

4.6 Student care and supervision

4.6.1 Care and supervision of students

4.6.1.1 Framework for student support services

The *Framework for Student Support Services in Victorian Government Schools* outlines a comprehensive conceptual and operational framework for the provision of student welfare that supports schools in responding to the wide variety of issues facing young people. These issues include depression, self-harm and drug misuse as well as suicide prevention.

Research indicates that a similar core of underlying factors may lead an individual to be vulnerable. Thus, the response needs to be a multi-faceted one that acknowledges the complexity of the issue, and ranges from prevention to intervention through to restoring wellbeing.

The framework is underpinned by the major concepts of:

- four levels of activity: primary prevention, early intervention, intervention, and restoring wellbeing
- continuity of care
- partnerships between schools and the community.

The major emphasis is on prevention, with the goal of providing population based strategies as well targeted programs to provide young people with the skills and strategies to enhance their resiliency.

Four levels of activity

Primary prevention—promoting health and building belonging

Primary prevention strategies are designed to enhance the emotional and social health of all students. It is the broadest area of activity directed at promoting strengths, wellbeing and positive developmental outcomes. Taking into account the existence of risk factors, a whole school approach aims to strengthen student resilience through strategies that reduce vulnerability and increase coping skills.

Primary prevention is an inclusive approach that engages with young people and acknowledges their rights and responsibilities to influence their social, emotional and institutional environment.

- Primary prevention strategies include:
- building mutual respect and promoting safety at school
- implementing comprehensive curriculum to engage all students
- enhancing school attendance
- practicing inclusive teaching and learning

- encouraging supportive relationships
- easing transitions
- involving parents/families and communities.

Resilience can be promoted through:

- a sense of belonging
- a one-to-one relationship with a caring adult
- positive social behaviours and problem solving skills
- a sense of spiritual and communal belonging
- strong family relationships and minimal family stress
- peer connectedness.

Early intervention—strengthening coping and reducing risk

Early intervention strategies are timely activities targeting those students who remain personally and socially vulnerable to harm. Being aware of the risk factors that contribute to the development of health and behaviour problems increases the need for protection through the particular focus of early intervention programs.

Early intervention aims to reduce the intensity, severity and duration of risk behaviour by relying on effective and appropriate support programs and treatment. Early identification, assessment and management of students at risk require cross-sectoral approaches that are carefully integrated and efficiently coordinated.

Early intervention strategies include:

- assessing risks and identifying needs
- providing school-based counselling and support
- developing programs to improve skills
- monitoring and evaluating student support programs.

Resilience can be developed through:

- implementing appropriate support programs
- providing effective interventions
- reinforcing students' positive achievements
- promoting a sense of safety and security.

Intervention—accessing support and providing treatment

Smaller numbers of students who experience serious or persistent difficulties may need either short-term or ongoing access to additional professional intervention services and support. It is important that whenever such services are accessed, teachers and other professionals maintain a collaborative approach so that the student's broad educational and social needs are fully addressed.

- Intervention strategies include:
- clarifying referral procedures
- linking to counselling services
- ensuring continuity of care
- monitoring and evaluating progress.

Resilience can be improved through:

- activating effective partnerships
- coordinating services
- well judged responses, being sensitive to students' feelings and needs
- accurate identification.

Restoring wellbeing (postvention)—managing trauma and limiting impact

Restoring wellbeing aims to provide appropriate support to students, their families and other members of the school community affected by emergency situations or potentially traumatic incidents—those that are extraordinary and are beyond peoples' normal coping abilities.

Best practice of restoring wellbeing is grounded in effective prevention and planning for the emotional and psychological safety of school community members to any internal or external emergency that may impact on the school.

- Restoring wellbeing strategies include:
- increasing awareness of trauma impact
- planning for emergency response
- providing counselling and support
- monitoring recovery and evaluating plans.

Resilience can be rebuilt through:

- restoring a sense of normality

- responding appropriately with recovery activities
- having effective prevention and preparedness
- supporting psychological safety.

Continuity of care

Continuity of care refers to the ongoing and coordinated management of a young person who is at risk, the services the young person is accessing, and the provision of a range of services from responses to crises to preventative activities. It usually involves establishing a team and developing a coordinated services plan to meet the needs of the young person.

Partnerships between the school and community

Partnerships between the school and community involve an acceptance of shared responsibility for addressing common areas of concern and a collaborative approach to developing strategies to reach goals. They are also a means of providing optimum service delivery for students at risk.

School Focused Youth Service

The School Focused Youth Service is a joint initiative between the Department of Education and Early Childhood Development and the Department of Human Services (DHS). It is designed to enhance the effectiveness of links between the primary prevention and early intervention work done by schools and the secondary level of intervention provided by the community sector. Also see section [4.12](#) and [6.13](#)

References

The *Framework for Student Support Services in Victorian Government Schools* and the following support documents and resources are available at:

www.education.vic.gov.au/healthwellbeing/wellbeing/policy.htm

- Framework policy document
- Teacher Resource
- Professional Development Support Materials
- A4 Framework Summary Page

4.6.1.2 Duty of care

Whenever a student–teacher relationship exists, the teacher has a special duty of care. This is defined as: “A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teacher’s charge from risks of injury that the teacher should reasonably have foreseen.” (*Richards v State of Victoria* (1969) VR 136 at p. 141)

As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but

also protection from those that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken.

School authorities in breach of the duty may be liable for injuries inflicted by one student on another, as well as for injuries sustained by a student.

Schools normally satisfy the duty of care by allocating responsibilities to different staff. For example, the principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in each school, and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

4.6.1.3 Supervision before and after school

Supervision requirements

It is essential that parents/guardians are kept informed as to when supervision of students is available before and after school, and that outside these times supervision and/or the collection of students is the responsibility of parents/guardians. This information should clearly be provided to parents/guardians on a regular basis.

In primary and secondary schools supervision is to be provided for a minimum of ten minutes before the start of school. (See 4.6.1.9)

At the end of the day, sufficient teachers are required to adequately supervise the departure of students. In some circumstances more supervision may be needed for primary students and in particular for preparatory students, when they are departing the school.

It is reasonable to expect that in most cases teachers supervising the departure of students will not be called away for other duties during this time. If a teacher is called away alternate supervision arrangements should be put in place.

In primary and secondary schools, local circumstances may require adjustments to the time that morning supervision begins and end of day supervision concludes.

School exit and entry points

In determining whether supervision of students entering or exiting the school is adequate, principals can consider a number of factors including:

- Which entry/exit points should be or are used by students;
- Whether any entry or exit points should be locked, designated as out of bounds or supervised;
- Road traffic conditions; and
- Designated pick up and drop off areas.

Schools on contract bus routes

The supervision of the arrival and departure of any school contract buses is a matter for the discretion of the principal who should consider the following:

- the number of students alighting from and boarding the bus at the school
- the age of students alighting from or boarding the bus
- the times of the arrival and departure of the bus(es)
- the location of the pick-up and drop-off points in relation to the other areas of the school
- whether supervision is required to protect students on the bus, or from unruly student behaviour when boarding or alighting from the bus.

It is recommended that some form of supervision is provided to students using school contract buses. Suggested methods of supervision which might be appropriate to be considered by the Principal include:

- Liaison with bus contractors to develop an efficient timetable for the arrival and departure of school contract buses, including possible staggered arrival and departure times to accommodate supervision;
- Use of a buddy system for younger students
- Adopting a code of behaviour or conduct for students who use school contract buses that can be developed in conjunction with the bus operators; and
- Use of bus captains or monitors.

Principals should develop a system of supervision that is appropriate to local needs.

Schools served by public transport

In most situations there is no obligation to supervise the loading and off-loading of students who use public transport. However, this may be dependent on the location where the students catch or disembark public transport and the school. For example, there may be an obligation to provide some degree of supervision of the loading and off-loading of students using public transport where there is a known risk to students using that transport where the public transport stop is very close to the school.

In the interest of the general public and the reputation of the school, unruly and antisocial behaviour should be discouraged.

Supervision of preparatory students using bus transport

Due to their age preparatory students particularly those who use contract school buses or public transport buses may need more supervision than other students when leaving school at the end of the day.

Principals should consider implementing appropriate supervisory measures for preparatory students for the particular school environment. Principals can consider the reasonableness of:

- Maintaining a roll of preparatory students who use public transport which is updated on a regular basis;
- Guiding preparatory students to buses which stop at the school at the end of the day by a teacher; and
- Establishing a 'marshalling point' for preparatory students from which they can be guided to buses at the appropriate time.

Communication with parents/guardians

Schools can consider providing information to parents/guardians of preparatory students who use bus transport at parent orientation meetings. An example of an information letter to parents/guardians follows. Schools can adapt this letter according to their own school circumstances.

The end of the school day is a busy time. Some students are collected by parents/guardians, some travel by school bus, some use public transport and some walk. Regardless of how your child travels to school, it is important that they do so safely.

Whilst schools supervise students during school hours and on school grounds, parents/guardians have responsibility for the care and supervision of students exiting the school and travelling from the school at the end of the day.

As a parent/guardian, you need to consider travel arrangements for your child.

- Is your child old or experienced enough to use public transport?
- Are there things you can do to help educate your child in traffic safety?
- Are there busy roads that your child will need to cross to catch a bus or tram or if walking?

