



# MARIAN COLLEGE

## REPORTABLE CONDUCT 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

As of 1 July 2017, the Victorian Government legislated for the introduction of a Reportable Conduct Scheme (RCS) to improve how organisations respond to allegations of child abuse and child-related misconduct by employees, volunteers and contractors.

The CCYP is focused on employee, volunteer and contractor conduct and how organisations investigate and respond to suspected child abuse. The RCS aims to improve organisational responses to suspected child abuse and to facilitate the identification of individuals who pose a risk of harm to children, but do not have a criminal record.

The RCS applies to our governing body, the College and other organisations which are required to meet the Child Safe Standards.

The Head of Entity of the Kildare Education Ministries Board must ensure that the College maintains systems that:

- Prevent reportable conduct by employees of the school within the course of their employment.
- Ensure reportable allegations are made to the Principal and then notified to the Head of Entity of the Kildare Education Ministries Board, or made directly to the Head of Entity of the Kildare Education Ministries Board if the reportable allegation concerns the Principal.
- Ensure reportable allegations that involve employees are notified to the CCYP and responded to in accordance with the requirements of the RCS.

### Policy

This Policy applies to all the College staff members, parents, students, contractors, subcontractors and volunteers (Stakeholders). This Policy applies to digital and social media other than endorsed College learning and collaboration platforms.

The Principal or delegate ensures all relevant plans and forms pertaining to the student's medical, health or personal care needs should be reviewed annually, following notification/observation of a change to the student's needs, or in response to a particular incident. The Principal or delegate should consider the relevant aspects of school operations to ensure access and participation, including complex care support and training, and seek additional advice where this is deemed necessary to support the student's presenting needs.

### Definitions

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

Insert term	Insert definition
<b>Who is an employee</b>	For the purposes of the <i>Child Wellbeing and Safety Act 2005</i> (Vic.), employee is defined as a person aged 18 years or over who is either: <ul style="list-style-type: none"><li>• Employed by the school whether or not that person is employed in connection with any work or activities of the school that relate to children.</li></ul>

	<ul style="list-style-type: none"> <li>Engaged by the school to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.</li> </ul>
<b>Child</b>	Any person who is under the age of 18 years.
<b>Mandatory reporting</b>	is a term used to describe the legislative requirement imposed on selected classes of people to report suspected cases of child abuse and neglect to government authorities. Where a mandated reporter forms a belief on reasonable grounds that a student or young person is in need of protection from physical injury or sexual abuse, they are to report their concerns to the Department of Families, Fairness and Housing (DFFH) Child Protection.
<b>Reportable allegation</b>	means any information that leads a person to form a reasonable belief that an employee committed either: <ul style="list-style-type: none"> <li>Reportable conduct, or</li> <li>Misconduct that may involve reportable conduct,</li> </ul> whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment.
<b>Reportable conduct</b>	<ul style="list-style-type: none"> <li>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</li> <li>Sexual misconduct committed against, with or in the presence of a child</li> <li>Physical violence committed against, with or in the presence of a child</li> <li>Any behaviour that causes significant emotional or psychological harm to a child</li> <li>Significant neglect of a child.</li> </ul>

## Implementation

The College will ensure the reporting of any reportable allegation made against an employee to the Executive Officer of Kildare Ministries.

A reportable allegation is made where a person makes an allegation, based on a reasonable belief, that an employee, volunteer or contractor has committed conduct that *may* involve reportable conduct. This includes where a reportable allegation is made against the college Principal.

**Note:** *A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.*

*For example, a person is likely to have a reasonable belief if they:*

- Observed the conduct themselves.*
- Heard directly from a child that the conduct occurred.*
- Received information from another credible source (including another person who witnessed the reportable conduct or misconduct).*

The College Principal, a member of the Leadership Team or the Executive Officer of Kildare Ministries does not need to agree with or share the belief that the alleged conduct has occurred. The RCS is an allegations-based scheme. This means that the threshold for notifying the CCYP is low. All allegations must be referred to the Executive Officer of Kildare Ministries for advice.

The Executive Officer of Kildare Ministries in consultation with the College Principal or, where there is an allegation against a Principal, member of the Leadership Team or Executive Officer of Kildare Ministries will then:

- Submit a notification to the CCYP within three days of the Executive Officer of Kildare Ministries becoming aware of the reportable allegation.
- Meet the milestones and reporting requirements to the CCYP under the RCS.



