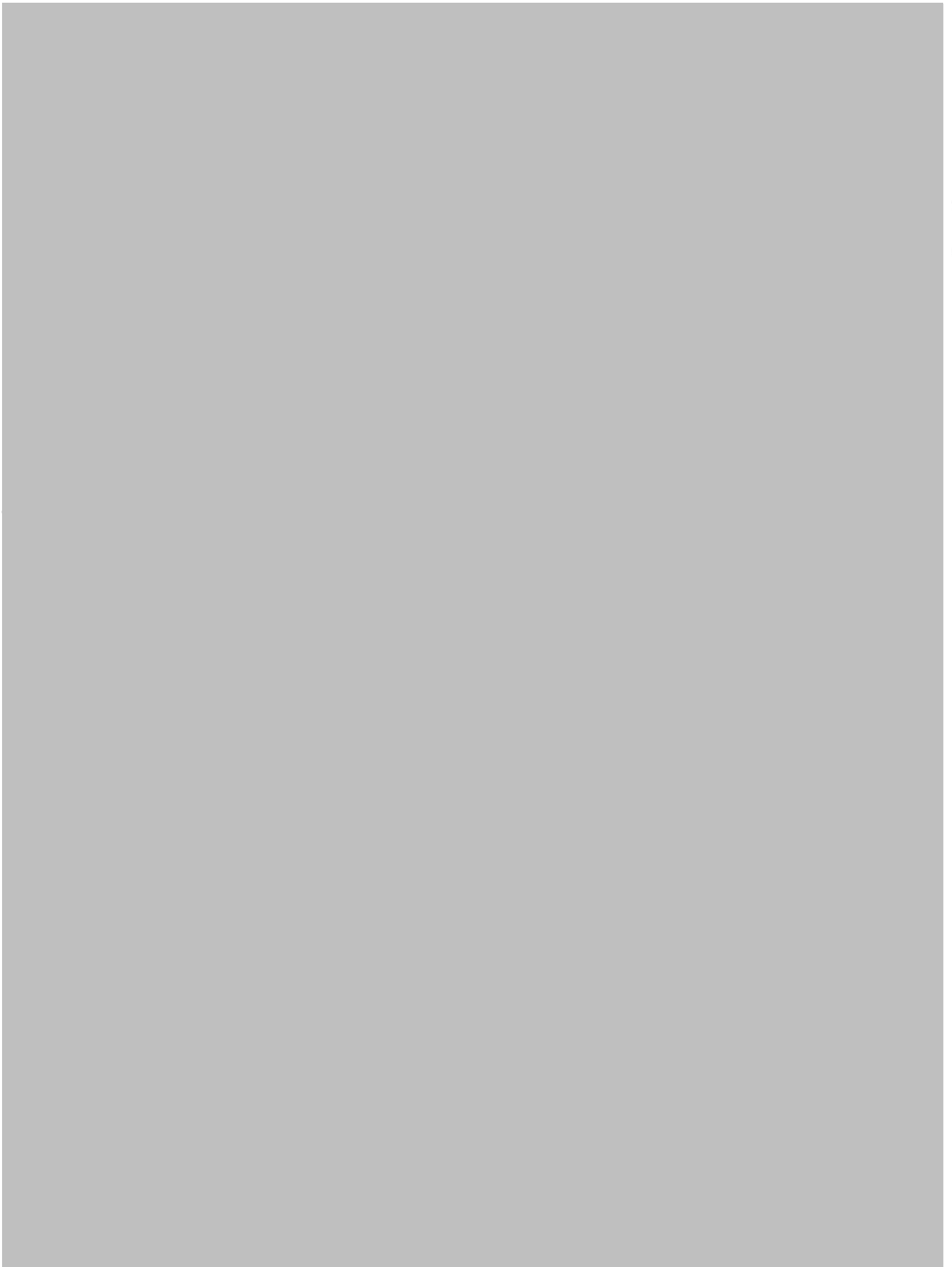
Ice breaker:

Main Agenda:

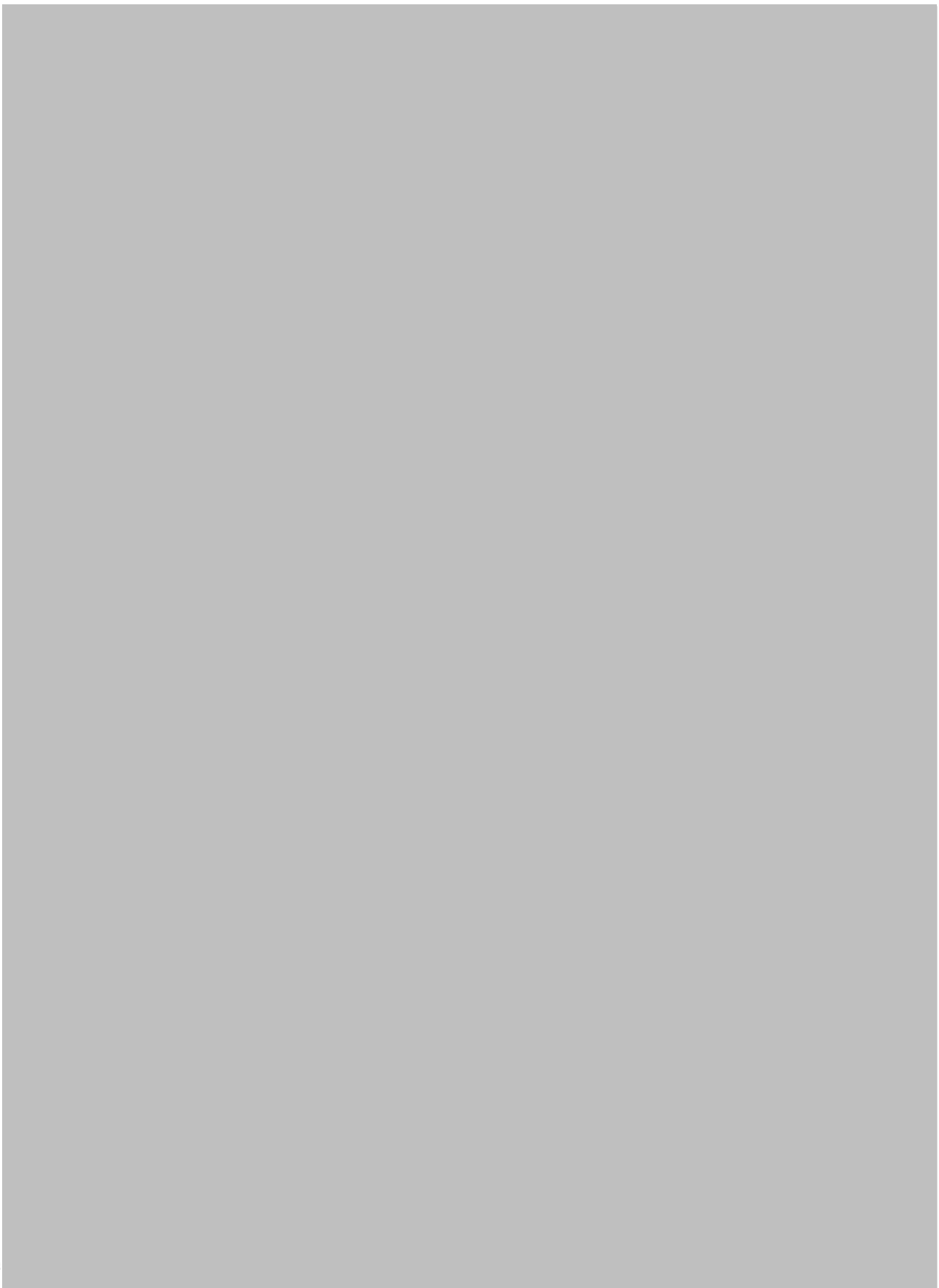
- Rights of the child training session [redacted]
- Behaviour Guidance, respectful interactions training by outsourced provider [redacted] confirmation required)

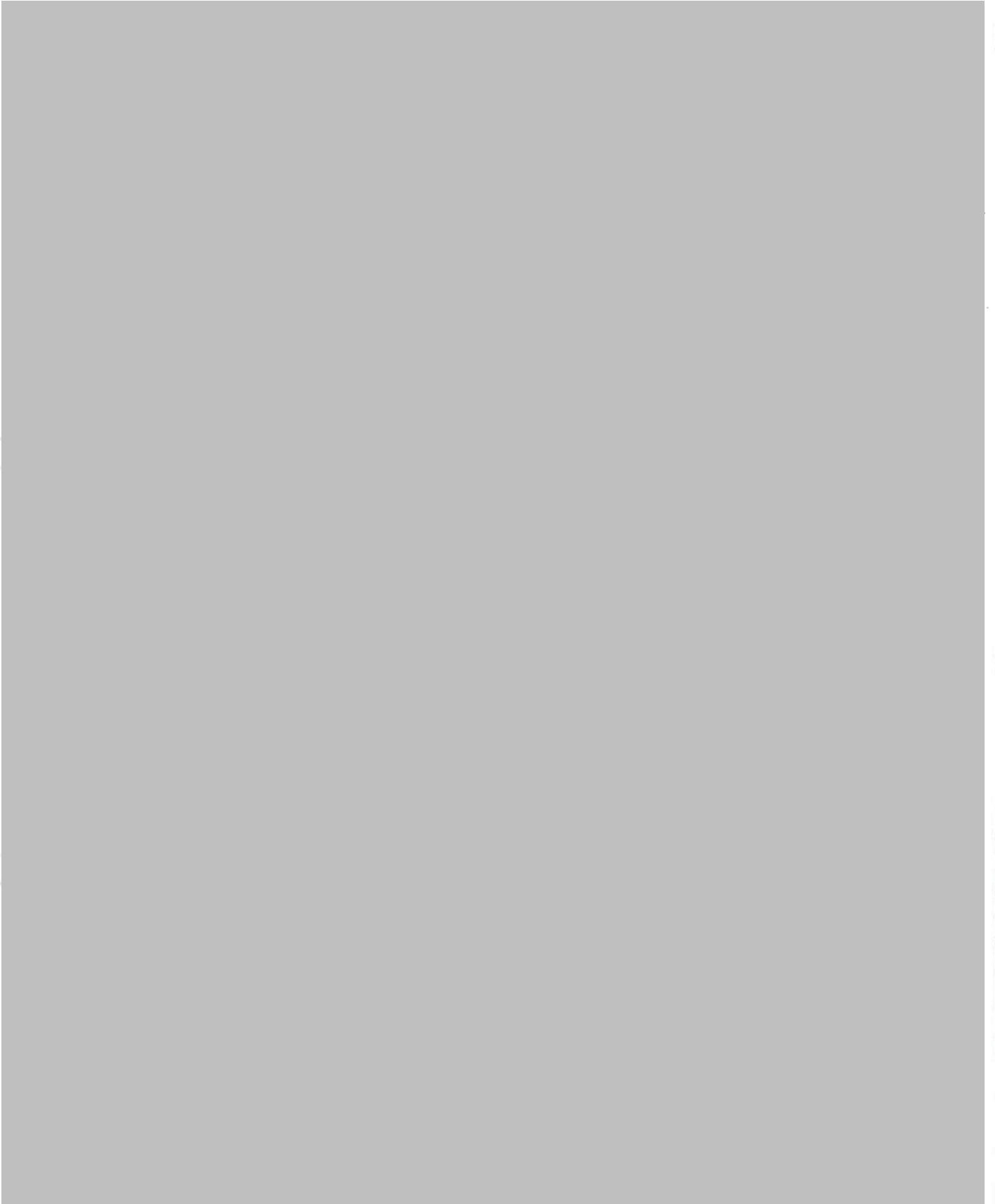
Closing Prayer:

