Melbourne Archdiocese
Catholic Schools

# Duty of Care Policy for MACS Schools

## 1. Introduction

Melbourne Archdiocese Catholic Schools Ltd (**MACS**) is a company limited by guarantee established in 2021 by the Archbishop of the Catholic Archdiocese of Melbourne to assume the governance and operation of MACS schools across the Archdiocese of Melbourne. MACS subsequently established Melbourne Archdiocese Catholic Specialist Schools Ltd (**MACSS**) to provide educational services to children with diverse learning needs and Melbourne Archdiocese Catholic Schools Early Years Education (**MACSEYE**) to provide early years care and education services.

The Statement of Mission in the MACS Constitution, and the constitutions of its subsidiaries, MACSS and MACSEYE, sets out the Archbishop's expectations of Catholic schooling in the Archdiocese and provides an important context and grounding for the company and the direction which the MACS Board must always observe in the pursuit of the company's objects.

The Board must ensure that all policies and procedures concerning the operations of MACS, and its subsidiaries are consistent with the Statement of Mission and company objects, as well as any directions issued by the Archbishop from time to time.

## 2. Purpose

This policy sets out requirements in MACS schools, including specialist schools operated by MACSS and school boarding premises operated by MACS schools (**MACS Schools)** to ensure duty of care is always maintained.

## 3. Scope

This policy applies in all MACS Schools.

## 4. Principles

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

- ensure compliance with all Child Safe Standards
- implement strategies to prevent reasonably foreseeable risk of harm or injuries to students (whether physical or psychological)(including the identification of risks).
- 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.

## 5. 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 Commonwealth or state laws (including Ministerial Order 1359), and that all Staff are advised of their legal obligations under those laws.

All MACS Schools' Staff have a duty of care to students to take reasonable care to avoid acts or omissions that could reasonably be foreseen would likely 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, which means 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).

The Principal in each MACS School must ensure the MACS policies and procedures are in place to manage common risks in school environments (including physical and online environments), and to support Staff to meet their duty of care, including:

- monitoring, recording, and reporting of student 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 and other reports of child abuse
- health, safety and wellbeing
- student wellbeing and engagement
- supervision of students in school environments and in school approved activities
- procurement for facilities and services from third parties.

MACS has developed appropriate policies and templates which can be contextualised to support schools in managing these common risks. Principals and school leaders in MACS Schools have the responsibility for ensuring that all Staff are familiar with their school's policies and procedures which are aimed at ensuring Staff meet and comply with their duty of care.

Principals are responsible for ensuring that policies for the care, safety, and welfare of students are published and accessible to the school community. The school community should receive regular reminders of these policies, particularly following their review or amendment. All Staff must uphold the Code of Conduct for MACS Staff.

School Staff, Parents, 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 Complaint Handling Policy.

## Duty of care to students outside of school

In some circumstances, the duty of care owed by MACS Staff will extend outside of school grounds and beyond school hours.

# 6. Roles and reporting responsibilities

| Role | Responsibility | Reporting requirement |
|---|---|---|
| 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 |

# 7. Definitions

Definitions of standard terms used in this Policy can be found in the Glossary of Terms.

**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.

**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).

# 8. Related policies and resources

## Supporting documents

Appendix 1: Legal background to duty of care

## Related MACS policies and documents

Anaphylaxis Policy
Bullying Prevention Policy
Attendance Policy
Child Safety and Wellbeing Policy
Child Safety Code of Conduct
Code of Conduct for MACS Staff
Emergency Management Plan
Emergency and Critical Incident Management Policy
First Aid Policy
Health, Safety and Wellbeing Policy
ICT Acceptable Use Policy
Medical Management Policy
Parent Code of Conduct
Pastoral Care of Students Policy
Privacy Policy
PROTECT – Identifying and Responding to Abuse – Reporting Obligations Policy
Student Behaviour Policy
Student Code of Conduct
Supervision of Students Policy

# 9. 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

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| **Responsible executive** | Director, Governance and Legal |
| **Policy owner** | General Manager, MACS Legal – Corporate |
| **Approving authority** | Executive Director (minor amendments approved by Director, Governance and Legal) |
| **Assigned board committee** | Child Safety and Risk Management |
| **Approval date** | 4 February 2026 |
| **Risk rating** | High |
| **Date of next review** | Four years after approval |
| **Publication details** | CEVN, school website |

| **POLICY DATABASE INFORMATION** | |
|---|---|
| **Assigned framework** | Care, Safety and Welfare of Students |
| **Supporting documents** | See above |
| **Superseded documents** | Duty of Care Policy for MACS Schools - v3.0 – 2023<br>MACS Duty of Care Guidelines – v2.0 – 2022 |

# Appendix 1: Legal background

MACS in partnership with parents and carers, who are the primary educators of their children, is entrusted with the holistic education of each child in our schools.

The Duty of Care is established in legislation and the common law. In particular, the *Education Training and Reform Regulations 2017* (Schedule 4, clause 12) requires that schools must ensure that the care, safety and welfare of all students attending the school is in accordance with any applicable state (including Ministerial Order 1359) or Commonwealth laws 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.

In broad terms, the tort of negligence provides that where a person suffers an injury as a result of a negligent act or omission by another person, the injured person should be compensated for loss and damage flowing from that negligence. A duty of care is an element of the tort of negligence that imposes an obligation on the negligent party to not cause directly or indirectly an injury to another person. The duty is a matter for the whole organisation and applies globally to a school site and also on an individual basis.

For schools, a duty of care operates at 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 and students. For example, a school owes a duty to take reasonable care so 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.

The school's duty of care may also extend to situations both before and after school where students can be assumed to be under the teacher's care. When assessing the duty of care in such circumstances, consideration is given to the age and capacity of children in the school's care with greater attention required for younger students or students with disabilities. The duty of care is not just confined to the geographical and physical area of the school that persons may attend or visit but also to authorised school activities that occur outside the school where a student is acting on a Staff member's instructions.

Teaching and non-teaching Staff members owe a duty of care to students within their care, and, including, but not limited to, parents, student teachers, volunteers, visitors or contractors who may sustain injury, loss or damage because of our conduct. Principals and teachers are held to a higher standard of care in relation to students. The duty of care requires principals and teachers to take reasonable steps to minimise the risk to students of reasonably foreseeable harm, such as 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.

For further guidance, please contact the MACS Legal team at legal@macs.vic.edu.au .