



Mernda Hills Christian College

Duty of Care Policy

Document Control

Revision Number	Review Date	Implementation Date	Description of Changes	Prepared By	Approved By
Gilson College – Mernda					
	Oct 2021	Oct 2021	<ul style="list-style-type: none"> General review 	Exec Leaders	Gilson College Council
Mernda Hills Christian College					
1	May 2023	Jan 2024	<ul style="list-style-type: none"> General review Added definitions Added statement re diverse and ATSI students Added management of Senior Students – Independent Study periods Added Hot Spots 	Exec Leaders	Exec Leaders
2	Nov 2023	Jan 2024	<ul style="list-style-type: none"> Updated to include a section on supervision of students for off-site activities Updated to refer teachers to the Excursions and Camps Policy for information on <i>Staffing – roles and responsibilities on off-site activities, and Information for specific Adventure activities.</i> 	Exec Leaders	Exec Leaders

Rationale

All staff of Mernda Hills Christian College 'the College' (including teachers, management, and ancillary staff), have a duty of care to all students. Whenever a student-teacher relationship exists, the teacher has a special duty of care. This is defined as: "A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teacher's charge from risk of injury that the teacher should reasonably have foreseen." (Richards v State of Victoria). As part of that duty, teachers are required to supervise students adequately.

This requires not only protection from known hazards, but also protection from those that could arise [that is, those that the teacher should reasonably have foreseen] and against which preventative measures could be taken. This includes the Child Safe Standards under Ministerial Order 1359, particularly Child Safe *Standard 9: Physical...environments*. This policy outlines the expectations of that responsibility to ensure that all students at Mernda Hills Christian College are safe to learn and grow.

Implementation

Definitions

1. **Duty of Care:** A legal obligation to take reasonable steps to protect students from a foreseeable risk of harm or injury.
2. **Reasonable:** In the context of duty of care in a school setting 'reasonable' refers to the standard of care that is expected from teachers, staff members, and school administrators when it comes to ensuring the safety and wellbeing of students. The concept of reasonableness takes into account what a prudent and diligent person, with similar skills and knowledge would do in similar circumstances.
3. **Foreseeable:** Involves assessing whether a harm or injury, or whether a certain action or omission might cause harm to a student, and could have been anticipated by a reasonable person

The VRQA's minimum standards determine that:

1. Reasonable measures must be taken to protect students from reasonably foreseen risks of injury,
2. Reasonable care must be provided to ensure that students (and other persons) on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done to the premises,
3. Reasonable precautions are taken to prevent the abuse of a child by an individual associated with the College while the child is under the care, supervision, or authority of the College,
4. Different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty of care.

Overview

1. Principals, teachers, and other staff working with students must take reasonable duty of care steps to protect students from reasonably foreseeable risks of injury and harm, including by:
 - a. providing suitable and safe premises
 - b. providing an adequate system of student supervision
 - c. undertaking risk assessments for school activities and events

- d. implementing strategies to prevent reasonably foreseeable injuries, whether physical or psychological, to students (including injuries suffered as a result of bullying)
 - e. ensuring that appropriate medical assistance is provided to a sick or injured student
 - f. ensuring the school complies with the Child Safe Standards
 - g. taking other reasonable precautions to minimise the risk of child abuse by an individual associated with the school
 - h. implementing relevant Department and local school policies
 - i. managing employee recruitment, conduct and performance.
2. Whenever a student-teacher relationship exists, the teacher has a special duty of care.
 3. Teachers in particular are bound by the legal principle of in loco parentis, but all staff members who work with students have duty of care responsibilities. This policy primarily applies duty of care principles to teachers and their circumstances, but this does not negate the duty of care responsibilities of non-teaching staff.
 4. Duty of care to prevent child abuse applies not only to teachers, but to all adults associated with the College.
 5. A teacher's duty of care must take into account the diversity of all children, including (but not limited to) the needs of Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, children with disabilities, LGBTQIA+ and other children who are vulnerable
 6. A teacher's duty of care is not confined to the geographic areas of the College, or to school activities, or to activities occurring outside the College where a student is acting on a teacher's instructions. The duty also applies to situations both before and after school where a teacher can be deemed to have 'assumed' the teacher/pupil relationship.
 7. The teacher's duty of care is greater than that of the ordinary citizen in that a teacher is obliged to protect a student from reasonably foreseeable harm or to assist an injured student, while the ordinary citizen does not have a legal obligation to respond.
 8. Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following is a list (though not exhaustive) of common examples that may be times when a teacher has failed to meet their legal duty of care responsibilities to their students:
 - a. Arriving late to scheduled timetabled yard duty responsibilities,
 - b. Failing to act appropriately to protect a student who claims to be bullied (see *Anti-Bullying and Harassment Policy*),
 - c. Believing that a child is being abused but failing to report the matter appropriately (see *Child Safety and Wellbeing Policy*, and *Mandatory Reporting Policy*),
 - d. Being late to supervise the line-up of students after the bell has sounded,
 - e. Leaving students unattended in the classroom,
 - f. Ignoring dangerous play,
 - g. Failing to instruct a student who is not wearing appropriate safety equipment or clothing, e.g., no hat, play in the shade,
 - h. Leaving the College during time release without approval,
 - i. Inadequate supervision on a school excursion or camp.

