Mary MacKillop Memorial School

“This is what God asks of you only this
To act justly,
To love tenderly,
And walk humbly with your God”

Micah 6:8

Duty of Care Policy
MISSION STATEMENT

At Mary MacKillop Memorial School we, the parents, students and staff are committed to continuing the vision of our founders, Mary MacKillop and Julian Tenison Woods. We value and endeavour to provide an education of excellence and care in a family environment, being accessible to all while upholding the Catholic tradition based on the philosophy “In Omnibus Caritas” … In all things love and kindness.

RATIONALE

Mary MacKillop Memorial School Duty of Care Policy is underpinned by the SACCS Duty of Care Policy and Procedure 2004. The school policy seeks to give guidance to the Mary MacKillop Memorial School Community in all aspects of Duty of Care in Schools. The policy reflects the complexity of contemporary legal issues and an appreciation of the increasing legal responsibilities of school Principals and their staff.

AIMS

Mary MacKillop Memorial School staff seeks to educate young people in all dimensions of life by developing the whole person, encouraging a life long search for truth and a deep yearning to be inspired by Gospel values in the Josephite Tradition.

Working in partnership with families, we invite and enable students to grow in responsibility and freedom, developing a critical awareness of the wider to global community.

POLICY GUIDELINES

1. Duty of Care refers to the special relationship, which exists between a teacher and a student. It also refers to the special relationship between a school authority and its students. A Duty of Care may also exist between non-teaching staff and students, depending on the staff member’s role.

2. Duty of Care relates to the law of negligence and, simply, it means that teachers and schools owe a duty to students to take all reasonable measures to protect their safety and welfare.

3. If an injury results from a teacher’s or a school’s failure to exercise the required standard of care, a negligence claim may result.

The Mary MacKillop Memorial School Duty of Care Policy needs to be read in conjunction with all other Mary MacKillop Memorial policies and guidelines and the SACCS policies and guidelines that relate to Legal Responsibilities of Schools.

Teachers and/or Principals

If Principals and/or Catholic school staff are unclear about any area of Legal Responsibility after reading this Policy, they should contact their Principal Consultant or the Human Resources Team at the Catholic Education Office before proceeding with any course of action (see sec. 5 Useful References).
ELEMENTS OF DUTY OF CARE

NEGLIGENCE

The concept of negligence and the remedies, which flow from the breach of a duty of care, rest on establishing four key elements:

1. That, at the time the injury occurred, the teacher or school owed the student a duty of care.

The fact that a duty of care exists between a teacher and their students is well established in case law and is illustrated by the judgment of Justice Stephen of the High Court in Geyer v Downs & Anor [1977](http://www.austlii.edu.au/au/cases/cth/HCA/1977/64.html) when he said; “Children stand in need of care and supervision and this their parents cannot effectively provide when their children are attending school; instead it is those then in charge of them, their teachers, who must provide it.”

The school authority will be vicariously liable for any breach by its teachers of the duty of care. However, the school authority itself also owes an independent duty of care to students. This is called a non-delegable duty of care. In The Commonwealth of Australia v Introvigne (1982) (http://www.austlii.edu.au/au/cases/cth/HCA/1982/40.html), Justice Mason stated; “The liability of a school authority in negligence for injury suffered by the pupil attending the school is not a purely vicarious liability. A school authority owes to its pupils a duty to ensure that reasonable care is taken of them ... the duty is not discharged by merely appointing competent teaching staff and leaving it to the staff to take appropriate steps for the care of the children. It has a duty to ensure that reasonable steps are taken for the safety of the children, a duty the performance of which cannot be delegated.”

In Introvigne (http://www.austlii.edu.au/au/cases/cth/HCA/1982/40.html, above) Justice Murphy considered that the nature and extent of the school’s authority is:

- to take all reasonable care to provide suitable and safe premises;
- to take all reasonable care to provide an adequate system to ensure that no child is exposed to any unnecessary risk of injury; and
- to take all reasonable care to see that the system is carried out.

