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:

PART A: Legislative Requirements
PART B: Definitions
PART C: Procedures to be followed in the event of an allegation made or suspicion of risk of significant harm by an external person
PART D: Types of Reportable Conduct for EXTERNAL allegations
PART E: Procedures to be followed in the event of an allegation made against an internal risk of significant harm
PART F: Types of Reportable Conduct under Part 3A of the Ombudsman Act

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 in regards to internal and external threats.

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 either by an external person not employed or engaged with the College or an internal employee.

PRINCIPLES AND PROCEDURES

This policy describes the legislation surrounding notification of risk of significant harm, in accordance with legislative reforms. 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 with the rights and responsibilities of all staff outlined.

RELATED CODE
Child Protection Code of Professional Standards for College Employees (Appendix 1)
PART A: LEGISLATIVE REQUIREMENTS

Children and Young Persons (Care and Protection) Act 1998 (NSW) (The Care and Protection Act)

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. Mandated employees are required to report to the Office of Children’s Guardian any child or young people whom they suspect to be at risk of significant harm. (Please note that in the case of Monte Sant’ Angelo Mercy College, risk of significant harm reports are to be made to the Principal and College Counsellor)

Child Protection (Working With Children) Act 2012 (NSW)


Ombudsman Act 1974 (NSW)

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

Office of the Children’s Guardian

Agencies are required to screen people who apply to work in child-related employment positions in their organisation. They must also notify the Office of the Children’s Guardian of relevant employment proceedings.

PART B: DEFINITIONS

Child

Under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (The Care and Protection Act) a child is a person under the age of 16 years.

Under the Ombudsman Act 1974 and the Commission for Children and Young People (CCYP) Act 1998 a child is a person under the age of 18 years.

Young person

Under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (The Care and Protection Act) a young person is a person aged 16 years or above but who is under the age of 18 years.

Employee

Any person who is employed by the College, whether or not they are employed to work directly with children, as well as individuals engaged by the College to provide services to children such as coaches, tutors, contractors, foster carers, volunteers, students on placement and instructors of religion.
Mandatory Reporter

Under the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* (the *Care and Protection Act*) a mandatory reporter is a person who:

1) In the course of employment, deliver services including health care; welfare, education, children’s services and residential services, to children; or

2) holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children’s services and residential services, to children, are mandatory reporters

3) all teachers are mandatory reporters

Reportable Conduct

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to Community Services and the Office of the Children’s Guardian as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, the College considers that a report should also be made to the Office of the Children’s Guardian where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and wellbeing of the young person.

Risk of Significant Harm

A child or young person is ‘at risk of significant harm’ if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

a) a child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met,

b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,

c) in the case of a child or young person who is required to attend school in accordance with the Education Act 1990 – the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,

d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated

e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,

f) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm

What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing.

The significance can result from a single act or omission or an accumulation of these.

Reportable allegation

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 college must be reported to the Ombudsman even if it occurred outside work hours.

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 college;
• 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.

PART C: PROCEDURES TO BE FOLLOWED IN THE EVENT OF AN ALLEGATION MADE OR SUSPICION OF RISK OF SIGNIFICANT HARM BY AN EXTERNAL PERSON

If a staff member has a concern that a child or young person is at risk of significant harm they should contact the College Principal, Deputy Principal Pastoral Care or the College Counsellor(s), as soon as possible to discuss whether the case reaches the threshold of 'risk of significant harm' and the steps required to report the matter.

Reporting by the College about these matters to Office of the Children’s Guardian and, where necessary, the police, is undertaken by the College Counsellor(s). This is in accordance with best practice principles and is the expectation of the College.

1. 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

1.1 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.

1.2 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 Office of the Children’s Guardian.

1.3 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.

1.4 You would probably have 'reasonable grounds to believe' risk of significant harm when:

1.4.1 A child tells you that she has been abused;

1.4.2 Someone else tells you, (perhaps a relative, friend, acquaintance or sibling of the child);

1.4.3 A child tells you that someone she knows has been abused. A child may be referring to herself;

1.4.4 A staff member or other person admits abusing a child or tells you that they have seen a child being abused;

1.4.5 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.
1.5 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 College under the age of 16 years is at risk of significant harm, that person (as a mandatory reporter) is required to inform 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 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.