Many schools have measures in place to assist students leave the school safely. The cooperation of parents/guardians is vital to ensure supervisory measures are successful. For example:

- A school may have a student roll setting out students' usual travel arrangements. You should always let the school know if your child's usual travel arrangements are to change, even temporarily. This will help to ensure that the roll is up to date.
- A school may have preferred or mandatory points of exit for students at the end of the day. You should make sure that your child is familiar

with and uses these exits, and that you use these exits too if collecting your child.

If you collect your child from school, always obey parking regulations, speed limits and other traffic controls. This will help to create a safe environment at exits to schools and ensure respect is shown to neighbours who live close to the school.

Some teachers will be rostered to supervise students exiting the school at the end of the day. These supervising teachers play an important role in keeping your child safe. Teachers supervising exits or school buses are not available for consultation during this time. If you need to speak to your child's teacher, please arrange another time to do so when he/she will be able to fully concentrate on the issue you wish to discuss with them.

4.6.1.4 Supervision at recesses and lunch times

Students must be adequately supervised during recesses and lunch times.

Lunch passes

The legal duty of care that principals and teachers owe to students while they are at school means that principals should ensure that procedures exist for students who seek to leave the school grounds at lunch time. Such procedures could include the need for written parental requests for students less than eighteen years and short- and long-term lunch passes.

4.6.1.5 Cross-age tutoring: supervision of students

The degree of supervision to be provided for students involved in formal cross-age tutoring programs is a matter for local decision by the principal. While supervision is required, the principal has the discretion as to whether direct supervision is necessary taking into consideration the age and maturity of students, size of the group, nature of the activities, and the location within the school.

4.6.1.6 Supervision at one-teacher schools

Teachers in one-teacher schools owe the same duty of care to students as teachers in larger schools. However, they have no one with whom to share the responsibility. Teachers in such schools must keep the students under supervision during recess and lunch times, or make other adequate arrangements.

Permission for the teacher to leave the school for special reasons during lunch time may be granted by the appropriate regional director. Applications, supported by a statement of approval from the school council, should include alternative supervision arrangements for the period when the teacher is not in attendance. Permission must be renewed annually. Applications are not necessary if the teacher leaves only to visit their residence beside the school.

The school council should nominate at least one of its members who lives in close proximity to the school to act as a contact person if the teacher is ill or unexpectedly delayed in arriving at the school. Once informed of the

teacher's absence, the nominee or an adult representative should go immediately to the school to act as supervisor until a relief teacher arrives. In situations where a relief teacher cannot be engaged, immediate contact should be made with the appropriate regional office.

The school council nominee or their representative should telephone all families to inform them of the situation, that is that the teacher is not in attendance and a relief teacher is on the way, so that the parents/guardians may collect their children from the school if they so wish.

The school council should ensure that the arrangements made for the supervision of students during a teacher absence are recorded in its minutes and the procedure is reviewed on a regular basis, preferably annually.

4.6.1.7 Supervision of students outside the school grounds

Degree of supervision

Primary students must be supervised at all times.

The degree of supervision to be provided for secondary students leaving the school during school hours to engage in educational, sport or other activities is a matter for local decision. To insist on direct teacher supervision of all activities would severely inhibit the development of many valuable school programs where students are encouraged to undertake activities outside the school either individually or in small groups (see 4.4.2.6).

Misbehaviour

Ministerial Order No. 184 authorises principals to suspend or expel students for certain behaviour while travelling to and from school. It is recommended that school discipline policies contain a clause enabling other action to be taken against students whose misbehaviour between home and school is such as to reflect discredit on the school.

4.6.1.8 Students running away from school

When a student runs away from school, the parent/guardian should be informed immediately.

Where there is reasonable concern for the student's safety or the safety of others, immediate contact should also be made with the police and the Department's Emergency and Security Management Unit, telephone 9589 6266 (twenty-four-hour service) (see also 6.15.3).

4.6.1.9 Arrangement for students not collected after school

Parents/guardians should be informed when supervision of students is available before and after school hours and that supervision and/or the collection of students is the responsibility of parents/guardians (see 4.6.1.3).

If it becomes known that a student who is normally collected from the school, remains at the school well beyond the normal time of collection,

attempts should be made to contact the parents/guardians, or the emergency contact person identified by the parent/guardian in the school records. This applies especially to primary students.

Where all reasonable attempts have been made to locate appropriate responsible adults, and the time is well beyond a reasonable time for collection, consideration should be given to contacting the police or the Department of Human Services and for them to arrange for the care and protection of the student.

Information about the whereabouts of the student should be left with appropriate friends of the student, or next-door neighbours, if known, and at the school.

4.6.2 Child abuse and neglect including allegations of student sexual assault

4.6.2.1 Introduction

Victorian government schools are required to take immediate action following a disclosure of or concerns about alleged child abuse or student sexual assault. Parents, students and school staff should be confident that if an allegation of child abuse or student sexual assault is reported in a school, it will be dealt with immediately and in a sensitive manner. Such action is underpinned by comprehensive support structures for all students and their families.

This section of the Schools Reference Guide is intended to provide information for schools about responding to:

- allegations of or concerns about child abuse and neglect
- allegations of student sexual assault or inappropriate sexualised behaviour
- disclosures made by a student or others about a student who may be at risk
- misuse of the internet and mobile phones
- concerns of teachers or school staff about the safety or wellbeing of a student.

4.6.2.1.1 Student Critical Incident Advisory Unit

The Student Critical Incident Advisory Unit ensures appropriate supports are in place to maximise the health and wellbeing of students involved in incidents of a sexual nature. The Student Critical Incident Advisory Unit is situated within the Student Wellbeing and Health Support Division of the Department of Education and Early Childhood Development.

Principals and teachers have a key responsibility in the prevention and reporting of concerns about child abuse and neglect. School policies, procedures and practices must reflect the need to meet the mandatory reporting requirements of the [Children, Youth and Families Act \(2005\)](#) as well as to meet the school's duty of care obligations to students to ensure their safety and wellbeing.

The [Safe Schools are Effective Schools Frameworks](#) document provides excellent examples of the types of policies and strategies that have proved effective in schools.

School policies and procedures should also provide guidance for staff about how teachers can discuss their concerns about the safety and wellbeing of a particular student or students with a principal or other designated person.

The [Emergency and Security Management Unit](#) notifies the Student Critical Incident Advisory Unit of any incidents of a sexual nature as soon as it is reported by the school. The [Student Critical Incident Advisory Unit](#) is available 24-hours a day, and immediately liaises with the School, and where required, the regional office, the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) or the [Department of Human Services, Child Protection](#) or the [Conduct and Ethics](#) Branch.

The Student Critical Incident Advisory Unit will:

- provide timely and appropriate advice
- support regions and schools to respond to critical incidents
- ensure schools meet their legal obligations and duty of care responsibilities
- assist principals and senior school staff to manage sexually based incidents in a manner that ensures minimal adverse impact on the school community
- monitor the progress of school management of such incidents
- ensure that appropriate recovery measures such as counselling are provided to support those involved in allegations of student sexual assault
- facilitate the provision of a suitable level of support to school staff and members of the school community on whom the incident has impacted.

A detailed Departmental resource [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#) is available for schools, which provides guidelines and advice for schools about responding to allegations of student sexual assault or inappropriate sexualised behaviour. The resource includes a [Flowchart - Responding to Allegations of Student Sexual Assault](#) which is a step by step guide to responding to allegations of student sexual assault.

The Student Critical Incident Advisory Unit may be contacted on **(03) 9637 2934 or 9637 2487**.

4.6.2.2 Key contact information for schools seeking advice and support

Schools are required to take immediate action to protect and support all students in relation to concerns about possible abuse and neglect including student sexual assault. If unsure of how to proceed, it is important to seek appropriate advice.

In the first instance, school staff should consult with and seek advice from the school principal or a member of the school leadership team. The principal or member of the school leadership team may also consult with:

- the Department's [Emergency and Security Management Unit](#).
Phone: (03) 9589 6266
- the Department's [Student Critical Incident Advisory Unit](#)
Phone: (03) 9637 2934 or 9637 2487
- the Department's [Conduct and Ethics Branch](#)
Phone: (03) 9637 2594 or 9637 2595
- the Department's [Media Unit](#)
Phone: (03) 9637 2871
- the Department's [Legal Services Unit](#)
Phone: (03) 9637 3146
- [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#)
Phone: (03) 9865 5100
- [Department of Human Services, Child Protection](#)
See website link for specific contact phone numbers

Mandatory Reporting

Any person who is registered as a teacher under the Victorian Institute of Teaching Act (2001), head teachers and principals within the meaning of the *Education and Training Reform Act (2006)* or any person who has been granted permission to teach under Victorian Institute of Teaching Act (2001) are mandated to report sexual abuse or physical injury that results from abuse or neglect, to the [Department of Human Services, Child Protection](#) under the Children, Youth and Families Act (2005). Please refer to [section 4.6.2.5](#) for further information.

4.6.2.3 Definitions

4.6.2.3.1 Child

Where teachers or principals have concerns that a student may be experiencing abuse or neglect, and believe a report to [Department of Human Services, Child Protection](#) may be required, the [Children, Youth and Families Act \(2005\)](#), section 3: Definitions, defines a child as:

“(a) in the case of a person who is alleged to have committed an offence , a person who at the time of the alleged commission of the offence was under the age of 18 years but of or above the age of 10 years but does not include any person who is of or above the age of 19 years when a proceeding for the court offence is commenced in the Court: and;

(b) in any other case, a person who is under the age of 17 years or, if a protection order, a child protection order within the meaning of Schedule 1 or an interim order within the meaning of that Schedule continues in force in respect or him or her, a person who is under the age of 18 years;”

4.6.2.3.2 Child abuse and neglect¹

Child abuse and neglect may result from physical abuse, physical neglect, emotional abuse, sexual abuse or exploitation. These types of abuse can occur together and can have a significant detrimental effect on a child's physical or emotional health, development and wellbeing. The younger a child is the more vulnerable they are and the more serious the consequences are likely to be.