2. That the school failed to exercise the standard of care which is expected in those circumstances.

The standard required may be a higher standard than that of a parent. Whether such a standard of a ‘competent professional’ (see Rogers v Whittaker [1992] http://www.austlii.edu.au/au/cases/cth/HCA/1992/58.html) is met depends heavily on the factual and individual circumstances, such as:

- The age and capacity of students
- The nature of the activity (gravity of the risk)
- Whether it is justifiable on educational grounds
- Whether it would impose unjustifiable hardship to eliminate risk
- Whether the injury was foreseeable
3. **That the student suffered some actual injury.**

An injury can be physical, emotional or psychological. A trivial or less significant injury may not be worth the cost of pursuing a legal remedy because in such cases, even if successful, the court is unlikely to award substantial damages.

Where a student suffers more substantial injury and is successful in court proceedings, he or she will be provided with compensation usually for medical or other expenses incurred or likely to be incurred in the future. In addition, compensation for such factors as pain and suffering, loss of enjoyment of life and loss of future income may be awarded.

4. **That it was the teacher or school’s failure to exercise sufficient care which caused injury and the injury would probably not have occurred had the appropriate care been taken.**

A school will not be responsible for all injuries befalling students. It will only be liable where teacher or the school has failed to exercise sufficient care.

**VICARIOUS LIABILITY**

Vicarious liability refers to an employer’s liability for the negligent acts of its employees. In South Australia the Wrongs Act enshrines this in legislation. The definition of vicarious says that employers are vicariously liable for:

- employee acts authorized by the employer; or
- unauthorized acts so connected with authorized acts that they may be regarded as modes, albeit improper modes, of doing an authorized act.

It is especially important to avoid any activities with students, which are not approved by the school. This particularly includes activities outside of school hours. Teachers are covered by insurance for injuries to students, which happen “in the course of the teacher’s employment”. This means for ‘school related activities’ ensure that all activities are strictly in the course of your employment to ensure cover.

**NON-DELEGABLE DUTY**

Schools owe its students a non-delegable duty to ensure that reasonable care is taken for ensuring their safety. This means that the school authority itself is under a direct personal obligation to ensure that reasonable care is taken, and as such cannot avoid liability by saying that it delegated that duty to someone else.

In commenting on why the special relationship between a school authority and its pupils attracts such a high standard of care, Justice Mason of the High Court said in Introvigne (http://www.austlii.edu.au/au/cases/cth/HCA/1982/40.html above); “The immaturity and inexperience of the pupils and their propensity for mischief suggest that there should be a special responsibility on a school authority to care for their safety, one that goes beyond a mere vicarious liability.”
Mary MacKillop Memorial School has a non-delegable duty of care to its students to whom the school has delegated its duties and functions.

Non-delegable duties of the school may include but are not limited to:

- the engagement of reliable, carefully screened, and properly trained employees;
- the provision of suitable premises;
- an adequate system for the monitoring of employees; and
- an efficient system for the prevention and detection of sexual abuse.

**CONTRIBUTORY NEGLIGENCE**

Contributory Negligence is concerned with whether a child of that particular age and experience could reasonably be expected to behave any more carefully.

The age of students at Mary MacKillop Memorial School may indicate that some of the students could not reasonably be expected to behave carefully and that the onus for safety and care rests with the school.

**OCCUPIER’S LIABILITY**

As a general proposition, schools are responsible for ensuring that the premises are reasonably safe for visitors to enter.

This liability focuses on:

- the gravity and likelihood of probable injury;
- the circumstances of the entry on to the premises;
- the nature of the premises;
- any knowledge which the school has or ought to have of the likelihood of persons being on that part of the premises;
- the age of the visitor;
- the ability of the visitor to appreciate any danger; and
- the burden on the school of eliminating the danger or protecting the visitor from the danger, as compared to the risk of danger to the visitor.

Schools should ensure that pathways are clear of obstacles, and ground surfaces are even in areas where visitors are reasonably likely to go.