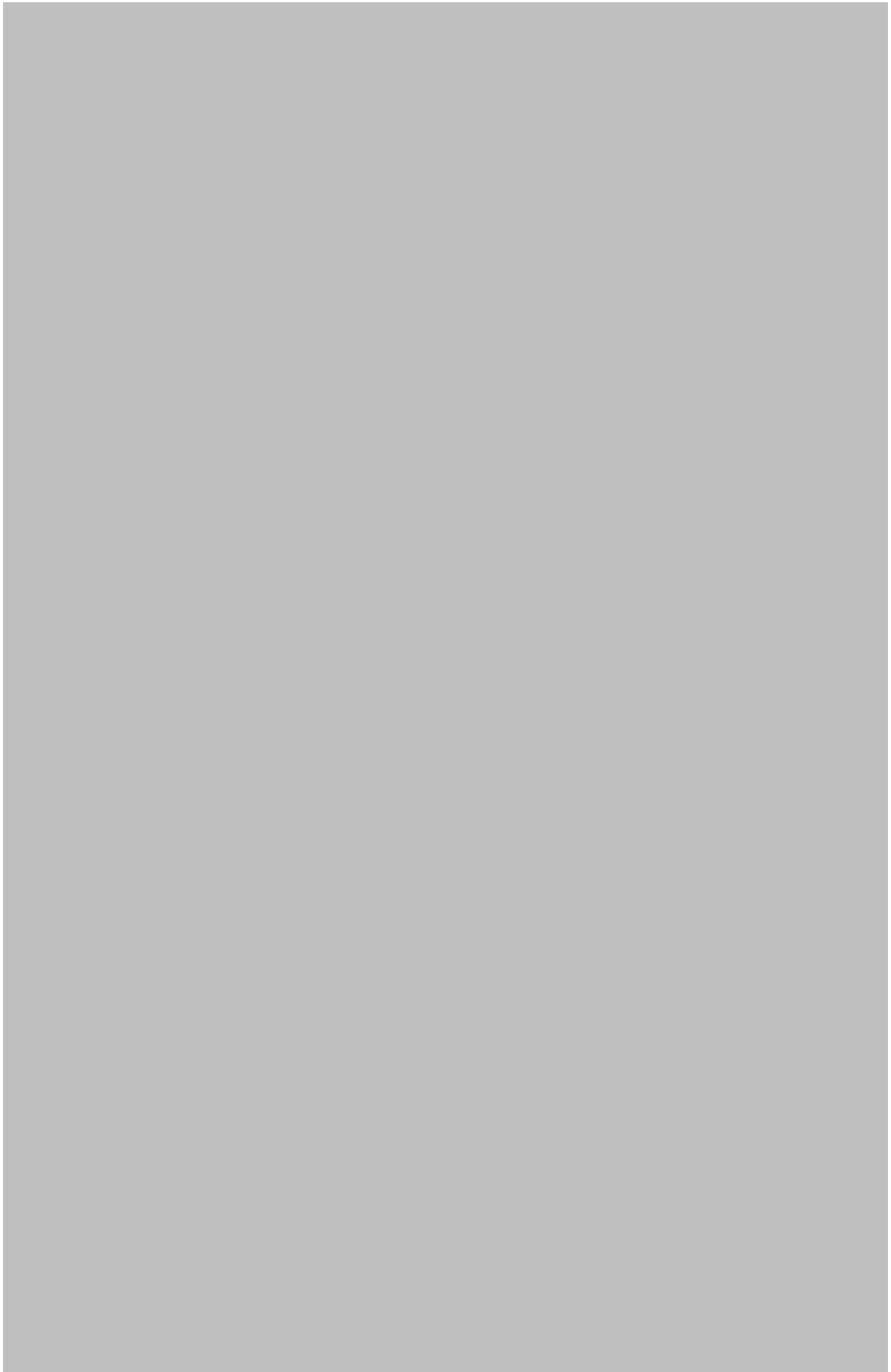
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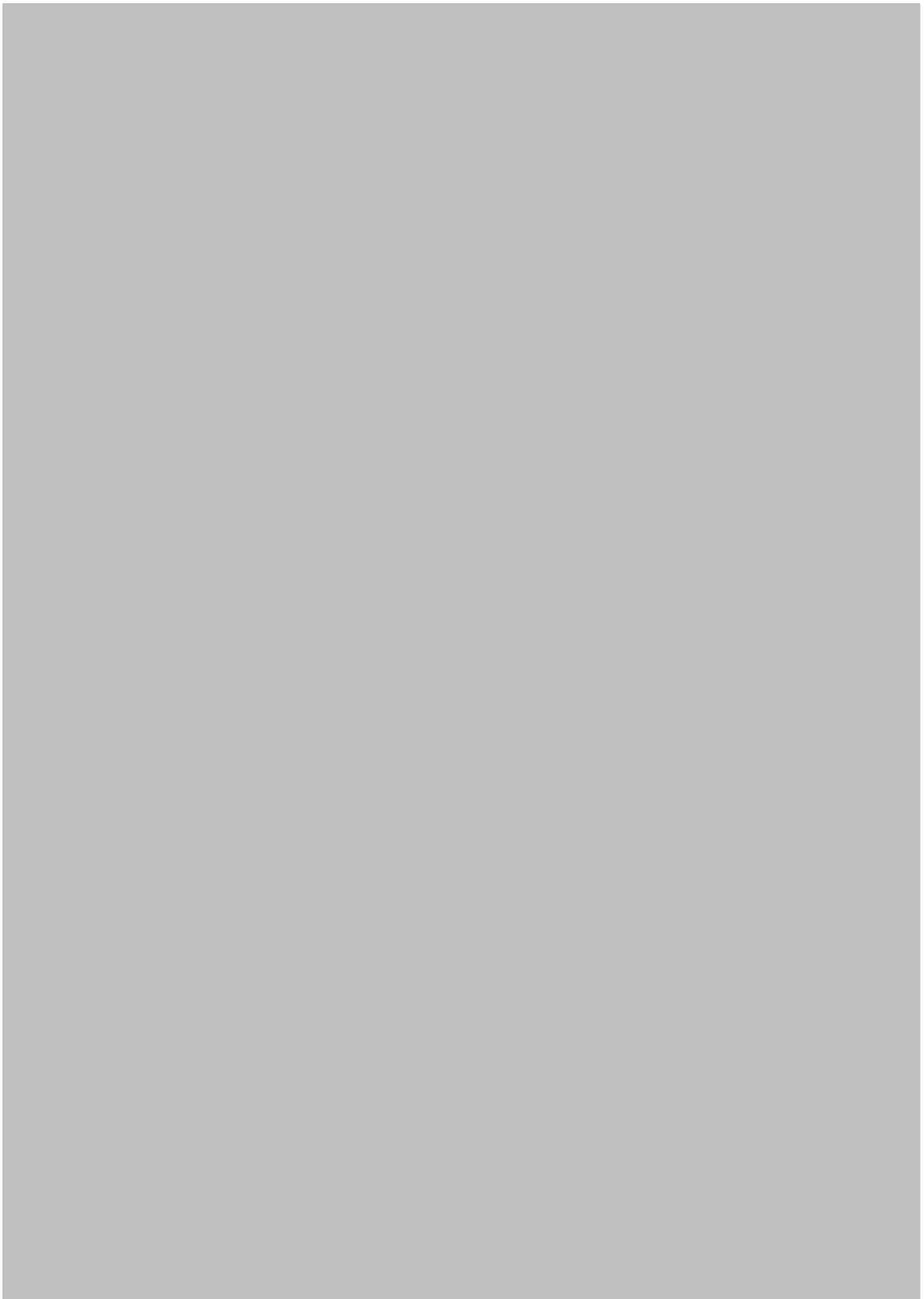


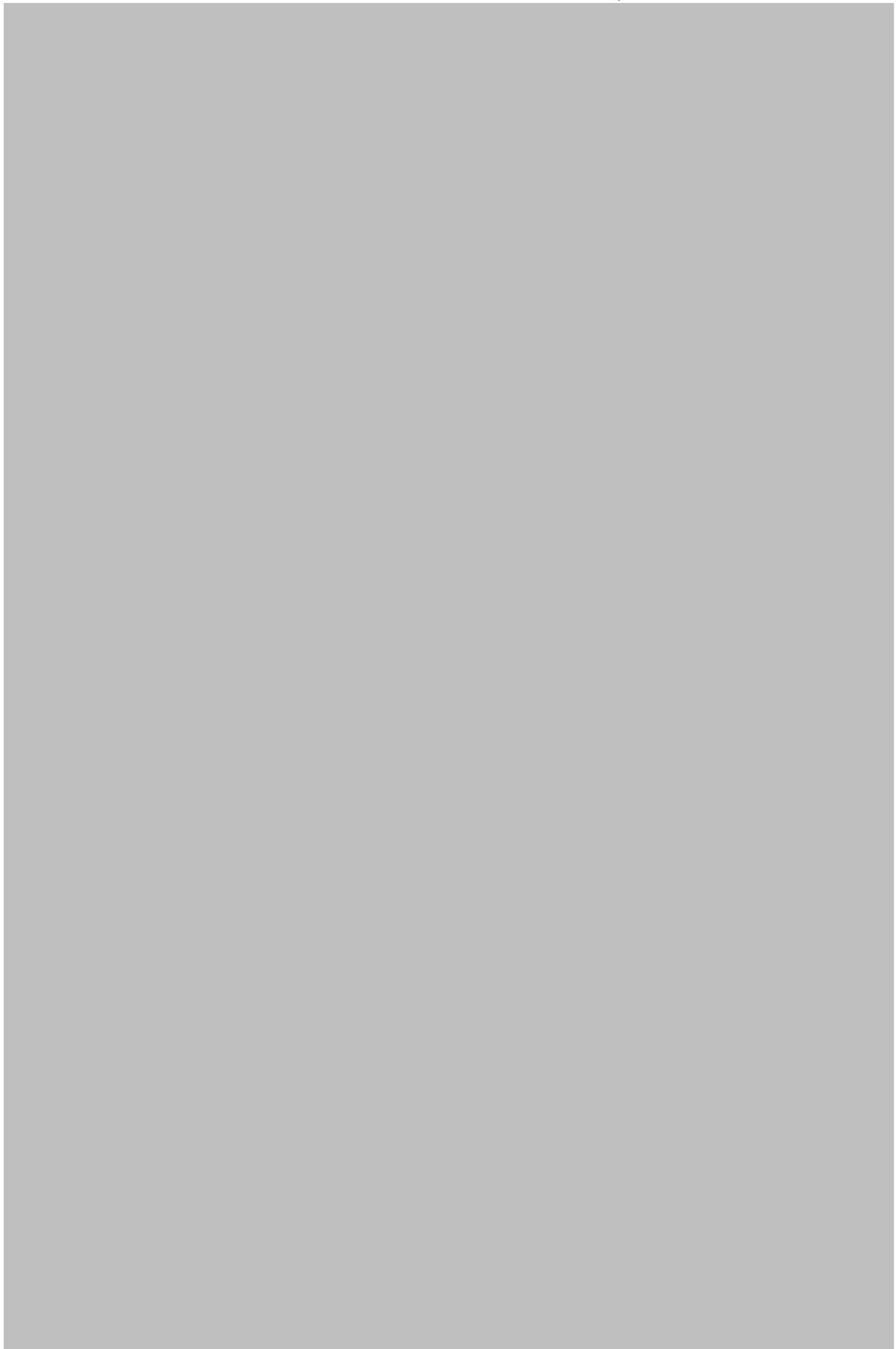
Appendix E











Appendix F

Tammy Brown

From: [REDACTED]
 Sent: Monday, 18 February 2019 12:48 PM
 To: [REDACTED]
 Cc: [REDACTED]
 Subject: RE: Staff Behaviours

Hi [REDACTED]

I agree with most of what you have said in your email below. Regarding the consumption of food, the ELC Staff Handbook found in W:\Policies\ELC Policies\ELC POLICIES 2018 states that

"Staff are encouraged to have a small helping of lunch and sit down to eat with the children during lunch times. The purpose of this is to role model good eating habits, health and hygiene, and table manners; foster social connections between staff and children, and children with one another, and; use these times as teaching opportunities to talk about different aspects of our day and the world.

Staff are asked to bring their own lunch time meal to be eaten during their lunch break, and to not consume ELC food at other times."

What you have said in point one seems to contradict this. How can we have a small helping with the children and role model, as stated above, if we are not to eat any food until the children have finished? From experience this policy is a great way to help our more fussy eaters. I agree that it should only be a small helping as a tool to role model, and that staff should bring their own lunch.

Can you please clarify this point?

Many thanks
 [REDACTED]

From: [REDACTED]@bcc.act.edu.au
 Sent: Friday, February 15, 2019 2:45 PM
 To: DL_OSHC <OSHC@bcc.act.edu.au>; DL_ELC <DL_ELC@bcc.act.edu.au>; [REDACTED]
 [REDACTED]

Subject: Staff Behaviours

Dear Teams,

It has come to our attention that there are some staff who are not following the policies and procedures surrounding:

1. The Consumption of Food while supervising children
2. Interactions with children

These are clearly addressed and outlined in our Staff Handbook. It is expected that:

1. When you are with the children you are **ONLY** eating food once the children have finished. The school is not here to provide food for staff, it is for the children whose parents pay for the food and our service.
2. It is not professional to be walking around and eating. Yes, we encourage fellowship over food, but it certainly is not professional for staff to be walking around eating while the children are asked to sit and eat. You are modelling to the children. You are professionals and it is expected that you are setting an example.

3. It is not acceptable to be sitting down and shouting at children across the yard. You are required to get up, go over to the children and interact with them. It is expected that you will treat children with the same respect we ask of them- we don't like it when they yell/shout at us, so it is not okay for us to do it to them.
4. When seated, you **MUST** be interacting with children. Slouching, sitting in one spot for an entire afternoon or sedentary behaviours are not displaying excellence, nor supporting the environment which our parents are paying for. If you see 2 staff sitting down, it is your responsibility to be moving around. This also supports supervision and promotes positive relationships.

If you have any concerns regarding this, please do not hesitate to speak with [REDACTED] We would be happy to go through these expectations with you.



Appendix G

Tammy Brown

From: [REDACTED]
 Sent: Monday, 25 February 2019 2:56 PM
 To: [REDACTED]
 Cc: [REDACTED]
 Subject: Believe Statements

Good Afternoon,

Here are [REDACTED] "I Believe Statements" for tonight's meeting. We will also come with a copy of this email just in case it is needed.

