



# VIC-EDU-P-007 Reportable Conduct Policy

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## 1. Introduction

MacKillop Education is committed to providing a safe environment for all children, students and young people, and takes active steps to protect them from neglect and abuse. MacKillop Education and our governing body, MacKillop Family Services, maintain a comprehensive suite of child protection strategies, embedded in the Child Safe Standards.

As of 1 July 2017, the Victorian Government legislated for the introduction of a Reportable Conduct Scheme (RCS). 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.

Victorian law requires that the 'head' of MacKillop Education:

1. Reports to the Commission for Children and Young People (CCYP) any allegation that an 'employee' of MacKillop Education has committed 'reportable conduct' or misconduct that may involve reportable conduct (a 'reportable allegation') Refer to the definitions of employee, reportable conduct and reportable allegation below
2. Conducts an investigation of all reportable allegations made against MacKillop Education employees
3. Reports the outcomes of any investigations of reportable allegations to CCYP.

## 2. Purpose

This policy:

- Defines reportable allegation, reportable conduct
- Outlines the responsibilities of the Group Director, MacKillop Institute and Education (Group Directory), Deputy Executive Principal, Campus Principal, Program Leader, members of the Local Leadership Team and the MacKillop Family Services (MFS) Chief Executive Officer when responding to a reportable allegation
- Outlines the procedures to ensure reportable allegations that involve employees are notified to the CCYP and responded to in accordance with the requirements of the RCS.

## 3. Scope

This Policy applies to all employees of MacKillop Education and requires them to report allegations of reportable conduct to the Campus Principal or Program Leader. Allegations that concern the Campus Principal or Program Leader should be referred to one of the other MacKillop Education Leaders.

The MacKillop Education Leaders will report any allegations of reportable conduct to the MFS Chief Executive Officer and the MACS Safeguarding and Standards Team.

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

## Definitions

Child	Any person who is under the age of 18 years.
Commission for Children and Young People (CCYP, the Commission)	An independent statutory authority whose regulatory functions relate to improving the safety of children in organisations. The Reportable Conduct Scheme is managed by CCYP.
Employee	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 MacKillop Education whether or not that person is employed in connection with any work or activities of MacKillop Education that relate to children</li> <li>▪ engaged by MacKillop Education to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.</li> </ul>
Family Journey	Electronic data and document interface, the MacKillop Family Services owned online database where student incident reports are stored.
Head of agency	The head of agency for MacKillop Family Services is the Chief Executive Officer.
MacKillop Education Leaders	A term used to refer to: Group Director, MacKillop Institute and Education, Deputy Executive Principal, Education & Engagement Programs Director, Campus Principals, Deputy Principals, Program Leaders
Mandatory reporting	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 needs protection from physical injury or sexual abuse, they are to report their concerns to the Department of Families, Fairness and Housing (DFFH) Child Protection.
Procedural fairness	The right to a fair hearing, including the opportunity to present one's case and respond to allegations; the right to have any material considered by an unbiased, impartial decision maker; and to have any final determination based on a reasonable and logical assessment of the evidence.
Reasonable belief	A 'reasonable belief': <ul style="list-style-type: none"> <li>▪ is more than suspicion - there must be some objective basis for the belief.</li> <li>▪ does not require proof or certainty.</li> <li>▪ may be formed from directly observing conduct or physical or behavioural indicators, or receiving a disclosure from a child or another credible source</li> </ul>
Reportable allegation	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 <i>may</i> involve reportable conduct.

Reportable conduct	<p>As per the Children Legislation Amendment (Reportable Conduct) Act 2017, Reportable conduct as overseen by the CCYP is based on a ‘reasonable belief’ or suspicion or knowledge that there has been:</p> <ul style="list-style-type: none"> <li>▪ a sexual offence (against, with or in the presence of a child)</li> <li>▪ sexual misconduct (against, with or in the presence of a child)</li> <li>▪ physical violence (against, with or in the presence of a child)</li> <li>▪ behaviour causing significant emotional or psychological harm to a child and/or</li> <li>▪ significant neglect of a child.</li> </ul> <p>Reportable conduct may involve activities outside of work hours within the employee’s private or family life.</p> <p>Refer to Appendix I for examples of reportable conduct.</p>
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## 4. Reporting a reportable allegation

### Reportable conduct

There are five types of reportable conduct listed in the Child and Wellbeing Safety Act 2005:

- sexual offences (against, with or in the presence of a child)
- sexual misconduct (against, with or in the presence of a child)
- physical violence (against, with or in the presence of a child)
- behaviour that causes significant psychological or emotional harm
- significant neglect.

Examples of these types of behaviours are provided in Appendix I.

### Internal reporting of a reportable allegation

A school staff member, contractor or volunteer who forms a reasonable belief that:

- an employee at MacKillop Education has engaged in reportable conduct or misconduct that may involve reportable conduct

Must immediately report their concerns to the Campus Principal, the Program Leader or a member of the Local Leadership Team. If the allegation involves the Campus Principal or the Program Leader, then the report should be made to another MacKillop Education Leader.