**EDUCATIONAL NEGLIGENCE**

“Educational negligence occurs when a student suffers harm as a result of negligent or incompetent teaching. The idea that teachers or school Authorities should be liable for educational negligence is a burgeoning one. If teachers claim full membership of the club of professionals, they may have to expect the ultimate development of legal liability to meet the appropriate standard in the exercise of their professional talents”… Justice Kirby.
The government and community continue to demand more accountability in all forms, and the teaching profession is not immune. The Courts have long regarded teachers as professionals. As such, it is arguable that a student who suffered from incompetent teaching or advice, and sustained an injury as a result could successfully bring a civil action against that teacher or teacher’s employer.

**STATUTORY REFORM**

South Australia’s recent public liability reforms have seen the amendment of various pieces of legislation. The enshrining of the common law principles of duty of care, contributory negligence, non-delegable duty, vicarious liability and assumption of risk is an attempt to make more explicit the reasoning processes that Courts should apply in reaching conclusions about liability.

However, it is important to note that the legislation dealing with public liability applies to consumers of those services who are of full age or capacity, and that **parents or guardians cannot waive their child’s right to sue. Thus, it does not penalize children or others** lacking legal capacity who participate in a recreation involuntarily, under the direction of a parent, guardian or school.

**SUPERVISION**

**Yard Duties**

While a school is open, it has a duty to provide adequate supervision at all times.

What is ‘adequate’ will depend on the circumstances, the size of the school, and the ability of the supervisors to access all areas where the children are playing.

Education Support Officers (in addition to teachers) may do yard duty if:

The Principal has determined that the school assistant is suitable (i.e. an ESO who works in an office remote from students may not be suitable because students may not be accustomed to obeying that person’s directives);

- Suitable training has been given, specifically with regards to Duty of Care obligations of the school’s policies in relation to student;
- The ESO has a clear understanding behaviour and conduct;
- The ESO is not the only person on yard duty. There should also be a teacher, preferably also on duty, otherwise in the near vicinity to be called upon if required.
- If ESOs do perform yard duty supervision as part of their duties, this should be included in their Duty Statement.

**Whenever staff are on yard duty, it is important that they are on time and actively and vigilantly patrol the required area. It is important that they do not leave the area if the next staff member fails to arrive.** The teacher on duty sends a responsible student to the staff room or the office to notify that a staff member has failed to arrive.
BEFORE AND AFTER SCHOOL

Mary MacKillop Memorial School is obliged to provide adequate supervision for students who arrive habitually early for school and or who stay after school using the facilities.

Depending on the particular circumstances, schools may also have a legal duty to ensure the safety of its students while they are journeying to and from school and school related activities.

So long as the school is able to exercise authority and control over its students, it will be incumbent upon it to take reasonable steps to protect its students against the risk of injury.

Factors such as:

- the geographical distance from the school,
- the nature of the activities which give rise to the risk of injury,
- the parties involved and the type of transport being used
- the safety of the immediate surrounds are all important considerations when determining the standard of care owed.

There are no definitive answers to the issue of supervision.

- Students who are involved in after school activities, must be supervised until they are collected by their parents or caregivers
- If the time for after school supervision has expired but students are still in the area, staff should bring all students to the front office. School Office staff will contact their parents.
- The school is vigilant in supervising students after school as they make their way home. Portland Street Crossing is supervised with flags at the crossing before and after school –8.15am – 9.00 am and 3.00pm – 3.30pm. A teacher is on duty on near the Church for Buses 3.15pm – 3.30 pm.

Classrooms and Specialist Rooms

Students must be supervised at all times therefore:

- Students are never to be left unattended in a classroom, office or any other area of the school
- No student is to be alone with a teacher, ESO or volunteer unless in full public view.

Excursions

The standard of care to be exercised on excursions is arguably higher than at any other time. Frequently students are involved in inherently more risky situations and often in unfamiliar environments. The risks therefore are greater and the foresee-ability of injury more likely. (See Mary MacKillop Memorial School Excursion, Sports and Outdoor Education Policy)
EXCURSIONS TO VENUES CONTROLLED BY OUTSIDE ORGANIZATIONS

Schools have a non-delegable duty to ensure the safety of its students. As such, where schools organize activities for its students to take place on premises not owned or controlled by it, the school, in addition to the owner of the premises, may be liable for any accidents occurring on such premises.

