



REPORTABLE CONDUCT SCHEME POLICY

1. RATIONALE

The *Child Wellbeing and Safety Act 2005 (Vic)* (the *CWS Act*) requires the College to investigate and report to the Commission for Children and Young People (CCYP) allegations of "employee" reportable conduct or misconduct that may involve reportable conduct.

This policy sets out the College's expectations, systems and procedures for enabling persons to report reportable conduct both internally and to the CCYP, for such reports to be investigated and responded to by the College. This policy is made available to all Staff, volunteers, contractors (service providers), the Board, parents/guardians and students via our public website and College intranet.

The CCYP's website provides additional guidance and materials which assist the College to understand and meet their obligations under the *CWS Act*.

2. WHO IS AN EMPLOYEE

Section 3 of the *CWS Act* defines "employee" as a person aged 18 years or over who is:

- Employed by the College, whether or not that person is employed in connection with any work or activities of the College that relate to children;
- Engaged by the College to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children;
- An individual who owns a business and employs staff;
- A labour hire worker or volunteer (someone who is supplied by another organisation, under an agreement or contract between the person and that organisation, to work or volunteer at or for the College);
- A secondee (someone who is employed by another organisation but is supplied for a temporary secondment period to work at or for the College)
- A minister of religion, a religious leader or an employee or officer of a religious body.

Of relevance to the College, the following people are considered to be employees (provided they are aged 18 or over):

- Board members
- the Principal
- Staff members
- Volunteers
- Contractors and Service Providers (including individuals who are engaged directly by the College as a Contractor/Service Provider as well as both individual business owners and employees of companies that are engaged as a Contractor/service provider by the College, for example, as an External Education Provider)
- Secondees
- Ministers of Religion

For the purposes of this policy, all of the above are referred to collectively as "Staff" or "staff members".



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3. WHAT IS REPORTABLE CONDUCT

Reportable conduct is defined in section 3 of the *CWS Act* to mean:

- A sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- Sexual misconduct committed against, with or in the presence of, a child;
- Physical violence committed against, with or in the presence of, a child;
- Any behaviour that causes significant emotional or psychological harm to a child; or
- Significant neglect of a child.

The CCYP makes clear in its information and guidelines that reportable conduct does not include:

- A person takes reasonable steps to protect a child from immediate harm
- A person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time (refer to our *Student Discipline Policy*)
- An appropriately qualified person gives medical treatment in good faith such as a first aid officer administering first aid.

"**Sexual misconduct**" includes:

- Behaviour, physical contact or speech or other communication of a sexual nature, for example 'sexting';
- Inappropriate touching;
- Grooming behaviour; and
- Voyeurism.

"**Sexual offence**" for the purposes of the *Reportable Conduct Scheme* means a serious sexual offence as set out in clause 1 of Schedule 1 of the *Sentencing Act 1991 (Vic)*, which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.

"**Significant**" means in relation to emotional or psychological harm or neglect, that the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect.

The CCYP has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child and neglect.

"**Physical violence**" includes an act that causes physical injury or pain. Examples of physical violence can include:

- Hitting/kicking/punching
- Pushing/shoving/grabbing/throwing/shaking
- Using an object to hit or strike
- Using inappropriate restraint/excessive force



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Physical violence does not include:

- Reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic
- Medical treatment given in good faith by an appropriately qualified person, such as a first aid officer administering first aid.

"Behaviour that causes significant emotional or psychological harm" to a child requires a clear link between the alleged conduct and the significant harm suffered (significant is defined above).

Signs that a child may have been emotionally or psychologically harmed may include:

- Patterns of out-of-character behaviour
- Regression in behaviour
- Distress and anxious behaviours
- Other physical symptoms, such as self-harm

The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm.