The school staff member, contractor or volunteer must consider whether they are required to also make a Mandatory or Non-Mandatory Report to DFFH Child Protection, Police or any other external reports (Refer to the *VIC-EDU-P-003 Child Safety Responding and Reporting Obligations Policy* and Procedure). Where the allegation falls under the mandatory reporting domain, the reporting to CCYP is in addition to reporting to Victoria Police and the DFFH. If the alleged conduct is potentially criminal in nature, Victoria Police must also be notified as a priority and any investigation by Victoria Police will take precedence.

The MacKillop Education Leaders, members of the Local Leadership Team, or the MFS Chief Executive Officer do 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.

### Reporting to CCYP

MacKillop Education staff members, contractors and volunteers are not required to make a report directly to the CCYP; this is the responsibility of the MFS Chief Executive Officer. However, any person

with a concern (including a staff member who wishes to remain anonymous, students, parents/guardians/carers and/or other members of the community) may notify the CCYP directly of a reportable allegation via a community notification on the website.

### **Student, parent/guardian/carer or other community member reporting of a reportable allegation**

A student, parent/guardian/carer or other community member may report a reportable allegation directly to the Campus Principal or the Program Leader. If the report is made to another staff member, then the staff member should advise that they will inform the Campus Principal or the Program Leader as relevant.

If the reportable allegation is in relation to the Campus Principal or the Program Leader, then the staff member should inform another MacKillop Education Leader.

### **Immediate documentation of a reportable allegation**

It is very important that immediate documentation is comprehensive and accurate to ensure details in police and incident reports and files are accurate and contemporaneous. Staff who form a reasonable belief or receive information from another person that an employee has engaged in reportable conduct should make case notes as soon as possible to support the subsequent submission of an accurate incident report. Information must be stored securely and confidentially.

The information should include:

- A description of the concerns (e.g. physical injuries, student behaviour)
- The source of those concerns (e.g. observation, report from child or another person)
- Any actions taken because of the concerns (e.g. consultation with the Campus Principal, report to DFFH Child Protection)
- The immediate response to the person making the allegations (if applicable)
- The date and signature of the person recording the information.

## **5. Procedure for responding to reportable allegations**

### **Notifying CCYP of a reportable allegation**

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

The MFS Chief Executive Officer has authorised the relevant Campus Principal/Program Leader to undertake the following functions required under the Reportable Conduct Scheme to assist them in meeting their obligations:

- Notifying and updating the CCYP of reportable allegations about MacKillop Education's employees
- Ensuring investigations are undertaken into all reportable allegations made against MacKillop Education's employees
- Comply with all obligations of the 'head' of the MacKillop Education under the Reportable Conduct Scheme

If the reportable allegation involves the Campus Principal/Program Leader, then the Group Director is authorised to undertake these functions.

Note: Compliance with the PROTECT reporting obligations, are in addition to the reporting requirements to the CCYP under the RCS.

## Responding to a reportable allegation

When the MacKillop Education Leaders or a member of the Local Leadership Team becomes aware of a reportable allegation (whether through receiving an internal report of Reportable Conduct, through receiving a complaint from a student, parent/guardian/carer or anyone else, or through any other means), they must:

### Initial steps

1. Take any necessary interim action to ensure the safety and wellbeing of the child/ren involved and students at MacKillop Education. If a child faces immediate danger or risk of harm, contact Victoria Police on 000.
2. Refer to the guidance in *PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools* when listening to a disclosure from students and adults.

#### Student

- Offer support and assistance
- Inform the student what you plan to do next

#### Adult

- Explain that the school will manage the concern confidentially and, to protect all parties, they should not discuss the matter.
  - Advise them to make a record of the allegation
  - Offer support and assistance
  - Refer staff to the Employee Assistance Program (EAP)
3. Notify their direct manager of the allegation.
  4. Make a record of the allegations, and submit an incident report in Family Journey.
  5. Consider whether you need to refer the matter to Victoria Police or DFFH Child Protection in accordance with the actions documented in *PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools*
  6. If the reportable allegation is in relation to a student at MacKillop Education the parents/guardians/carers of the student should be informed.
  7. Contact the MACS Safeguarding and Standards Team for advice (including guidance as to whether the alleged conduct is reportable), support and assistance.
  8. If the matter does involve a reportable allegation, the Group Director/Deputy Executive Principal, Campus Principal/ Program Leader to notify:
    - the MFS Chief Executive Officer.
    - CCYP on behalf of the MFS Chief Executive Officer no later than 3 business days after becoming aware of the reportable allegation
  9. Conduct a risk assessment (with the assistance of the MACS Safeguarding and Standards Team) to determine any measures that should be put in place to manage the person against whom allegations have been made, and to protect the students against the person who may have been involved in reportable conduct.

### Conduct an investigation

10. Ensure that an appropriate internal investigation is conducted into the reportable allegation (subject to Police advice, if the matter has been reported to Police, and to consultation with DFFH Child Protection, if the matter has been reported to DFFH Child Protection) and notify the CCYP of the person who will be conducting the internal investigation.