The school has control over its students and therefore must decide if it is safe for the students to visit the premises at all, and how many students can safely visit at one time.

Accordingly, prior to any external school excursion, schools should:

- inspect the premises to ensure they are safe and suitable;
- obtain written confirmation of the qualifications and experience of those involved in organizing and conducting the activity;
- enquire about the character and screening processes for recruitment of staff;
- ensure that the owner of the premises has suitable public liability insurance.

It is important to remember when dealing with recreational service providers the introduction of the Recreational Services (Limitation of Liability) Act 2002 (http://www.austlii.edu.au/au/legis/sa/consol_act/rsola2002443). This Act provides for recreational service providers to submit a Code of Practice and register their activity with the Minister of Consumer Affairs. Once registered, a consumer can enter into a contract with the provider, and agree to modify the provider’s duty of care. If a consumer suffers from personal injury, the provider is only liable in damages if the consumer establishes that the provider failed to comply with the Code. However, most importantly for schools, a consumer means a person who is of full age or capacity and that any proposed system of waiver will not permit parents or guardians to waive a child’s right to sue.

FIRST AID, HEALTH MANAGEMENT AND OHS&W

First Aid and Health Management

Teachers and various Education Support Officers have a special and primary duty to the students in their care. This duty of care requires them to refrain from doing things that might lead to a student being injured.

It also requires the staff member to take positive steps towards maintaining health and safety.

An employee could be found to be negligent if assistance was not provided to an ill or injured student.

The duty of care owed by education personnel is that of a ‘reasonable professional’ and will be governed by factors that include:

- the age of the student;
- the student’s individual capabilities, including intellectual and physical impairment;
- potential dangers;
- the degree to which injury, or malaise due to illness, is predictable.
School Principal

The Principal will ensure and follow the school’s health support procedures. It is the Principal’s responsibility to:

- alert families to the need for health care plans if students need individual support;
- develop, monitor and review worksite health support procedures;
- manage health support planning;
- manage confidentiality.

All School Staff

A staff member’s first duty is to the students in his or her care. For students with health support needs, this means the staff member:

- helps families understand health support planning procedures at the school;
- provides basic first aid;
- facilitates individual health support plans;
- develops learning and care programs which accommodate health support plans;
- offers alternative programs where participation in the planned program could place students with health issues at risk;
- supports a range of curriculum access options
- reports to parents and guardians any observations, which could indicate health related concerns.

All staff must take reasonable care to protect their own health and safety and that of others on the Mary MacKillop Memorial School campus.

In providing student health support they must, therefore:

- become familiar with policies and procedures that guide work performance;
- follow instructions related to health and safety;
- accept responsibility for safe working conditions within their control. This includes the responsibility to notify their employer should their own health, including their infection status, pose any risk to others;
- safeguard the privacy of health information, using privacy principles;
- use equipment provided for health and safety purposes;
- apply standard precautions against transmission of infections;
- perform tasks in line with the training received.

Parents and Guardians

Parents and guardians are primarily responsible for the health and well-being of their children.

It is the responsibility of Parents and guardians to:

- provide relevant health care information;
• liaise with health professionals to provide care plans which create minimum disruption to learning programs;
• assist students for whom they are responsible to self-manage, as much as is safe and practical, their health and personal care needs.

**Student**

Wherever possible, students should be supported to learn responsibility for their own health and personal care needs in non-emergency situations. Children in the early years will need supervision of their medication and other aspects of health care management. Self-management should follow agreement by the student and his or her family, the school and treating health professionals.

For a detailed explanation on this topic, please see SACCs Guidelines on “First Aid and Health Management” which can be located online at: ‘Home CESAS Policies, Procedures & Guidelines First Aid and Health Management’ at the following address:

http://online.cesanet.adl.catholic.edu.au/docushare/dsweb/View/Collection-689

Also, please refer to the Catholic Church Safety Manual – First Aid Policy and Procedure located online at: ‘Home School Communities Catholic Education Office Occupational Health, Safety and Welfare Occupational Health, Safety and Welfare Policy 11 First Aid Policy and Procedure’ at the following address:


**Occupational Health Safety and Welfare**

Safety in the workplace is everyone’s responsibility, but those in leadership roles have primary responsibility.

