

## Cranbourne West Primary School

# TRESPASS IN SCHOOLS – GROUNDS & BUILDINGS – POLICY

### RATIONALE

The purpose of this policy is to ensure principals effectively manage who enters or remains on school land.

### GENERAL STATEMENT

- Government schools are not public places and there is no general right for the public to enter school land at any time.
- Parents and carers ordinarily have an implied licence to enter school land but that might be temporarily withdrawn if their behaviour threatens the safety of staff or students.
- Where it is necessary to protect the safety of staff or students at the school, a principal may provide a verbal warning directing someone to leave the school.
- If a person poses an ongoing risk to the safety of people on school land, after considering and implementing other less restrictive arrangements and after taking into account the potential impact and need of the person to attend the school, a principal may issue a Trespass Warning Notice to warn a person not to enter school land for a specified period of time. Template Notices are available on the Resources tab.
- Principals can authorise an employee at the school or any other person including a regional staff member to issue a Trespass Warning Notice on behalf of the principal, where the principal considers it appropriate for another person to issued a Notice. The wording for an authorisation is available on the Resources tab.
- If a person refuses to leave the school after being warned to leave, or enters school land when they have been warned not to, it may constitute a criminal or civil offence. A refusal to leave or prohibited entry to the school should be reported to Victoria Police and the Department's Incident Support and Operations Centre.
- If a principal is seeking advice on issuing a warning letter or Trespass Warning Notice they should contact the Department's Legal Division at [legal.services@education.vic.gov.au](mailto:legal.services@education.vic.gov.au) or 03 9637 3146.

### IMPLEMENTATION GUIDELINES

The Department recognises that parents and carers have an interest in their child's education and play an invaluable role in supporting a child's learning and wellbeing through being actively informed and involved at school. Parents and carers attend schools for a range of reasons, including to drop-off and collect their child, meet with staff and to participate in general school activities such as assemblies and performances. These are matters that are to be considered in making a decision under this policy.

However government schools are not public places. There is no general right for the public to enter school land. Parents and carers ordinarily have an implied licence to enter school land, but that might be temporarily withdrawn if their behaviour threatens the safety of staff or students.

#### Deciding to require a person to leave or not to enter school land.

If parents or carers are not behaving in accordance with the school's behavioural expectations, principals may:

- meet with the person and clearly explain to them acceptable and unacceptable behaviour standards at school
- write to the person outlining acceptable and unacceptable behaviour standards at school with reference to relevant school policies — template warning letters are available on the Resources tab
- if the person's presence on school land poses an immediate risk to the safety of students or staff, warn or require the person to leave the school land. If the person is aggressive and refuses to leave school land, the principal or school staff should immediately call Victoria Police

Principals should consider issuing a verbal warning to leave a school or a Trespass Warning Notice only after other less restrictive arrangements have been considered and, where appropriate, implemented. In addition, principals should balance the reasons for issuing the verbal or written warning with the need of the person to attend the school and the potential impact on students and families. This includes the impact on:

- a student's education or ability to participate in school events
- a parent or carer's ability to look after the wellbeing and safety of their child, attend school events, attend meetings with teacher or teachers or to be a school council member

Both a verbal warning to leave the school or a Trespass Warning Notice not to enter a school should be limited to a warning to a parent or carer not to enter the school land and should not go beyond this. For example, the warning or non-compliance with a warning cannot impact a child's continued attendance at the school.

If a person poses an immediate risk to the safety of people on school land, a principal may issue a verbal warning to that person to leave the school. Unless there is a risk to safety in doing so, principals should initially say words along the lines 'your behaviour is causing an unacceptable safety risk and I am warning you that I will issue you a direction to leave school land unless you stop that

behaviour immediately'. If the behaviour does not stop and no reasonable response is given for the behaviour, the principal can then use words indicating that 'I require you to leave the school land immediately and not return today'.

Whenever a person is becoming aggressive or refuses to leave school land, the principal or school staff should immediately call Victoria Police.

A principal may issue a written Trespass Warning Notice, warning a person not to enter school land for a specified period of time if:

- the strategies to manage the person's behaviour has been considered or attempted and is not appropriate or effective
- there are no other reasonable and less restrictive steps that a principal can take to manage the risks
- the person continues to pose an ongoing risk to the safety of people on school land, and
- the principal has provided the person with an opportunity to provide feedback about whether a notice should be issued, and considered any information provided by the person

If the threatening behaviour does not occur on school land (for example, it occurs on social media, outside of school land or at another school), a Trespass Warning Notice may be issued in relation to school land, where it is necessary to ensure the safety of staff and students on that school's land.

If a principal wishes to issue a Trespass Warning Notice for a reason other than protecting the safety of staff or students from threatening behaviour on school land, they must contact the Department's Legal Division.

