CHILD PROTECTION POLICY

RATIONALE

It is the right of all students at Monte Sant’ Angelo Mercy College to experience a safe, secure and nurturing environment. Employees (and school authorities) owe a duty of care to students. This duty of care is to take reasonable steps to protect students from a reasonably foreseeable risk of harm. The Mission Statement of the College is explicit in its promotion of a safe environment and seeks to promote the values of justice, compassion and dignity for all members of the College community. It is this environment that the Child Protection Policy of the College is designed to protect.

Specifically, the Policy details:

i. the course of action for staff to follow if they believe a student is being harmed or is at risk of significant harm, by a person not employed or engaged by the College;

ii. the procedures the College will follow when an allegation of “reportable conduct” is made against a person employed or engaged by the College.

The mere allegation of some form of harm shall not be constituted as proof of harm. The policy of the College regarding confidentiality shall be observed by all members of staff.

PURPOSE

To document formal procedures to be followed in the event of an allegation of risk of significant harm to a student or reportable conduct.

PRINCIPLES AND PROCEDURES

This Policy describes the legislation surrounding notification of risk of significant harm, in accordance with legislative reforms since 1999. These reforms require that anyone caring for children and young people needs to monitor the wellbeing of those in their care and report if there is any doubt about their safety. These requirements, principles and procedures are communicated to all College staff at a compulsory session scheduled during the Staff Conference at the beginning of each year. Subsequent workshops for staff are held during Term 1 of each year.

LEGISLATIVE REQUIREMENTS

<table>
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<th>Key Agency Issue</th>
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<tr>
<td><strong>Ombudsman Act 1974</strong></td>
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<td>All government departments, public authorities and certain non-government agencies in NSW are required to respond to allegations against employees and to notify the Ombudsman of reportable allegations or convictions.</td>
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<tr>
<td><strong>Commission for Children and Young People (CCYP) Act 1998</strong></td>
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<tr>
<td>Agencies are required to screen people who apply to work in child-related employment positions in their organisation. They must also notify the CCYP of relevant employment proceedings.</td>
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<td><strong>Child Protection (Prohibited Employment) Act 1998</strong></td>
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<td>Employees, who work in certain unsupervised child related positions, are required to complete a ‘Prohibited Employment Declaration” and to declare if he/she is a ‘prohibited person’.</td>
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<tr>
<td><strong>Children and Young Persons (Care and Protection) Act 1998</strong></td>
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<td>Mandated employees are required to report to the “Helpline”, of DoCS any children or young people whom they suspect to be at risk of significant harm. <em>(Please note that in the case of Monte, risk of significant harm reports are to be made to the Principal – as per the Child Protection Policy.)</em></td>
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CHILD PROTECTION LEGISLATION AMENDMENT ACT 2003


Definitions

Child

- A person under the age of 18 years (Ombudsman Act);
- A person under the age of 16 years (Children and Young Persons (Care and Protection) Act 1998) (DoCS).

Employee

Any person who is:

- Employed by the school
  Anyone employed by the school who receives a group certificate for taxation purposes, whether or not their position requires them to work with children;
- or
- Engaged by the school
  Anyone engaged by the school to provide services to students, including contractors, sub-contractors, volunteers, staff placements, clergy and work experience staff.

Reportable Conduct

- Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence); or,
- Any assault, ill treatment or neglect of a child; or,
- Any behaviour that causes psychological harm to a child, with or without the consent of the child in any case.

All allegations of reportable conduct against a person employed or engaged by the school must be reported to the Ombudsman even if it occurred outside work hours.

Reportable allegation

A reportable allegation to the Ombudsman is behaviour or misconduct by an employee that may involve reportable conduct and must include:

- Identification of a person who is a current employee of the school;
- An alleged offence or description of offending behaviour that meets the definition of reportable conduct;
- A person who was a child at the time of the alleged offence or behaviour described.

