

Conduct That is Reportable to the Victorian Institute of Teaching Policy



Purpose of this Policy

Registered teachers in Victoria are exempt from holding a Working with Children Check (WWCC). This is because, in considering applications for registration or re-registration as a teacher, the Victorian Institute of Teaching (VIT) has similar information sharing requirements to, and considers similar information and undertakes a similar assessment as, the WWCC Scheme.

This policy is designed to ensure that staff who are registered teachers and the College meet their responsibilities to notify the VIT of required information relevant to child protection. It is also designed to ensure that teaching staff who would fail the WWCC (were they not exempt) are removed from employment or engagement at the College.

Source of Obligation

Under section 2.6.57 of the Education and Training Reform Act 2006 (Vic) (the Act), registered teachers must notify the VIT, and include in any application for registration or renewal of their registration, if they are committed for trial or been convicted or found guilty of certain criminal offences that accord with those relevant to WWCCs.

Registered teachers must also notify Working with Children Check Victoria (WWCCV) of all organisations in which they engage in child-related work (other than teaching).

Under section 2.6.31 of the Act, the College must notify the VIT if the College has taken:

- any action against a registered teacher in response to allegations:
 - of serious incompetence
 - of serious misconduct
 - that the teacher is unfit to be a teacher
 - that the teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment, or
- any other actions against a registered teacher that may be relevant to their fitness to teach.

The College must also immediately notify the VIT if it becomes aware that a teacher:

- has been charged with, or convicted or found guilty of, certain criminal offences that accord with those relevant to WWCCs or
- has been given a negative notice in relation to the WWCC.

Section 2.3.10 of the Act requires that the College dismiss or remove from its employment or engagement any teacher who has either:

- been convicted or found guilty of certain criminal offences that accord with those relevant to WWCCs or
- been given a negative notice.

Staff Responsibilities

Registered teachers must meet their obligations under the Act and notify the VIT if they are committed for trial, or found guilty or convicted of, certain relevant offences, including:

- serious sexual offences
- serious violent offences
- serious drug-related offences
- offences against the Child, Youth and Families Act 2005 (Vic)
- other offences linked to the safety of children.

They must also notify WWCCV of all organisations in which they undertake child-related work (other than teaching) within 21 days of starting that child-related work.

In addition, to enable the College to meet its obligations under the Act, it is the College's policy that:

- registered teachers must inform the Principal (or, if the person is the Principal, a member of the Leadership Team) if they are charged with, committed for trial for, or convicted or found guilty of any of the above offences or if they have been given a negative notice in relation to a WWCC
- all staff must immediately report to the Principal (or, if the incident or allegation involves the Principal, to a member of the Leadership Team) any incident or allegation that raises concerns about a teacher's fitness to teach, including:
 - serious incompetence
 - serious misconduct
 - that the teacher is unfit to be a teacher
 - that the teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment
 - that the teacher has been charged with, or has been convicted or found guilty of, any of the above offences.

Teacher Misconduct Reportable to VIT and our Child Protection Code of Conduct

Our Child Protection Code of Conduct outlines expected standards of behaviour for all Staff at the College. However, breaches of this Code of Conduct will not always constitute teacher misconduct that is reportable to the VIT.

Some breaches of our Child Protection Code of Conduct can be dealt with at the College level and the results of the investigation would not need to be reported to the VIT by the College. For example, a new teacher accepting a social media 'friend' request from a student on a single occasion would be a breach of our Child Protection Code of Conduct but may not amount to serious misconduct, the investigation outcome of which must be reported to the VIT.

However, all breaches of Code of Conduct must still be reported internally.

The College's Obligations

Where the College becomes aware of any incident or allegation that raises concerns about a teacher's fitness to teach, the Principal (or, if the incident or allegation involves the Principal, a member of the Leadership Team) must conduct an internal investigation in such a manner as the circumstances demand, unless the incident or allegation is the subject of:

- a report to DHHS Child Protection or Police, in which case the internal investigation may only occur with the consent of the relevant agency
- an internal investigation under our Reportable Conduct policy, in which case that investigation constitutes the internal investigation under this policy.

Where the College becomes aware that a teacher has been:

- convicted or found guilty of certain criminal offences that accord with those relevant to WWCCs or
- given a negative notice

the College must dismiss or remove the teacher from its employment or engagement.

In either case, the College must make the required notifications to the VIT.

