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Duty of Care

1. Policy Statement

Penleigh and Essendon Grammar School (the School) has a proud history of providing a safe and nurturing environment. It takes all reasonable steps to protect students in its care from harm or the potential for harm and to provide a safe environment for members of staff, volunteers and visitors.

2. Purpose

Our Duty of Care is an overarching document that forms the foundation for the responsibilities of the School to students, staff and the wider community. It includes taking reasonable steps to protect individuals from reasonably foreseeable injury or harm and taking reasonable care of the health and safety of students. This policy is fundamental to the school's commitment to child safety and zero tolerance of child abuse.

3. Scope

All employees have a common law duty of care to take reasonable care to minimise the risk of harm to another. Employers and employees also have a statutory duty to maintain a safe working environment and minimise the risk of physical, mental and emotional harm. This policy applies to all members of the Board of Directors and staff of the School.

4. Procedure

The Duty of Care addresses the following areas:

4.1 A duty of care to take reasonable measures to protect students from reasonably foreseeable risks of injury.

Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of injury, specific (but not exhaustive) requirements of the duty involve:

- (a) providing adequate supervision in the school or on school activities both during school hours and after hours;

Document Name: Duty of Care Policy	Policy Area/Category: Child Safety
Document Number:	Classification:
Version Number:	Document Owner: Principal
Publication date: August 2024	Endorsed by:

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- (b) providing adequate supervision during recess and lunch times;
- (c) ensuring that camps and excursions are assessed for risk and comply with Risk Assessment procedures;
- (d) protecting students from dangerous situations;
- (e) eliminating risks to health and safety so far as is reasonably practicable;
- (f) reducing risks to health and safety so far as is reasonably practicable;
- (g) providing safe and suitable buildings, grounds and equipment.

Expectations concerning duties of staff, including supervision duties, are published in Staff Handbooks, in the Staff Policies and Procedures published on the staff section of PEGSpace and includes Supervision of Students, After Hours Duty of Care Policy and the Excursion Policy and Excursion Risk Assessment protocols. Policies describing actions related to the individual care of students include the First Aid Policy, Anaphylaxis Management Policy, Asthma Management Policy, Concussion Management Policy and related protocols. Policies designed to protect the health and wellbeing of the community include the Sun Protection Policy, Adverse Weather Policy and compliance with pandemic orders under the *Public Health and Wellbeing Act 2008* such as relate to coronavirus (COVID-19). Procedures to confirm the school's buildings, facilities and grounds meet all legal and health and safety requirements are taken under the direction of the Board of Directors to ensure compliance with the Occupational Health and Safety Act 2004.

4.2 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.

The Risk Management Policy (currently in draft form) describes measures to be taken under the leadership of the Board of Directors to encourage sound decision making at every level of operations in order to safeguard student and staff safety and protect the tangible and intangible assets of the School.

In order to monitor the physical state of school premises and property the **Occupational Health and Safety (OHS) Coordinator** will maintain a register of safety risks which is to be updated monthly and tabled at the **OHS Committee**. This is to include:

1. Risks to students, staff, volunteers, contractors, the public.
2. Physical environment - facility, campus, safety risks.
3. Compliance risks.
4. Awareness and communication risks.

This is defined in our Occupational Health and Safety Policy, Hazard Reporting and Incident Registers.

4.3 A duty to take reasonable precautions to prevent the abuse of a child by an individual associated with the school while the child is under the care, supervision or authority of the school.

In accordance with **Ministerial Order No 1359 Implementing the Child Safety Standards - Managing the risk of child abuse in schools and school boarding premises** and Victorian Child Safe Standards, the School has a policy of zero tolerance for child abuse and is committed to supporting a culture of safety, trust and respect as spelled out in the Child Safety Policy. The Code of Conduct for Staff and others who interact with students identifies the responsibilities of staff, contractors and volunteers working in the school. Inappropriate behaviour including physical, sexual and psychological abuse, bullying, harassment, including sexual harassment,

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discrimination, personation, victimization and violence are unacceptable. The Policy of Mutual Respect defines such behaviours and describes the School’s commitment to their elimination. The responsibilities of members of the school community in relation to protection of children from abuse are spelled out in the Procedures to Protect Children from Abuse, and includes the School’s response to actions conducted online which are described in the ICT Policy and Statement on Cybersafety.

4.4 The school acknowledges that additional measures may need to be taken to discharge the duty of care in some circumstances. This includes the care of younger students or students with disabilities or in a situation where a student is an immediate danger to themselves or others.

The School recognises the complexities and variations in relationships and interactions staff members may have with students from Kindergarten to Year Twelve. Responses to these differences in responsibilities and associated actions are addressed in the Policy for Positive Interaction of Staff and Students. Interactions between staff members and primary age students may include greater physical contact and direct support than would be appropriate with older students.

Significant physical contact may be required when supporting a student with special needs. In these situations, the support should always concur with strategies agreed in consultation with the student and their parents and follow plans documented in the student’s Individual Care Plan.

In a situation where a student is an immediate danger to themselves or others, physical response by a member of staff may be required. The circumstances of such physical response is described in the Policy for Positive Interactions of Staff and Students

5. Related Legislation, Regulations and Standards

Ministerial Order No 1359 Implementing the Child Safety Standards - Managing the risk of child abuse in schools and school boarding premises (effective 1 July 2022)
 Occupational Health and Safety Act 2004
 Public Health and Wellbeing Act 2008
 Victorian Child Safe Standards (2022)

6. Related Documents

After Hours Duty of Care Policy
 Anaphylaxis Management Policy
 Asthma Management Policy
 Child Safety Policy
 Code of Conduct for Staff and others who interact with students
 Code of Conduct: Contractors, Volunteers and Visitors
 Concussion Management Policy
 Excursion Policy
 First Aid Policy
 ICT Policy
 Occupation Health and Safety Policy
 Policy for Positive Interactions of Staff and Students
 Policy of Mutual Respect

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Procedures to Protect Children from Abuse
Risk Management Policy (currently in draft form)
Statement on Cybersafety

Revised: August 2024
To be reviewed: August 2026

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