When teachers or principals form a belief that a child may be at risk of harm due to child abuse or neglect, they have a legal responsibility under the [Children, Youth and Families Act \(2005\)](#) and also under their duty of care obligations to take action i.e. to make a mandatory report to [Department of Human Services, Child Protection](#) or report to the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#). ([See 4.6.2.5. Mandatory reporting](#)).

There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse and neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert teachers to the possibility of child abuse or neglect.

All such indicators must be interpreted with regard to the individual child or young person's normal level of functioning and developmental stage.

4.6.2.3.3 Physical abuse

Physical abuse refers to a situation in which a child suffers, or is likely to suffer, significant harm from an injury inflicted by the child's parents/carers. The injury may be inflicted intentionally, or may be the inadvertent consequence of physical punishment or physically aggressive treatment of a child.

Physical injury and significant harm to a child may also result from neglect by parents/carers. The failure of parents/carers to adequately ensure the safety of a child may expose the child to extremely dangerous or life-threatening situations that result in physical injury and significant harm to the child.

Children who are physically abused may have frequent injuries explained as accidental bruises and welts on areas not easily injured by falling (for example, the backs of the legs) and may seek to avoid situations at school where such injuries could be observed, for example, sport.

Physical indicators may include:

- bruises or welts, often of different ages
- burns, scalds, sprains, dislocations, bites, cuts
- lacerations or abrasions
- poisoning.

¹ These indicators are compiled from information provided by the Department of Human Services, website: http://www.cyf.vic.gov.au/child_protection/library/publications/protection/what, and the Department of Human Services Publication: [Responding to Child Abuse \(2002\)](#), the *National Association for Prevention of Child Abuse and Neglect* at: <http://www.napcan.org.au/what.htm> and the *South Eastern Centres Against Sexual Assault* at: <http://www.secasa.com.au/infosheets.php>

Behavioural indicators may include:

- wary of adult contacts
- child wears inappropriate clothing in an attempt to cover injuries
- apprehensive when other children cry
- behavioural extremes, for example, aggressiveness/withdrawal
- frightened of parents /carers
- afraid to go home
- reports injury by parents/carers or gives an inappropriate explanation for injury
- excessive compliance
- extreme wariness
- attaches too readily to strangers
- frequent absenteeism/prolonged school refusal.

4.6.2.3.4 Emotional abuse

Emotional abuse occurs when a child is repeatedly rejected or subjected to threats, hostility or persistent coldness by parents /carers. The child might be called derogatory names, humiliated, ignored over long periods of time or isolated from social relationships with peers to such an extent that the child's behaviour is disturbed or the child's emotional development is at serious risk of being impaired.

There are few physical indicators of emotional abuse, but it may cause delays in physical, emotional or cognitive development. Emotional abuse is most prevalently associated with other forms of abuse or neglect. However, in some cases, emotional abuse exists as the primary form of abuse or neglect.

While there are few physical indicators of emotional abuse, behavioural indicators may include extreme behaviours that cannot be explained by other circumstances such as:

- extremely low self-esteem
- compliant, passive, withdrawn, tearful
- aggressive, demanding
- depression
- constant high anxiety
- poor social and interpersonal skills
- delayed development (for example, speech)
- persistent habit disorders (for example, sucking, biting, rocking)
- self-destructive behaviour
- unexplained change to academic performance

4.6.2.3.5 Neglect

Neglect includes a failure to provide the child with an adequate standard of nutrition, medical care, clothing, shelter or supervision to such an extent that the child's health and development are impaired or placed at

serious risk. A child is neglected if they are left uncared for over long periods of time or abandoned.

- Physical indicators may include:
- frequent hunger
- failure to thrive or malnutrition - undersized or underweight
- poor hygiene that can result in health problems/ostracism of the child
- inappropriate dress for the climatic conditions
- consistent lack of supervision, especially in dangerous activities or for long periods
- unattended physical problems or medical needs
- abandonment
- health or dietary practices that endanger a child's health or development.

Behavioural indicators may include:

- stealing food
- extended stays at school outside school hours
- constant fatigue, listlessness, or falling asleep in class
- alcohol or drug abuse
- child states there is no parents/carers
- prolonged or frequent absenteeism
- isolation from or by their peer group.

4.6.2.3.6 Sexual abuse

Sexual abuse occurs when an adult or someone bigger and/or older than the child uses their power or authority, either by using force or not, to involve a child in sexual activity or to exploit them for the purpose of sexual gratification.

Child sexual abuse involves a wide range of sexual activity. It includes fondling of the child's genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, or exposure of the child to pornography.

Sexual abuse is not always identified through physical indicators being present or obvious. Often, the first indication is when a child or young person discloses sexual abuse to a trusted person such as a teacher. Such disclosures should always be taken seriously.

Physical indicators may include:

- injury to the genital or rectal area, such as bruising or bleeding
- vaginal or anal bleeding or discharge
- discomfort in urinating or defecating
- inflammation and infection of genital area
- sexually transmitted diseases
- frequent urinary tract infections

- pregnancy, especially in very young adolescents
- bruising and other injuries to breasts, buttocks and thighs
- anxiety related illnesses, such as anorexia or bulimia.

Behavioural indicators may include:

- constant complaint of headaches or abdominal pains
- experiences problems with schoolwork and has difficulty relating to adults and peers
- displays sexual knowledge and behaviour beyond what is expected for age and environment
- exhibits persistent and age-inappropriate sexual activity
- unusual level of interest in their own or other's genitals taking into consideration their age and circumstances
- regressive behaviour, for example, soiling or wetting, bedwetting and speech loss
- excessive concern about privacy
- refuses to go home or runs away from home
- frequent absenteeism/prolonged school refusal
- child produces drawings or other expressive activities suggestive of inappropriate knowledge of or involvement in sexual situations and are age-inappropriate.

4.6.2.3.7 Sexual assault

For the purposes of this document, 'sexual assault' is defined as any unwanted sexual behaviour that causes humiliation, pain, fear or intimidation. Sexual assault includes rape, assault with intent to rape, and indecent assault, which are offences under the [Crimes Act \(1958\)](#).

4.6.2.3.7.1 Rape

Is the intentional sexual penetration by the penis, finger or an object, of the vagina, mouth or anus of another person without that person's consent. Consent is not a defence to some sexual offences, particularly those relating to the sexual exploitation of young people under the age of 17 years or under and people with cognitive impairment. Consent is also not a defence to sexual penetration or indecent act with a child under the age of 18 years who is under that person's care or supervision.

4.6.2.3.7.2 Indecent assault

Indecent assault is accompanied by circumstances of indecency. Examples are unwelcome kissing, touching or massaging in the area of a person's breasts, buttocks or genitals. Indecent assault can also include behaviour that does not involve actual touching, such as forcing someone to watch pornography or masturbation.

4.6.2.3.8 Student sexual assault

Student sexual assault refers to allegations of sexual assault of a student by another student, by a child under 18 years of age who is not a student, or by an adult.

Student sexual assault refers to instances where a student is alleged to be involved in a sexual assault as either a victim or perpetrator and the allegation is:

- disclosed at school
- occurs at school on school premises/grounds
- occurs when a student is on the way to or from school
- occurs while the student is otherwise in school care, such as camps, excursions and school functions.

The Department has produced and circulated guidelines for schools about responding to student sexual assault in the publication [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#).

4.6.2.3.9 Inappropriate sexualised behaviour

In Victoria, children under 10 years of age cannot be criminally prosecuted. Victorian law holds that a child under 10 years of age is incapable of forming the intent necessary to commit a criminal offence.

'Inappropriate sexualised behaviour' refers to behaviour in children under 10 years that would, if that child was 10 years or more, constitute sexual assault.

Inappropriate sexualised behaviours are behaviours of a sexual nature that are outside the range of normal developmental or experimental behaviours occurring² among children under 10 years of age. These behaviours can present on a broad spectrum, ranging from experimental behaviours to behaviours that are very concerning.

Although such inappropriate sexualised behaviour cannot be prosecuted, the impact of the assault on the victim is no less serious and this must be recognised by the manner in which schools address allegations of inappropriate sexual behaviour.

4.6.2.3.10 Sexual harassment

Sexual harassment is unlawful behaviour under the [Commonwealth Sex Discrimination Act \(1984\)](#) and the [Victorian Equal Opportunity Act \(1995\)](#). It occurs when a person engages in any unwelcome or unreciprocated conduct of a sexual nature (written or verbal), in circumstances which could reasonably be expected to cause offence, humiliation or intimidation.

Sexual harassment can also occur through the use of mobile phones, Short Message Service (SMS), emails and websites on the internet. ([See 4.6.2.4.7 Misuse of mobile telephones, computers or the internet](#)).