1.6 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.

1.7 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.

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

2. 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

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

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

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

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

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

3.2 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.

3.3 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 Community Services or the Police or taking such steps as may be directed by the Principal or Deputy Principals.

3.4 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.

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

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

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

4.1 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.
PART D: TYPES OF REPORTABLE CONDUCT FOR EXTERNAL ALLEGATIONS

In accordance with the Care and Protection Act

Neglect is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries what are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime.

Serious psychological harm can occur where the behavior of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for ‘one-off’ incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behavior that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behavior.

Sexual abuse is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm.

PART E: PROCEDURES FOLLOWED IN THE EVENT OF AN ALLEGATION OF REPORTABLE CONDUCT AGAINST AN EMPLOYEE OF THE COLLEGE

Refer to the Child Protection Code of Professional Standards for College Employees

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 current employees have completed a ‘Prohibited Employment Declaration’ as part of pre-employment screening procedures pre 2013.

1.2 On employment application and prior to commencement all new employees are required by law to complete an online Working With Children Check Application and provide the College with either the WWCC Application number or their WWCC number if they have subsequently obtained that. The College is required to go online and verify the WWCC number and clearance status. Applicants must provide the College with personal I.D. in order for the College to complete this verification.

1.3 All members of staff are informed at the start of each calendar year of their obligation to report risk of significant harm and attend training that reinforces the Child Protection Policy of the College.
1.4 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.

1.5 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. **Once an allegation of reportable conduct against an employee is received, the Principal is required to:**

   2.1 Act in accordance with the rules of mandatory reporting referred to above, industrial relations practice and the Monte Sant’ Angelo Mercy College Child Protection Code of Professional Standards for College Employees.

   2.2 Determine on face value whether it is an allegation of reportable conduct and if so notify the Ombudsman within 30 days of becoming aware of such allegations.

   2.3 Determine if the matter is to be notified to Community Services, the Office of the Children’s Guardian and/or the Police (i.e. if reasonable grounds to suspect that a child is at risk of significant harm or criminal offence)

   2.4 Notify the child’s parents (unless to do so would be likely to comprise the investigation of an investigation by Community Services or the Police).

   2.5 Carry out a risk assessment and take action to reduce/remove risk, where appropriate.

   2.5.1 A member of staff against whom an allegation of reportable conduct has been made may be placed on leave with full pay until the investigating officer’s findings are presented and it is shown that the investigating officer decides not to proceed or until the conclusion of any investigation.

   2.5.2 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.

   2.6 The College is guided by the provisions of the legislation when decisions regarding investigations are made.

   2.7 Determine whether the College has the expertise to satisfactorily conduct the investigation or if there may be cases where a conflict of interest or bias may arise, then an external investigator will be appointed.

   2.8 If it is determined that an investigation is to commence then an employee’s teacher accreditation may be suspended whilst the allegation is under investigation.

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

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

   3.8 Once the Principal has been notified of an allegation against a member of staff and clarified the Principal 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.

   3.9 If the allegation is deemed to potentially be a criminal offence and the Police wish to investigate the matter this MUST occur before the Principal conducts any investigations. The Principal is then to follow all instructions of the Police. This may be not to notify the ‘person subject of the allegation’ (PSOA) and/or the child and their parents. All investigations at the College level will cease until further guidance is given from the Police.
3.10 The member of staff will be notified immediately that she/he is to attend a meeting with the Principal at a specified time.

3.11 The PSOA will be informed of the allegation and will be given reasonable opportunity to respond to the allegation. At the meeting, the PSOA may be relieved from all duties on a period of paid leave pending an investigation if decided upon through the risk assessment. The PSOA will have the opportunity to have a support person (for example a relevant union representative) present during investigative and disciplinary interviews. This support person is present only as support to the PSOA and to witness the proceedings, not as an advocate or to take an active role.