The Catholic Church Safety Manual is a reference tool designed to provide schools the basis for compliance with relevant legislation and the Exempt Employer Workers Compensation License. It can be located online at: ‘Home School Communities Catholic Education Office Occupational Health, Safety and Welfare Occupational Health, Safety and Welfare Policy’ at the following address:

http://online.cesanet.adl.catholic.edu.au/docushare/dsweb/View/Collection-572

Following are a selection of areas that relate specifically to Mary MacKillop Memorial School Duty of Care.

**Sun Protection and Hot Weather**

Please refer to the Mary MacKillop Memorial School Sun Protection Policy. Parents are informed of these policies. In addition to wearing the School’s broad brimmed hats when outside, students may also be encouraged to wear sunscreen and possibly other suitable “cover-up” clothing to reduce the risk of sun damage. Students are also encouraged to drink water throughout the day to improve fluid intake, particularly on hot days. Students are asked to have bottled water on their desk throughout the day. Mary MacKillop Memorial is a Sun Smart School.
Building Works

When building works are carried out at the school, the Mary MacKillop Memorial Occupational Health Safety and Principal ensure that that all occupational health safety and welfare, building code and statutory requirements are met.

Safety in School Working Areas

Through OHS&W procedures, Mary MacKillop Memorial School ensures that all classrooms and preparation rooms are safe for all students, staff and visitors. Please refer to Mary MacKillop Memorial School Health Safety and Welfare Policies.

The Policies include but are not limited to:

- Storage of chemicals;
- Safety and first aid equipment;
- Emergency Evacuation Procedures;
- Risk Management Plan

Risk Management

Risk evaluation should be part of the continuing assessment of management responsibilities (see Mary MacKillop Memorial School Risk Assessment Proforms). As part of this, and in adherence to the Catholic Church Safety Manual, in the event of an injury, incident or near miss, the Principal is responsible for initiating the following actions:

- Consider the welfare of the injured person and any others affected;
- Investigate the incident, injury or near miss in consultation with the Health and Safety Representative;
- Complete relevant reports (and lodge any applicable claims for any employees involved);
- Identify immediate, medium and long term preventative action and implement accordingly;
- Review such actions and ensure they are relevant and effective.

Violent Behaviour from Students

Violence can be defined as the unjustified use or threat of use of force. It also includes verbal abuse, particularly in the immediate presence of the victim.

Violent behaviour is unacceptable and can be illegal or criminal. It is covered by a range of legislation including Occupational Health Safety and Welfare, antidiscrimination, equal opportunity, workers compensation and rehabilitation, domestic and apprehended violence orders, criminal law and the common law (including duty of care).

Mary MacKillop Memorial School seeks to control the risk of violent behaviour from hazardous persons through the school Personal Responsibility Policy, Bullying and Harassment statement, Student Grievance Policy and Employees Bullying and Harassment in the Work Place Procedures.
Risk control strategies include:

- assessment of students who present with behavioural problems, and dissemination of information about student’s dangerous propensities to those who need to know, for their own safety and that of others.
- Seeking counselling and support for both the perpetrators and those who may be affected by violence
- Seeking support from the Catholic Education Office’s Behaviour Education Student Support Project (“BESS”) for support and funding for students at risk because of extreme behavioural difficulties, including students behaving in a violent manner.

**Accident Reports**

The Principal as Responsible Officer must ensure that reports are prepared for all but very minor accidents that occur on school premises or during a school organized activity. Reports should, as far as possible, be collated by a senior member of staff who was not involved in the accident. Reports should be kept for a minimum of 7 years, or until the injured person attains 25 years of age whichever is the longer.