Sexual harassment can be perpetrated at school or out of school. It can be perpetrated by other students, by young people, adults, including family members and by members of school staff and others who may have a professional or working relationship with the student. Any

² An excellent resource for schools that provides clear and useful information around sexualised behaviours and identifying appropriate and inappropriate behaviours is the South East Centres Against Sexual Assault /Royal Children's Hospital publication *Age appropriate sexualised behaviour in children and young people*. Copies can be obtained by contacting the Centres Against Sexual Assault on 9928 8741 or at www.secasa.com.au

allegation or concerns about sexual harassment of a student or by a student must be responded to immediately and appropriately.

4.6.2.4 Responding to allegations or disclosures of child abuse, neglect or student sexual assault

4.6.2.4.1 Immediate response

Once school staff are informed of or form a belief about child abuse or neglect, student sexual assault, sexual harassment or inappropriate sexualised behaviour in children under 10 years, there must be an immediate response.

The response must follow Departmental requirements, and implement the Compulsory Actions for principals³ described below:

- in the case of an emergency, call for medical assistance/police on 000
- provide a safe environment for the alleged victim
- separate the alleged victim and others involved, and provide support for each individual
- address duty of care issues for all students involved
- inform the student of the obligation to report the incident to the Department of Education and Early Childhood, Victoria Police and the [Department of Human Services, Child Protection](#) as appropriate to the nature of the concern
- report incidents to the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) if the incident relates to allegations or concerns about sexual assault or abuse (See also [4.6.2.3.9. Inappropriate sexualised behaviour](#))
- report incidents to the Department of Human Services, Child Protection if there are concerns that the student's parents/carers are unable to or unwilling to support the student at home (See also [4.6.2.3.9. Inappropriate sexualised behaviour](#))
- contact the parents/carers of the alleged victim unless circumstances indicate this should not occur (For further information, refer to section [3.2.6 of Responding to Allegations of Student Sexual Assault – Procedures for Victorian Government Schools](#))
- document the disclosure, allegation or belief and ensure that **all** staff have documented their actions
- report the incident to the [Emergency and Security Management Unit](#) on telephone: (03) 9589 6266. (The Emergency and Security Management Unit will then notify the Student Critical Incident Advisory Unit and the Regional Office as appropriate.)

Note: Other than ensuring the safety of all involved, there should be no detailed communication with alleged perpetrators, their parents /carers and any other students involved until after approval from the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#).

³ Appendix 6, page 50, Responding to Allegations of Student Sexual Assault, Compulsory Actions for Principals Flowchart in [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#).

4.6.2.4.2 Short-term responsibilities

After the initial incident response, principal's short-term responsibilities include:

- liaising with the Victoria Police and/or [Department of Human Services, Child Protection](#) as required
- developing short-term action plans for all students involved in an allegation of sexual assault, including the alleged perpetrator, in consultation with a regional support person and the [Student Critical Incident Advisory Unit](#) as appropriate
- ensuring appropriate supports are in place for student/s involved and communicating regularly with their parents/carers
- consulting with the Department of Education and Early Childhood Development [Media Unit](#) if there is a possibility of media interest
- providing parents with [Contact Cards](#) listing contact numbers of staff and other agencies involved in responding to the incident.⁴

Note: Allegations of sexual assault must be managed in partnership with the [Student Critical Incident Advisory Unit](#) and the regional office, which will provide ongoing advice and support to schools.

4.6.2.4.3 Ongoing responsibilities

Principals must ensure that there is an effective longer-term response to concerns about child abuse, neglect or student sexual assault, including:

- maintaining ongoing contact with the parents /carers
- addressing any complaints or concerns as they arise
- consulting with the Regional Office and the Student Critical Incident Advisory Unit on a regular basis as required
- developing a Management Support Plan and Supportive Behaviour Management Plan⁵ for individual students in consultation with parents/carers, including other support agencies where appropriate
- ensuring that any Management Support Plans and Supportive Behaviour Management Plans in place are reviewed on a regular basis
- ensuring ongoing education and school-level supports are provided for all students involved and that their health and wellbeing is monitored appropriately, for example, by classroom teachers or by year level or student welfare staff
- providing support to students during police interviews
- handling media enquiries in consultation with the Media Unit and the Regional Director
- providing support to staff either at a school level or through the Department's [Employee Assistance Program](#) (Phone: 1800 337 068)
- attending court if required

⁴ See [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#), Appendix 6: Flowchart and page 51: Parent Contact Card.

⁵ See Responding to [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#), Page 46, Appendix 5: Management Support Plans and Supportive Behaviour Management Plan.

- communicating with the school community if required in consultation with the Regional Director.

Note: In some cases, Department of Human Services, Child Protection or the police will make a decision not to proceed with an investigation. In these cases, it is the role of the school to respond to the needs of the students and provide appropriate support.

4.6.2.4.4 Supporting students

It is important that, after a critical incident occurs or is disclosed, the school develop strategies to support **all** students who may have been involved in or impacted on by the incident.

Management Support Plans and Supportive Behaviour Management Plans are the most effective strategy to ensure appropriate support occurs. This plan should be developed in consultation with relevant school staff and parents/carers. It is also important to involve in the planning process any external organisations that are providing support to students.

Sample student Management Support Plans and Supportive Behaviour Management Plans are included in Appendix 5 of [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#) and on the [Department's Student Health and Wellbeing website](#) (Management Support Plans and Supportive Behaviour Management Plans).

Student support planning

Student support groups and case conferences are an effective method of sharing information among all parties involved in the support of a student and assist in developing ongoing Management Support Plans and Supportive Behaviour Management Plans. Participants should include school welfare staff involved in supporting the student and could also include representatives from other agencies such as the [Department of Human Services, Child Protection](#).

The planning process should also include representatives from other agencies involved in supporting the student such as the Centres Against Sexual Assault, the Children's Protection Society, Department of Human Services Disability Services, Child and Adolescent Mental Health Services or family support services. The aim of these group meetings is to develop an agreed student support or management plan with the roles of individuals and organisations clearly outlined. The plan should aim to make clear:

- who is to provide direct support for the student for example, Student Welfare Coordinator, student services support officer, the Centres Against Sexual Assault, etc
- who will act as a communication and contact point for parents/carers
- the frequency of reviews of Management Support Plans and Supportive Behaviour Management Plans
- timelines for actions
- responsibility for the student's ongoing education plan

The plan should be agreed to and signed off by all parties involved.

4.6.2.4.5 Allegations of student sexual assault involving school staff

All allegations that a teacher or school employee has committed a sexual assault must be reported directly to the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and the Department of Education and Early Childhood Development's [Conduct and Ethics Branch](#), which provides advice about misconduct issues on (03) 9637 2594 or 9637 2595. The [Emergency and Security Management Unit](#) should also be notified on (03) 9589 6266 (24 hours).

4.6.2.4.6 Allegations of inappropriate sexualised behaviours

It is important that principals respond appropriately to concerns relating to inappropriate sexualised behaviours in children under 10 years. Initial response procedures should be the same as for an allegation of student sexual assault and the incident managed in consultation with the regional office and the Student Critical Incident Advisory Unit. The Victoria Police Sexual Offences and Child Abuse (SOCA) Unit can also advise on appropriate courses of action.

If teachers and principals have concerns about the origins of the behaviour or form a belief that the child may not be protected at home, [Department of Human Services, Child Protection](#) should be contacted and consideration given to making a mandatory report.

All actions must be fully documented. After suitable consultation, the principal may decide that the matter can best be dealt with by:

- support from school, network or regional-based wellbeing staff
- education about appropriate behaviour
- creation of a student Management Support Plan and Supportive Behaviour Management Plan⁶
- engagement of specialist external support agencies such as the Centres Against Sexual Assault (CASA) or the Children's Protection Society (CPS).

4.6.2.4.7 Misuse of mobile telephones, computers or the internet

Instances may arise where it has come to the attention of school staff that a student or students may be misusing electronic equipment or telecommunications equipment such as mobile phones, the internet or computers to bully, harass or embarrass students or staff or to transmit and store obscene or offensive material.

These actions are, in most cases, offences under the Victorian [Crimes Act \(1958\)](#) and also under sections 473 and 474 of the [Commonwealth Criminal Code Act \(1995\) sections 473 & 474](#). Any instances involving these actions should immediately be reported to the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and a report made to the Emergency & Security Management Unit on (03) 9589 6266 (24-hours).

4.6.2.4.7.1 Child pornography

Any material captured, transmitted or stored electronically that depicts or implies a person 17 years or under in a sexual pose or sexual act or that

⁶ See Appendix 5, Page 11, [Managing Allegations of Student Sexual Assault – Procedures for Victorian Government Schools](#).

displays nudity or partial nudity, may be classified as child pornography. Schools identifying instances of this type of incident should treat it as a critical incident and immediately contact their local Victoria Police Sexual Offences and Child Abuse (SOCA) Unit and make a report to the Emergency & Security Management Unit on (03) 9589 6266 (24-hours).

4.6.2.4.7.2 Harassment or bullying by electronic means

Under Australian Law, a “carriage service” is defined as a mobile telephone service or an internet service provider. This definition captures the use of mobile telephones, email and the internet, including sites such as *YouTube*, *Facebook* and similar websites.

Under sections 473 and 474 of the [Commonwealth Criminal Code Act \(1995\)](#), it is illegal to use this type of electronic means to “...menace, harass or cause offence...” Any instances of this behaviour should be immediately reported to the local [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and a report made to the Emergency & Security Management Unit on (03) 9589 6266 (24-hours).