Children and Learning

- I believe ... that all children are capable of their abilities to learn new skills.
- I believe ... that children are unique with talents beyond their years.
- I believe ... that each child has the right to feel safe and secure within their environment.
- I believe ... that children bring their own sense of understanding to their learning.
- I believe ... children are able to teach other from what they have learned, whilst supporting others through their own learning.

Families and Communities

- I believe ... that families are our main source of knowledge when it comes to their child.
- I believe ... that families provide a scaffold for understanding of their environment and supporting us as educators and the children.
- I believe ... that the community is a great source of knowledge to help support each child.
- I believe ... that the church community is a great source of knowledge in teaching for us all.
- I believe ... that the Brindabella community supports each child and family in their growth.

Educators

- I believe ... that we can offer support and love to each individual child.
- I believe ... that we are able to pass on knowledge to educators and families.
- I believe ... that we can create a space in which children and families can feel supported and secure.
- I believe ... that we can support each other as a team to build a community.
- I believe ... that we are role models to each child and that with the love and support God we can be the best role models for our children.

We will see you tonight!
 Regards

[REDACTED]

Appendix H

Meeting Date: 29 April 2019
 Meeting Attendees: ELC & OSHC Team Charnwood and Lyneham
 Meeting led by: ELC Director [REDACTED]
 Meeting time: 6:30 pm – 8:30 pm
 Opening Prayer by: [REDACTED]

 Minutes of the Meeting:

Part A:

1. Issues caused confusion for the past weeks brought about by families
2. [REDACTED] meeting each staff for some concerns
3. PD review coming soon: [REDACTED] for the ELC; OSHC Co-ordinators with [REDACTED] for the OSHC staff
 - *Address changes in staff circumstances e.g getting married, having a baby, study commitment, etc.
4. [REDACTED] Finance officers, Assistant administrator and other ELC staff position: Starting May 1, 2019, recruitment process begins
5. Staff roster shows recent changes to staff's circumstance.
 - Issue focus: Swapping shifts: Consider same qualifications and requirements to meet
 - *Meeting to reinforce duties and regulations of the centre focusing on 'duty of care'
 - *Nominated supervisors are responsible for the charges or any negligence.
6. Leave: Need to go through the process
 - *Approval of leave – only by [REDACTED] in absence of [REDACTED] [REDACTED] can approve leave.
 - *Not acceptable: Leave not approved then take a sick leave
 - *Follow process of application for leave: Use proper form then [REDACTED] reviews and process the application for approval (particularly annual leave)
 - *Family leave e.g. unforeseen event, sickness, bereavement, jury duty, etc. – approval is based on standard application approval – [REDACTED] explained to the team further
 - [REDACTED] explained that the process of approving leave having a strong business impact that the general staff would not know the details.
 - [REDACTED] explained about the role of educational leadership/educational leaders (including [REDACTED] as significant and vital to the operation of the business and it is not acceptable if staff

becomes disrespectful. Certain guidelines need to be followed particularly in relation to children's safety.

reinforcing staff's obligation to do the duty and consequences of breach based on work responsibilities and duty of care. shared some examples. explained that if you are employed, you have the duty and agreed commitment to do your job. The approach that the leadership team will be taking is to identify areas for improvement and build a plan to address the weaknesses by providing support to the staff. This process will be done through the standard procedure.

*Staff incident – complete the proper staff incident report form within 24 hours stressed out that there is a support system in place but need to follow proper procedure.

"No leave form and no medical certificate = leave without pay"

*Everybody is welcome to express their opinions and ideas to improve the policy through written notification. The educational leadership team is happy to hear everybody's suggestions or comments.

reminded everybody to take their breaks on time. Swapping break time could affect the team.

7. verified those who have attended and who have not attended the first aid course. Staff is expected to properly respond to child's needs and incident needs.

*Responded to child's needs.

Examples; severe physical accident; parent assault; one of your team members or

*If need assistance, call ambulance. Call assistance from team.

*EAP (Employee Assistance Program) – assistance provided with confidentiality – to look after everyone's wellbeing, not only physical injuries

stressed about taking care of one's wellbeing.

8. announced about some staff vacancies and asked for referrals who are qualified and are practicing Christians.

8. acknowledged and recognised staff's effort at work:





11. Mid year reports due for both campuses: End of May 2019.

Part B:

Group into teams to discuss room plans and program implementation for Term 2.

Meeting concluded: 8:30 pm

BRINDABELLA CHRISTIAN COLLEGE

Location: Charwood Church Hub

Date: 29/04/2019

Agenda Items

6:40 PM

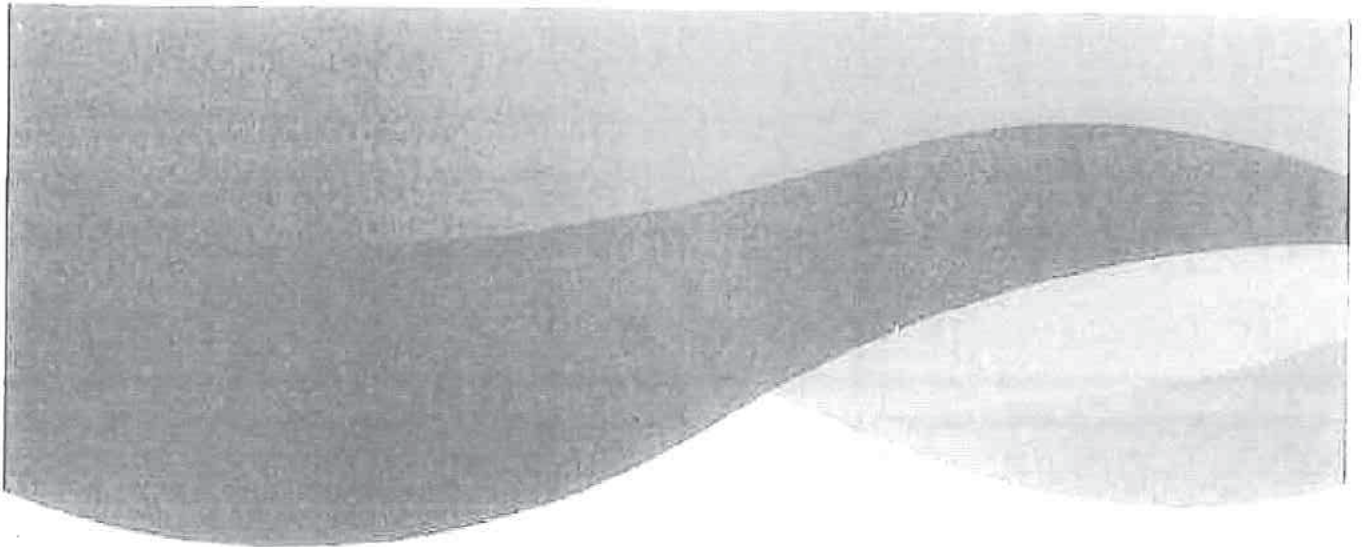
Apologies for those whom couldn't attend.

with Opening Prayer

- Bless the meeting and allow us to think of our decisions and thoughts.

House Keeping/Agenda for the Meeting

- Issues whilst
- Problems raised by staff and families of the Centre's
 - will be meeting with everyone to debrief about the past 2 weeks – as well as talking about anything staff have noticed.
- Performance Reviews
 - Think about what you would like to focus on throughout the next 6 months, as well as thinking about what you would like to grow your knowledge on.
- Email from
 - will be taking on the role of until position is filled
 - Recruiting for a Finance and Admin Officer



- Previous and Upcoming Changes to Roster
 - This is to make sure that there is the right amount of staff on at the right times to make up the ratios needed.
 - When swapping shifts, need to be cautious that swapping is happening with team member of equal qualifications.

Duty of Care

- Leave Process
 - The only person that can approve leave is [REDACTED] - in the absence of [REDACTED] it falls to [REDACTED]
 - It is not acceptable when you put it in leave, it being declined and then taking a sick day.
 - If you need any Leave extended, call [REDACTED]
- Appointments
 - Please make sure you are making appointments outside of work times, it is understood that sometimes there are situations where there is no other appointment time, but please be mindful.
 - Medical certificates and Leave Forms need to be in the day you come back from Sick Leave.

Appendix I

[Redacted]

From: [Redacted]
Sent: Wednesday, 17 July 2019 4:17 PM
To: [Redacted]
Subject: FW: [Redacted] Request

As always if you require any further information please call or reply email to the details below.

[Redacted]



From: [Redacted]
Sent: Tuesday, 17 May 2019 12:15 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: [Redacted] Request

To whom it may concern,

[Redacted]

As always if you require any further information please call or reply email to the details below.

[Redacted]



From: BCC ELC <elc@bcc.act.edu.au>
Sent: Friday, 15 March 2019 5:31 PM
To: [redacted] <[\[redacted\]@bcc.act.edu.au](mailto:[redacted]@bcc.act.edu.au)>
Subject: Fwd: [redacted] Request



Begin forwarded message:

From: [redacted]
Date: 15 March 2019 at 4:52:15 pm AEDT
To: "elc" <elc@bcc.act.edu.au>
Subject: [redacted] Request

Hi [redacted]

I am writing to ask if you would accept some [redacted]



Could you please let me know as soon as possible if this would suit you and your staff? Thank you.

Regards





Appendix J



Communication Record

| | |
|-------|-----------|
| Date: | 29/5/2019 |
|-------|-----------|

| | |
|----------------|---------------|
| Employee Name: | [REDACTED] |
| Position: | Educator |
| Centre: | Charnwood ELC |

Issue/ Incident Raised:

| | |
|--|--|
| <ul style="list-style-type: none"> ➤ Who ➤ When ➤ Where ➤ What | <p><u>The communication record is in response to the following concerns:</u></p> <p>Appropriate use of personal mobile Phone when working directly with Children</p> <p>[REDACTED]</p> |
|--|--|

| | | | |
|-------------------------|----------------------------|------------|--|
| Educator's Name: | [REDACTED] | Signature: | |
| Position: | Educator Charnwood Campus. | | |
| Centre Director's Name: | | Signature: | |

Original to be given to Employee (if requested)

1. Copy to be placed on Employee's file
2. If applicable copy to be sent to Human Resources



Private and confidential

[Redacted]

Dear [Redacted]

Warning letter - First & Final Notice

This letter is to formally advise you about your performance during your employment with Brindabella Christian College Early Learning Centers, with relation to the now evident Breach of School Policy and Procedure in relation to:

[Large redacted area]

You were provided a copy of the correct procedure (Staff Handbook revised edition 2018) at a staff meeting held during the past six months where all staff were re inducted into their employment as we had changes and amendments to the Staff handbook.

This is your First and Final warning letter. If your performance does not change to a meet professional Conduct requirements, and does not improve immediately or if a breach is to occur again during your employment, further action may be taken, with a follow up notice and a review of your employment options with the possibility of termination if deemed necessary.

Yours sincerely,

Signed: _____

[Redacted signature]