3.12 The PSOA is required to stay away from the workplace until the investigation is completed.

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

3.14 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. Normal practice is that immediate colleagues will be informed of the absence of the member of staff.

3.15 If there is any delay in the investigation, the PSOA is to be kept informed.

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

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

The steps followed in the investigation process will be guided by the "Recommended Protocols for Internal Investigative and Disciplinary Proceedings, 2001" (IEU/AIS)

4.1 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.

4.2 The Principal, or nominee, will interview the child and separately any witnesses to gather all relevant documentation in relation to the allegation.

4.3 The Principal, or nominee, will provide a letter of allegation to the PSOA to respond to.

4.4 The Principal, or nominee, will interview the PSOA with both parties reserving the right to have a support person present as a silent witness. This support person for the PSOA maybe a colleague, legal representative or union representative.

4.5 All interviews will be adequately recorded and such records will be signed and dated by all involved and provided to the staff member if requested.

4.6 The Principal will make a preliminary finding in accordance with the NSW Ombudsman guidelines. The PSOA will then be informed of the findings and provide them with an opportunity to respond.

4.7 The investigation will conclude when the Principal is satisfied that all relevant material has been studied and evaluated. All further responses from the PSOA will be considered and the Principal will then make a final finding in accordance with the NSW Ombudsman Guidelines.

4.8 The Principal will decide on the disciplinary action, if any, to be taken against the PSOA and then apply the NSW Commission for Children and Young People (CCYP) Guidelines deciding of this matter is reportable to CCYP.

4.9 A final report is sent to the Ombudsman and report to the CCYP (if required). The Principal will notify the Ombudsman whether or not the College plans to take disciplinary or other action in relation to an employee who is subject of a report allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable.
4.10 The PSOA 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:

| 4.10.1 | Sustained (i.e. a finding that the conduct occurred); or, | Yes |
| 4.10.2 | Not sustained – insufficient evidence (i.e. there is some evidence of weight however there is insufficient evidence available to reasonably establish that the alleged conduct did occur); or, | Yes |
| 4.10.3 | Not sustained – lack of evidence of weight (i.e. where the evidence is of such poor probative value or lacking in weight, such as to warrant a finding that, on the balance of probabilities, the conduct did not occur); or, | No |
| 4.10.4 | False (i.e. where inquiries into the matter show reportable conduct or an act of violence did not occur). Some of these matters may be vexatious, for example where inquiries into the matter show the allegation was made without substance and to cause distress to the person against whom the allegation was made; or, | No |
| 4.10.5 | Not reportable conduct (i.e. where inquiries into the matter show the conduct was not reportable). For example, use of force that was trivial or negligible in the circumstances, conduct that was reasonable in the circumstances or accidental. (This may include ‘misconceived’ matters, where inquiries into the matter show 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. | No |

4.11 Matters of a class or kind exempted from being reportable conduct under s.25CA of the Ombudsman Act (i.e. matters that fall within a Class or Kind Determination are examples of reportable conduct that are exempted from notification to the Ombudsman).

4.12 The action to be taken as a result of the investigation will be included in the letter to the PSOA. 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).

4.13 If at the end of the investigation, the allegation is found under the Ombudsman Act to be false or not sustained, a decision will be made regarding if action will be taken against the person who made the allegation.

4.14 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.
5 Support is provided for those involved in allegations of abuse or reportable conduct

5.7 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 Welfare Health and Safety Act 2000.

PART F: TYPES OF REPORTABLE CONDUCT UNDER PART 3A OF THE OMBUDSMAN ACT

Reportable conduct is defined as:

• Any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material); or
• Any assault, ill-treatment or neglect of a child; or
• Any behavior that causes psychological harm to a child whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

• Conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, 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, to assess an injury or illness, teaching sport, music and other activities that require physical handling to demonstrate a skill, raising his or her voice in order to attract attention or restore order in the classroom, and conduct that is established to be accidental); or
• 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 that is exempted from notification by a Class or Kind Agreement 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).

Sexual Offence
This term encompasses all criminal offences involving sexual elements that are ‘committed against, with or in the presence of a child.’