Outside the normal school environment

1. Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day.
2. The approach generally taken is that a teacher's duty of care applies irrespective whether the risk occurs in or outside the school environment. However, the important issue in all cases will be whether reasonable steps were taken to protect the student from the risk.
3. Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency, and threat of injury. For example, a live power line had come down outside the school and students are about to be dismissed to walk home. Adequate duty of care would prevent students from being permitted to walk into that danger.

Classroom supervision

1. It is **NOT** appropriate to leave students in the care of ancillary staff, parents, or pre-service teachers – the duty of care cannot be delegated.
2. It is **NOT** appropriate to leave students in the care of external education providers, for example during incursions or on excursions – the duty of care cannot be delegated.
3. In **an emergency situation** use the phone to phone the Principal or Head of School or contact the teacher in the next room. [if appropriate – send another student for assistance]
4. **No student** should be left unsupervised **outside the classroom** as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a colleague's classroom, or to the Head of School or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Head of School is to be contacted first to alert them that the student is on their way.

Senior students – Independent study periods

1. Senior students may have independent study periods factored into their academic timetable each fortnight, based on their selected subjects and timetable allocations. Students are expected to work in the library or common room spaces with supervision from library or teaching staff during these sessions.
2. Students may request changes to their independent study period program dependent on their learning needs. These are considered on an individual basis, with consideration to duty of care and supervision by parents (offsite) or teaching staff (onsite).

Movement of children

1. Care needs to be taken in allowing students to leave the room to work in other areas of the College.
2. Discretion is to be used when allowing students to visit the toilets during class time.

Yard supervision

1. Yard supervision is an essential element in teachers' duty of care. It is clearly established that in supervising pupils, teachers' duty of care is one of positive action involving movement and visual contact.
2. Teachers should be aware that children (particularly younger children) are usually less constrained in school yards and more prone to accident and injury than in a more closely supervised classroom.
3. Teachers should be aware that yard duty supervision within the school brings with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and duty of care responsibilities.
4. Teachers should be aware of their specific supervision responsibilities in all rostered yard duty areas, and be aware that their rostered area may include close monitoring of 'hot spot' areas such as but not limited to, patrolling the toilet facilities and out-of-bounds areas from which students have been barred. (See the 'hot spot' list in Appendix 1.)
5. Teachers rostered for duty are to attend the designated area at the time indicated on the roster or ensure they are replaced.
6. Teachers on duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable.
7. The handing over of duty from one teacher to another must be quite definite and **must occur in the area of designated duty**. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the office, but **not leave the area until relieved**.
8. Changes to the yard duty roster are not to be made without the approval of the Head of School.
9. Teachers should be alert and vigilant – intervene **immediately** if potentially dangerous behaviour is observed in the yard – enforce PB4L behaviour standards and logical consequences for breaches of safety rules.
10. Teachers should always be on the move and highly visible – the wearing of provided Hi-vis vests is expected. It is not acceptable to be 'sitting down on the job'.

Before and after school

1. Students must be adequately supervised at all times, which includes a minimum of 15 minutes before and after school.
2. Duty of care applies to bus drivers when driving a bus containing students. Drivers must ensure the safety of their passengers according to the bus safe principles.

Excursions, incursions, and school camps

1. In regard to excursions, incursions and camps, teachers should be aware of the following:
 - a. that children are usually less constrained under education outside of the classroom (EOTC) circumstances and more prone to accident and injury than in a more closely supervised classroom.
 - b. that an incursion with an external provider does not absolve supervision
 - c. duties of the teacher in charge, including first aid duties. The teacher must be present at all times and remain the person designated with duty of care responsibilities.
 - d. that camps and excursions outside the school require the teacher in charge or designated teacher to remain the person designated with duty of care.
 - e. that excursion and camp activities require the teacher to ensure that all venue and transport employees adhere to College Child Safe policies and processes, as well as procedure guidelines. (See *Excursion and Camps Policy*, *Child Safety and Welfare Policy*, *Child Safe Protection Code of Conduct*, *Bushfire Response Policy*, and other relevant policies.)
 - f. that College policy whilst on excursion or camp activities is for students to be counted on and off transport and at other times on a regular basis.
2. The teacher in charge will have copies of all confidential medical and permission forms with contact details. A copy of this material will also be kept at school.
3. The teacher in charge or designated teacher of an excursion or camp should carry a mobile phone and a first aid kit.
4. If the return time from an excursion or camp is delayed, the teacher in charge should inform the Principal or Head of School of the new arrival time so that parents can be contacted, and a senior staff member should remain at school until the group arrives.
5. **All staff MUST follow College policies, processes, and procedure guidelines when organising an excursion, incursion, or camp.**