**Student Records**

All relevant documentation should be included. Depending on the scenario, this could include any or all of the following:

- Witness statement, including the person injured, if practicable (where this is necessary, be aware that Privacy legislation is applicable, and ensure that witnesses are aware that such statements may be used to defend any possible legal proceedings or any assessment of claims);
- Details of supervision arrangements in place at the time;
- Staff supervision rosters;
- Photographs of the scene;
- Sketch plans of the site marking the locations of the accident and position of relevant people;
- Details of any previous accidents of a similar nature.

**Notifying Parents/Guardians**

Parents/Guardians must be informed of any accident involving their children as soon as possible after the accident occurs. The following information should be conveyed:

- Confirmation that their child was involved in an accident
- Description of the nature of the accident; and details of the injuries sustained
- Details of any follow up action – e.g. first aid, ambulance.
• Copies of any correspondence should be kept on the student file. If they are initially contacted by phone, a memo of the conversation should be taken down.

• Liability for the accident or any opinion as to the legal responsibility for the accident should not be expressed.

• Principals should be as helpful as is reasonably possible in providing information to students, parents and guardians,

• Any request for a copy of the accident report and accompanying documentation should be refused until the Principal has received legal advice through their Principal Consultant.

• A person who has made a statement is entitled to have a copy of that statement upon request.

PHYSICAL EDUCATION AND SPORT

Teachers and schools can be held liable for injuries caused by sporting activities. (See Mary MacKillop Memorial School Excursions, Sports and Outdoor Education Policy and Procedures).

Condition of School Grounds

Further, a school may be liable if an injury is sustained as a result of the condition of the school grounds upon which a sport is played. Likewise, a school owes a duty to students from other schools who use its school’s facilities.

Negligence of Teachers/Sports Coaches

The school may be liable because of the negligence of one of its teachers or sports coaches. For instance, if a teacher is aware that a particular student is prone to violent and aggressive behaviour, it may be negligent not to protect other students from that student. It may be negligent not to remove the student from the game at the first sign of aggression.

Schools should also ensure that they are familiar with and strictly comply with any guidelines provided in relation to teacher/student ratios for various sporting activities.

These are detailed in SACCS’ Guidelines “Camps Excursions and Adventurous Activities” located on line at: Home CESA Services Policies, Procedures & Guidelines Excursions Camps and Adventure Activities Guidelines at the following address:


A Court will make up its own mind about the adequacy of the recommended ratios but it is most unlikely to find, in the event of injury, that recommended ratios were too generous.

Indirect Sporting Injuries

This area of liability seems destined to increase markedly in the future. Sports medical experts are increasingly issuing warnings about the dangers of indirect injuries to students and, in particular, overuse injuries. Overuse injury is damage to the body due to prolonged or very repetitive exercise. Such injuries are:
• predominantly attributable to poor coaching methods. Students, because of their age and the stresses on the body of rapid growth are particularly prone to overuse injuries. Overuse injuries are capable of causing significant long term and permanent injury to students.

• More prevalent in students with particular sporting talent often also exhibit significant psychological injury from the long term effects of overuse injuries.

• undiagnosed until the child reaches adulthood.

Please refer to the Mary MacKillop Memorial School PE Policy, Excursions, Sports and Outdoor Education Policy and the Out of Hours Sport Policy and Procedures.

SAFETY AND WELFARE

Playground Safety
The OHS&W Officer and the Grounds person make regular inspections of Mary MacKillop Memorial School’s playgrounds and equipment. Risks are assessed and controls put in place.

Food Safety
Although Mary MacKillop Memorial School does not have a school canteens, on the occasions where food is provided the Food Safety Standards need to be implemented.

The Food Safety Standards can be located on line at the Department of Human Services, Public Health South Australia web site at the following address:

Sexual Harassment and Bullying
Sexual harassment is a form of sex discrimination. A person who is being harassed may suffer psychological, mental or physical disorders. This is particularly the case with younger people.

Bullying has both long term and short term effects on victims. The long term may range from mental and psychological damage to personal loss and loss of employment opportunities.

Sexual harassment and bullying, in addition to constituting possible offences under the criminal law can also possibly give rise to a civil claim for damages.

A school authority can be found liable for damage caused to its students due to harassment, violence and bullying through its own negligence or that of its employees or by breaching its non-delegable duty of care owed to its students.

