



# MARIAN COLLEGE

## DUTY OF CARE POLICY

Marian College (the College), inspired by the Brigidine Sisters and Gospel teachings, fosters a nurturing environment focused on strength and kindness. Our Vision Statement guides us as an educational community, emphasising faith, love, service, achievement, and forward-thinking.

The College is owned by the Trustees of Kildare Ministries and is operated and governed by Kildare Education Ministries (KEM).

### Purpose

This policy sets out requirements for the school to ensure duty of care is always maintained.

### Legal Background

A duty of care is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers an injury as a result of the negligent act or omission of another, where a duty of care exists, the injured person should be compensated for loss and damage flowing from that negligence.

For schools, a duty of care applies to all sites under the control of the school and applies to all members of the school's leadership team, teaching and non-teaching staff members, casual relief teachers, religious and parish staff, volunteers and contractors engaged by the school.

Duty of care is a matter for the whole organisation. It is not just confined to the geographical area of the school but also to school activities that occur outside the school where a student is acting on a staff member's instructions. The duty also applies to situations both before and after school where students can be assumed to be under the teacher's care. Consideration must be given to the age and capacity of children in care with greater attention required for younger students or students with disabilities.

Teaching and non-teaching staff members owe a duty of care to students within their care, and, but not limited to, Parents/Guardians, student teachers, volunteers, visitors or contractors who may sustain injury, loss or damage because of our conduct.

The school owes a duty to take reasonable care that any student (or other person) 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.

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 from injury or child abuse to students by an individual associated with the school whilst the child is under the care, supervision or authority of the school.

### Principles

In having a duty of care to students, Principals will:

- Ensure compliance with all Child Safe Standards
- Implement strategies to prevent reasonably foreseeable risk of harm or injuries to students (whether physical or psychological)
- Provide suitable and safe premises

- Provide an adequate system of supervision
- Implement strategies to prevent bullying
- Ensure that medical assistance is provided to a sick or injured student
- Manage employee recruitment, conduct and performance.

## Policy

The Principal must ensure that the care, safety and welfare of all students attending the school is in accordance with any applicable state or Commonwealth laws (including Ministerial Order 1359), and that all staff are advised of their legal obligations under those laws.

All staff have a duty of care to students to take reasonable care to avoid acts or omissions that they can reasonably foresee would be likely to result in harm or injury to the student, and to work for the positive wellbeing of each child.

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 or child abuse.

Duty of care is non–delegable, meaning that it cannot be assigned to another party. The requirement to take reasonable steps to reduce the risk of reasonably foreseeable harm continues even when another party is involved (for example, a third–party providing services for an excursion or camp).

The College maintains policies and procedures to manage common risks in the school environment (including physical and online environments), and to support staff to meet their duty of care, including:

- Attendance.
- Bullying prevention and intervention (including cyber–bullying).
- Camps, excursions and international travel.
- Child safety and wellbeing.
- Codes of conduct for parents, students and staff.
- Emergency management.
- Employment and management of staff.
- Health and first aid policies.
- Medical management.
- Medication administration.
- Mandatory reporting.
- Occupational health and safety.
- Student wellbeing and engagement.
- Supervision of students in class, the school yard and in school approved activities.
- Procurement for facilities and services from third parties.

The Principal and school leaders have the responsibility for ensuring that all staff, including support personnel, are familiar with their school’s policies and procedures which are aimed at ensuring staff meet and comply with their duty of care.

All staff and relevant personnel must sign a code of conduct in relation to child safety.

Principals are responsible for ensuring that the policies for the care, safety and welfare of students are published and accessible to the school community. Regular reminders about school policies should be provided to the school community.

School staff, Parents/Guardians and students are encouraged to speak to the Principal to raise concerns about risks, hazards or duty of care obligations. If the matter cannot be resolved at the school level, complainants should be advised to refer to the College’s Complaint Handling Policy.

## Duty of Care to students outside of school

In some circumstances, the duty of care owed by school staff will extend outside of school grounds and beyond school hours. The circumstances are dependent upon each individual case.



## Definitions

For the purpose of this policy the following terms are defined as follows:

<b>Duty of Care:</b>	Duty of care is a legal obligation requiring schools to take reasonable steps to prevent foreseeable harm, including physical or psychological injury or property damage, based on the specific circumstances of each risk.
<b>School environment:</b>	Means any of the following physical, online or virtual places used during or outside school hours: <ul style="list-style-type: none"><li>• A campus at the College.</li><li>• Online or virtual school environments made available or authorised by the school for use by a child or student (including email, intranet systems, software, applications, collaboration tools and online services).</li><li>• Other locations provided by the school or through a third-party provider for a child or student to use including, but not limited to, locations used for camps, approved homestay accommodation, delivery of education and training, sporting events, excursions, competitions and other events) (Ministerial Order No. 1359).</li></ul>

### Supporting Documentation:

- KEM Promotion of Student Wellbeing Policy/KEM Professional Standards Policy
- Kildare Ministries Child Safeguarding Policy
- Anaphylaxis Policy
- Anti-bullying Policy (including cyberbullying)
- Attendance Policy
- Child Safety and Wellbeing Policy
- Emergency Management Plan
- First Aid Policy
- Medical Management Policy
- Occupational Health and Safety Policy
- Parent Code of Conduct
- Privacy Policy
- Recruitment Policy

### Legislation and Standards:

- Education Training and Reform Regulations 2017 (Vic.)
- Occupational Health and Safety Act 2014 (Vic.)
- Ministerial Order 1359 – Implementing the Child Safe Standards – managing the risk of child abuse in schools

### Document History

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