Brindabella Christian College

Appendix K

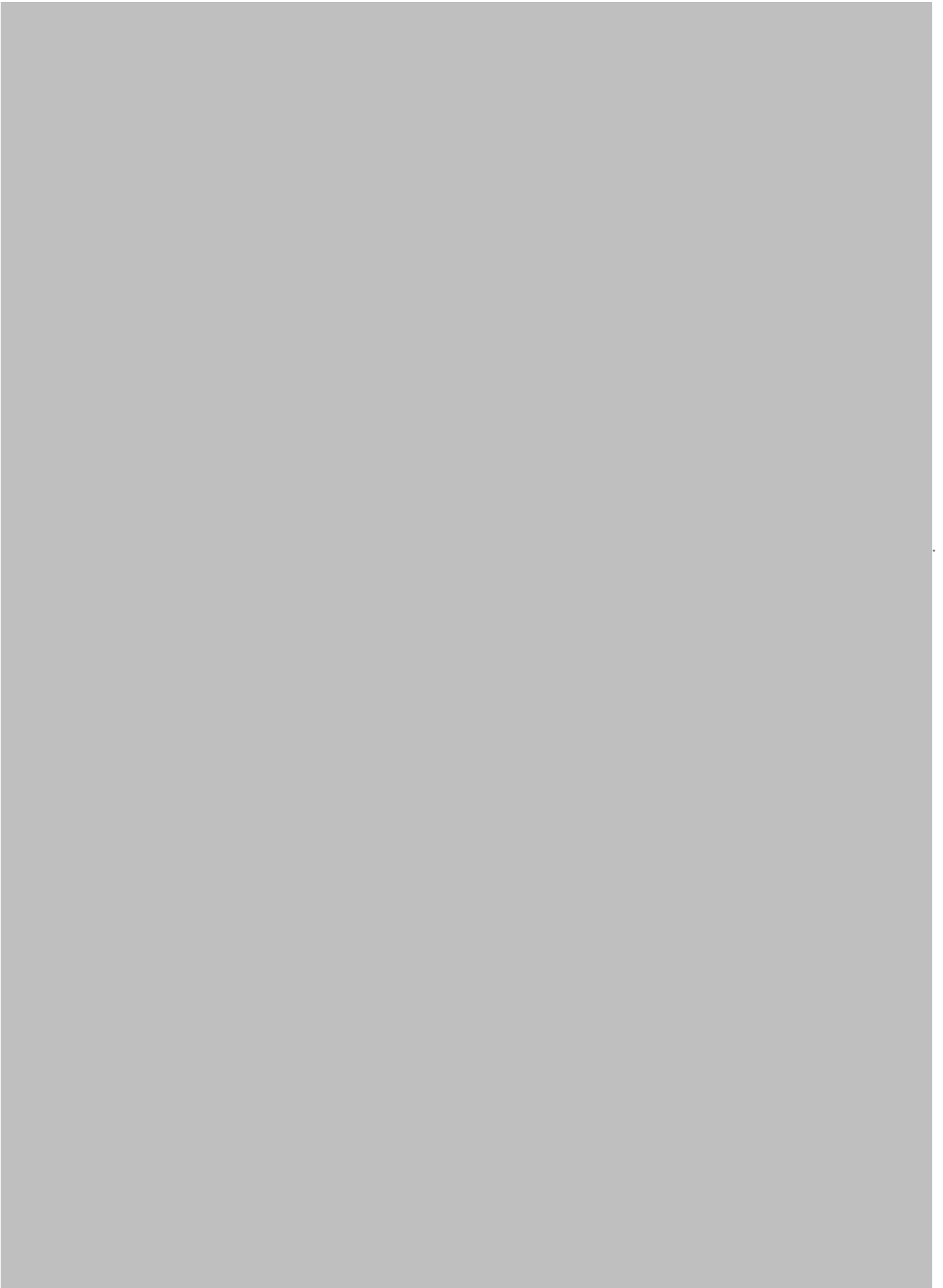


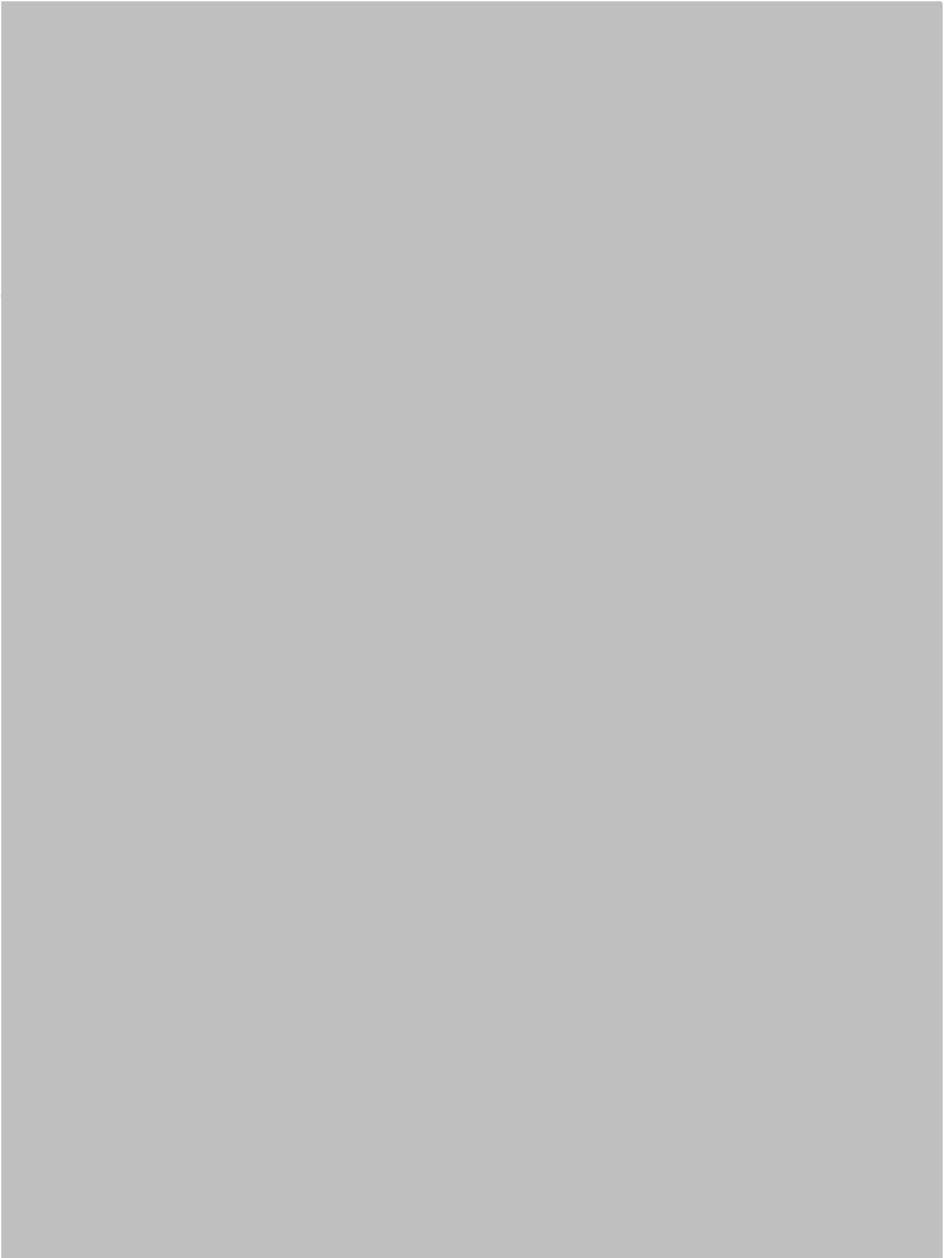
BRINDABELLA
CHRISTIAN COLLEGE

CANBERRA

BRINDABELLA
CHRISTIAN
COLLEGE

Updated May 2019 | Due for Revision July 2021







SECRET





Communication Record

| | |
|-------|-----------|
| Date: | 18/6/2019 |
|-------|-----------|

| | |
|--------------------|--------------------------|
| Employee's Name's: | All Charnwood ELC Staff |
| Supervisor | [REDACTED] Charnwood ELC |
| Centre: | Charnwood ELC |

Issue/ Incident Raised:

| | |
|--|---|
| <ul style="list-style-type: none"> ➤ Who ➤ When ➤ Where ➤ What | <p><u>The communication record is in response to the following concerns:</u></p> <ul style="list-style-type: none"> • Mobile Phone Usage when supervising children. • Interactions with Relief staff • Interactions & Supervision with Children outdoors • Staff Presentation (appropriate clothing for work) |
|--|---|

| | |
|------------------|------------|
| Educator's Name: | Signature: |
| Position: | |
| Supervisor Name: | Signature: |
| Position: | |
| | |
| | |

1. Original to be given to Employee (if requested)
2. Copy to be placed on Employee's file
3. If applicable copy to be sent to Human Resources

Appendix L

Staff Meeting 1.7.19

6:30 – 7:30pm - SIDS Training

7:30-8:30pm -- Practice/Policy Review

Colossians 3:23-24 (NLT)

Work willingly at whatever you do, work at it with all your heart, as though you were working for the Lord rather than for people. Remember that the Lord will give you an inheritance as your reward, and that the Master you are serving, is Christ.

Excellence – do it yes because need to adhere to policy etc but do it because you want to.

Gossiping/slander - [REDACTED] performance management/comms records

Policy

Since starting -- noticed a few things and need to get policy/procedure right.

Sleep/Rest Policy/Practice

- Uncovered faces
- Care and deviation plan? -- deviate from policy/Risk minimilisation plan
- Correct spacing
- Head/toe -- infection control

Respectful Communication Policy

- Staff and Parents
- Gossip etc

Toileting/Nappy Policy/Practice

- Respectful

Interactions with children - [REDACTED] read highlighted points in policy

- NOT sitting children out
- Model behaviour
- Incidents are recorded also (ie the child that bit someone)
- Strategies to help behavior -- seek advice
- Not chewing gum

SUPERVISION/Outdoor safety Policy

- Accident Reports NEW 2019 -- added witness/first aid -- example [REDACTED] Toilets
- Supervising OUTDOORS
- Look at accidents -- is there appropriate supervision? Call out/don't move!

