
Failure to Protect Policy

<p>Source of Obligation</p>	<p>The College has a duty of care which requires the protection of all students from foreseeable risks while at school or engaging in College activities.</p> <p>In addition, under section 49O of the Crimes Act 1958 (Vic) (Crimes Act) a person commits an offence if:</p> <ul style="list-style-type: none">♦ by reason of the position they occupy within or in relation to the College, they have the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the College) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the College; and♦ they know that there is a substantial risk that the person will commit a sexual offence against a relevant child; and♦ they negligently fail to reduce or remove that risk.
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<p>Who Must Act to Protect</p>	<p>Whether a person has the power or responsibility to take steps to remove or reduce the risk to the student will depend on their role at the College and the source of the risk.</p> <p>In a normal school context, the College Principal and members of the Principal and Vice Principal and Head of Wellbeing would always have the necessary degree of supervision, power and authority to remove or reduce a risk posed by another adult working at the College.</p> <p>However, on a day-to-day basis, and on tours, excursions, or camps, others at the College could have the requisite power and responsibility.</p> <p>Examples of people who may have the power and responsibility, by reason of their position, to act could include:</p> <ul style="list-style-type: none"> ♦ teachers ♦ Volunteers where they are in a position of supervision, such as volunteer coaches
<p>When Action Should be Taken</p>	<p>The Failure to Protect offence means that any staff member, Volunteer or Contractor who has the requisite power or responsibility must act when they know that an adult associated with the College poses a substantial risk that a student or students may become the victim of a sexual offence.</p> <p>Action must be taken as soon as the risk becomes known.</p> <p>“Knowledge” is more than holding a tentative belief or mere suspicion.</p> <p>If a staff member, Volunteer or Contractor has a suspicion or belief that students are at risk of harm, they must take steps to follow up on that suspicion or belief by investigating further and should raise the issue with a College Child Protection Officer.</p> <p>The duty to act extends to situations where the students at risk or the person in authority is outside of Victoria.</p>

**Definition
of a
Substantial
Risk**

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

It is not necessary to prove that a sexual offence was committed in order for the substantial risk to exist - a person in a position of authority should not wait for a student to be harmed before acting.

A number of factors will contribute to determining if a risk is a substantial risk, including:

- ♦ the likelihood or probability that a child will become the victim of a sexual offence
- ♦ the nature of the relationship between a child and the adult who may pose a risk to the child
- ♦ the background of the adult who may pose a risk to the child, including any past or alleged misconduct
- ♦ any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence
- ♦ any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

<p>Definition of a Sexual Offence</p>	<p>Action must be taken where there is a substantial risk of sexual offences occurring, including:</p> <ul style="list-style-type: none">♦ rape♦ indecent assault♦ incest♦ sexual penetration♦ grooming a child, or a person who has the care, supervision or authority of a child aged under 16, for sexual conduct with the child♦ encouraging a child to engage in, or be involved in, sexual activity♦ an attempted sexual offence or an assault with intent to commit a sexual offence.
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**Definition
of a Person
Associated
with the
College**

A person associated with the College is an adult and can be a:

- ♦ College Principal
- ♦ teacher
- ♦ boarding house supervisor
- ♦ employee
- ♦ Volunteer (including parent/carer volunteers)
- ♦ Third Party Contractor
- ♦ Board of Directors member

A person is not considered to be associated with the College purely because they receive services from the College. Therefore, students aged 18 years or over, parents/carers and other family members of students who are not staff members, Volunteers or Contractors are not associated with the College for the purposes of the Failure to Protect offence.

<p>Procedure to Reduce or Remove a Substantial Risk</p>	<p>Where any staff member, Volunteer or Contractor who has the requisite power or responsibility becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:</p> <ul style="list-style-type: none"> ♦ take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students ♦ report the matter to a College Child Protection Officer, and the College Principal, as soon as practicable ♦ conduct an investigation unless this relates to a Mandatory Reporting situation ♦ make the appropriate report. <p>Appropriate action to be taken may include, for example:</p> <ul style="list-style-type: none"> ♦ a current employee who is known to pose a risk to a student or students should be immediately removed from contact with students and reported to authorities and investigated ♦ a parent who is known to pose a risk of sexual abuse to children should not be allowed to attend overnight College camps as a parent helper. <p>Whenever there are concerns that a child is in immediate danger call the Police on 000.</p>
<p>Record Keeping Obligations</p>	<p>For the College’s record keeping obligations relating to child safety incidents, refer to <u>Child Safety Record Keeping</u>.</p>

This failure to protect policy is subject to change at any time. Please check the policy on our website (www.mthira.vic.edu.au) regularly for any changes.

Ratified by the Board on:
Chairperson: Mr Tugrul Usta

Signature: _____

This policy will be reviewed as part of the College's 2 year review cycle