



# MACKAY CHRISTIAN COLLEGE

Christian Education on Purpose

## 3E 19 Duty of Care Policy

<b>Purpose:</b>	The purpose of this policy is to provide a safe, secure and supportive College community for students of Mackay Christian College (MCC).
<b>Scope:</b>	This policy applies to all employees, contractors, volunteers, parents/carers, students, people undertaking work experience or vocational placements and people visiting the College site.
<b>Status:</b>	Approved, supersedes previous policy
<b>Authorised by:</b>	College Principal
<b>Date of Authorisation:</b>	October 2024
<b>References:</b>	Anti-Discrimination Act 1991 (Qld) Child Protection Act 1999 (Qld) Disability Discrimination Act 1992 (Cth) Education (Accreditation of Non-State Schools) Act 2017 (Qld) Privacy Act 1988 Sex Discrimination Act 1984 (Cth) Work Health and Safety Act 2011 (Qld) Working with Children (Risk Management and Screening) Act 2000 (Qld) MCC Child Protection Policy MCC Disability Discrimination Prevention Policy MCC Discrimination Prevention Policy MCC Employee Code of Conduct Policy MCC First Aid Policy MCC Student Bullying Prevention Policy MCC Work Health and Safety Policy MCC Blue Card Policy MCC Privacy Policy MCC Discrimination Prevention Policy MCC Disability Discrimination Prevention Policy MCC Sexual Harassment Prevention Policy
<b>Review Date:</b>	Every two years
<b>Responsible Person/s</b>	Healthy Safety Officer and College Principal

The following extracts are taken from **'Teachers, Students and the Law'** 5th edition, Vivien Millane, 2021.

'The law regards the teacher-student relationship as having a special welfare component' (page 5). This means that teachers have a 'duty of care' to protect students from reasonably foreseeable injuries.

'The courts recognise that accidents happen in schools and you will have breached your duty of care only if:

- the injury was reasonably foreseeable i.e. not completely unexpected AND
- the injury occurred because you did not carry out your responsibilities in a 'sufficiently careful manner' (page 6).

'There is no clear-cut definition of terms like 'reasonable' or 'careful'. Whether the duty of care has been broken depends on the particular facts of each case.

For example, teachers on playground duty would not be responsible for a sudden, unforeseeable attack by one student on another. However, teachers could be implicated if they had failed to do their rostered playground duty and as a result, no teacher was present to stop a student fight' (page 6).

'The duty of care also requires teachers to be proactive where students could be injured. For example, if a teacher crossing the College playground encounters students behaving dangerously, they should intervene even if they are not on official playground duty.

Teachers who act carefully and sensibly, and plan and supervise activities properly, should not fear being sued for injuries suffered by students' (page 6).

'The College's duty of care is broader than a teacher's and includes:

- supervision of students
- protecting students from dangerous situations and activities
- maintaining safe premises and equipment
- providing a safe, supportive and productive learning environment when students are studying online
- protecting students from bullying and excessively rough play by other students' (pp. 7,8)

The College and teachers have a duty of care to students whenever the College is exercising control over the students' actions. This includes:

- anywhere curricula or co-curricular activities are taking place i.e. in classrooms, laboratories, computer rooms, gymnasiums, libraries, etc. This now includes online activities.
- in outdoor and indoor play areas
- before and after school hours where students are allowed to enter school property, or in situations where the Principal has knowledge that the students are congregating before or after school creating a foreseeable risk of injury
- during sport and physical education activities
- when students are moving about the College
- on transport arranged by the school, or on public transport where the Principal has knowledge that there is serious risk of bullying or other danger
- when students are travelling for or playing sport away from the College
- during excursions and school camps (see p.25)
- after school, including in the home environment, where the Principal or teacher has knowledge that the student is being subjected to cyberbullying' (p. 9)

Generally, the College is not responsible when students are travelling to or from school on public transport. The court will consider the following matters when deciding whether sufficient care has been exercised:

1. Was that particular event foreseeable
2. The age and capacity of the students
3. The behaviour of the group
4. Weighing the risk against the likelihood of it occurring
5. The gravity of the risk
6. Can the risk be justified on educational grounds
7. Common practice and accepted professional standards
8. Student/teacher ratios and guidelines
9. Teachers with specialist skills

**General Checklist for Teachers:**

- Be safety conscious and aware of possible risks in the classroom, the playground or at sport
- Discuss safety issues with colleagues and students
- Consider what children can cope with at particular ages
- Obtain College approval and parent/carer consent for all out-of-school activities
- Ask yourself, 'Am I acting as the reasonable or careful teacher would in these circumstances?'
- Is the common practice safe for this particular group of students in these conditions, and is it in line with written guidelines
- Report suspected bullying to the appropriate House Family Coach, Head of Primary, Head of Secondary or the College Principal
- Always carry out rostered playground duty diligently
- Regard College or department guidelines and student/teacher ratios as a minimum safety standard and insist on higher standards if the group or conditions warrant it
- Are you using safe equipment
- Take detailed notes immediately after an incident, and get witnesses' names and addresses, and a statement if possible
- Check the relevant College policy indemnifying a teacher where the teacher might have caused injuries to others.