Conviction of reportable conduct

Any conviction of a person, in NSW, or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction.
**TYPES OF REPORTABLE CONDUCT**

**Sexual assault**
Any sexual act or threat imposed on a child, including physical or psychological coercion.

**Sexual Misconduct**
This includes:
- inappropriate conversations of a sexual nature;
- comments that express a desire to act in a sexual manner;
- unwarranted and inappropriate touching;
- sexual exhibitionism;
- personal correspondence (including electronic communication, e.g. emails and text messages) with a child or young person in respect to the adult’s sexual feelings for a child or young person;
- exposure of children and young people to sexual behaviour of others including display of pornography;
- possession of child pornography;
- watching children undress, e.g. in change rooms or toilets when supervision is not required or justified;
- grooming behaviour: patterns of behaviour aimed at engaging a child as a precursor to sexual assault. Grooming may involve a person identifying particularly vulnerable children, such as children who may be isolated, unhappy or needy and using tactics to establish trust with the child for inappropriate purposes.

For sexual misconduct to be reportable, the alleged conduct must have been committed against, with or in the presence of a child.

**Physical Assault**
Assault and/or non-accidental injury and/or harm to a child by a parent, caregiver or other person responsible for the child or young person. It includes any hostile act towards a child regardless of the adult’s intention to harm. Even if the adult did not intend to make contact with a child it may still constitute an assault, if the circumstances indicate that the act was reckless.

It includes:
- pushing, shoving, grabbing, shaking, spitting;
- hitting, threatening to hit, kicking;
- throwing an object;
- tying up or excessive and unreasonable restraint.

When physical contact is NOT assault and may be appropriate includes:
- when it is not hostile and is appropriate such as assessing if someone is ill or injured, teaching sport, music and other activities that require physical handling to demonstrate a skill;
- if the contact was an accident (but not reckless);
- comforting an upset young person;
- tapping a young person on the shoulder to gain her attention after verbal requests were unsuccessful;
- protecting a child or young person from imminent danger to themselves or to others.

**Psychological Harm**
Behaviour directed towards a child that may cause psychological harm, e.g. by destroying the confidence of a child, resulting in significant emotional deprivation and trauma. It is generally characterised by a sustained or repetitive pattern of behaviour by the person subject to the allegation.

It includes:
• degrading or belittling a child, verbally or non-verbally;
• criticising in a way that degrades or belittles;
• shaming a child for expressing normal emotions;
• publicly humiliating a child;
• setting unrealistic expectations with threats of harm or loss if these expectations are not met;
• denying a child the opportunity to engage in social activities with peers or adults;
• promoting self-destructive, anti-social, criminal or other maladaptive behaviours in children.

For notifiable allegations of psychological harm to be sustained they must include:
• behaviour of the person which falls into the above list which is persistent and targeted or a single incident which is extremely harmful to the child;
• signs of harm to the child;
• an alleged causal link between the behaviour and the harm.

**Neglect**

Neglect occurs when a child is harmed by the failure of a parent, caregiver or other person responsible for the child, to provide the basic physical and emotional necessities of life, e.g. lack of supervision, social isolation, failure to provide basic food, hygiene or medical requirements.

**MISCONDUCT THAT MAY INVOLVE REPORTABLE CONDUCT**

An allegation of misconduct that may involve reportable conduct may be made if there is sufficient information to establish whether the allegation is one of significant risk to children. Behaviours which may fit this category include:

• breaches of boundaries of the Staff Code of Professional Practice, e.g. socialising with a child outside of the workplace;
• inappropriate use of power;
• targeting a child for “specialised” treatment;
• touching that may not be sexual in nature but may elicit a level of discomfort from the child;
• providing alcohol or drugs to children;
• taking children to their own home or transporting children in breach of agency guidelines.

In many instances, reportable conduct will also constitute a risk of significant harm to a child or young person and therefore be reportable to DoCS.

**Reportable Conduct does not extend to (Exempt Behaviours):**

• conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards (Note: This includes (without limitation) touching a child in order to attract the child’s attention, to guide a child or comfort a distressed child, a school teacher raising his or her voice in order to attract attention or restore order in the classroom, and conduct that is established to be accidental).

