



## Introduction

Melbourne Archdiocese Catholic Schools Ltd (MACS) in partnership with parents, guardians and carers, who are the primary educators of their children, is entrusted with the holistic education of each child in our schools. The *Education Training and Reform Regulations 2017 (Vic.)* (sch 4 cl 12) require that schools must ensure that the care, safety and welfare of all students attending the school is in accordance with any applicable state or Commonwealth laws (including Ministerial Order 1359) and that all staff are advised of their legal obligations under those laws. Schools also owe a common law duty of care to students in its care.

## Purpose

This policy sets out requirements in MACS schools to ensure duty of care is always maintained.

## Scope

This policy applies in all MACS schools.

## Legal Background

A duty of care is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers an injury as a result of the negligent act or omission of another, where a duty of care exists, the injured person should be compensated for loss and damage flowing from that negligence.

For schools, a duty of care applies to all sites under the control of the school and applies to all members of the school's leadership team, teaching and non-teaching staff members, casual relief teachers, religious and parish staff, volunteers and contractors engaged by the school.

Duty of care is a matter for the whole organisation. It is not just confined to the geographical area of the school but also to school activities that occur outside the school where a student is acting on a staff member's instructions. The duty also applies to situations both before and after school where students can be assumed to be under the teacher's care. Consideration must be given to the age and capacity of children in care with greater attention required for younger students or students with disabilities.

Teaching and non-teaching staff members owe a duty of care to students within their care, and, but not limited to, parents, student teachers, volunteers, visitors or contractors who may sustain injury, loss or damage because of our conduct.

The school owes a duty to take reasonable care that any student (or other person) on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done to the premises.

Principals and teachers are held to a high standard of care in relation to students. The duty requires principals and teachers to take reasonable steps to minimise the risk of reasonably foreseeable harm from injury or child abuse to students by an individual associated with the school whilst the child is under the care, supervision or authority of the school.

## Principles

In having a duty of care to students, principals of MACS schools will:

- ensure compliance with all Child Safe Standards

- implement strategies to prevent reasonably foreseeable risk of harm or injuries to students (whether physical or psychological)
- provide suitable and safe premises
- provide an adequate system of supervision
- implement strategies to prevent bullying
- ensure that medical assistance is provided to a sick or injured student
- manage employee recruitment, conduct and performance.

## Policy

Principals of MACS schools must ensure that the care, safety and welfare of all students attending the school is in accordance with any applicable state or Commonwealth laws (including Ministerial Order 1359), and that all staff are advised of their legal obligations under those laws.

All staff have a duty of care to students to take reasonable care to avoid acts or omissions that they can reasonably foresee would be likely to result in harm or injury to the student, and to work for the positive wellbeing of each child.

Whenever a teacher-student relationship exists, teachers have a special duty of care. Generally, teachers are expected to take such measures as are reasonable in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury or child abuse.

Duty of care is non-delegable, meaning that it cannot be assigned to another party. The requirement to take reasonable steps to reduce the risk of reasonably foreseeable harm continues even when another party is involved (for example, a third-party providing services for an excursion or camp).

Each MACS school must have policies and procedures to manage common risks in school environments (including physical and online environments), and to support staff to meet their duty of care, including:

- attendance
- bullying prevention and intervention (including cyber-bullying)
- camps, excursions and international travel
- child safety and wellbeing
- codes of conduct for parents, students and staff
- emergency management
- employment and management of staff
- health and first aid policies
- medical management
- medication administration
- mandatory reporting
- occupational health and safety
- student wellbeing and engagement
- supervision of students in class, the school yard and in school approved activities
- procurement for facilities and services from third parties.

MACS has developed appropriate policies and contextualisable procedures to support schools in managing these common risks.

The principal and school leaders in MACS schools have the responsibility for ensuring that all staff, including support personnel, are familiar with their school's policies and procedures which are aimed at ensuring staff meet and comply with their duty of care.