Mobile Phone Policy

- Now just RESPONSIBLE PERSON

Appendix M



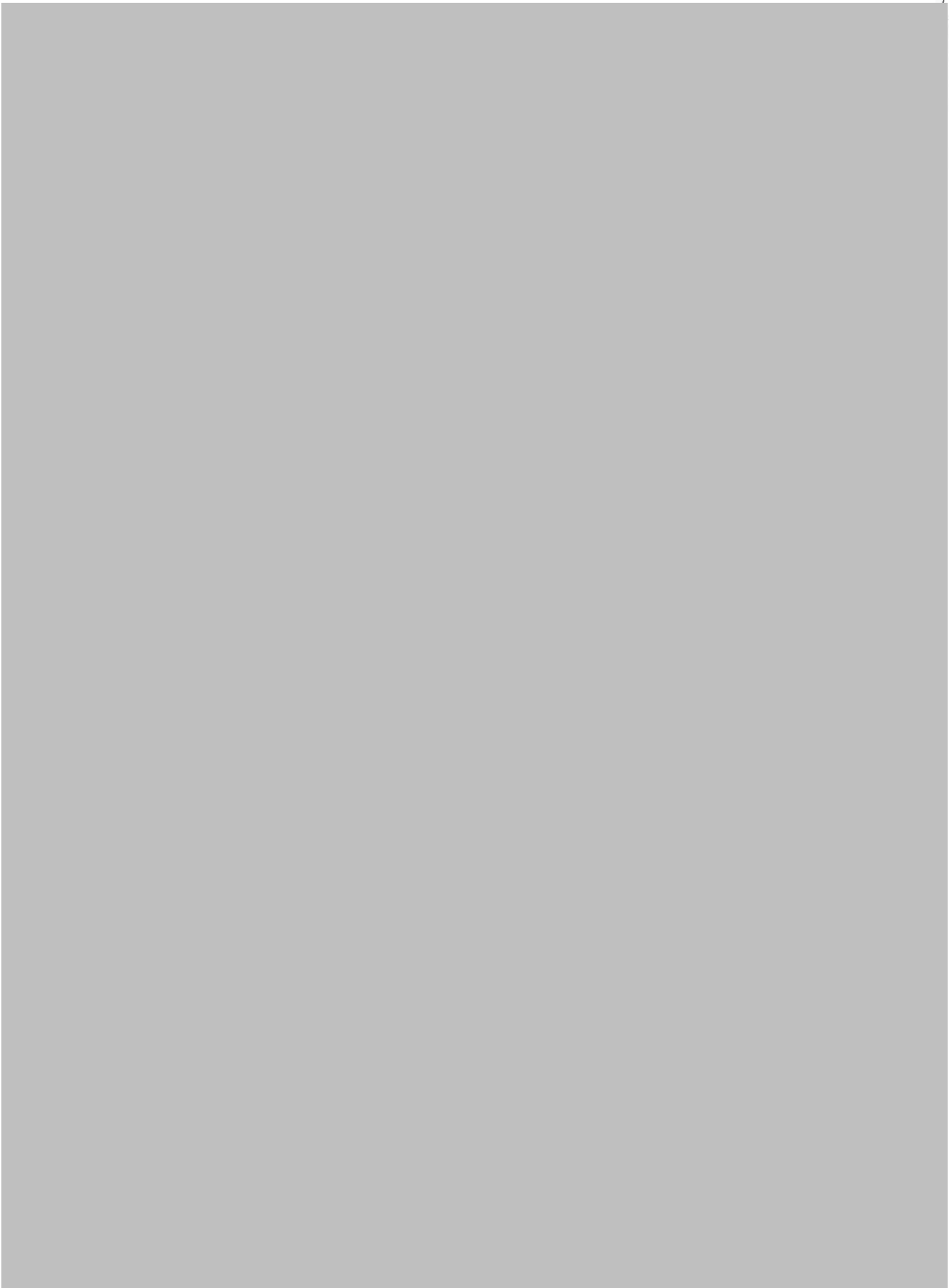
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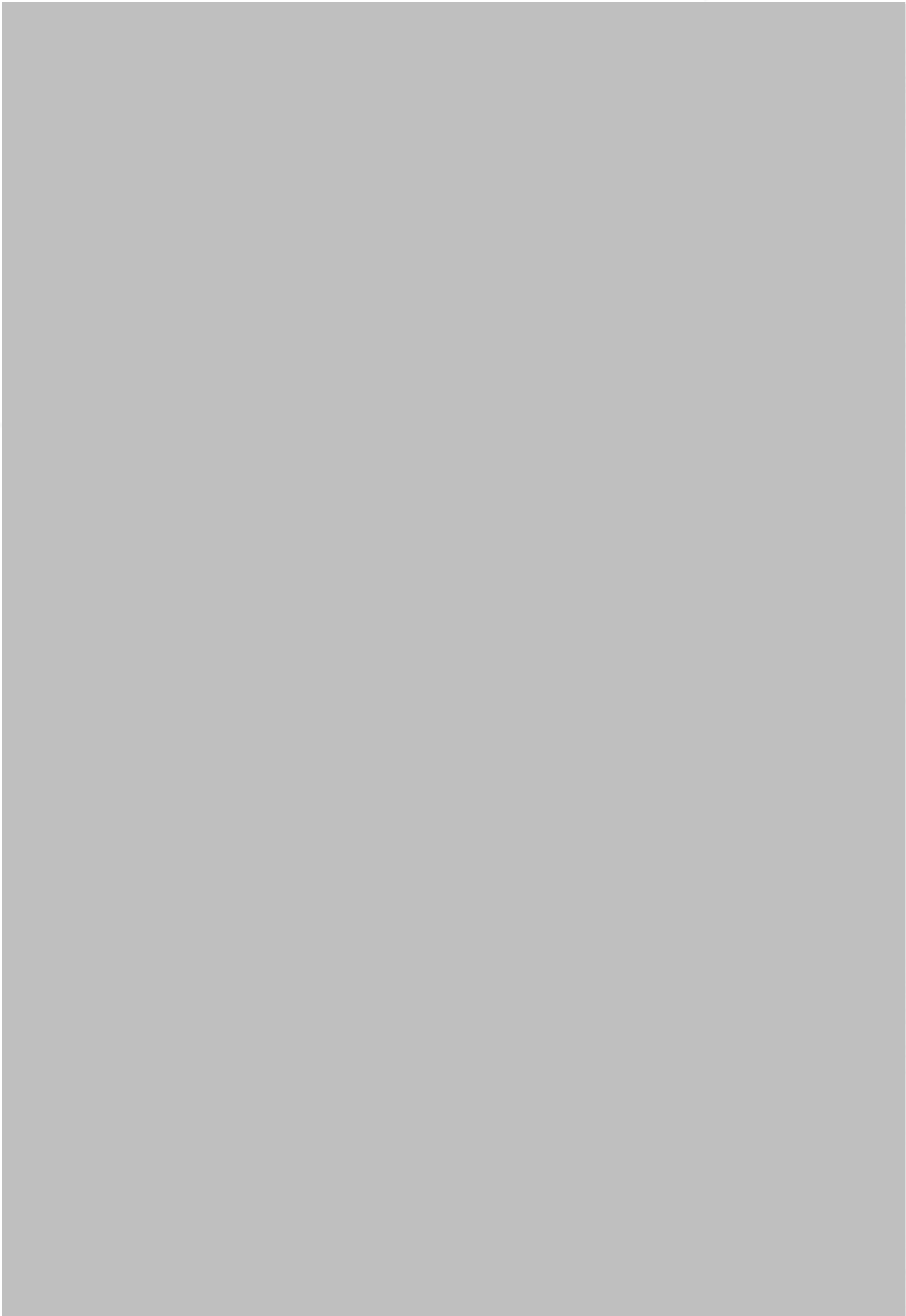
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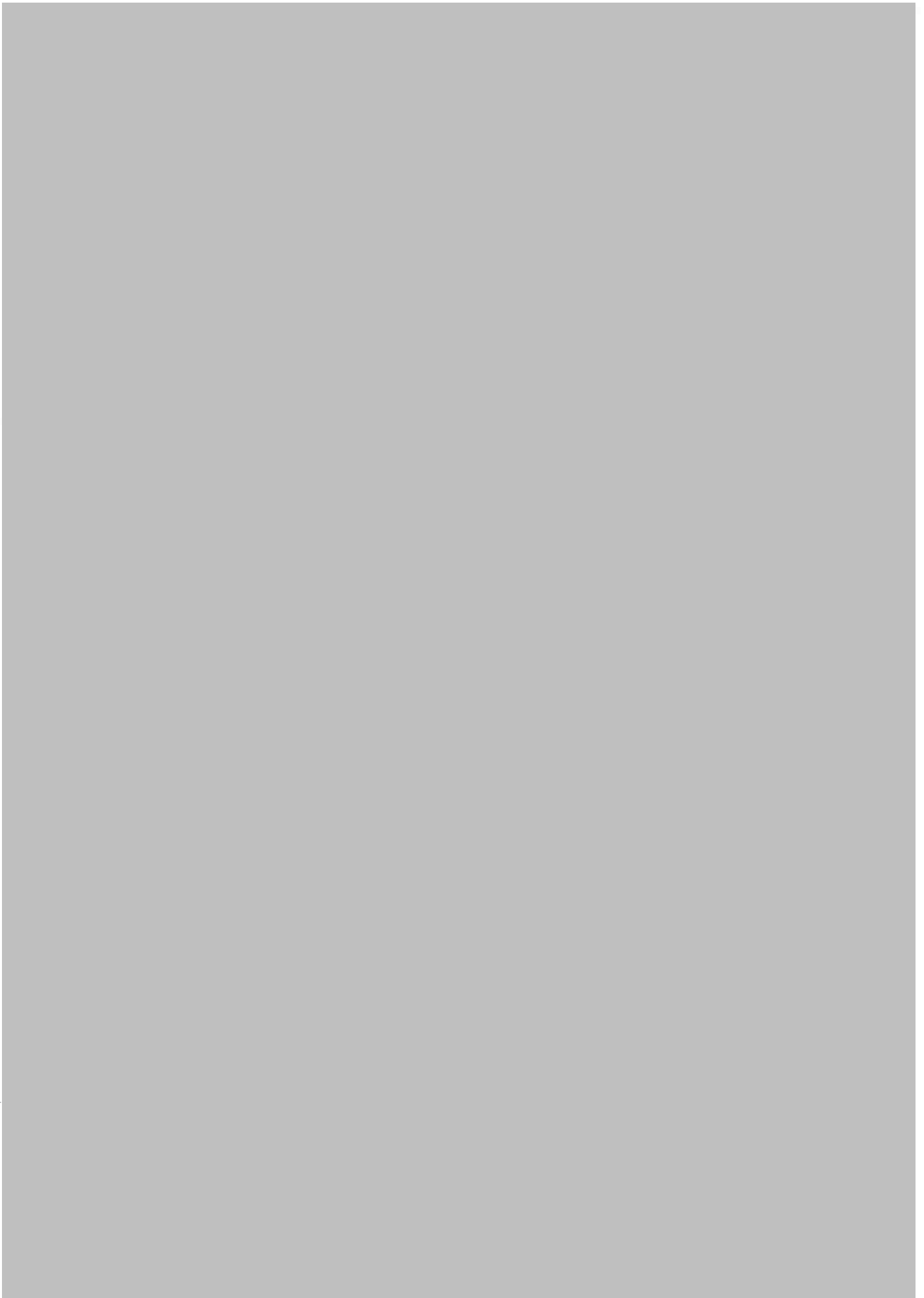
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CHRISTIAN
COLLEGE

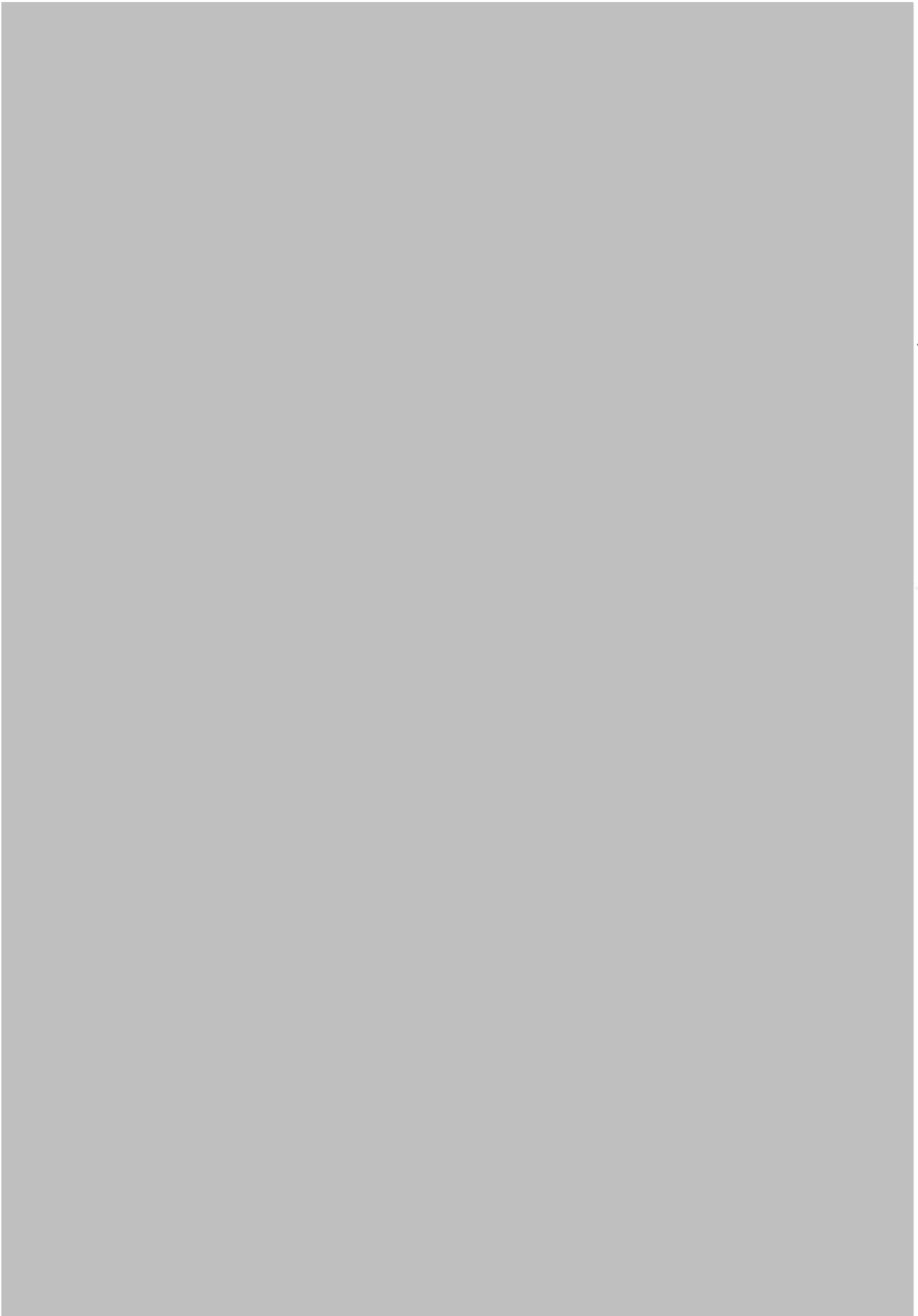
Sleep and Rest for
Children Policy

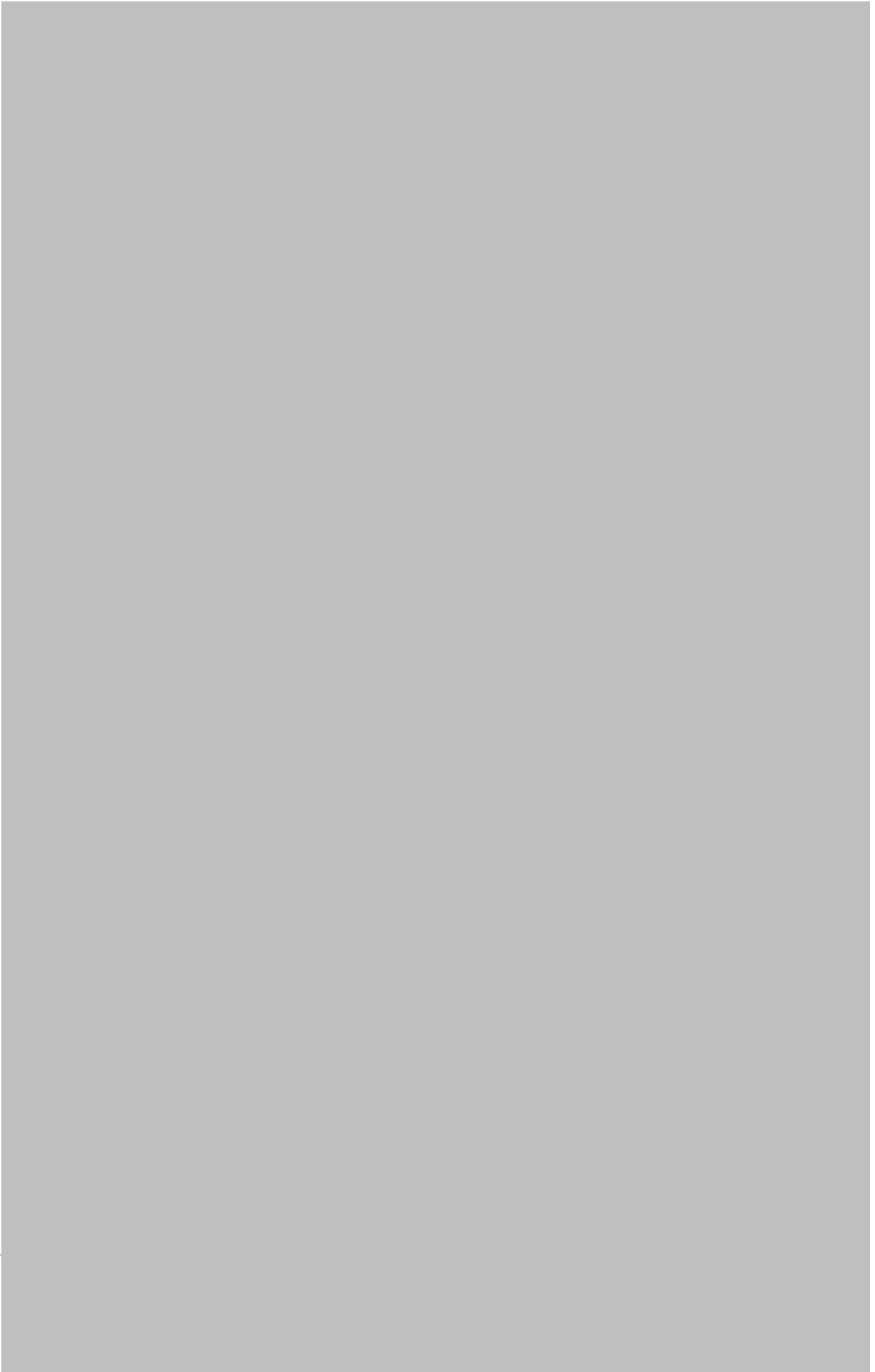
Updated August 2018 | due to be revised August 2021