• the use of physical force that, in all circumstances is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures (Note: What is considered trivial or negligible if done only once, is considered more serious if repeated).

• conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA (Note: The Ombudsman is to notify the agency of any such exemption and agencies are still required to investigate and document these allegations).
PRINCIPLES AND PROCEDURES TO BE FOLLOWED IN THE EVENT OF ALLEGATIONS OF RISK OF SIGNIFICANT HARM

Any person who is involved in a child’s education as part of their paid work is a mandatory reporter. A mandatory reporter is required by law to report any child who is under 16 and is at risk of significant harm to the Department of Community Services (DoCS).

Risk of significant harm means that a mandatory reporter has current concerns about the safety, welfare and well being of a child or young person for any of the following reasons:

- the basic physical/psychological needs are not being met or are at risk of not being met (neglect);
- the child’s parents or caregivers have not arranged necessary medical care and are either unable or unwilling to do so;
- risk of physical or sexual abuse or ill-treatment (physical or sexual abuse);
- the child or young person is living in a household where there have been incidents of domestic violence, and as a consequence is at risk of serious physical or psychological harm;
- the parent or caregiver has behaved in such a way towards the child or young person that they have suffered, or are at risk of suffering serious psychological harm.

1. Monte Sant’ Angelo Mercy College is committed to providing a safe and caring environment for students and recognises the importance of adopting preventative measures in protecting students from harm

   1.1 All potential employees are required to complete a ‘Prohibited Employment Declaration’ as part of pre-employment screening procedures.

   1.2 All members of staff are informed each year of their obligation to report risk of significant harm and attend training that reinforces the Child Protection Policy of the College.

   1.3 Training also raises staff awareness of child protection issues and provides guidelines for appropriate and inappropriate behaviour as clearly stated in the Code of Practice provided to each member of staff.

   1.4 The College prohibits the administering of corporal punishment by any person (i.e. employees, volunteers, parents, members of the community) to enforce discipline at the College.

2. The Child Protection Policy of Monte Sant’ Angelo Mercy College is informed by the requirements of mandatory reporting in dealing with an allegation of risk of significant harm

   2.1 Any person to whom a child discloses an allegation of risk of significant harm is required to inform the Principal. All allegations must be taken seriously.

   2.2 It is not the role of the member of staff or of the Principal to investigate the allegation, or to collect the evidence. The investigation of the allegation is the responsibility of the officers of the Department of Community Service (DoCS).

   2.3 Before proceeding to take action under the Children and Young Persons (Care and Protection) Act 1988, College personnel must satisfy themselves that there are ‘reasonable grounds to believe’ risk of significant harm.

   2.4 You would probably have ‘reasonable grounds to believe’ risk of significant harm when:

      2.4.1 A child tells you that she has been abused;
      2.4.2 Someone else tells you, (perhaps a relative, friend, acquaintance or sibling of the child);
      2.4.3 A child tells you that someone she knows has been abused. A child may be referring to herself;
      2.4.4 A staff member or other person admits abusing a child or tells you that they have seen a child being abused;
      2.4.5 Your own observation of a particular child’s behaviour or your knowledge of children generally leads you to believe abuse has occurred.

   This is not an exhaustive list.
2.5 In cases where the Principal or Deputy Principals, Counsellor or any member of staff at the College has reasonable grounds to suspect that a child at the school under the age of 16 years is at risk of significant harm, that person (as a mandatory reporter) is required to inform the Department of Community Services through the Principal, Deputy Principals or College Counsellor. This is referred to as Centralised Reporting. Should the Principal, Deputy Principals or College Counsellor fail to notify the matter to DoCS then the member of staff in question must attend to the report immediately if they still believe there are reasonable grounds for making a report.

2.6 The identity of the person reporting to the Principal, whether a member of the College staff or of the public is not to be revealed to any person or officer of any department without that person’s knowledge and consent.