Note: Websites such as *YouTube* and *Facebook* have clear Terms of use for people posting information on their sites. These terms of use prohibit “...predatory behaviour, stalking, threats, harassment, invading privacy or the revealing of other members' personal information.”⁷

An email to the organisation in question from the school should ensure that the offending information is immediately removed. Suggested email format:

“I am writing in my capacity as <insert title here> of <insert school name here> school of the Department of Education and Early Childhood Development in Victoria, Australia. I respectfully ask that this URL⁸ <insert URL here> be removed from <insert domain name⁹ of website here>”

4.6.2.4.8 Disclosure of incidents occurring out-of-school

Some incidents may not have occurred when a student was at school or otherwise in school care, such as on camps, excursions or at school functions. The response to these incidents should be the same as it would be if the incident occurred at school. Schools must follow the compulsory actions listed in sections [4.6.2.1 Introduction](#) to [4.6.2.5 Mandatory Reporting](#) and in the [Flowchart - Responding to Allegations of Student Sexual Assault](#) on Page 50 of the Department's publication [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#).

In some cases, students may disclose an incident of abuse, neglect or student sexual assault that may have occurred off-site within a family or community context. In these cases, schools are required to ensure that the incident has been reported to the appropriate authorities such as the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and the [Department of Human Services, Child Protection](#) and that appropriate management and supports are being provided for the student.

⁷ Example taken from YouTube Terms of Use at http://au.youtube.com/t/community_guidelines

⁸ Abbreviation of *Uniform Resource Locator*, the global address of documents and other resources on the World Wide Web. The URL is located in the Address bar of Windows Explorer and can be highlighted, copied and pasted into any document.

⁹ A domain name locates an organization or other entity on the Internet. For example, the domain name for EduWeb is <https://www.eduweb.vic.gov.au>

This may involve connecting students and their families to appropriate school or community support services and ensuring that supports provided at school are aligned and complementary to these services.

4.6.2.4.9 Disclosure of older incidents

In some cases, students will disclose abuse or neglect including allegations of sexual assault that may have occurred sometime in the past. In some cases, the incident disclosed may have occurred a number of years ago and may have occurred off-site or within a family or community context.

These disclosures should still be responded to immediately. The time elapsed between the incident occurring and its disclosure is not relevant.

Appropriate actions and support processes must still be undertaken. Principals must follow immediately the compulsory actions listed in the *Flowchart - Responding to Allegations of Student Sexual Assault* on Page 50 of the Department's publication [Responding to Allegations of Student Sexual Assault - Procedures for Victorian Government Schools](#).

4.6.2.4.10 Keeping notes

Teachers and principals should keep notes of any concerns they may have about a student. A teacher may have concerns about an obvious injury or injuries, or unusual or concerning behaviours or actions. Comments from the child or their parents//carers may also raise concerns.

These concerns should be clearly documented representing a chronology of events including actions taken and further considerations. A sample Incident Log is available in the Department's publication [Managing Allegations of Student Sexual Assault – Procedures for Victorian Government Schools](#), Appendix 4.

If concerns extend over a period of time, these notes will help teachers to determine the need for action. A teacher's notes can be used to provide information to Department of Human Services, Child Protection or Victoria Police investigating an allegation and may be used as evidence in any subsequent court proceedings.

4.6.2.4.11 Investigation or enquiry

The role of investigating an allegation rests **solely** with the Victoria Police and [Department of Human Services, Child Protection](#). Schools must not investigate an allegation.

Teachers and principals should only **enquire** into an allegation or a concern **sufficiently** to form a belief that the allegation or concerns may require further action to be taken. If unsure how to proceed, seek advice.

Under no circumstances should a staff member 'investigate' an allegation as a criminal offence may potentially have occurred. A criminal investigation by police must not be compromised. Advice should be sought from the police on a case-by-case basis as to what information is required or can be shared with other parties.

Note: Schools must not interview witnesses, take statements or collect evidence. Under no circumstances should a staff member undertake a

physical examination of a student in order to investigate a concern about abuse.

4.6.2.4.12 Department services and external organisations

Within the Department of Education and Early Childhood Development, there are a number of supports available to schools that are dealing with allegations of abuse, neglect and allegations of student sexual assault. Departmental resources include, regional office staff, student support services officers, Primary Welfare Officers, the [Student Critical Incident Advisory Unit](#), the [Conduct and Ethics Branch](#), the [Media Unit](#) and the [Emergency and Security Management Unit](#).

4.6.2.4.13 Regional offices

Principals are required to maintain ongoing contact with their regional office, which plays a vital role in supporting schools in dealing with allegations of abuse or neglect including allegations of sexual assault. Principals may be in contact with the Regional Director or Assistant Regional Director, Regional Network Leaders, regional student wellbeing staff or Regional Emergency Management Coordinators.

Note: The regional office must be informed of all incidents that schools are managing involving allegations of student sexual assault or inappropriate sexualised behaviour.

4.6.2.4.14 Student support services officers (SSSOs)

The role of the student support services officer is to provide advice and support to students, school leadership teams and school welfare staff that may include:

- establishing a relationship with students and possibly their families where appropriate
- providing school leadership with advice and support when responding to a critical incident
- clarifying the support needs of the student and facilitating appropriate referrals such as specialist counselling
- evaluating the student's present strengths and resources
- consulting with external agencies and support organisations
- working with the school to plan appropriate strategies and supports for student/s

Please refer to the following website for further information on their role <http://www.education.vic.gov.au/healthwellbeing/support/ssso.htm>

4.6.2.4.15 Conduct and Ethics Branch

The [Conduct and Ethics Branch](#) is responsible for the implementation of policy and the provision of advice on complaint resolution procedures, unsatisfactory performance, serious misconduct and equal opportunity complaints.

The Branch must be contacted on all issues of alleged serious misconduct including allegations of sexual assault or sexual harassment, which involve a Department of Education and Early Childhood Development staff member or employee, including teachers and principals.

The Conduct and Ethics Branch may be contacted on (03) 9637 2594 or 9637 2595.

4.6.2.4.16 Legal Services Unit

The Legal Services Unit is responsible for ensuring the Department and schools are provided with a comprehensive range of high quality and timely legal services.

The Principal and senior school staff seeking legal advice on an urgent matter should direct their calls to the [Manager, Legal Services Unit](#) on (03) 9637 3146.

4.6.2.4.17 Media Unit

The Media Unit is part of the Department of Education and Early Childhood Development's Communications Division and manages all departmental media liaison.

The Media Unit must be contacted prior to responding to any media enquiries.

Principals should be aware that it is an offence to publish or cause to be published any particulars that would lead to the identification of the victim of a sexual offence.

Principals should also be aware that even confirming to the media that an allegation involves the school could lead to the identification of a victim.

The Media Unit may be contacted for advice on (03) 9637 2871 (24 hours).

4.6.2.4.18 Emergency and Security Management Unit

Any allegation of student sexual assault must be reported to the [Emergency and Security Management Unit](#) as soon as practicable after the disclosure. The Emergency and Security Management Unit provides a 24-hour communications centre for schools and Departmental staff. It provides advice and assistance when the incident is reported. On receiving a report of a critical incident, the Emergency and Security Management Unit immediately notifies the Student Critical Incident Advisory Unit, the Regional Emergency Coordinator and in the case of the allegation involving school staff, the Conduct and Ethics Branch.

The Emergency & Security Management Unit may be contacted 24 hours on (03) 9589 6266.

4.6.2.4.19 Department of Human Services, Child Protection

In Victoria, the [Department of Human Services, Child Protection](#) is authorised under the [Children Youth and Families Act \(2005\)](#) to protect children by:

- accepting reports of suspected child abuse or neglect
- conducting investigations of specified concerns in consultation with Victoria Police
- taking action, if necessary, through the Children's Court to protect children.

Department of Human Services, Child Protection also operates an after-hours protection service that provides a 24-hour telephone information and emergency response on telephone: 131 278.

Department of Human Services, Child Protection may be contacted for advice at any stage, but a report should be made to Department of Human Services, Child Protection if there are concerns for a student's safety and the parents/carers are unlikely or unable to provide protection.

4.6.2.4.20 Child First

[Child First](#) (Child and Family Information, Referral and Support Teams) teams commenced implementation in April 2007 as part of the strengthening of family support services under the [Children, Youth and Families Act \(2005\)](#). Child First teams are staffed by family services workers and at least one community based child protection worker is located with each team.

Child First teams are run by a registered community service in a local area (for example, two or three local government areas) and can receive confidential referrals about the wellbeing of a child or young person.

There are currently 17 Child First sites, with another seven to be opened in the future resulting in statewide coverage. The primary purpose of Child First is to ensure that vulnerable children, young people and their families are linked effectively into relevant services and appropriate family support.

Child First services do not have any statutory powers to protect a child but can refer matters to family services or other services who will then try to engage the child or family. Such other services include disability, family violence, mental health and drug or alcohol treatment services.

It is the role of community based child protection workers to facilitate referrals from [Department of Human Services, Child Protection](#) to Child FIRST, to make reports to Department of Human Services, Child Protection where there is significant risk requiring a statutory response, and to provide consultation and advice on specific cases.

4.6.2.4.20.1 Referring to Child FIRST

A referral to [Child First](#) is the best way of connecting children, young people and their families to the services they need. School staff should make a referral to Child First where school staff have concerns about a child's wellbeing but do not believe the child is in need of protection.

Schools should refer families to Child First when the family faces issues that may impact upon a child such as:

- significant parenting problems that may be affecting the child's development
- serious family conflict, including family breakdown
- families under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- young, isolated and/or unsupported families
- significant social or economic disadvantage that may adversely impact on a child's care or development.