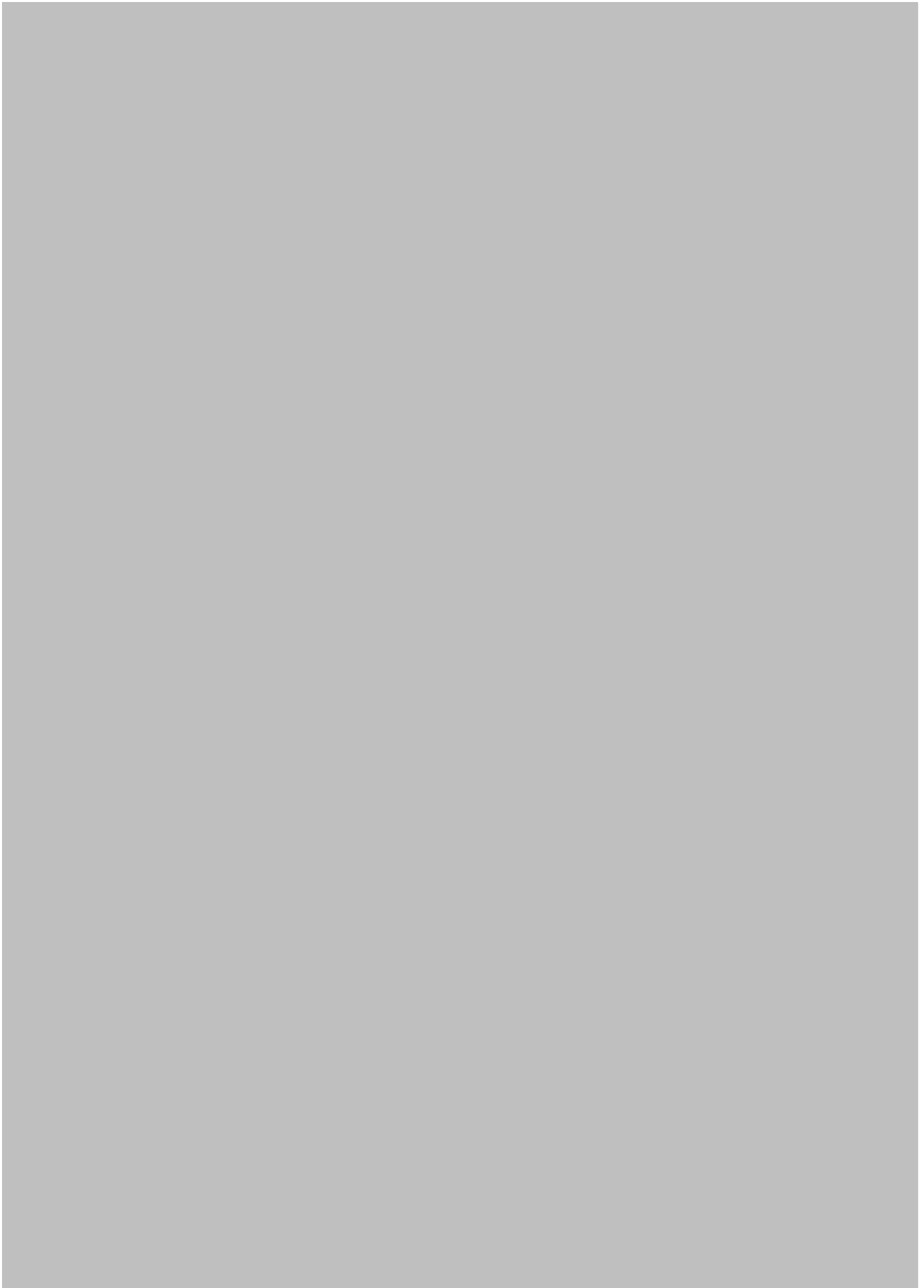
















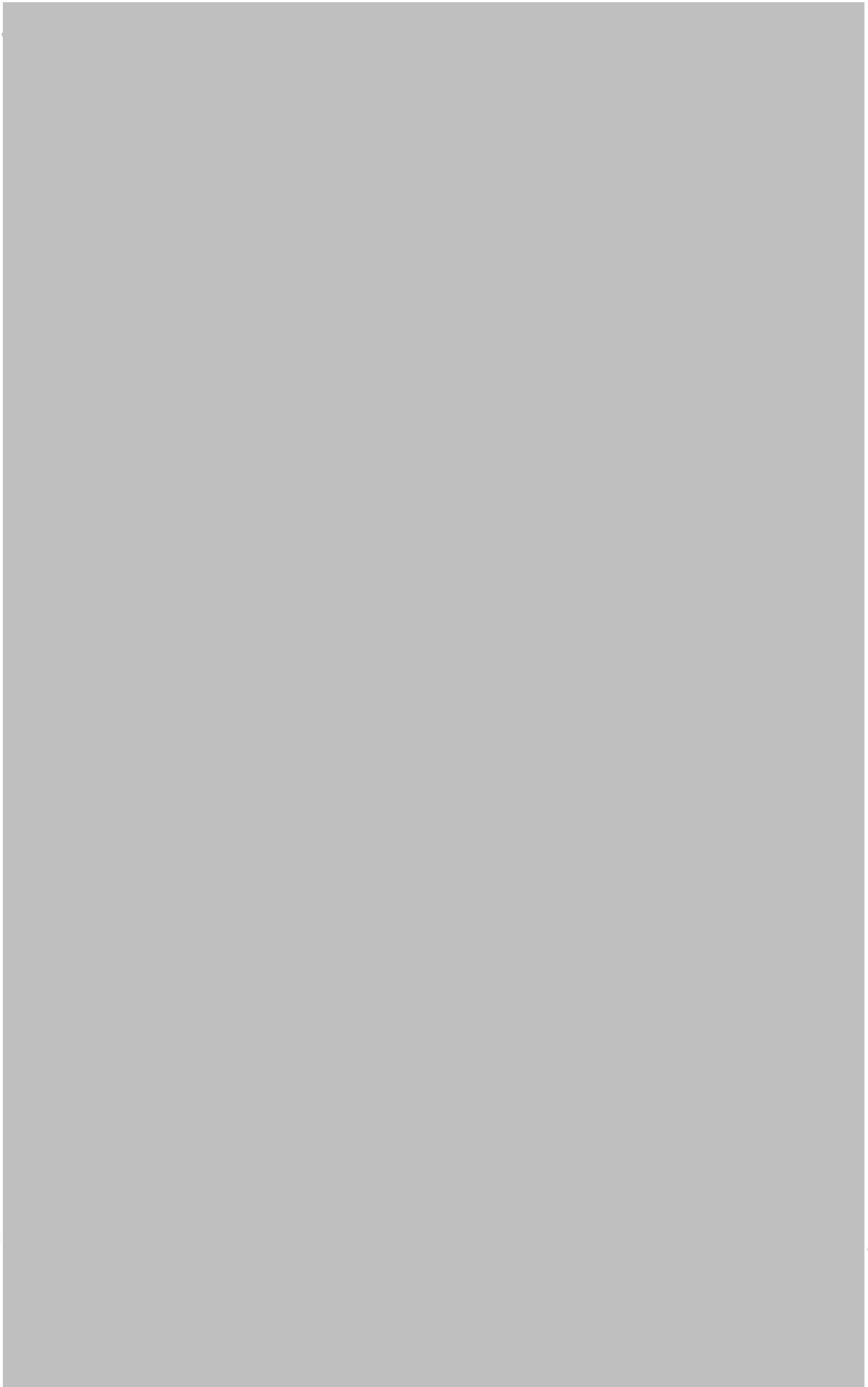


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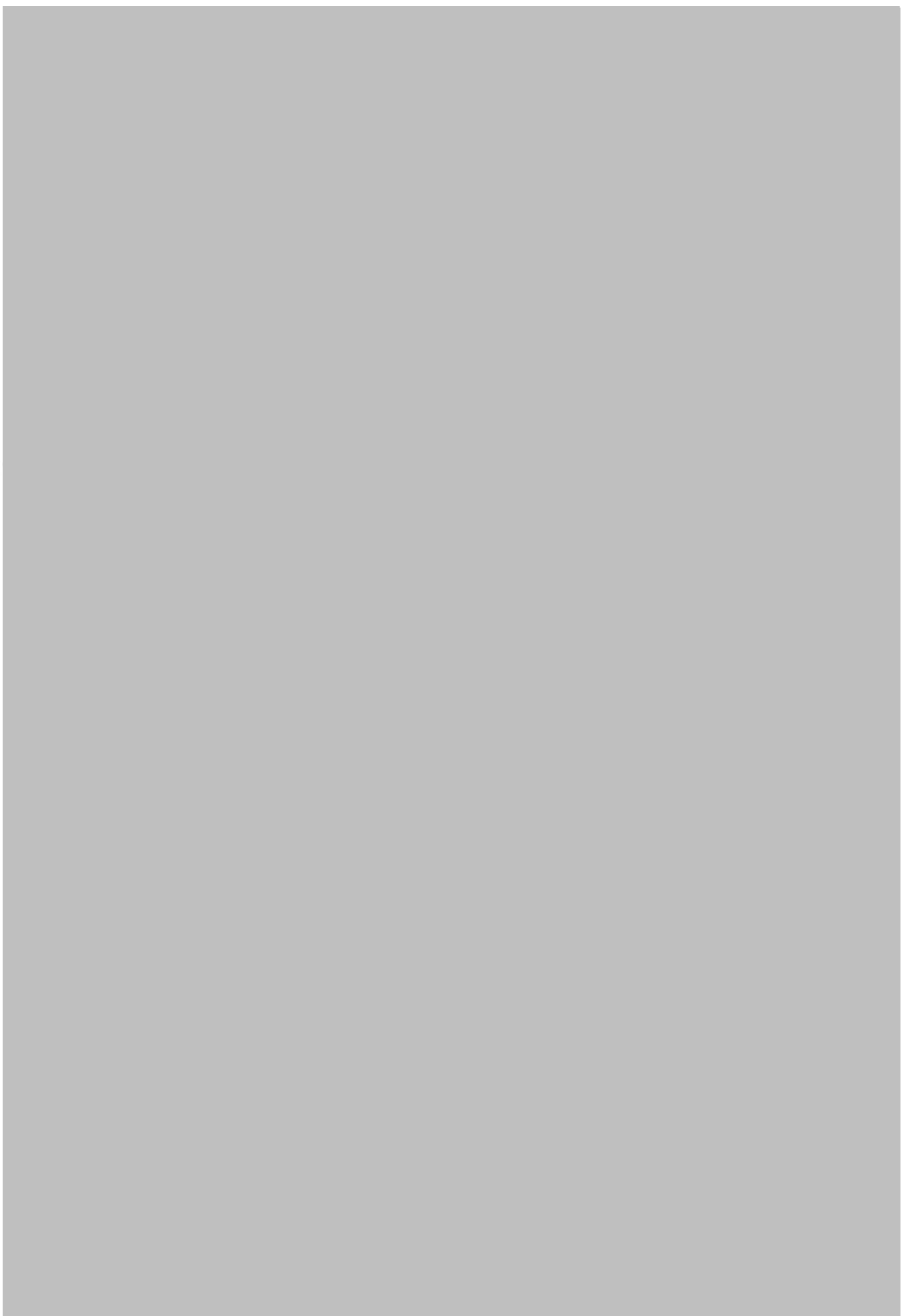
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CHRISTIAN
COLLEGE