### **Making a decision to require a person not to enter school land**

Where a principal intends to issue a Trespass Warning Notice they should:

- advise the person (for example by phone, text or email) that a Trespass Warning Notice is likely to be issued
- identify the school and the period to be covered by the Notice
- provide a short reason why that Notice is to be issued
- indicate when the Notice will be issued and ask for any reasons not to issue the Notice by a specific time before the Notice will be issued

A person should be given an appropriate time to respond to a proposed decision to issue them with a Trespass Warning Notice, which can be very short (for example a matter of minutes or hours) where there is an impending expected risk to a person's safety. Wherever possible having regard to the safety risks, the principal (or other authorised decision-maker) should give consideration to the person's response before making a decision about whether to issue the Notice.

When making decisions about trespass, schools must consider the human rights of all those involved in accordance with the Charter of Human Rights and Responsibilities Act 2006 (Vic). This means that, wherever possible before issuing a Trespass Warning Notice, the principal or other authorised person must consider the safety, wellbeing and rights of all those involved to determine whether or not the trespass warning notice is appropriate and reasonable in all the circumstances. However, where a person's presence on school land would pose a serious and credible threat to the safety of staff or students, there is usually a compelling argument that a warning not to enter school land (or to only enter subject to certain conditions and any related limitation on relevant Charter rights) would be reasonable.

If issuing the Trespass Warning Notice, school staff must also manage information relating to the Trespass Warning Notice sensitively and in accordance with privacy laws. For further information refer to:

- Charter of Human Rights
- Privacy and Information Sharing

However, consideration should be given to whether or not there is any less restrictive arrangement that would not unreasonably compromise the safety and wellbeing of students and staff. For example, the Trespass Warning Notice can set out limits on entering school land at certain times, or for certain purposes, or only preventing a person from entering certain parts of a school, that are necessary to prevent or minimise risk to students or staff.

If a principal wishes to issue a Trespass Warning Notice with limitations or conditions, they are encouraged to contact the Department's Legal Division.

If a Trespass Warning Notice is issued to a parent or carer, a principal must make alternative arrangements to support that parent or carer to be able to engage and communicate with the school about their child. For example, by holding Student Support Group (SSG) or parent-teacher meetings off-site or by telephone.

Principals must maintain a local record of all verbal warnings and Trespass Warning Notices issued which should set out:

- the name of the person who received the verbal warning or Trespass Warning Notice
- the date and time that the verbal warning or Trespass Warning Notice was issued
- a copy of the Trespass Warning Notice or a written record of the verbal warning given, or a copy of any written confirmation provided to the person that was given the verbal warning
- high level reasons for the decision, including consideration of this policy and the Charter

## **Who can decide to require a person to leave or not to enter school land**

The Minister for Education is the registered proprietor of all land held by the Department for the purpose of operating Government schools and has the power to determine who may enter, and remain on, school land.

The Minister for Education (as occupier of schools) has directed principals to ensure that only authorised people enter or remain on school land and has provided principals with the powers to give effect to that. Principals also have power to authorise someone else to exercise these powers on their behalf.

If a principal wants to authorise another person to exercise these powers, an authorisation should be provided in writing to that person. If an authorisation is given verbally, it should be confirmed in writing as soon as possible afterwards. Sample wording authorising a person to exercise the principal's power to determine who may enter, and remain on, school land is available on the Resources tab of the PAL site.

## **Revocation of Trespass Warning Notice**

While a Trespass Warning Notice will have an end date, the Notice should be withdrawn if at any time the principal is of the view that the person is no longer a threat to the safety of students or staff.

Principals or other authorised persons may also issue a person with a one-off revocation notice during the period of time the Trespass Warning Notice applies, if they determine it is safe and appropriate to allow that person to attend on school land for a one-off event, such as a student graduation event, but not on an ongoing basis. In these circumstances, principals should contact Legal Division for support in issuing this one-off revocation notice.

## **Review of decisions to issue a verbal warning or Trespass Warning Notice**

A person who objects to a decision to give a verbal warning or issue a Trespass Warning Notice can access the Department's usual complaints procedure. Refer to Complaints — Parents.

## **Consequences of non-compliance**

There are 2 possible consequences for a person who enters or remains on school land after receiving one or more verbal warnings or Notices:

1. the person may have committed criminal trespass, and may be charged by the police with a relevant criminal offence
2. the person may have committed civil trespass and may potentially be liable for compensation and/or be subject to a court injunction that restrains them from entering school land in the future

If a person enters or remains on school land after receiving one or more verbal warnings or Notices, the school staff who witness the behaviour should immediately report the incident to the principal or a member of the school leadership team.

The principal or a member of the school leadership team should report the incident to:

- Victoria Police, and
- the Department's Incident Support and Operations Centre (ISOC) on 1800 126 126

## **Related policies**

- Charter of Human Rights
- Intervention Orders
- Parent Complaints
- Privacy and Information Sharing
- Reporting and Managing School Incidents (including emergencies)
- Risk Management in Schools

## **Related legislation**

- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Crimes Act 1958 (Vic)
- Education and Training Reform Act 2006 (Vic)
- Education and Training Reform Regulations 2017 (Vic)
- Ministerial Order 1038 — Teaching Service (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2017
- Summary Offences Act 1966 (Vic)

## **EVALUATION**

This policy will be reviewed in line with updates on the DET Policy and Advisory Library Site. <https://ww2.education.vic.gov.au>