Who Notifies and What Must be Notified to VIT?

The Principal (or, if the incident or allegation involves the Principal, a member of the Leadership Team) must notify the VIT if the College has taken "action" against a registered teacher, whether as a result of its internal investigation or otherwise.

"Actions" which will be reported by the College to the VIT include (but are not limited to):

- any final disciplinary actions taken by the College after investigation (i.e. decisions to stand a teacher down from duties during an investigation is not an "action" that must be notified), which may include:
 - a formal warning or reprimand
 - a financial penalty
 - a reduction in classification
 - suspension or termination of employment
- where a teacher resigns, or their employment ends by mutual agreement, after being advised by the College that it is inquiring into allegations.

The College should also notify the VIT if a teacher takes action against the College in another forum such as the Fair Work Commission.

When to Notify the VIT

The VIT should be notified, of actions taken against a teacher, after the investigation is finalised and:

- one or more of the above allegations is found to be proven
- action has been taken in relation to those allegations.

How to Notify the VIT

Notifications to the VIT must be in writing and must include:

- a description of the allegations found proved and the action taken
- in cases where the teacher's employment ceased prior to the College taking any action, a description of the concerns
- relevant documentation associated with the allegations, which may include:
 - statements of complainants and the identity of witnesses
 - complaints received by the College about the registered teacher (including from Staff, parents and students)
 - correspondence between the College and the registered teacher concerning the allegations
 - any statements or responses received from the registered teacher (or their representative)
 - the registered teacher's letter of resignation
 - investigation reports and materials
- any other relevant information.

For more information, refer to the 'Notifying us about teacher concerns' section of the VIT's website.

VIT Response to Notification

When it is notified that a teacher has been charged with, convicted or found guilty of a relevant offence, the VIT may, and in some cases must, refuse, cancel or suspend the teacher's registration, depending on the kind of offence and on whether the teacher has been charged, convicted or found guilty.

For more information on what actions the VIT may or must take, refer to the Table in the VIT's Teacher Obligations Factsheet available on the VIT website.

The VIT must then notify WWCCV if it has suspended (or revoked such a suspension) or cancelled a teacher's registration.

On receiving other notifications regarding concerns about a teacher's fitness to teach, the VIT has the power to:

- ensure that it has obtained all relevant information from the College, and may request further information
- decide whether the matter does not reach the threshold required for it to proceed
- conduct an investigation, an informal hearing, or a formal hearing
- summarily suspend the teacher on an interim basis pending an investigation, if the VIT forms a reasonable belief that the teacher poses an unacceptable risk of harm to children and believes that suspension is necessary to protect children.

A formal hearing may result in findings which can result in cautions, reprimands, conditions imposed including counselling and further education, suspension, cancellation of registration and/or a period of disqualification.

VIT Notifications and Other Reporting Obligations

The internal reporting and VIT notification obligations covered in this policy are separate and distinct from obligations to report to DHHS Child Protection, obligations to report to and reporting obligations under the Reportable Conduct Scheme.

Record Keeping About VIT Notifications

For the College's record keeping obligations relating to VIT Notifications, refer to Child Protection Record Keeping Policy (available on our website).

Key Definitions

Serious incompetence

Registered teachers are required to achieve and maintain an acceptable level of competence in their practice.

Serious incompetence refers to a situation where a teacher is failing to meet the Australian Professional Standards of Teaching (APST) to such a degree that their whole approach to teaching:

- is fundamentally flawed
- defeats the cause of imparting knowledge to students.

Serious misconduct

Serious misconduct generally involves a substantial departure from the accepted standards of the profession, including conduct that is found to be:

- infamous
- disgraceful
- dishonourable
- shameful.

In many (but not all) cases, breaches of the Child Protection Code of Conduct could meet this definition.

Unfit to be a teacher

Fitness to teach is defined as whether the character, reputation and conduct of a person are such that the person should be allowed to teach in a school.

A teacher's behaviour, whether in the practice of teaching or in their private lives, may demonstrate qualities of a kind that indicate that person is not fit to practice as a teacher. In many (but not all) cases, breaches of the Child Protection Code of Conduct could meet this definition.

Impairment

Impairment is defined as a:

- physical or mental impairment
- disability, condition or disorder (including substance abuse or dependence).

If a teacher's ability to practice as a teacher is seriously affected, detrimentally affected, or likely to be affected, due to an impairment, then they may be considered unfit to teach.