The referral of a family to Child First by school staff should include consultation with the family and the referral made as a supportive measure by the school to assist the family to access necessary community services.

A referral to Child First is made by contacting the local agency delivering Child First family support services in the local area. This link provides [local contact numbers for Child First](#) and includes contact numbers for Aboriginal family support organisations.

Schools can also be advised to contact Child First by the [Department of Human Services, Child Protection](#) when child protection workers believe that the student who is the focus of a mandatory report is not at immediate risk and child protection workers consider that Child First is the most appropriate way of accessing necessary family support services.

4.6.2.4.20.2 *Sharing Information with Child FIRST*

Following the introduction of Child First arrangements, teachers and principals can now be consulted by Child First or the Department of Human Services, Child Protection when they are deciding how best to respond to a referral or a report they have received. Any relevant information about the child or family should be shared and this is authorised under the [Children, Youth and Families Act \(2005\)](#).

The Department of Human Services have published an information sharing guide for school staff, titled: [Providing support to vulnerable children and families - An information sharing guide for registered school teachers and principals in Victoria](#) which includes valuable information about the system of services that provide support to vulnerable children and their families and, where necessary, protect children from significant harm.

4.6.2.4.21 Victoria Police Sexual Offences and Child Abuse Unit (SOCA)

[Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) is staffed by experienced and qualified Victoria Police members specially trained to assist with responding to and investigating adult sexual assault and child sexual and physical assault.

There are 31 SOCA Units across Victoria, varying in size depending on their location and work requirements. Members perform work in either plain clothes or Victoria Police uniform depending on the type of job they are attending. SOCA Units work with Police Detectives and Centres Against Sexual Assault to ensure that the best response is provided to those involved.

When responding to sexual assault, Victoria Police members operate within a set of guidelines known as The Victoria Police Code of Practice for the Investigation of Sexual Assault.

Where schools need general advice to assist in identifying the appropriate course of action, principals can contact SOCA Units directly.

[Contact information for Victoria Police SOCA Units.](#)

4.6.2.4.22 The joint role of Child Protection and Victoria Police

When a report is made to the [Department of Human Services, Child Protection](#) that a child or young person is being abused or neglected by their parents/carers or another family member, the child protection workers and, in some cases, Victoria Police will investigate the allegation.

Any allegation of student sexual assault must be reported to the local SOCA Unit as soon as practicable after the disclosure. Protocols between SOCA Units and Department of Human Services, Child Protection require that each agency notify the other about cases of suspected child abuse.

Child Protection workers have powers to investigate; however, in many cases they share investigative responsibilities with the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and in some cases with local detectives.

Allegations that a child has been sexually abused or has suffered significant harm as a result of physical injury may lead to both criminal charges and protective intervention. In these cases, the SOCA Unit and Department of Human Services, Child Protection may perform joint investigative work.

4.6.2.4.23 Other important contact information

The following organisations provide a range of services including counselling, education programs, advocacy and crisis care.

- Employee Assistance Program. Phone: 1800 337 068
- Centre Against Sexual Assault. Phone: 1800 806 292
- Royal Children's Hospital, Gatehouse Centre. Phone: (03) 9345 6391
- Children's Protection Society. Phone: (03) 9450 0900
- Australian Childhood Foundation. Phone: (03) 9874 3922
- Child and Adolescent Mental Health Services. Phone: (03) 9594 1274
- Child Wise. Phone: (03) 9645 8911

4.6.2.5 Mandatory reporting

It is the role of teachers to be able and willing to recognise children and young people who appear to be abused or neglected or their parents/carers have not protected them from harm, and to act decisively on their behalf as soon as possible.

4.6.2.5.1 Mandated school staff

Any person who is registered as a teacher under the [Victorian Institute of Teaching Act \(2001\)](#), principals within the meaning of the [Education and Training Reform Act \(2006\)](#) or any person who has been granted permission to teach under Victorian Institute of Teaching Act (2001) is mandated to report sexual abuse or physical injury that results from abuse or neglect, to the [Department of Human Services, Child Protection](#) under the [Children, Youth and Families Act \(2005\)](#).

Registered Medical Practitioners, persons registered under the [Nurses Act \(1993\)](#) and members of the police force are also mandated under the Children, Youth and Families Act (2005) to report sexual abuse or

physical injury that results from abuse or neglect, to the Department of Human Services, Child Protection.

A mandatory report must be made when a mandated professional has formed a reasonable belief that a child is in need of protection because:

- the child is at apparent risk of harm
- a disclosure of abuse or neglect has been made by a child or others
- there is a reasonable belief that a child is being subjected to sexual abuse or physical harm resulting from physical abuse or neglect
- the child's parents/carers cannot or will not protect them from that harm.

Under these circumstances, teachers and principals are mandated by law under section 184 of the *Children, Youth and Families Act (2005)* to make a report to Department of Human Services, Child Protection:

'A mandatory reporter who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment as set out in section 182, forms the belief on reasonable grounds that a child is in need of protection on a ground referred to in section 162(c) or 162(d) must report to the Secretary that belief and the reasonable grounds for it as soon as practicable

(a) after forming the belief; and

(b) after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.'

When allegations of physical assault, sexual assault or sexual harassment occur in settings outside the family, these allegations must be reported to [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#), as a criminal investigation may be required. A mandatory report to Department of Human Services, Child Protection may not be required unless the parents/carers are unable or unwilling to protect the child or young person from further abuse or the teacher has formed a belief that the child is in need of protection.

4.6.2.5.2 Non-mandated school staff

Any person employed by, or working in a school, on forming a reasonable belief that a child may be at risk, should take immediate action, either by reporting to [Department of Human Services, Child Protection](#) and/or advising appropriate senior staff about their concerns.

Section 183 of the [Children, Youth and Families Act \(2005\)](#) states that **any person** who believes on reasonable grounds, that a child is in need of protection, may report to Department of Human Services, Child Protection of that belief and of the reasonable grounds for it.

This means that any person including non-mandated school staff are able to make voluntarily a report to Department of Human Services, Child Protection when they believe a child is at risk and in need of protection and the child's parents are **unable or unwilling** to protect the child. Under this part of the Act, reports to Department of Human Services, Child Protection are made for ethical reasons or out of a genuine concern

for a child or young person, rather than because of mandatory reporting obligations.

Non-mandated school staff may also consider making a report of possible child abuse or neglect due to the general duty under law to take action to protect children and young people. This is known as “...the duty of reasonable care owed by each person to another...” ([See Schools Reference Guide section 6.16 Legal Liability and associated matters: 6.16.1.2 General Duties under law](#)).

4.6.2.5.3 A child in need of therapeutic treatment

There are instances where students may exhibit sexually abusive behaviours towards other people, students or staff. In these cases, the school’s response to these behaviours includes ensuring or facilitating the student’s involvement in appropriate support services such as therapeutic treatment, usually involving the student being engaged by appropriate local specialist counselling services.

However, in some cases the parents/carers of the student may not permit or enable the child to access or engage in these support services. In such cases a report to [Department of Human Services, Child Protection](#) may be made under section 185 of the [Children, Youth and Families Act \(2005\)](#) which states that:

“Any person who believes on reasonable grounds that a child who is 10 years of age or over but under 15 years of age is in need of therapeutic treatment (as defined in section 244) may report to the Secretary that belief and the reasonable grounds for it.”

Under section 244 of the Children, Youth and Families Act (2005), such a report can be made if the child has exhibited “sexually abusive behaviours.”¹⁰ Schools that are considering making a report to Department of Human Services, Child Protection of a child in need of therapeutic treatment should seek advice from the Department of Human Services, Child Protection, and/or consult with the Student Critical Incident Advisory Unit on (03) 9637 2934 or (03) 9637 2487.

4.6.2.6 Other reports to Child Protection

4.6.2.6.1 Emotional abuse or neglect

It is not mandatory under the [Children, Youth and Families Act \(2005\)](#) to report concerns about the possible emotional abuse or neglect of a child. However, a child believed to be suffering emotional abuse or neglect may be at risk and in need of protection.

If a member of school staff or a person employed at the school has a reasonable belief that a student may be suffering emotional abuse or neglect, they have an professional obligation ([See 6.16.1.2 General duties under law](#)) as well as a ‘Duty of Care’ ([See 6.16.1.1 Specific duty of care to the student](#)) to take action to protect the student from harm. Any concerns about a student should be reported to Department of Human Services, Child Protection as soon as practicable and the principal or a member of the school leadership team informed that a report has been made.

¹⁰ See Sections 185, 244, 245 & 246 [Children, Youth and Families Act \(2005\)](#)

4.6.2.6.2 Female genital mutilation (FGM)

The practice of female genital mutilation (FGM) is illegal in Australia. The increasing number of migrants and refugees settling in Victoria, who come from communities that may practice FGM, means that school staff may become aware of this issue.

FGM is used to describe a range of procedures, which involve partial or total removal of the female external genitalia and/or injury to the female genital organs for cultural or any other non-therapeutic reasons. FGM is generally performed on girls between the ages of seven days and fourteen years, and may have immediate and long-term consequences for a girl's physical, emotional, sexual health and wellbeing. FGM is sometimes known as female circumcision or female genital cutting.