Refer to the CCYP guide *Investigating a Reportable Conduct Allegation*. See the notes below on investigating reportable allegations for more information.

NB: If the alleged conduct is potentially criminal in nature any investigation by Victoria Police will take precedence.

11. Provide the CCYP (on behalf of the MFS Chief Executive Officer) with an update about MacKillop Education’s response to the reportable allegation within 30 days of becoming aware of it.
12. At the conclusion of the investigation, the MacKillop Education Leaders will decide on the outcome of the reportable conduct findings, recommended in the Investigation Report.

### Reporting the outcome of the investigation

13. If, because of the internal investigation, a finding is made that the reportable allegation is “substantiated,” the Campus Principal/Program Leader or other MacKillop Education Leader will report this to relevant regulators such as the Victorian Institute of Teaching (VIT) or Working With Children Check Victoria and, if the finding involves a criminal offence, to Police if a report has not already been made.
14. Decide what, if any, measures should be put in place to minimise any further risk of harm to students at MacKillop Education
15. Notify the CCYP (on behalf of the MFS Chief Executive Officer) and MACS Safeguarding and Standards Team of the outcome of the internal investigation as soon as practicable after it has concluded.
16. Update and close the incident report in Family Journey.

MacKillop Education Leaders must also facilitate any requests for information or documentation from Victoria Police or a regulator during an investigation to ensure compliance with the RCS and the law.

## 6. Additional information

### Reporting to CCYP

The table below summarises the key milestones and reporting requirements to the CCYP that must be met when responding to a reportable allegation.

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 (incl volunteer and contractor) regarding the allegation, proposed disciplinary or other action</li> </ul>	<p>As soon as is practicable:</p> <ul style="list-style-type: none"> <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**

MacKillop Education will ensure procedural fairness throughout the entire investigation process.

The CCYP guide *Investigating a Reportable Conduct Allegation* will be used when planning and conducting the investigation. Guidance and support will also be sought directly from the Melbourne Archdiocese Catholic Schools (MACS) Safeguarding and Standards Team and CCYP.

It is anticipated that any investigations will usually be undertaken by the Campus Principal/Program Leader or another MacKillop Education Leader. It may be deemed appropriate by the Group Director/Deputy Executive Principal or the MFS Chief Executive Officer for a suitably qualified, third party engaged in consultation with MACS Safeguarding and Standards Team to be appointed.

The Campus Principal/Program Leader will ensure that for current employees the process set out in clause 13 of the *Victorian Catholic Education Multi-Enterprise Agreement 2018* (VCEMEA 2018) is followed. Further, the Campus Principal/Program Leader will also ensure that all other relevant MFS and MacKillop Education 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.

## **Informing the subject of a reportable allegation**

The MFS Chief Executive Officer in consultation with the Campus Principal/Program Leader or Group Director (for allegations against a Campus Principal) will determine when the subject of the reportable allegation should be first told about an allegation, 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.

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.

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

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 MacKillop Education's Child Safety Responding and Reporting Obligations Policy and Procedure.

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, MacKillop Education must notify the VIT immediately under conduct that is reportable to the VIT.

## **7. Recordkeeping and the Privacy Act**

MacKillop Education must maintain records of reportable allegations, written reports and reportable conduct investigation findings indefinitely. These records will be stored in the MacKillop Family Services Family Journey incident reporting system. Where a MacKillop Education student is involved in the reportable conduct, the Family Journey incident record reference number will be case noted in Synergetic (MacKillop Education CRM).

MacKillop Education 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.

MacKillop Education will maintain all records in accordance with the Public Record Office Victoria Recordkeeping Standards.

## 8. Related legislation, policy, guidelines and resources

### Legislation

- 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.)
- Privacy Act 1988 (Cth)

### MacKillop Education and MacKillop Family Services Policies

- VIC-EDU-P-003 Child Safety Responding and Reporting Obligations Policy and Procedure
- HR-P-035 Managing Misconduct and Serious Misconduct

### Resources

- CCYP - Guidance for Organisations: Investigating a Reportable Conduct Allegation
- CCYP - Reportable Conduct Scheme information sheets
- PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools
- PROTECT: Responding to Suspected Child Abuse Template

## 9. 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.



## 10. Approval and Review Details

Approval and Review	Details
Approval Authority	Group Director, MacKillop Institute and Education
Approval Date	25 November 2022
Recommended to Approval Authority by	MacKillop Education Leadership Team
Next Review Date	April 2024
Version	1

## 11. Appendix

Appendix I Examples of Reportable Conduct

## Appendix I Examples of Reportable Conduct

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>	<ul style="list-style-type: none"> <li>▪ Deprived from the following: <ul style="list-style-type: none"> <li>- clothing or food</li> <li>- medical attention or care</li> <li>- shelter</li> <li>- supervision</li> </ul> </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 reported.

The CCYP Reportable Conduct Scheme information sheets provide more detailed information regarding these types of reportable conduct.