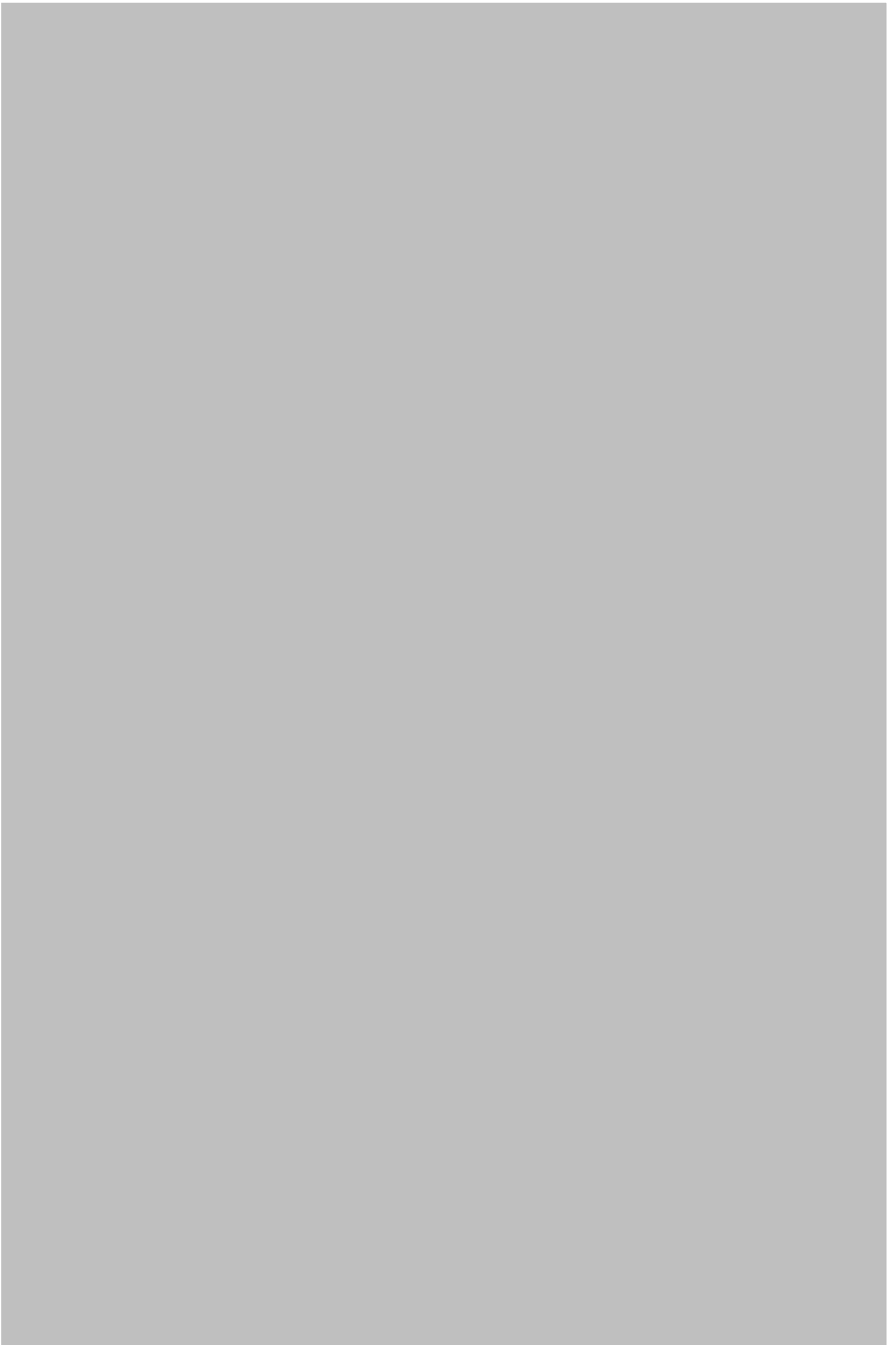
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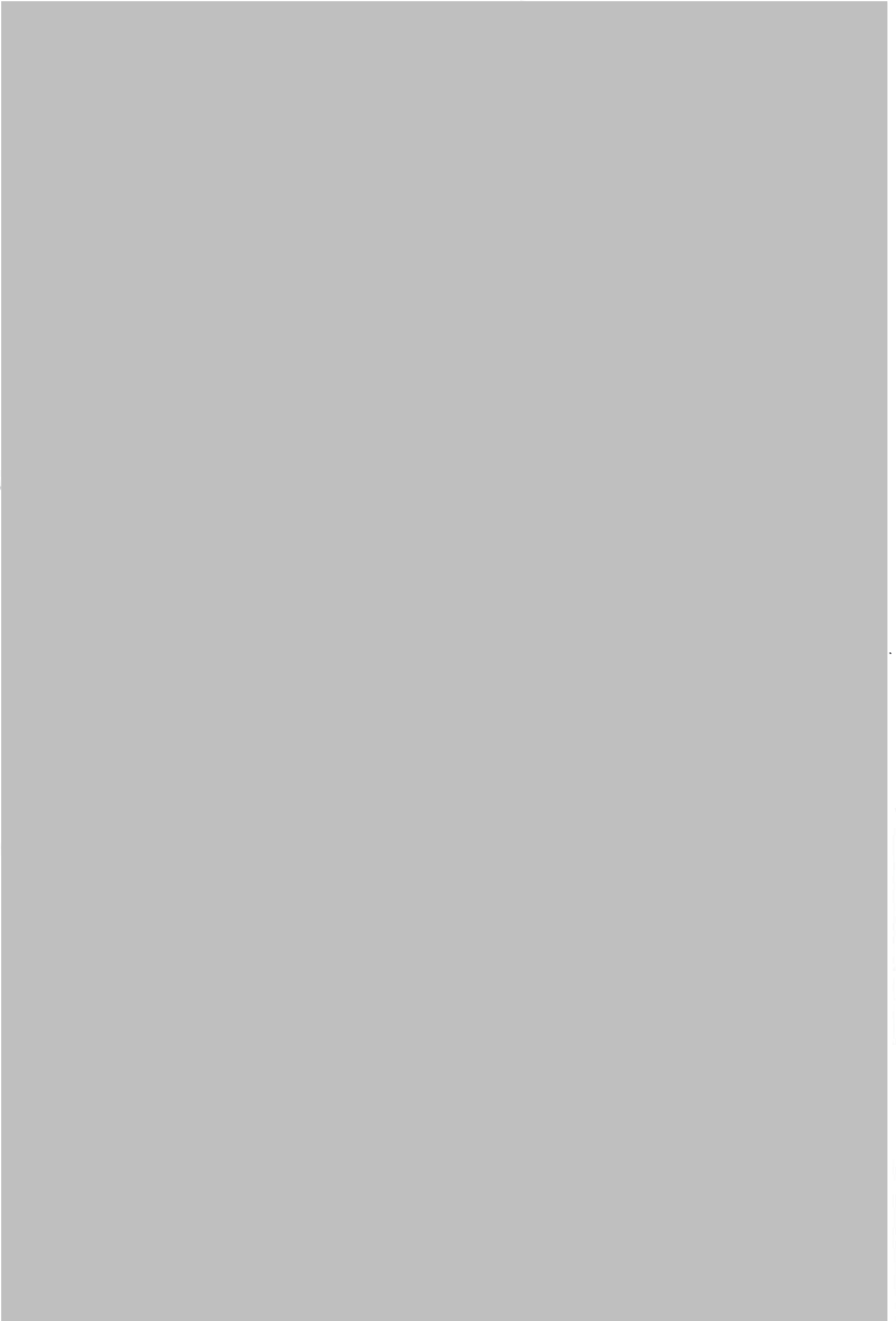
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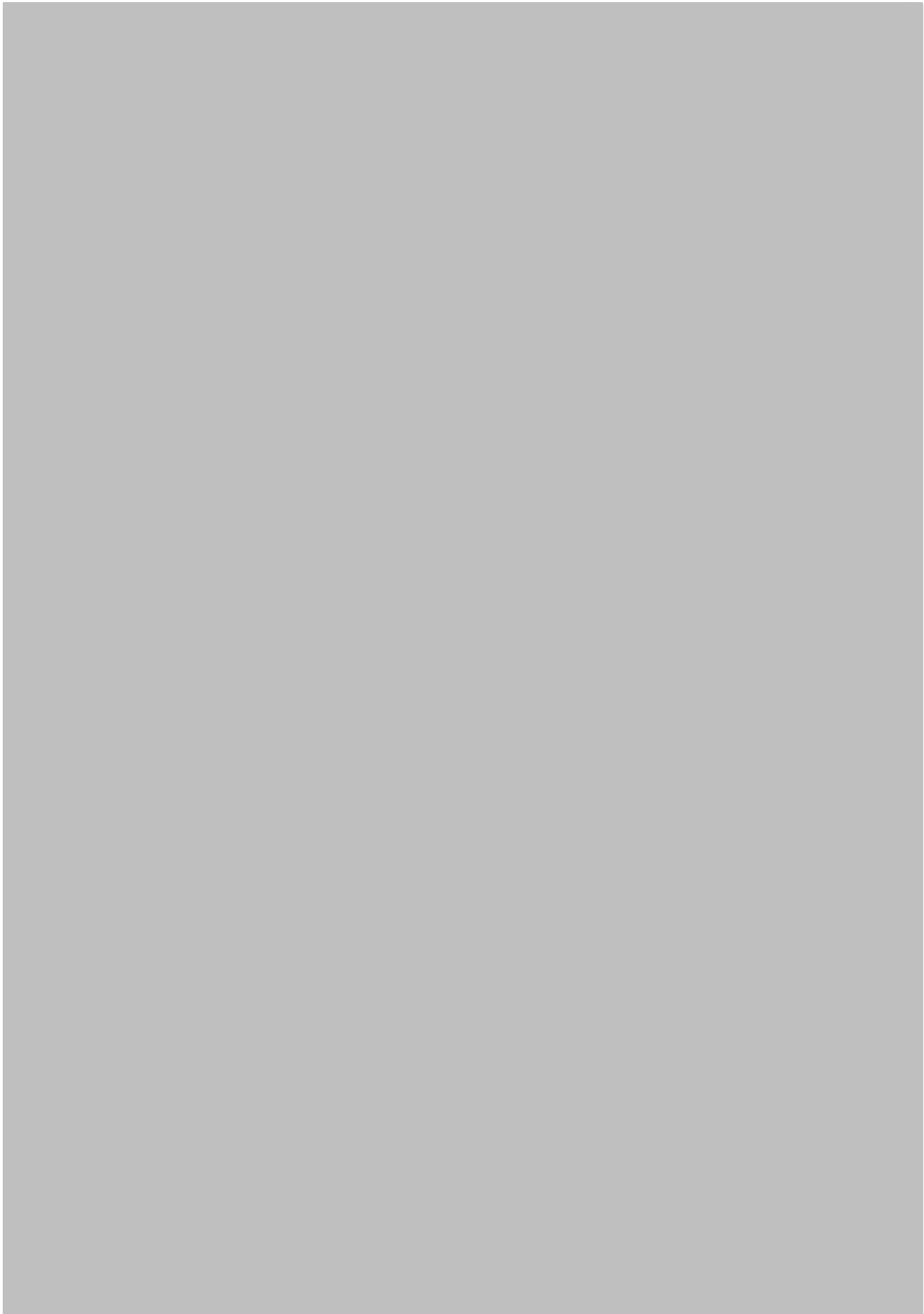


















