

## Communicating with Families Policy

Southern Montessori Early Learning Centre

Version	Last Amendment	Approved By	Date	Maintained By	Next Review
3	Nov 2016	Board of Governors	Feb 2019	Governance	Feb 2022

### Policy Statement

The Association of Independent Schools of South Australia provides ongoing support to enable member schools to know of existing legal requirements and any amendments to those requirements.

Southern Montessori School (the Centre) is aware of our requirements and receives regular updates as to any amendments.

The Centre informs the relevant members of staff regarding any changes that need to be made in order to meet these changes.

A formal review of the Centre's legal position is done as part of our regular cycle of policy review.

Amended requirements are documented in changes to Centre policy as appropriate.

### Scope

Everyone has a "duty of care" towards each other, by virtue of the common law principles of negligence and for teachers, by virtue of their conditions of employment.

This Statement is to be read in conjunction with the school's Child Protection Policy.

### Duty of Care

Southern Montessori staff owe a duty to take reasonable care to protect those children and/or young people in their care and control from a reasonably foreseeable risk of harm. If harm results from a failure to exercise the required standard of care, a negligence claim may result.

The standard of care required of an individual is that of a reasonable person in the individual's position who was in possession of all information that the individual either had, or ought reasonably to have had, at the time of the incident.

It is generally accepted that individuals who comply with an established standard of practice, by exercising good judgement and common sense in dealings with those children and young people to whom this duty is owed will suitably fulfil their duty of care obligation.

The standard of care required can vary depending on an individual's position with respect to their level of control and direction over those persons in their care or with whom they are engaged.

### Breach of Duty of Care

In order for a liability in negligence to be established in common law, it must be proved that:

- a duty of care was owed in the circumstances
- the duty was breached because of an act or omission on the part of the person owing the duty
- a loss or injury is suffered as a result of the breach

Communicating with Families Policy	Version 3
Maintained By: Governance	Page 1

- the type of loss or injury suffered was a reasonably foreseeable consequence of the act or omission.

The standard of care owed to a student will vary according to the circumstances. If the standard of care required in a particular situation is not met and a student suffers loss or injury, a liability in the common law tort of “negligence” will arise.

The Centre is vicariously liable for claims (except where such claims arise from the serious and wilful misconduct of a teacher) which means that any common law claims generally will be issued against the Centre as employer rather than against an individual teacher.

## Occupiers Liability

### Board of Governors’ Liability

As an occupier of premises the Centre owes a duty of care to all persons who enter the property and will be liable to compensate persons injured on the premises due to the dangerous state of the premises. This duty extends to persons who enter the School property outside of, as well as during, school hours.

The acceptance of a student as a pupil by the Centre infers that the Centre undertakes not only to employ proper staff, but to provide the student with reasonable care. The particular teacher performs his/her duty by virtue of his/her contract with the Centre. Staff are always expected to make decisions and act in the best interests of the child.

## Trespassers

The Wrongs Act 1936 provides that an occupier owes no duty of care to a trespasser unless the presence of the trespassers was reasonably foreseeable and the nature of the danger was such that measures should have been taken for their protection. We have a standard of care for all.

It should be noted that if school grounds are accessible it would be regarded as reasonably foreseeable that children will play there outside school hours. Therefore, measures need to be taken to protect such children from any danger on the premises.

## Centre Procedures

The Principal/WHS Coordinator will ensure that all adults who interact with students, including sports team coaches/managers (outside hours) and parents who assist on excursions, have provided the Centre with evidence of current police checks, have the necessary skills to undertake their role and are suitable for the role. Designated parent volunteers attending camps, excursions or providing classroom support will be inducted by supervising educators or ‘event’ coordinators.

Inadequate attention to this detail could, in the event of a student being injured, result in the Principal or teacher, and vicariously the Centre, being considered negligent and liable in tort for the payment of damages.

Parents and volunteers who assume supervisory responsibility also owe a duty of care to the students under their control. They are required to use their skills, knowledge and experience in a responsible manner.

On school days duty of care commences from 8:30am, when teachers begin yard supervision. This extends until 3:40pm, when after school supervision concludes. The Centre retains duty of care during after school sports training but is not obliged to have a staff member present.

Parents retain duty of care during weekend sports.

## Indemnities

It is not possible for schools “to contract out of” liability for the welfare of its students. Therefore permission notes or consent forms should not include clauses which ask parents to sign away their children’s rights to sue for negligence, or to accept that the Centre cannot be held responsible in any way for an accident or injury.

### Sleepovers

Sleepovers are to be treated as an overnight school excursion – (see Camps Policy and Excursions Policy). They involve curriculum-related overnight activities on the school premises in which students participate. The Principal and staff members will need to carefully consider matters such as security and duty of care.

Communicating with Families Policy	Version 3
Maintained By: Governance	Page 2

## Information Held by the Centre About Students and Families

Information held by the Centre is done so in accordance with the Centre's Privacy Policy.

In certain circumstances a court can demand the release of this information.

Document History and Version Control Table			
Version	Date Approved	Approved By	Brief Description
1	Dec 2013	Board of Governors	Creation of original document
2	Nov 2016	Board of Governors	Review ratified at Board
3	Feb 2019	Board of Governors	Review ratified at Board

Communicating with Families Policy	Version 3
Maintained By: Governance	Page 3