2.7 The Principal should keep an exact and full record of events, using a checklist of reporting procedures for children and young people at risk of significant harm.

2.8 The Principal should NOT inform parents or guardians that a report has been made. This is the responsibility of the officers of DoCS. However, the Principal or Deputy Principals should raise with DoCS at the earliest opportunity appropriate steps to be taken to inform parents/guardians that a report has been made.

3. All adults have the responsibility to care for children, to ensure they are safe, protect them from any kind of harm and positively promote their welfare

3.1 Responding to the allegation of risk of significant harm is to be accorded urgency.

3.2 Throughout the processes and procedures involved in child protection, the wellbeing of the child always remains the primary concern.

3.3 The value of the family unit and the College community is to be respected, but the primary consideration is the wellbeing of the child.

4. All persons involved in situations where risk of significant harm is suspected or disclosed are treated with sensitivity, dignity and respect

4.1 The person against whom the allegation is made is presumed innocent until proved otherwise and has the right to remain silent.

4.2 College personnel who have access to information regarding suspected or disclosed risk of significant harm have an obligation to observe appropriate confidentiality in relation to the entire matter.

4.3 College personnel who have access to information regarding suspected or disclosed risk of significant harm should not disclose that information except for the purposes of reporting to DoCS or the Police or taking such steps as may be directed by the Principal or Deputy Principals.

4.4 A person’s good reputation may not be unlawfully harmed; this applies both to the alleged victim and to the person against whom an allegation has been made.

4.5 A report to DoCS under Section 29 of the Act attracts certain protections under the law if made in good faith and with reasonable care.

4.6 College personnel must avoid any false, exaggerated or unjustified assertions that may infringe the good name of or honour due to another person.

5. Support is provided for those involved in allegations of abuse or reportable conduct

5.1 The Principal is to ensure that the College’s pastoral care structures address the problem of child abuse, making appropriate provision for the support of children, families and members of staff who may be directly involved with this issue. Opportunities for support and debriefing may be provided by an external counselling agency where appropriate.
5.2 In cases where the allegation or reasonable grounds for suspicion are directed against a member of the College staff, there shall be appropriate provision for the care of all those directly involved. Referral to an external counselling service shall be offered as obliged by the Occupational Health and Safety Act 2000.

6. **Mandatory process shall be followed if the person against whom an allegation of reportable conduct is made is a member of staff of Monte Sant’ Angelo Mercy College**

6.1 The Principal shall act in accordance with the rules of mandatory reporting referred to above, industrial relations practice and the Monte Sant’ Angelo Mercy College Code of Practice. Reportable allegations are to be notified to the Ombudsman within 30 days of the Principal becoming aware of such allegations.

6.2 In cases where it is determined that the College does not have the expertise to satisfactorily conduct the investigation or in cases where a conflict of interest or bias may arise, an external investigator will be appointed.

6.3 If the member of staff who is the subject of an allegation is the Principal, the investigation will be conducted by an external investigator or members of the College Board of Directors where appropriate.

6.4 Members of College staff who are the subject of an allegation will have the opportunity to have a support person (for example a relevant union representative) present during investigative and disciplinary interviews.

6.5 A member of staff against whom an allegation of reportable conduct has been made shall be placed on leave with full pay until DoCS decides not to proceed or until the conclusion of any investigation.

6.6 Leave on full pay shall not be regarded in any way as an admission of guilt and is a procedure designed to safeguard the person against whom the allegation has been made.

7. **Any investigation of an allegation of reportable conduct shall follow procedural fairness and be carried out as quickly as is practicable**

7.1 Any investigation for industrial-disciplinary purposes does not presume guilt or innocence but allows for appropriate procedures to be followed.