FGM is practiced in all areas of the world but is more prevalently performed by a range of cultural groups from Africa, Asia and some Middle Eastern countries. Of those groups settling in Victoria, FGM is sometimes a cultural practice among communities from Cameroon, the Democratic Republic of Congo, Djibouti, Egypt, Ethiopia, Eritrea, Ghana, Kenya, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo and Uganda. FGM is also practiced among certain ethnic groups in some Asian countries such as India, Indonesia, Malaysia and Pakistan, as well as some groups from the Arabian Peninsula such as Oman, Saudi Arabia, the United Arab Emirates and Yemen.

The incidence of FGM is increasing worldwide, seemingly as migrants import the practice to new communities and more established migrant communities seek to retain a link with the culture of their homeland. The World Health Organisation (WHO) estimates that between 100 and 140 million girls and women worldwide have undergone FGM ([World Health Organisation, 2008](#)). For further information on eliminating FGM please see:

www.who.int/reproductivehealth/publications/fgm/fgm_statement_2008.pdf

While it is important to remember that while FGM is not perceived by those communities who practice it as harming or abusing a female child, this practice is illegal and can have very significant physical and psychological repercussions. Further information including the types and consequences of FGM can be obtained from the WHO at the website http://www.who.int/topics/female_genital_mutilation/en/

4.6.2.6.2.1 Legal implications

In 1996, an amendment to the Victorian [Crimes Act \(1958\)](#) (Vic) made FGM a criminal offence, prohibiting the performance of FGM procedures on a child or the removal of a person or child from Victoria to another state or country to have such procedures performed. Having the parent or guardian's consent to the procedure is not a defence.

4.6.2.6.2.2 FGM and mandatory reporting

In accordance with mandatory reporting requirements, if a mandated professional 'forms the belief on reasonable grounds that a child is in need of protection', in relation to physical harm or sexual abuse, a report must be made to the Department of Human Services, Child Protection of

that belief and the reasonable grounds for it as soon as practicable. ([Children, Youth and Families Act 2005](#), section 184).

Schools may become aware that a child has had, or is likely to have FGM performed upon them. This may be grounds for believing that the child is in need of protection. FGM falls within the requirements for mandatory reporting of likely significant harm as a result of physical injury and possibly emotional harm. (See 4.6.2.4 Responding to allegations or disclosures of child abuse, neglect or student sexual assault).

Intervention by Department of Human Services, Child Protection may be appropriate where this is necessary to ensure the protection of the child, either to prevent FGM from occurring, or to ensure access to appropriate health care where required, and culturally relevant support for girls who have already undergone the practice.

4.6.2.6.2.3 Further information and advice

Further information, advice or guidance in responding to FGM issues can be obtained from:

- [Student Critical Incident Advisory Unit](#) – schools or regional offices may phone (03) 9637 2934 or (03) 9637 2487
- [School Nursing](#) – school nurses may phone (03) 9096 8417
- [Family and Reproductive Rights Education Program](#) (FARREP) at the Royal Women’s Hospital – phone (03) 8345 3058.

4.6.2.6.3 Concurrent duty of care

Quite apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable ([See 6.16.1.1 Specific Duty of Care](#)). A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned.

A breach of this duty of care will be established if a teacher or principal failed to take immediate¹¹ and positive steps¹² after having acquired actual knowledge or a belief that there is a risk that the child is being abused or neglected including sexual abuse.

4.6.2.6.4 Forming a belief

The [Children, Youth and Families Act \(2005\)](#) states that teachers must report to the [Department of Human Services, Child Protection](#) when they ‘...form a belief on reasonable grounds’¹³ that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or as a result of sexual abuse¹⁴.

A belief is considered to be more than a suspicion. A person may be considered to have formed a belief if they are more likely to accept rather than reject the suspicion that a child is at risk of harm from physical or sexual abuse.

¹¹ See [Responding to Allegations of Student Sexual Assault – Procedures for Victorian Government Schools](#). Page 14

¹² See Schools Reference Guide, [Section: 6.16 legal liability and associate matters](#)

¹³ [Children, Youth and Families Act \(2005\)](#), Section 162

¹⁴ Adapted from the Children Youth and Families Act (2005). Section 184

Proof is not required that abuse has occurred or is likely to occur. A belief is sufficient. It is the role of the Department of Human Services, Child Protection to determine whether that belief should be investigated.

4.6.2.6.5 Reasonable grounds

Reasonable grounds can be thought of as the mechanism used for forming the belief. These could include situations where:

- a child tells a teacher they have been abused
- someone else tells a teacher (perhaps a relative, friend, neighbour or sibling of the child) that a child has been abused or is at risk of abuse
- a child tells a teacher that they know someone who has been abused (often a child is referring to him or herself)
- a teacher's own observation of a particular child's behaviour/injuries or their knowledge of children generally leads them to suspect that abuse is occurring
- other grounds that have led to the forming of a belief that a child is being abused.

It is important that in the course of forming a belief that teachers do not use leading questions to suggest that abuse took place. Instead, if information is required to clarify the process of forming a belief, open-ended or general questions should be used, for example, "Can you tell me what made you feel scared?"

Note: It is not the responsibility of teachers or other Department of Education and Early Childhood Development personnel to determine whether child abuse and neglect has occurred. Teachers and principals should never attempt to seek detailed information from a child about the specifics of suspected abuse nor should they attempt to investigate what may have occurred. That responsibility rests with the [Department of Human Services, Child Protection](#) as the agency authorised to investigate, or with [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) where appropriate.

4.6.2.6.6 Making a mandatory report

Once a teacher or principal has formed a belief or a disclosure has been made, a report must be made to the Department of Human Services, Child Protection as soon as practicable.

A teacher may wish to seek advice from the principal or a member of the school leadership team to help form the belief that a report is required and assistance to make the report. This is entirely appropriate and should form part of normal school procedures.

A mandatory report should always be made as soon as possible. Seeking assistance or advice should not cause undue delay in making a report, it is expected that, in the majority of instances, a report should be made **on the same day** as a belief is formed or a disclosure has been made.

Note: A report should also be made on **each occasion** that the teacher becomes aware of further reasonable grounds for the belief that a student is in need of protection or when circumstances involving the child or the child's situation changes.

4.6.2.6.6.1 Historical matters

In some cases, students will disclose a sexual assault or abuse that occurred sometime in the past. On some occasions, the incident may have occurred a number of years ago. These disclosures should still be responded to immediately.

4.6.2.6.6.2 Reporter's responsibility

While it is solely the responsibility of the person who has formed a belief to make the mandatory report or ensure that it is made, it is also important that the school principal or a member of the school leadership team be consulted about what has occurred. This is so that appropriate steps can be taken to support students and staff affected by the incident and to ensure the safety and wellbeing of the school community.

4.6.2.6.6.3 Parents/carers permission

Teachers and principals **do not require** the permission of parents/carers to make a mandatory report, nor are they required to tell parents or carers that they have done so.

4.6.2.6.6.4 Taking notes

Any person involved in making a mandatory report should ensure that comprehensive notes are taken in a logical chronological order and these notes are updated each time additional information becomes available.

4.6.2.6.6.7 Discharge of mandated responsibility

To discharge their mandated responsibility a teacher or principal must either make a report personally or be satisfied that the report has been made to the [Department of Human Services, Child Protection](#).

It should be noted that the duty to report:

- applies regardless of whether the alleged suspected abuse occurred in Victoria, outside the State or on the school grounds
- is not discharged when a teacher advises the principal or other staff of his or her belief.

Teachers are required to discuss any concerns about the safety and wellbeing of students with the school principal or a member of the school leadership team. If the principal or member of the school leadership team does not wish to make a mandatory report, this does not discharge the teacher's obligation to do so if they have formed a reasonable belief that abuse may have occurred.

If a teacher's concerns about the safety and wellbeing of a student continue, even after consultation with the principal, **that teacher is still legally obliged** to make a mandatory report about their concerns.

If a teacher has concerns about the health and wellbeing of a student and is unsure how to proceed, advice can be obtained from regional student wellbeing staff or from the Student Critical Incident Advisory Unit on (03) 9637 2934 or 9637 2487.

4.6.2.6.8 Reporting to Child Protection

Once a decision has been made to contact [Department of Human Services, Child Protection](#), school staff should endeavour where possible to have the following information at hand prior to calling the Department of Human Services, Child Protection:

- name of family and children
- the relevant addresses, language spoken and date of birth
- reason for concern about the child or children (as factual and specific as possible)
- the reporter's involvement with the family
- any other people or agencies involved
- any concerns about a child protection worker's safety in visiting the family
- any information about the best time to find parents/carers at home
- if the family knows that a report is being made.

An inability to provide all this information should not delay the reporting process. School staff should make the report as soon as possible, provide all the information available, and if necessary follow up later with further information as it becomes available.

Upon receiving a report, the Department of Human Services, Child Protection will exercise discretion as to whether or not the child or young person's circumstances warrant an investigation by a child protection worker.

If a teacher is unsure as to whether a matter is serious enough to warrant the Department of Human Services, Child Protection intervention, they should seek advice from their principal, a member of the school leadership team, regional office student wellbeing staff or the Student Critical Incident Advisory Unit on (03) 9637 2934 or 9637 2487 ([See also 4.6.2.4.12 Department services and external organisations](#)).

In some cases, Department of Human Services, Child Protection may advise schools that their concerns should be referred to [Child First](#). ([See 4.6.2.4.20 Child First](#)). In these cases, Department of Human Services, Child Protection should refer the matter to Child First and arrange for them to contact the school.