These offences include (but not limited to) the following:

• indecent assault
• sexual assault
• aggravated sexual assault
• sexual intercourse and attempted sexual intercourse
• possession/ dissemination/ production of child pornography or child abuse material
• using children to produce pornography
• grooming or procuring children under the age of 16 years for lawful sexual activity
• deemed non-consensual sexual activity on the basis of special care relationships

Sexual Misconduct
The term ‘sexual misconduct’ included conduct that does not necessarily equate to a criminal offence.

For sexual misconduct to constitute reportable conduct, the alleged conduct must have been committed against, with or in the presence of a child.
There are two categories of sexual misconduct:

a) crossing professional boundaries – sexual misconduct includes behavior that can reasonably be construed as involving an inappropriate and overly personal or intimate:
   • relationship with;
   • conduct towards; or
   • focus on;
   a child or young person, or a group of children or young persons

b) sexually explicit comments and other overly sexual behavior – some forms of this behavior also involve crossing professional boundaries. This conduct may include:
   • 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 communications such as emails and text messages) with a child or young person in relation to the adult’s sexual feelings for a child or young person
   • exposure of children and young people to sexual behavior or others including display or pornography
   • watching children undress. For example, in change rooms or toilets when supervision is not required or justified
   • digital communication from devices such as smart phone, tablet, computer and activities including social networking, instant messaging, file sharing (video, images, audio) of messages or files which are sexually explicit, offensive or contain inappropriate jokes.

This is not an exhaustive list.

Physical Assault
Physical assault is any act by which a person intentionally inflicts unjustified use of physical force against another. An assault can also occur if a person causes another person to reasonably apprehend that unjustified force is going to be used against them. 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.

Assaults can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.

The Ombudsman Act specially outlines certain conduct which does not need to be reported:

• conduct that is reasonable for the purposes of discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to relevant codes of conduct or professional standards
• the use of physical force that, in all the 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.

In addition, any alleged conduct that involves the reasonable use of physical force for the purpose of exercising appropriate control over a child does not constitute reportable conduct. For example, using reasonable force to:

• disarm a young person seeking to harm themselves or another, or
• separate young people in the act of fighting, or
• move a young person away from a place where the person may be harmed, or
• restrain a young person from causing intentional damage to property.
• Reasonable self defence or the defence of others
**Ill Treatment**
Ill-treatment can include disciplining or correcting a child in an obviously unreasonable or inappropriate manner; making excessive and obviously unreasonable demands on a child; malevolent acts towards children; and inappropriate and hostile use of force against a child.

**Neglect**
Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child’s physical or psychological needs, or a single significant incident where a caregiver fails to fulfill a duty or obligation, resulting in actual harm to a child or where there is the potential for significant harm to a child.

Neglect includes either an action or inaction by a person who has responsibilities towards a child. The nature of the employee’s responsibilities provides the context against which the conduct needs to be assessed.
- Supervisory neglect – intentional or reckless
- Carer neglect – depriving a child of the basic necessities of life
- Failure to protect from abuse – failure to respond to information about potential serious abuse of a child
- Reckless act (or failure to act)

**Psychological Harm**
Behaviour that causes psychological harm to a child is behaviour that is obviously or very clearly unreasonable and results in significant harm or trauma to a child. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.
Psychological harm can include the exacerbation or aggravation of an existing psychological condition, such as anxiety or depression.

**SOURCES AND ACKNOWLEDGEMENTS**
- The Association of Independent Schools of New South Wales Child Protection Support Document
- NSW Ombudsman Guidelines – Child Protection Practice Update 2011, fact sheets
- Child Protection in the Workplace 2004, NSW Ombudsman
- Commission for Children and Young People (CCYP) - www.kids.nsw.gov.au

**ENDORSED BY:** COLLEGE BOARD  
**MANAGEMENT RESPONSIBILITY:** DEPUTY PRINCIPAL PASTORAL CARE  
**DISTRIBUTION:** ALL STAFF  
**EFFECTIVE TO:** 23/03/2016
Child Protection Code of Professional Standards for College Employees

Preamble

It is expected that employees of Monte Sant’ Angelo Mercy College endorse the principles of child protection as a fundamental responsibility and it is within this context that this Child Protection Code of Professional Standards has been prepared. This document will assist employees in understanding and fulfilling their legal and professional responsibilities in this critical area of their work.