Supervision on Excursions and school camps

1. In regard to the provision of appropriate and effective levels of supervision, the risk assessment on excursions and camps, teachers must take into account the following:
 - experience, qualifications, and skills of staff (including volunteers, instructors etc) Refer also to ***Excursions and Camps Policy, Appendix 1 Staffing – roles and responsibilities***
 - age, maturity, physical characteristics, and gender of the students
 - ability and experience of the students
 - size of the student group
 - nature and location of the excursion
 - activities to be undertaken
 - known or anticipated weather conditions
 - requirements outlined in the information for specific Adventure activities. Refer to the ***Excursions and Camps Policy, Appendix 2 Information for specific Adventure activities*** for details
 - emergency response planning
 - any other relevant factors

Minimum supervision requirements

1. This section outlines the minimum requirements for staff-student ratios. When planning the staff-student ratios for an excursion, schools:
 - a. may need to enhance these measures with additional staff or volunteers to ensure student and staff safety
 - b. must take into account the likelihood of circumstances where a staff member may be unable to actively supervise the group (for example, staff illness, staff needing to support a particular student because of illness, behaviour and so on), and the time it will take for a replacement staff member to arrive at the excursion destination
 - c. should apply the information in the **Excursions and Camps Policy, Appendix 1 on Staffing – roles and responsibilities** which sets out the range of adults that can be included in the excursion staff supervision ratios, including parent volunteers and specialist instructors
 - d. should note the section below outlining the exceptions to the minimum supervision requirements
 - e. should note the requirement that all excursions must be under the direct control of a member of teaching staff unless an exception applies.
2. Except where otherwise indicated, all excursions and camps must have a minimum of 2 staff members.
 - a. Local excursions:
Regular class teacher-student ratios with an additional accompanying staff member (as required)
 - b. Day excursions
1:20 staff-student ratio with a minimum of 2 staff
 - c. Overnight base camps
1:10 staff-student ratio with a minimum of 2 staff
 - d. Overnight study camps
1:15 staff-student ratio with a minimum of 2 staff
 - e. Interstate travel
1:10 staff-student ratio with a minimum of 2 staff
 - f. Overseas travel
The following table indicates how staff numbers should be calculated, noting these ratios are the minimum required.

Number of students	Number of staff
1 to 10	2
11 to 20	3
21 to 30	4

Negligent advice

1. Teachers are also cautioned against giving advice on matters that they are not professionally competent to give, for example, providing financial advice. This is known as 'negligent advice' and is against the law.
2. Advice is to be limited to areas within a teacher's own professional competence and given in situations arising from a role, such as careers teacher, year level coordinator or subject teacher, as specified for them by the principal.

Duty of care to prevent child abuse

1. Duty of care to prevent child abuse applies to all adults associated with children, not only to teacher/student relationships (See *Mandatory Reporting Policy, Reportable Conduct Scheme Document*).
2. It is the responsibility of each adult associated with the College to take reasonable precautions and measures to prevent the sexual or physical abuse of children and young people under our care, supervision, or authority.
3. This includes all employees of the College in any capacity, employees of Adventist Schools Victoria, pastors and chaplains employed by the school and the Seventh-day Adventist Church, ancillary staff, volunteers, or contractors associated with the College, College Council members, College students 18 years and older, and other stakeholders associated with the College.

Ensuring a Safe Workplace for all People

1. It is the responsibility of each employee to ensure the school premises are safe at all times.
2. Regular checks of each employee's own workspace is required to minimise risk of injury to any persons on the school premises.
3. If a risk is identified by an employee in an area outside the immediate workspace, it is the responsibility of the employee to ensure no person is put in an immediate risk of harm and then immediately notify the College leadership of the issue (See *OH&S Policy*).

Appendix 1 – 'Hot Spots'

Note that these identified 'Hot Spots' may be updated as required based on changing circumstances at the school.

- Primary soccer space
- Middle School outdoor locker space
- Village - space around the toilets/gardens
- Junior building toilets

Related Policies

- Anti-bullying and Harassment Policy
- Bushfire Response Policy
- Child Safety and Wellbeing Policy
- Child Safe Protection Code of Conduct
- Digital Technologies Policy
- Excursions and Camps Policy
- Mandatory Reporting Policy
- OH&S Policy
- Reportable Conduct Document

Relevant Documentation or Legislation

- Child Safe Standards under Ministerial Order 1359
- 2017 amendments to the Wrongs Act (1958) (Vic)
- Bus safety Act (2009)
- Bus Safety Regulations (2020)