Examples of emotional or psychological harm may include:

- Exposure to violence or threats of violence
- Self-destructive behaviour
- Antisocial behaviour
- Persistent hostility/rejection
- Humiliation/belittling
- Scapegoating

"Neglect" occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- Must be more than minor and insignificant
- Does not need to have a lasting or permanent effect
- May be an ongoing situation or a one-off incident, as long as it is not minor in nature

Our Child Safe *Code of Conduct* outlines expected standards of behaviour for all Staff, volunteers and contractors at the College. It is important to note that a breach of this Code will not always constitute an incident of reportable conduct. Such breaches can often be dealt with at the College level and don't need to be reported to the CCYP. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

4. WHO MUST BE NOTIFIED

Under the *CWS Act*, the College must notify the CCYP of a reportable allegation against a staff member.



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Reportable allegation is defined in section 3 of the Act to mean any information that leads a person to form a reasonable belief that a staff member has committed:

- Reportable conduct; or
- Misconduct that may involve reportable conduct,

whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at the College.

Guidance from the CCYP states that reasonable belief is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

5. WHO MUST MAKE THE NOTIFICATION

Any person may disclose a reportable allegation to the CCYP by using an online form available from the CCYP's website, by phone or by letter (section 16L of the CWS Act).

While any person may disclose a reportable allegation, the "Head" of the College must notify the CCYP of a reportable allegation (section 16M).

The "Head" of the College has distinct responsibilities under the Reportable Conduct Scheme. The "Head" of the College is the **Principal**.

It is a criminal offence for the Principal to fail to disclose a reportable allegation to the CCYP without a reasonable excuse. The Act doesn't define what a reasonable excuse may be, but section 16M(5) provides an exemption if they honestly and reasonably believed that another person had notified the CCYP.

The Principal must make a report using an online form available from the CCYP's website.

6. FULFILLING THE PRINCIPAL'S RESPONSIBILITIES

The Principal is responsible for ensuring the College complies with the reportable conduct obligations under the CWS Act. However, the CCYP does not expect the Principal to practically carry out their responsibilities alone. They may seek help from other people within the College. This may include creating and developing systems, sending approved notifications to the CCYP, or conducting investigations on behalf of the Principal.

The Principal cannot delegate their responsibilities under the CWS Act - they are still solely responsible for ensuring the College's compliance with the *Reportable Conduct Scheme*.

The Principal has authorised the Deputy Principal to carry out physical or practical tasks such as making notifications to the CCYP, or liaising with the CCYP, when the Principal is unavailable.

7. REPORTABLE CONDUCT AND OTHER REPORTING OBLIGATIONS

The reportable conduct obligation covered in this policy is separate and distinct from the:



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- *Mandatory Reporting to Child Protection under the Children, Youth and Families Act 2005*
- Reporting to Police under the *Crimes Act 1958*
- Reporting teacher misconduct to the Victorian Institute of Teaching under the *Education and Training Reform Act 2006*.

The threshold for reporting allegations of reportable conduct is much lower than these other reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to the Police as the first priority. A Police investigation will take priority over any investigation conducted by the College under this policy.

8. HOW TO REPORT INTERNALLY

As soon as a person forms a reasonable belief that a staff member at the College has engaged in reportable conduct or misconduct that may involve reportable conduct (a reportable allegation), the person must notify the **Principal**.

The report may be made verbally or in written form using the [PROTECT Recording your actions: Responding to Suspected Child Abuse](https://www.education.vic.gov.au/Documents/about/programs/health/protect/PROTECT_School_stemplate.pdf) template available at: https://www.education.vic.gov.au/Documents/about/programs/health/protect/PROTECT_School_stemplate.pdf.

This template was created for reporting abuse, rather than reportable conduct but it is an excellent way to record as much information about reportable allegations as is available.

Where a verbal report is made by a staff member, it should be followed up with a written report provided to the Principal within 48 hours of the verbal report.

Where a staff member has a reasonable belief that the Principal has engaged in reportable conduct, verbal and written reports should be given to the Deputy Principal or the CCYP directly using an online form available from the [CCYP's website](#), by phone 1300 78 29 78 or by letter.

9. NOTIFYING THE CCYP

Where the Principal becomes aware of a reportable allegation from any person they must notify the CCYP within **three** business days.

Where the reportable allegation involves the Principal, the person must notify the Deputy Principal who will become the "Head" of the College for the purposes of reporting the reportable allegation.

Any allegation of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by the College under this policy.



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What must be notified to the CCYP?

