



# **Duty of Care Policy**

## **Mount Erin College**

### **Child Safe Standards**

Mount Erin College is a Child Safe School. Our College is committed to safety and wellbeing of all children and young people. We value all students as individuals and their diversity. This will be the primary focus of our care and decision making.

Mount Erin College is committed to providing a Child Safe environment where children and young people are valued and feel safe, and their voices are heard about decisions that affect their lives.

Our College takes a preventative, proactive and participatory approach to Child Safety to ensure that the safety of children is promoted, child abuse is prevented and allegations of child abuse are properly responded to. Mount Erin College has zero tolerance for child abuse.

### **Purpose of this Policy**

To explain the legal duties owed by teachers and school staff towards students.

### **Legal Background**

A duty of care is the legal obligation to provide reasonable care while performing any acts or making any omissions that could foreseeably harm others.

Our school has developed Policies and Procedures to manage common risks in the school environment, including:

- Yard Duty and Supervision
- Bullying Prevention
- Camps and Excursions
- First Aid
- Child Safe Standards
- External Providers (including RTOS delivering VET/VCAL)
- Emergency Management
- Volunteers
- Visitors
- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health and Safety

Teachers and school staff have a Duty of Care to provide adequate supervision of students in their care. This applies not only to classrooms but also school grounds.

Teachers have a legal Duty of Care at all times for students in their classroom. For this reason, classes should not be left unsupervised.

This Duty of Care also applies not only for their scheduled Yard Duty but also if they see a student(s) behaving in a manner that could potentially result in them being harmed.

From 1 July 2017, an additional Duty of Care exists for any organisation in Victoria that exercises care, supervision or authority over children, including schools. This Duty of Care will establish a presumption of liability, such that schools will need to prove that they took “reasonable precautions” to prevent child abuse. The new Duty Does not change existing duties that schools and teachers already have, but instead reinforces the importance of ensuring that schools take reasonable precautions to minimise the risk of child abuse.

### **Standard of Care required by Schools**

Principals and teachers are held to a high standard of care in relation to students. The duty requires Principals and teachers to take reasonable steps to minimise the risk of reasonably foreseeable harm, including:

- ensuring the school complies with all relevant Child Safe Standards
- provision of suitable and safe premises and equipment
- provision of an adequate system of supervision
- implementation of strategies to prevent bullying
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a student who is injured or becomes sick at school

Whenever a teacher-student relationship exists, teachers have a special Duty of Care. Generally, teachers are expected to take such measures as are reasonable in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury.

The nature and extent of this care will vary according to the circumstances. For example, the standard of care required will be higher when taking a group of students participating in adventure activities or in practical classes than when teaching a group of Year 12s in the classroom.

The College has a clear process for the approval of all proposed School Activities, Camps and Excursions.

This process has been put in place to ensure that the College fulfils its Duty of Care by implementing appropriate staff / students ratios for all events.

All staff are expected to take those precautions that could reasonably be expected to have taken to prevent injury or harm from occurring. This will involve consideration of the following factors:

- identifying the risk of harm
- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the educational value and social benefits of any activity that creates the risk of harm.

Mount Erin College aims to provide a safe physical environment for students and staff. Our OHS policy outlines the strategies implemented by the College to ensure the health and safety of students and staff.

Staff at Mount Erin College are expected to follow the specified process for reporting any aspect of the physical environment that poses a potential hazard to students or staff.

The College will then take the appropriate remedial action to address the hazard.

### **Duty of Care to students outside the School**

Whether the duty extends outside of school grounds therefore depends on all the circumstances of each individual case, and the school's knowledge of any dangers.

Mount Erin College will inform parents when supervision of the College grounds is provided and that no formal supervision of the grounds occurs outside those hours.

Mount Erin College informs parents of bus arrangements and leaves it to parents to make appropriate arrangements for transporting their children to and from school or the relevant Bus Stop.

The College will take reasonable steps to ensure that students behave in a safe manner whilst using one of the College's School Bus Services or when participating in any school organised Excursion or Camp.

### **Avoiding Negligent Advice: Teachers**

Teachers are frequently called upon to advise students. When doing so teachers at Mount Erin College should:

- limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the Principal
- ensure that the advice they give is correct and in line with the most recent available statements from institutions or employers. Careers Teachers and Senior School Coordinators are expected to keep relevant notes of advice given to individuals
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

### **External Providers**

Staff at our school acknowledge that, as our Duty of Care is non-delegable, we are also required to take reasonable steps to reduce the risk of reasonably foreseeable harm when External Providers have been engaged to plan for or conduct an activity involving our students. Our *Visitors Policy* and *Camps and Excursions Policy* include information on the safety and care of our students when engaged with External Providers. Our school also takes steps to ensure student safety when they are engaging in off-site workplace learning programs with External Providers, such as when students are participating in Work Experience, School Based Apprenticeships and Traineeships, Structured Workplace Learning and any other Workplace Learning Program involving External Providers. Our School will follow all applicable Department of Education and Training Policy and Guidelines in relation to off-site learning and will ensure that the safety and welfare of the students engaging in these activities is paramount. The Department's Guidelines in relation to Workplace Learning are available at the following link:

<https://www.education.vic.gov.au/school/principals/spag/curriculum/pages/workplace.aspx>

### **Related Policies**

- [Child Safe Standards](#)
- [Personal Liability of School Employees](#)
- [SERS Insurance Claims and Settlement Process](#)
- [Volunteer Workers](#)
- [Risk Management](#)

- School Policy and Advisory Guide: [Duty of Care](#)

## **Review Cycle**

This Policy was approved in July 2019 and is scheduled for review in July 2021