## Reportable conduct includes:

Sexual Offence	Sexual Misconduct	Physical Violence	Behaviour that causes significant Psychological or Emotional Harm	Significant Neglect
<ul style="list-style-type: none"> <li>Rape or sexual assault.</li> <li>Sexual activity with or in the presence of a child.</li> <li>Grooming or encouraging a child to engage in sexual activity.</li> <li>Offences relating to child abuse material.</li> </ul>	<ul style="list-style-type: none"> <li>Behaviour, physical contact, speech or other communication of a sexual nature.</li> <li>Physical contact without valid reason.</li> <li>Crossing professional boundaries.</li> <li>Voyeurism.</li> </ul>	<ul style="list-style-type: none"> <li>Hitting, kicking, punching.</li> <li>Pushing, shoving, grabbing, throwing, shaking.</li> <li>Use of an object</li> <li>Inappropriate restraint, excessive force.</li> <li>Causing a child to believe that force is about to be used (apprehended).</li> </ul>	<ul style="list-style-type: none"> <li>Exposure to violence or threats of violence.</li> <li>Anti-social behavior.</li> <li>Self-destructive behavior.</li> <li>Persistent hostility or rejection.</li> <li>Humiliation or belittling.</li> <li>Scapegoating.</li> </ul>	<p>Deprived from the following:</p> <ul style="list-style-type: none"> <li>Clothing or food.</li> <li>Medical attention or care.</li> <li>Shelter.</li> <li>Supervision</li> <li>Access to drugs or alcohol.</li> </ul>

The above examples are not exhaustive and consideration should be given to other conduct which may need to be reported. Any reportable allegation listed above, or not listed above but which may constitute reportable conduct, will need to be immediately reported by the school Principal. An allegation against a school Principal should be referred to another member of the Leadership Team, or the Executive Officer of Kildare Ministries.

It is important to note that existing mandatory reporting obligations have not changed. The College will report any allegation of abuse to the DFFH Child Protection.

If the alleged conduct is potentially criminal in nature, Victoria Police must also be notified as a first priority and any investigation by Victoria Police will take precedence.

Where the allegation falls under the mandatory reporting domain, the reporting to CCYP is in addition to reporting to Victoria Police and the DFFH.

### Reportable conduct, mandatory reporting and reporting to the VIT

Reportable conduct allegations as listed above are referred to the CCYP.

Any alleged conduct that is regarded to be of a criminal nature is to be dealt with as mandatory reporting and referred to Victoria Police and the DFFH as per the school's Child Protection – Reporting Obligations Policy.

If an employee against whom an allegation of reportable conduct is made is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the school must notify the Victorian Institute of Teaching (VIT) immediately under conduct that is reportable to the VIT.

### Responsibilities of the Principal

**Note:** Principals must comply with the PROTECT reporting obligations, which are in addition to the reporting requirements to the CCYP under the RCS.

The Executive Officer of Kildare Ministries is ultimately responsible for notification of any reportable allegation to the CCYP and for ensuring that a reportable allegation is investigated.

However, it is the responsibility of the College Principal (or for allegations against a Principal, the relevant leader) to ensure that all reportable allegations are taken seriously and referred to the Executive Officer of Kildare Ministries as soon as they become aware of them, and to follow the advice and guidance of the Executive Officer of Kildare Ministries to respond appropriately. This will usually include conducting an investigation or facilitating the conduct of an investigation.

**Note:** [School name] staff members are not required to make a report directly to the CCYP; this is the responsibility of the Executive Officer of Kildare Ministries. However, any person with a concern (including a staff member who wishes to remain anonymous, students, parents and/or other members of the community) may notify the CCYP directly of a reportable allegation via a community notification on the website.