The Child Protection (Working With Children) Act 2012 and the Child Protection (Working With Children) Regulation 2013 took effect on 15 June 2013. These items of State legislation replaced previous child protection legislation and amongst other things, introduced a more refined definition of employees in “child-related roles”. All people who are working in what has been defined as child-related work must have a current Working With Children Check and provide to the employer their Working With Children Check number. Secondary education is defined as child-related work. However, the new Regulations in Part 4, Clause 20 sets out some areas of work which may qualify for an exemption from this requirement. These roles include administrative, clerical or maintenance work that does not ordinarily involve contact with children for extended periods. Nonetheless, College staff who are employed in these roles are required to conduct themselves in accordance with the College Code of Professional Standards at all times.

This Code of Professional Standards will assist to clarify the parameters of appropriate and inappropriate conduct for employees who work in a child related employment environment. It will also assist in achieving a safe and supportive school environment for students, employees and the school’s broader community.

Related Policies and Guidelines

- Child Protection
- Discrimination and Harassment Complaints (Employees)
- Legal Responsibilities of Teachers
- Pastoral Care
- Pastoral Care Camps
- Harassment and Anti-Bullying
- The Archbishop’s Charter for Catholic Schools

1. Professional Responsibilities of Employees

In performing their duties it is expected that all employees will comply with the College Child Protection Policy and will support the Catholic and Mercy ethos of the school. In doing so, they will avoid by word or action, any influence upon students that is contrary to the teachings and values expressed by these values.

Employees have a responsibility to meet the high standards of professional and ethical behaviour required by the employer, students’ families and the Catholic and wider community.
Employees undertake their responsibilities within the framework of the law and lawful instructions from their employer. Employees must comply with legislative and industrial requirements, with this Code and any policies and procedures that are implemented by the College.

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 injury and harm. This duty applies equally to school based activities and out of school activities involving the school which may include interaction or communication with students.

2. Professional Relationships

2.1 Interactions with Students

Employees must be aware that their interactions with students are based on a trusting relationship arising from the nature of the work, and that those relationships are open to scrutiny.

Employees must always treat students with respect. There is no place for sarcasm, derogatory remarks, offensive comments or any other inappropriate conduct that may result in emotional harm to a student.

Behaviour that may cause emotional harm to a student includes but is not limited to:

- Targeted and sustained criticism, belittling or teasing;
- Excessive or unreasonable demands;
- Hostility, verbal abuse, rejection or scapegoating;
- Using inappropriate locations or social isolation, outside of the Student Responsibility policy, as a disciplinary measure.

Employees must always treat students in a consistent manner without inappropriate familiarity, including interaction and communication with a student (either in person or by electronic means).

Some indicative behaviours that may suggest a student is not being treated in a consistent manner could include, but not limited to:

- Giving gifts to a child (for example giving a birthday gift to a particular student when this is not the practice with other students, or asking the student to keep the gift a secret from others);
- Showing special favours;
- Allowing a student to over-step rules, (except where it is clearly articulated in the Student Responsibility Policy);
- Sharing secrets with a student;
- Using a private email, messaging or mobile text to communicate with a student;
- Inconsistent consequences or allowances;
- Commenting excessively on a student’s appearance (not to be confused with cases of self-esteem or pastoral issues).
**Social interactions** between employees and students outside of school and school related activities can be problematic and may lead to allegations against employees. **Employees must be conscious that their position places extra obligations on them** and should refer to the related College policies and guidelines indicated in the Preamble, above. Employees are to seek guidance from the Principal if a personal relationship exists with the student’s family.