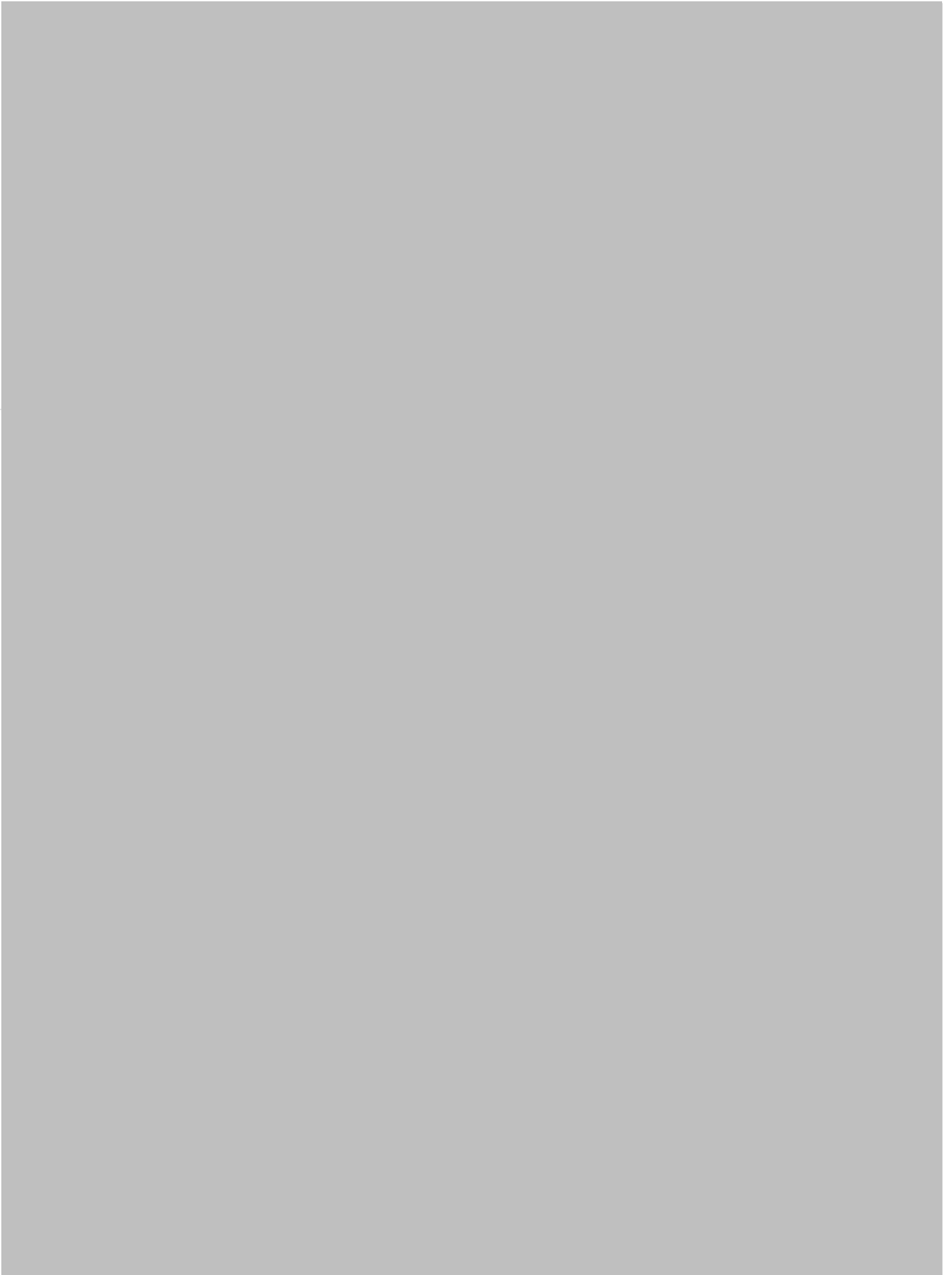
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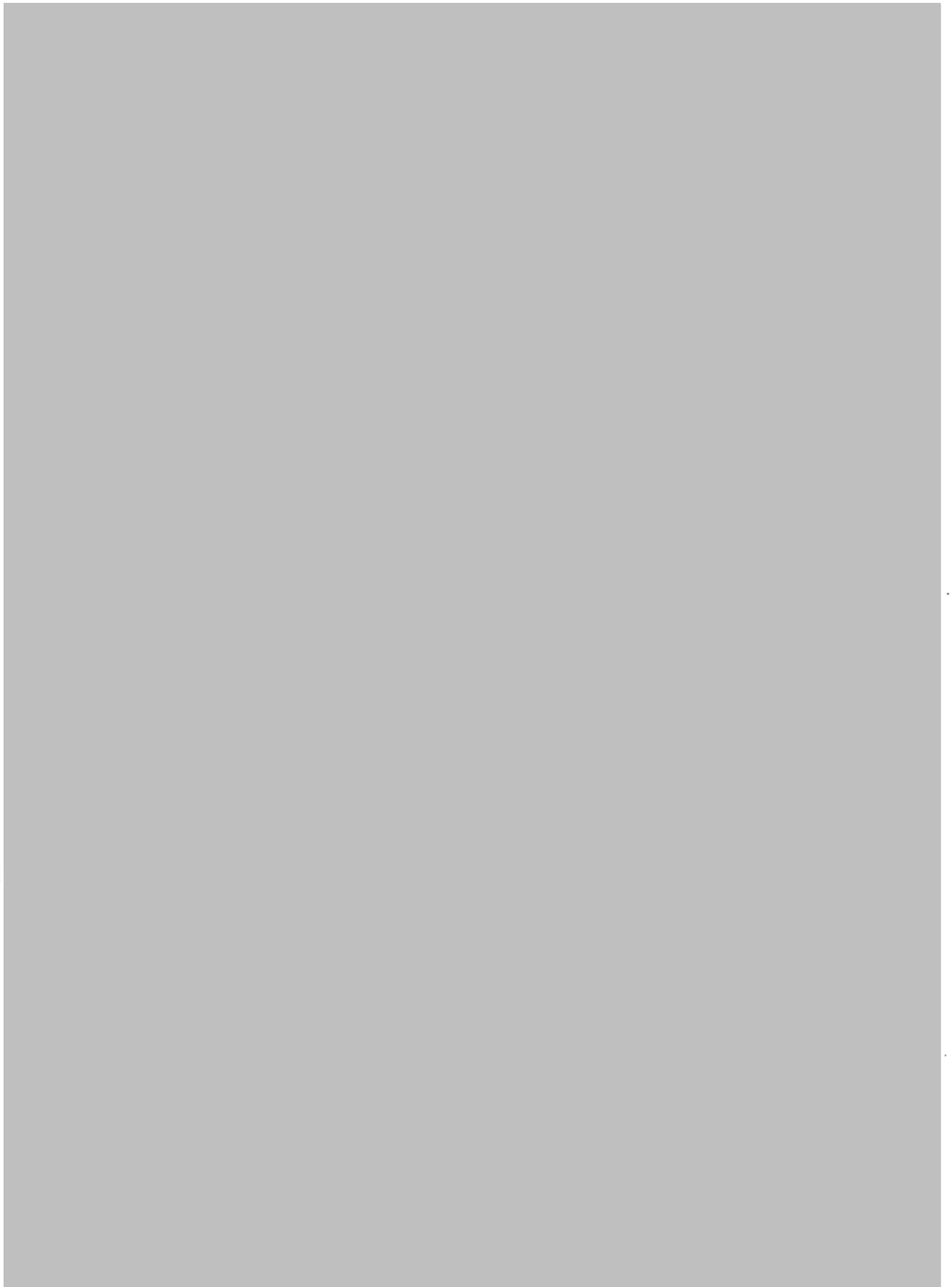
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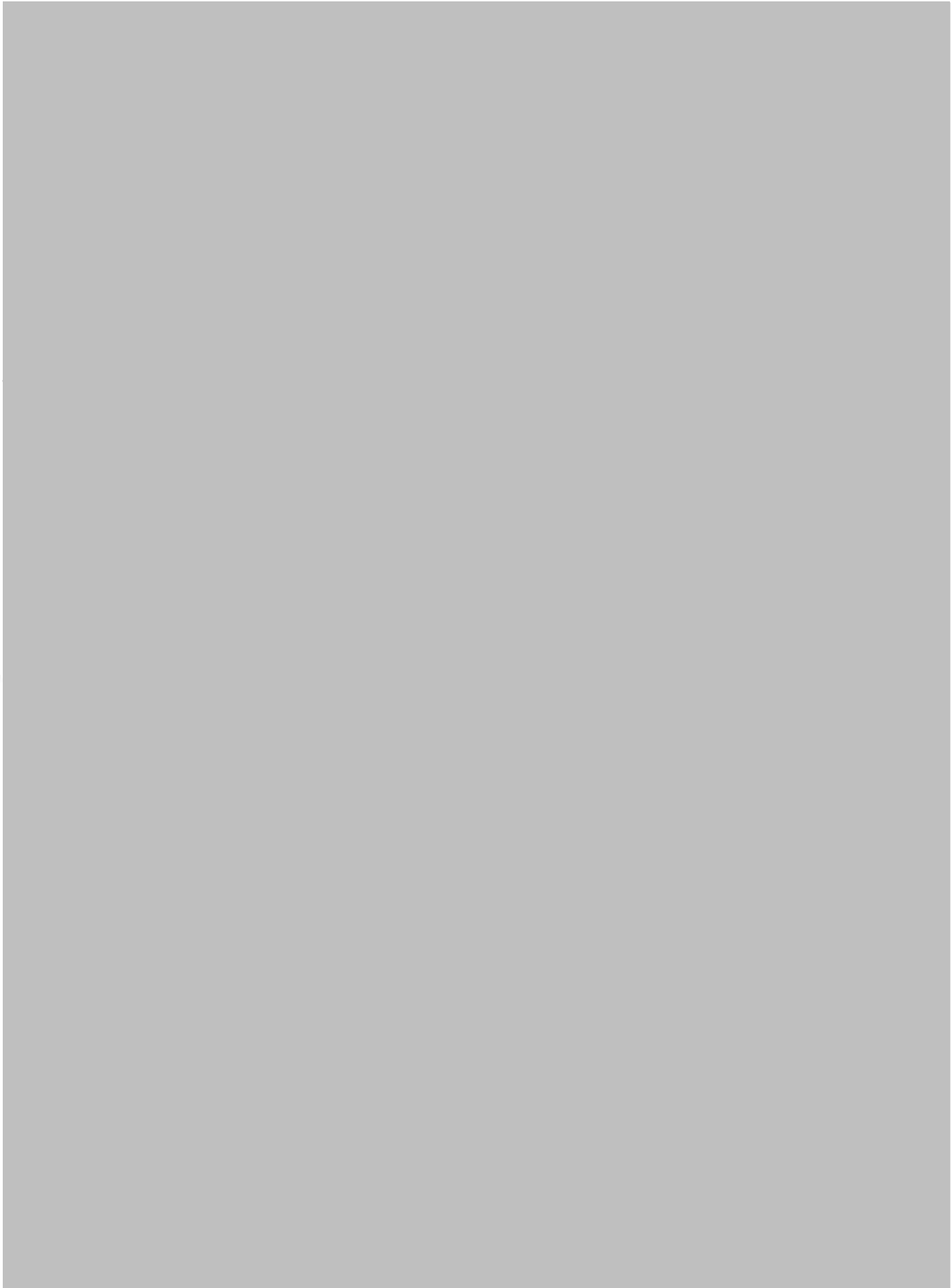
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SUPERVISION POLICY

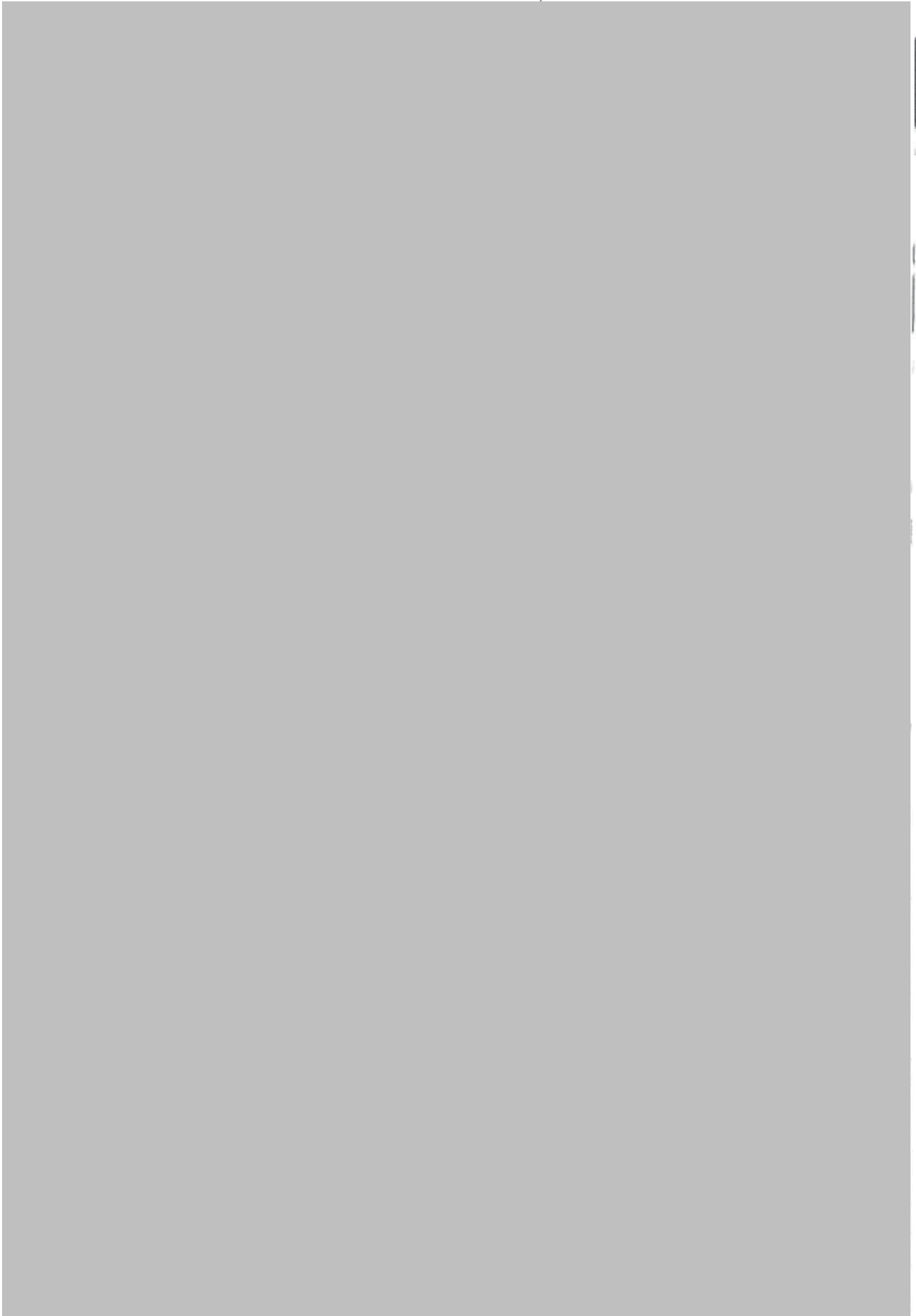
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ELC STAFF HANDBOOK 2018-2019

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