In the event of a reportable allegation against the College Principal, this must be reported to another member of the Leadership Team or the Executive Officer of Kildare Ministries



School Principals (and other leaders as appropriate) must also facilitate any requests for information or documentation from the Executive Officer of Kildare Ministries, Victoria Police or a regulator in the course of an investigation to ensure compliance with the RCS and the law

## Reporting to the CCYP

Upon becoming aware of a reportable allegation against an employee, the Principal, member of the Leadership Team must contact the Executive Officer of Kildare Ministries as soon as practicable in order to ensure that the following milestones and reporting requirements to the CCYP are met:

Within three business days	Within 30 calendar days	Advice on investigation	Outcomes of investigation	Additional documents
<ul style="list-style-type: none"> <li>School contact details.</li> <li>Name of the employee, volunteer or contractor.</li> <li>Their date of birth.</li> <li>Initial advice on the nature of the allegation.</li> <li>Any police report.</li> </ul>	<ul style="list-style-type: none"> <li>Details of the investigation.</li> <li>Details of the school's response.</li> <li>Details regarding disciplinary or other action proposed.</li> <li>Any written response from the employee, volunteer or contractor regarding the allegation, proposed disciplinary or other action.</li> </ul>	<ul style="list-style-type: none"> <li>As soon as is practicable:</li> <li>Name of the investigator</li> <li>Their contact details.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of the investigation findings.</li> <li>Details regarding disciplinary or other action proposed.</li> <li>Reasons for taking or not taking action.</li> </ul>	<ul style="list-style-type: none"> <li>Promptly providing any further information to the CCYP as requested.</li> </ul>

## Investigating reportable allegations

The College will ensure procedural fairness throughout the entire investigation process.

**Note:** It is anticipated that any investigations will be undertaken by the school Principal (or another school leader) unless it is deemed appropriate by the Principal, the Executive Officer of Kildare Ministries (in the case of an allegation against a Principal) for a suitably qualified, third party engaged in consultation with Executive Officer of Kildare Ministries to be appointed.

The College Principal will ensure that for current employees the process set out in clause 13 of the *Catholic Education Multi-Enterprise Agreement (CEMEA) 2022* is followed. Further, the College Principal will also ensure that all other relevant school-based and KEM and KM policies and procedures (including Codes of Conduct, processes for managing and investigating complaints, misconduct, discipline, grievances, dispute resolution, and employee welfare and support), as well as any CCYP and other regulatory guidance, are considered to guide the investigation.

For an allegation against a current employee, this means that the Principal will follow the clause 13 process set out in the CEMEA 2022 and follow the advice and guidance of the Executive Officer of Kildare Ministries. In all cases, before any findings are made or disciplinary action is taken, the subject of an allegation will be:

- Notified of any adverse information that is credible, relevant and significant.
- Given a reasonable opportunity to respond to that information.

The Executive Officer of Kildare Ministries in consultation with the Principal will determine when the subject of the reportable allegation should be first told about an allegation, in order to ensure that any police investigation is not prejudiced; child safety risks are appropriately assessed and mitigated; and the investigation is not compromised, but remains procedurally fair.

## Initial investigation

**Note:** Upon receipt of a reportable allegation, the Principal or other relevant leader (for allegations against a Principal) will immediately contact the Executive Officer of Kildare Ministries for advice.

The Principal or other relevant leader is then guided by the Executive Officer of Kildare Ministries to ensure an appropriate investigation is conducted into the reportable allegation/s by reference to the requirements of the RCS, together with any relevant guidance published by Kildare Ministries and the CCYP.

At the conclusion of the investigation, the Executive Officer of Kildare Ministries will make a decision on the reportable conduct findings recommended in the Investigation Report.

If the alleged conduct is potentially criminal in nature, Victoria Police must also be notified as a first priority and any investigation by Victoria Police will take precedence.



## Recordkeeping and the Privacy Act

The College maintains records of reportable allegations, written reports and reportable conduct investigation findings indefinitely.

The school must not publish information that would enable the identification of:

- A person who notified the CCYP.
- A child in relation to whom a reportable allegation was made or a finding of reportable conduct was made.

The *Privacy Act 1988* (Cth) provides more information on the meaning of publish, which includes making the information publicly available in writing or email.

The College maintains all records in accordance with the [Public Record Office Victoria Recordkeeping Standards](#).

Legislation and Standards:

### References

- *Children Legislation Amendment (Reportable Conduct) Act 2017* (Vic.)
- *Child Wellbeing and Safety Act 2005* (Vic.)
- *Children, Youth and Families Act 2005* (Vic.)
- *Public Records Act 1973* (Vic.)

### Evaluation

- This policy will be reviewed in consultation with members of the wider community as part of the school's two-year review cycle.
- Update of the policy will occur if any new requirements come to hand.

## Document History

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