Australian Courts have recognized schools’ liability where negligent supervision gives rise to an emotional or physical injury due to criminal behaviour of students in the classroom.

http://online.cesanet.adl.catholic.edu.au/docushare/dsweb/View/Collection-360
(see: Responding to Bullying in the Workplace Procedures - SACCS Guideline; Responding to Discrimination Procedures - SACCS Guidelines; Sexual Harassment)
CHILD PROTECTION / MANDATORY NOTIFICATION

SACCS’ Child Protection Policy directs schools to develop and implement relevant practices, procedures and programs for all students to ensure that their school is a place where children can be safe and feel safe.

Mary MacKillop Memorial School has an obligation to protect children and to:

• provide a secure, safe environment where children can be safe and feel safe
• intervene on behalf of children actively work towards empowering children
• ensure the principles of care, protection and safety are implemented.

Mary MacKillop Memorial School Staff are to be educated in the area of Child Protection and Mandatory Notification.

Mary MacKillop Memorial provides protection and abuse prevention curriculum for students.

SACCS’ Child Protection Policy is located online at: ‘Home CESA Services Policies, Procedures & Guidelines Child Protection - SACCS Policy’ at the following address:


SACCS’ procedural guidelines for dealing with child abuse are located online at: ‘Home CESA Services Policies, Procedures & Guidelines Child Abuse Procedure SACCS’ at the following address:


Disclosures made in Confidence

If a student discloses to a staff member something that puts their or someone else’s safety or welfare at risk, then the staff member’s overriding duty of care towards that student demands that they immediately inform the Principal or delegate who should then contact the relevant parents/guardians about their concerns.

Ideally, this should be done with the consent of the student, if at all possible, so that positive relationships can be maintained.

These situations often arise in a counselling session. Notwithstanding the counsellor’s obligations about confidentiality, their duty of care towards the student may demand that the confidence be broken.

The Counselling Association of South Australia Inc (CASA)’s Code of Ethics states:

• Unless required by law, counsellors must maintain the confidentiality of the counselling relationship.
• Exceptional circumstances may arise which give the counsellor good grounds for believing that the client will cause serious physical harm to others or themselves.
• In such circumstances, the breaking of confidentiality may be required, preferably with the client’s permission, or after consultation with a supervisor.
• No staff member should attempt to provide counselling to the student unless they have the requisite level of counselling skills in that particular area.
The **Code of Ethics** can be found on CASA’s website at the following address:


**Dangerous Risk Taking Behaviour observed out of the school environment**

If a staff member observes a student partaking in dangerous risk taking behaviour out of the school environment then, in certain circumstances, there may be an obligation to report to the Principal who should then contact the relevant parents/guardians.

**Each situation will be different and a judgment call will need to be made.**

It is for this reason that staff should maintain their professional boundaries at all times when dealing with students –

Accordingly schools strongly discourage:

- staff from attending any student parties and the like. If a member of staff has contact with a student outside of the school environment, and can be reasonably seen to be acting in his/her capacity as a staff member by that student, then the duty of care towards that student may be activated.

**SCHOOL RECORDS**

Mary MacKillop Memorial School has a responsibility to ensure that records relating to all aspects of school administration, students and staff are kept secure, accurate and up to date.

Their use must be protected from loss and unauthorized use. As such, there should be comprehensive confidentiality and security arrangements particularly for those files containing sensitive and personal information. For electronic files that contain personal information, access should be restricted by password and other appropriate measures. Back ups of all electronic records are carried out each day and ‘Back up’ is taken off site each night.

Some documentation will need to be kept as a hard copy, such as documentation that requires a signature.

**Financial Business Records**

Must be kept for a minimum of 7 years;

- If space permits, it is advisable to keep for a longer period;
- Historically significant documents should be archived;
- Any sensitive or contentious documentation which could possibly be subject to legal proceedings should be kept indefinitely.

**Staff Records**

These need to be kept for at least 7 years after staff member leaves school. When transferring employment history details to other Catholic schools, only send copies, and keep all originals.