Examples of when employees are to seek guidance from the Principal include:
- Visiting students at their home;
- Inviting students to visit the employee’s home;
- Making telephone calls of a personal nature to students;
- Sending emails of a personal nature to students;
- Sending sms (text) messages to students;
- Corresponding with students via digital and social media tools such as Facebook and Instagram.

Employees must be conscious that their actions, particularly **physical gestures** may be open to scrutiny by others. Employees are required to develop and exercise prudent judgment and sensitivity regarding appropriate physical interactions with students.

Employees should, whenever possible, **endeavour not to drive a student in their car** unless they have specific permission from the parent/carer, Principal or delegated authority. Doing so may put the staff member at risk of an allegation. In the event of an emergency, employees should attempt to obtain parental consent and also report the matter to the Principal, where possible prior to the journey commencing.

Employees may not engage in any form of private tutoring or coaching of college students.

In the conduct of their professional duties at the College, employees may be required to work in a one to one situation with a student (i.e. outside of a normal classroom environment). In such situations employees must follow the Child Protection Policy.

When responsible for a single student, an employee must:
- Maintain visibility into a room;
- Where possible, interact with the student in an area open to observation.

Employees must do everything within reason to ensure that **alcohol, tobacco or prohibited substances** are not consumed by students on the College premises or at College functions, camps or excursions. Employees must not give to students, nor are they to encourage or condone the use by students of, the abovementioned substances. Administration of **prescribed medications** should only be under the direction and supervision of the Health Centre Nurse.

Consumption of alcohol by employees at the College is only permitted at College approved functions after the cessation of classes. The monitoring of such consumption is the responsibility of the College Executive and must conform to social and legal norms. In accordance with the employee contract of employment College staff are not permitted to present themselves for work under the influence of alcohol or prohibited substances.
Employees must not, **under any circumstances**, engage in **intimate and/or sexual relationships** with a student or engage in any conduct or communication of a sexual nature with a student. It is irrelevant whether the relationship is heterosexual or homosexual, consensual or non-consensual or condoned by parents or caregivers. The age of the students or employees involved is also irrelevant.

*Improper conduct of a sexual nature by an employee against a student includes sexual intercourse and any other form of sexual misconduct. Sexual misconduct includes, but is not limited to:*

- Offensive language of a sexual nature;
- Suggestive remarks or actions;
- Jokes of a sexual nature;
- Offensive gestures;
- Unwarranted and inappropriate touching;
- Sexual exhibitionism;
- Undressing in front of students;
- Personal correspondence with students in respect of the employee’s sexual feelings for the student;
- Deliberate exposure of students to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are contextual;
- Possession, distribution or display of pornography;
- Digital communication from devices such as smartphone, tablet, computer and activities including social networking, instant messaging, file sharing (video, images, audio) of messages or files which are sexually explicit, offensive or contain inappropriate jokes.

All employees have a Duty of Care role must be cautious of the content and context of their discussions with students.

*Employees must exercise caution when:*

- Making personal comments about a student;
- Asking questions that probe a student’s sexuality or personal relationships;
- Discussing personal details of lifestyle of self or others;
- Disclosing their personal contact details to students.

*Employees must not:*

- Discuss matters of a sexual nature relating to themselves.

Should any student engage, or attempt to engage, in inappropriate behaviour of a sexual nature with an employee, then immediate steps must be taken to discourage the student and the matter should be immediately reported to the Principal.

Employees must notify the Principal immediately should they suspect a situation involving any form of reportable conduct or concern of harm to students. Employees must also be aware of individual mandatory reporting requirements under the Children and Young Persons (Care and Protection) Act 1998. It is not the responsibility of employees to investigate allegations or suspicions of a child protection nature. However, all employees are mandatory reporters under the Act.
2.2 Maintaining Professional Boundaries

The following self-assessment may assist employees in assessing their application of professional boundaries:

- Am I dealing in a different manner with a particular student than with others under the same circumstances?
- Would I do or say this if a colleague was present?
- Is my dress/availability/language different from the normal with a particular student(s)?
- Are the consequences of my actions likely to have negative outcomes?
- Are my personal feelings translating into inappropriate actions?
- Could my conduct with a student be perceived as demeaning or belittling?