All staff and relevant personnel must sign a code of conduct in relation to child safety.

Principals are responsible for ensuring that the policies for the care, safety and welfare of students are published and accessible to the school community. Regular reminders about school policies should be provided to the school community.

School staff, parents/guardians/carers and students are encouraged to speak to the principal to raise concerns about risks, hazards or duty of care obligations. If the matter cannot be resolved at the school level, complainants should be advised to contact the relevant MACS Regional Office or be referred to the MACS Complaint Handling Policy.

### **Duty of Care to students outside of school**

In some circumstances, the duty of care owed by school staff will extend outside of school grounds and beyond school hours. The circumstances are dependent upon each individual case.

## **Roles, responsibilities and reporting**

| <b>Role</b> | <b>Responsibility</b>  | <b>Reporting requirement (if applicable)</b> |
|-------------|--|--|
| Principal   | Ensure that all policies for the care, safety and welfare of students are published and accessible to the school community | Annual attestation to the Executive Director |

## **Definitions**

### **Duty of care**

Duty of care is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. The reasonable steps a school may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk.

### **Melbourne Catholic Archdiocese Schools Ltd (MACS)**

MACS is a reference to Melbourne Archdiocese Catholic Schools Ltd, and / or its subsidiaries, MACSS.

### **MACS school or school**

A school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by MACS, directly or through MACSS (as the context requires). References to schools or MACS schools also includes boarding premises of schools operated by MACS and specialist schools operated by MACSS.

### **Melbourne Archdiocese Catholic Specialist Schools Ltd (MACSS)**

Melbourne Archdiocese Catholic Specialist Schools Ltd, a wholly owned subsidiary of MACS established to conduct and operate specialist schools.

### **School environment**

Means any of the following physical, online or virtual places used during or outside school hours:

- a campus of the school
- online or virtual school environments made available or authorised by MACS or a MACS school for use by a child or student (including email, intranet systems, software, applications, collaboration tools and online services)
- other locations provided by the school or through a third-party provider for a child or student to use including, but not limited to, locations used for camps, approved homestay accommodation, delivery of education and training, sporting events, excursions, competitions and other events) ([Ministerial Order No. 1359](#)).

## Related policies and resources

### Related MACS policies and documents

Anaphylaxis Policy for MACS Schools  
Anti-bullying Policy (including cyberbullying)  
Attendance Policy  
Child Safety and Wellbeing Policy  
Child Safety Code of Conduct  
Emergency Management Plan  
Emergency Management Planning Policy  
First Aid Policy  
ICT Acceptable Use Policy  
Medical Management Policy  
Occupational Health and Safety Policy  
Parent Code of Conduct  
Pastoral Care of Students Policy  
Privacy Policy  
Recruitment Policy – Schools  
Student Behaviour Policy  
Student Code of Conduct  
Supervision of Students Policy

## Legislation and standards

*Education Training and Reform Regulations 2017 (Vic.)*

*Occupational Health and Safety Act 2014 (Vic.)*

Ministerial Order 1359 – Implementing the Child Safe Standards – managing the risk of child abuse in schools

## Policy information table

|                                 |   |
|---------------------------------|---|
| <b>Responsible director</b>     | Director Learning and Regional Services |
| <b>Policy owner</b>             | Director Learning and Regional Services |
| <b>Approving authority</b>      | Executive Director                      |
| <b>Assigned board committee</b> | Child Safety and Risk Management        |
| <b>Approval date</b>            | October 2023                            |
| <b>Risk rating</b>              | High                                    |
| <b>Date of next review</b>      | March 2025                              |
| <b>Publication details</b>      | CEVN, school website                    |

| POLICY DATABASE INFORMATION |  |
|-----------------------------|--|
| <b>Assigned framework</b>   | Care, Safety and Welfare of Students       |
| <b>Supporting documents</b> |  |
| <b>Superseded documents</b> | MACS Duty of Care Guidelines – v2.0 – 2022 |
| <b>New policy</b>           |  |