Any documentation which could possibly be subject to legal proceedings should be kept indefinitely in a confidential file.

Staff should have access to their file:
• in accordance with Privacy Guidelines;
• with someone else present at all time;
• no material to be removed from file;
• reasonable photocopying should be allowed;

Some documentation should not be stored in the personnel files such as letters by or addressed to the Principal and third parties.

**Student Records**

Documentation to be kept till student is 25 years old.

The following records should be retained:

- Application for Enrolment Form and Acceptance Form;
- Admission Register;
- Roll Books;
- Student Records including marks, grades and comments. For ‘continuous assessment’ subjects, enough examples will be needed to demonstrate achievement and progress (with corresponding documentation);
- Accident or Injury Reports;
- Records of suspensions and other serious disciplinary records;
- Any guidance test results, Consultant or Psychologist reports;
- Any correspondence relating to the above.

Further information relating to the **retention of school records** can be located online at: ‘Home CESA Services Industrial and Personnel Information Record Keeping’

**INTERNET USE**

Individuals and or the School may be liable for what is written or said in an email message. Email is neither private nor secret. It may be easily copied, forwarded, saved, intercepted, archived and may be subject to discovery in litigation.

The audience of an inappropriate comment in an email may be unexpected and extremely widespread.

The Internet, email or messaging should never be used for the following purposes: to abuse, vilify, defame, harass, degrade or discriminate (on the grounds of, for example, sex, race, or disability et cetera);

- to send, assent to receive or store obscene, offensive or pornographic material;
- to discuss or comment on the physical appearance of other persons (whether they receive the message or not);
- to harass any person whether through language, frequency or size of messages;
- to injure the reputation of the School and or the Church in a manner that may cause embarrassment to the employer or the Church;
• to offend the ethos and values of Catholic teachings;
• to spam, spoof or mass mail or to send chain mail;
• to infringe the copyright or other intellectual property rights of another person;
• to perform any other unlawful or inappropriate act.

Please refer to the Mary MacKillop Memorial School Acceptable Staff Use of School Network and Intranet Policy

RESOURCES

**ON-LINE INFORMATION - CESA Online** (recommended) at the following address:


Home
CESA Services
Child Protection & Mandatory Reporting
OHS&W
Industrial and Personnel Information
Out of School Hours Care
Overseas & Interstate Excursions
Privacy
Record Keeping
Screening Procedures
Policies, Procedures & Guidelines
Charter for Teachers - SACCS Charter
Child Abuse Procedure SACCS
Child Protection & Mandatory Reporting
Communications & Technology Policy - SACCS Policy
Development of Personal Responsibility - SACCS Policy
Excursions Camps and Adventure Activities Guidelines
First Aid and Health Management
Forms and Proformas for Students
Interview of Students
Duty of Care Policy Page 32
Out of School Hours Care
Overseas & Interstate Excursions
Physical Education and Sport
Procedures for Taking Students on Overseas & Interstate Excursions
Responding to Bullying in the Workplace Procedures - SACCS Guideline
Responding to Discrimination Procedures - SACCS Guidelines
Science Laboratory Guidelines
Screening Procedures
Sexual Harassment
Record Keeping
Suspension & Expulsion - SACCS Guidelines
Using the Internet Legally (guidelines)

Websites
Australasian Legal Information Institute (AustLII)
http://www.austlii.edu.au/

Cancer Council Australia, SunSmart Schools Programs
http://www.cancer.org.au/content.cfm?randid=160523 and

Department of Human Services, Public Health South Australia, Food Safety

Kidsafe SA

Kidsafe NSW
http://www.kidsafensw.org/playsafety/index.htm

Kidsafe WA
http://www.kidsafensw.org/playsafety/index.htm

Legal Services Commission, Law Handbook On line (recommended)
http://www.lawhandbook.sa.gov.au

CATHOLIC RESOURCE AND INFORMATION SERVICE
112 Kintore Street Thebarton SA 5031
Ph: 8301 6869
Fax: 8301 6870

Implementation 2004

Reviewed & Ratified by Mary MacKillop Memorial School Board on 12/08/08

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