Employees are required to bring to the attention of their Principal any potential, perceived or actual contraventions of any of these boundaries set out in this Code, whether by themselves or colleagues. The requirement to report any possible contraventions is essential given the duty of care owed to students within the College environment. In addition, all employees are to notify any allegation of reportable conduct or reportable convictions of which they become aware in accordance with current legislation and College policy.

3. Student Management

It is the responsibility of each employee to develop effective, consistent and appropriate management strategies in day to day interactions with students as a preventative system of behaviour management. These strategies should include a clear, consistent and graded method of dealing with inappropriate behaviours and should be developed in accordance with the College Policies and Guidelines as indicated in the Preamble, above. It is the responsibility of each employee to be familiar with these policies.

All employees should be aware that corporal punishment is prohibited. Corporal punishment involves the application of physical force to punish or correct a student unless that physical contact is reasonable and necessary for the protection of any person.

The following behaviour management practices are unacceptable:

- Using an object, such as a ruler, book, duster, chalk or whiteboard marker to gain a child’s attention in a hostile or an inappropriate physical manner;
- Restraining a student for any purpose other than a student’s actions causing imminent harm to self or others;
- Hitting or kicking a student;
- Holding a student (other than for the circumstances outlined in section 4, below);
- Pushing, pulling, shoving, grabbing, pinching or poking a student;
- Shaking or throwing a student;
- Intimidating a student;
- Swearing at a student;
- Using sarcasm to humiliate;
- Locking a student in a confined space;
- Refusing biological needs as a means of punishment;
- Applying painful or noxious conditions;
4. Physical Contact with Students

When physical contact with a student is a necessary part of the teaching/learning experience employees must exercise caution to ensure that the contact is appropriate and acceptable for the duty to be performed.

- Assessing a student who is injured or ill may necessitate touching. An employee should advise the student of what they intend to do and, where possible, seek the student’s concurrence;
- Teaching sport, music and other activities may require the physical handling of a student to demonstrate a particular action or skill.

Physical contact with students which may be appropriate includes:

- Comforting an upset student;
- Guiding a student in a non-threatening manner;
- Tapping a student on the shoulder to gain his/her attention after verbal requests were unsuccessful; and,
- Protecting a student from imminent danger to himself/herself or to others.

The physical contact referred to above is only acceptable if the contact was reasonable for the purpose of discipline, management or care of the student. The contact must also be appropriate given the age, maturity, health or other characteristics of the student. Physical contact with a student should be consistent with any behaviour management plan in place for that student.

Physical interventions (including physical restraints, removals or escorts) to contain and/or control the behaviour of students should only be employed as measures of last resort to ensure safety and protection. The use of physical intervention is restricted to occasions when the student, other students, employees or others are being harmed or are in imminent danger of being harmed.

Some examples of when it may be appropriate to use physical intervention as a last resort include:
- A student attacking an employee;
- A student attacking another student;
- Students physically fighting;
- A student causing, or at risk of causing, injury to self or others;
- A student misusing dangerous materials, substances or objects where it is likely that this will cause imminent harm.
As any physical intervention involves some risk of injury to the student or employee, employees must weigh this risk against the risks involved in failing to physically intervene when it may be warranted. All employees using physical interventions are responsible and accountable for the manner in which they exercise that authority.

5. Confidentiality

Employees should be aware of, respect and adhere to, the established lines of communication in the College.

Where matters arise under Child Protection Legislation, employees should maintain the confidentiality of all parties concerned. In any matters where an employee is in doubt as to the requirements of confidentiality, they should seek the advice of the Principal or the Principal’s delegate, without discussing the matter with any other employee.

6. Unacceptable Conduct

Conduct which is contrary to this Code may amount to reportable conduct and/or disciplinary action within the meaning of Child Protection Legislation and may be in breach of employment conditions. Such conduct will be dealt with in a manner deemed appropriate by the Principal or delegated authority.

Declaration overleaf...
### MSAMC Child Protection Code of Professional Standards

#### 7. Declaration

*I have read and understood the above Code.*

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