7.2 Once the Principal has been notified of an allegation against a member of staff and clarified the allegation they will determine whether or not the conduct is “reportable” or exempted from notifying the Ombudsman. Regardless of whether the conduct is reportable or non-reportable, the allegation is recorded and investigated according to workplace employment proceedings. The Principal will further determine if the matter is to be notified to DoCS or the Police. If DoCS or the Police wish to investigate the matter this will occur concurrently with the investigation by the Principal.

7.3 The member of staff will be notified immediately that she/he is to attend a meeting with the Principal at a specified time.

7.4 The member of staff will be informed of the allegation and will be given reasonable opportunity to respond to the allegation. At the meeting, the member of staff will be suspended from duty on a period of paid leave pending an investigation.

7.5 The member of staff is required to stay away from the workplace until the investigation is completed.

7.6 The investigation will normally be carried out within two working days or as quickly as possible within the circumstances.

7.7 Arrangements will be made for staff replacement or a rearrangement of workload, whichever is the more appropriate.

7.8 Normal practice is that immediate colleagues will be informed of the absence of the member of staff.
7.9 Information regarding any allegation will be restricted and is subject to the College policy on Confidentiality. The need for appropriate confidentiality will be communicated to all involved, including parents or guardians and witnesses.

7.10 If there is any delay in the investigation, the member of staff is to be kept informed.

7.11 In order to preserve the integrity of the process, the period of investigation will be seen as leave for the member of staff and normal payment of salary will continue.

8. Allegations of reportable conduct against a member of staff will be investigated according to the following process

8.1 All interviews with the member of staff conducted during the investigation will be carried out by the Principal, or her nominee, in the presence of another person.

8.2 All interviews will be adequately recorded and where possible such records will be signed and dated by all involved.

8.3 The member of staff will be invited to have a colleague, support person or legal representative present during the interview.

8.4 Children or young people up to the age of 18 years will not be interviewed without a responsible supportive adult present. This should be a parent or guardian or an adult nominated by a parent or guardian.

8.5 The investigation will conclude when the Principal is satisfied that all relevant material has been studied and evaluated.

8.6 The Principal will make a recommendation based on this information on the outcome of the investigation and the rationale behind the recommendation will be clearly documented.

8.7 The member of staff will then be given a letter stating that the proceedings are complete, and the findings of the investigation and outcome. A finding of the investigation of a reportable allegation may be that the allegation is:

8.5.1 sustained (i.e. the evidence shows that it is more probable than not that the alleged conduct did occur); or,

8.5.2 not sustained (i.e. insufficient evidence is available to establish that the alleged conduct did or did not occur); or,

8.5.3 false (i.e. where inquiries into the matter find that reportable conduct or act of violence did not occur); or,

8.5.4 vexatious (i.e. where inquiries into the matter find that the allegation was made without substance and with the intent of being malicious or to cause distress to the person against whom the allegation was made); or,

8.5.5 misconceived (i.e. where inquiries into the matter find that, even though the allegation was made in good faith, it was based on a misunderstanding of what actually occurred and the incident was not reportable conduct or an act of violence); or,

8.5.6 not reportable conduct.

8.8 The action to be taken as a result of the investigation will also be included in the letter to the member of staff. This may include no further action to be taken, conditions being placed on the member of staff’s employment for a period of time or that appropriate disciplinary action is to be taken (including the possibility of dismissal).

8.9 If at the end of the investigation, the allegation is found under the Ombudsman Act to be false or vexatious, a decision will be made regarding if action will be taken against the person who made the allegation.

8.10 Following any investigation, it may be timely to remind all members of staff of expected standards of conduct and to monitor all work practices carefully.
SOURCES AND ACKNOWLEDGEMENTS
- Kincoppal- Rose Bay College Child Protection Policy & Procedures
- Child Protection in the Workplace 2004, NSW Ombudsman
- Department of Community Services website, www.community.nsw.gov.au

ENDORSED BY: COLLEGE BOARD
MANAGEMENT RESPONSIBILITY: DEPUTY PRINCIPAL, PASTORAL CARE
DISTRIBUTION: ALL STAFF
EFFECTIVE TO: 13/11/2011