The Principal must notify the CCYP in writing of:

- The reportable allegation as soon as possible, and in any event within three business days being notified (**Three Day Notification**)
- The proposed next course of action (see below), as soon as practicable, and within 30 days of becoming aware of the reportable allegation (**30 Day Update**)
- The identity of the person who will investigate the reportable allegation as soon as practicable (**Investigator Update**)
- The outcome of the College's internal investigation into the matter as soon as practicable after the internal investigation has concluded (**Investigation Outcome Update**)

These notifications must all be made using the online forms available through the CCYP's website.

Three Day Notification

The notification must include the following information:

- That a reportable allegation has been made against a staff member
- The name (including any former name and alias, if known) and date of birth, if known, of the staff member
- Whether the Victoria Police has been contacted about the reportable allegation
- The name, address and telephone number of the College
- The name of the Principal

An online form available on the [CCYP's website](#) must be used for the Three Day Notification.

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the College must immediately notify the Victorian Institute of Teaching (VIT). The timing of making a Three Day Notification to the Commission under this policy will coincide with the timing of a report made to the VIT.

30 Day Update

The notification must include the following information:

- Detailed information about the reportable allegation
- Details of the College's response to date, to the reportable allegation
- Whether or not the College proposes to take any disciplinary or other action in relation to the staff member and the reasons why it intends to take, or not to take, that action
- Copies of any written submissions made to the Principal concerning the reportable allegation that a staff member wished to have considered in determining what, if any disciplinary or other action should be taken in relation to the staff member

Investigators Update

As soon as practicable after the Principal becomes aware of a reportable allegation, the Principal must investigate, or permit a Regulator or an independent Investigator to investigate



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the reportable allegation. The Principal must also notify the CCYP of the name and contact details of the Investigator.

The Investigator is the person who:

- Collects and documents evidence
- Establishes the facts based on evidence
- Prepares an Investigation Report that details the outcomes of the investigation and (if requested by the Principal) makes findings or recommendations about findings that could be made based on the evidence.

Investigation Outcome Update

As soon as practicable after the investigation has concluded, the Principal must give the CCYP:

- A copy of the findings of the investigation and the reasons for those findings
- Details of any disciplinary or other action that the College proposes to take in relation to the employee and the reasons for that action
- If the College does not propose to take any disciplinary or other action in relation to the employee, the reasons why no action is to be taken.

10. INTERIM ACTION AND SUPPORT

When the Principal becomes aware of a reportable allegation, they must take any necessary interim action that is required to ensure the safety and wellbeing of the child/ren involved in the allegation and other children in the College. This includes considering whether:

- The child/ren involved in the allegation require protective intervention
- Any steps need to be taken to prevent further reportable conduct
- The child/ren's daily circumstances can remain unchanged (such as whether the child is at risk of victimisation)
- Support and counselling should be provided to the child/ren involved in the allegation
- Support and counselling should be provided to the relevant employee.

If reports have been made to Child Protection or the Police in relation to the reportable allegation, the Principal must consult with them before taking any interim action, to ensure that any interim action taken does not interfere with an external investigation.

11. RECORD KEEPING

All record keeping obligations relating to child safety incidents are contained in the Child Safety and Wellbeing record keeping requirements in the College's [Records Management Policy](#).

12. PRIVACY AND INFORMATION SHARING

All personal information considered or recorded will respect the privacy of the individuals involved unless there is a risk to someone's safety. Billanook College will have safeguards and practices in place to ensure any personal information is protected in accordance with the *Australian Privacy Principles* contained in the *Commonwealth Privacy Act 1988* and *Privacy*



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Amendment (Enhancing Privacy Protection) Act 2012. See the College's [Privacy Policy](#) for further details.

Certain information about reportable conduct investigations can, and in some cases cannot, be shared with external people and organisations. Refer to sections 16ZB and 16ZC of the *CWS Act* for more information.

13. RELATED POLICIES

Child Protection Policy (Reporting to Police)
Child Safety and Wellbeing Policy
Code of Conduct
Mandatory Reporting Policy (Reporting to Child Protection)
Privacy Policy
Records Management Policy