Note: The child protection process was strengthened and the referral process to Child FIRST introduced in the [Children, Youth and Families Act \(2005\)](#). The implementation of the new arrangements is an evolving process and school staff may find that arrangements have been updated. If you are unsure how to respond, contact [Department of Human Services, Child Protection](#).

4.6.2.6.8.1 Reports involving Koorie students

If any report to Department of Human Services, Child Protection, including a mandatory report, involves a Koorie student, the principal must advise the regional office, who, together with the regional Koorie Support Officer, will ensure that appropriate support is arranged.

4.6.2.6.8.2 Reports involving international students

If any report to Department of Human Services, Child Protection, including a mandatory report, involves an International student, the principal must advise the Department of Education and Early Childhood Development, [International Division](#) on (03) 9637 2990 and consult with them so that appropriate support can be arranged.

4.6.2.6.9 Reporters protected

Registered teachers or principals in Victoria have a key role to play in ensuring that vulnerable children are protected and supported. Reporting to Department of Human Services, Child Protection involves sharing information about children's safety and development where it could help a vulnerable child.

4.6.2.6.9.1 What information can be shared?

Teachers and principals making reports or providing information to [Department of Human Services, Child Protection](#), [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#) and [Child First](#) are specifically protected against legal, professional and civil actions by the [Children, Youth and Families Act \(2005\)](#) provided they are "acting in good faith" in the interests of the child.¹⁵

School staff are allowed to any share information with Department of Human Services, Child Protection that may help them to make an initial assessment about a child. Any information that is relevant to the protection or development of a child when Department of Human Services, Child Protection is investigating a report, or during subsequent child protection intervention is allowed to be shared.

4.6.2.6.9.2 Confidentiality of identity

Information about the identity of a person making a report to Department of Human Services, Child Protection must be kept confidential unless the reporter consents to it being disclosed.

If the reporter wishes to remain anonymous, this information should be conveyed while making the mandatory report.

4.6.2.6.9.3 Legal protection

Any person making a report to Department of Human Services, Child Protection cannot be subject to any legal liability in respect of the giving of information in good faith.

4.6.2.6.9.4 Professional protection

Authorised disclosure of information as part of a report to Department of Human Services, Child Protection cannot be held to constitute unprofessional conduct or a breach of professional ethics. As a result, a person making a report cannot be disciplined by their professional body, or incur any formal adverse professional consequences in their workplace.

4.6.2.6.10 Penalties for not making a mandatory report

Failure to make a mandatory report when required can lead to criminal prosecution of the teacher or principal.

¹⁵ Section 189, 193 Children Youth and Families Act (2005)

4.6.2.6.11 Privacy requirements

The details of mandatory report should remain confidential. Only those people within a school who require information to ensure the safety and wellbeing of students and staff should be provided with enough information to act appropriately without being given specific details about the incident or allegation. Teachers and principals should refrain from unnecessary discussions about individual students and what may or may not have occurred.

In the case where the person who allegedly committed the abuse is a parent or carer, only the key staff directly involved with the child at the school need to know, such as the class teacher, the year level coordinator and the principal. It is good practice under these circumstances to only provide to staff directly involved with the student as much information as is required to ensure that the safety and wellbeing of the student.

For example, staff directly involved with the student should be informed that the child has been involved in a matter unrelated to school and they should be monitored and may need support. The same staff should not be given any specific details of what may have occurred including the substance of the allegation and who is alleged to be involved.

When a teacher feels a genuine need to discuss with another person the possibility of making a mandatory report involving the sexual or physical abuse of a student, then the person chosen should have:

- a direct responsibility for the safety and wellbeing of the student such as a principal or Assistant principal or student welfare staff
- an involvement in providing advice and support to schools in relation to critical incidents such as regional student wellbeing staff, Regional Network Leaders or the Student Critical Incident Advisory Unit on (03) 9637 2934 or 9637 2487.
- the capacity to act on the information to protect the student from harm such as the [Department of Human Services, Child Protection](#) or the [Victoria Police Sexual Offences and Child Abuse \(SOCA\) Unit](#).

It is inappropriate for a teacher to discuss concerns they might hold with any third party such as other parents and other members of the school community.

A teacher should also ensure that the student or their family is not identified or capable of being identified in any way by the teacher's actions or comments other than to the proper authorities.

4.6.2.7 Providing information to Police and Child Protection

At times, teachers and principals are required to provide police officers with information and assistance during an investigation, school staff should ensure that the Victoria Police are provided with full cooperation at all times.

During or after an investigation, police officers may ask teachers or principals for a statement relating to a mandatory report or an allegation of student sexual assault and the subsequent criminal investigation. Teachers and principals should be aware that, as mandatory reporters,

they are **not required** to provide a statement to Victoria Police relating to the reasons or beliefs leading to their mandatory report.

Statements should only be required if mandatory reporters have directly witnessed abuse or have direct factual knowledge of what has occurred.

4.6.2.7.1 Police and Child Protection student interviews at school

Schools and school staff have an equal duty of care to all students. This includes any and all students who may be directly or indirectly involved in an allegation of abuse or neglect including sexual assault. To discharge the school's duty of care, school staff should ensure that students are protected from further injury or damage by supporting students at all times.

Any interviews of students by Victoria Police would usually be carried out in a police station with parents/carers present. Interviews by child protection workers would normally be carried out in the home with parents/carers present. However, there are occasions when Victoria Police and [Department of Human Services, Child Protection](#) need to interview students at school as a matter of urgency or necessity.

In these circumstances, a request must be made to the principal (or delegate) who must be advised of the reason for the interview. Every effort should be made to ensure the student's parents/carers are present during the interview if appropriate. However, if a parent/carer cannot be present, they may request that a principal or school nominee be present during the interview acting "in loco parentis."¹⁶

The principal or nominee should request departmental identification of child protection workers and/or Victoria Police officers before allowing access to interview a child or young person.

The interview of a student at school by Victoria Police or child protection workers is not permitted unless someone is acting as an independent supportive adult for that student.

The role of an independent person acting "in loco parentis" is to ensure the student understands what is happening and to provide support. Independent persons must refrain from providing their opinions or accounts of events during interviews. Principals or their delegate may if necessary, act as an independent person where the student is to be interviewed, unless they believe it will create a conflict of interest to do so.

4.6.2.7.2 Student interviews at school without parental knowledge

If a child or young person is to be interviewed at school without parents/carers present at the request of the Victoria Police or the [Department of Human Services, Child Protection](#), the principal or delegate must be provided with reasonable grounds to satisfy themselves that there is a valid reason for parents/carers to be excluded from the interview.

For example; when the allegation involves parents/carers; when the allegation involves siblings or other members of the student's family; or,

¹⁶ 'in loco parentis' a Latin phrase commonly accepted to mean "in place of a parent"

when the person who is alleged to have committed the abuse may have some other relationship to the student or their parents/carers.

The principal is required to balance the obligation to protect the rights of the student and the parents/carers with the obligation to assist the Victoria Police in the exercise of their duty.

A principal's responsibility is to ensure that any student who may be interviewed at school by police or child protection workers is supported by someone acting 'in loco parentis' during the interview. This requirement applies whether the interview relates to a matter that the school is aware of, or the interview relates to a matter of which the school is unaware.

4.6.3 Bullying

A situation where a student feels unsafe in school because of bullying is not tolerated in Victorian government schools.

Bullying is when someone, or a group of people, who have more power at the time deliberately upset or hurt another person, their property, reputation or social acceptance on more than one occasion.

There are three broad categories of bullying:

- **direct physical bullying** such as hitting, tripping and pushing;
- **direct verbal bullying** including name calling, insults, homophobic or racist remarks; and
- **indirect bullying** including lying and spreading rumours, encouraging other to social exclude someone, and cyber-bullying, which involves the use of email, text messages or chat rooms to humiliate and distress someone.

To effectively prevent bullying, schools need to take a whole-school approach that focuses on safety and wellbeing throughout all school practices. It is important that school safety is not viewed as a separate policy, but a central component of an effective school.

Bullying behaviour in schools should be addressed as part of a school's duty of care to provide safe and supportive school environments.

All schools are required to develop and implement a Student Code of Conduct that identifies goals and standards for student behaviour. The Student Code of Conduct must include safe school and specific anti-bullying strategies that aim to promote positive student behaviour, prevent anti-social behaviour, and encourage respect, compassion and cooperation.

The *Safe Schools are Effective Schools – a resource for developing safe and supportive school environments* is available at:

www.education.vic.gov.au/healthwellbeing/safety/bullying/safeschoolstrategy.htm

4.6.4 Suicide awareness strategy

Suicide awareness in Victoria is based on local and international research that indicates that a population based preventative approach that aims to build resilience in young people is far more effective than intervention based processes focusing on suicide itself.

Victoria's response to the suicide prevention strategy was the development of the *Framework for Student Support Services in Victorian Government Schools* which outlines a comprehensive conceptual and operational framework to support schools in responding to the wide variety of issues facing young people. These issues include depression, self-harm and drug misuse as well as suicide prevention. Research indicates that a similar core of underlying factors may lead an individual to be vulnerable. Thus, the response needs to be a multi-faceted one that acknowledges the complexity of the issue and ranges from prevention to intervention through to restoring wellbeing.

4.6.4.1 Curriculum

Schools need to be aware of concerns about school-based curriculum programs designed to convey specific information on suicide prevention and awareness for students.

The *Suicide Prevention Victorian Task Force Report* (1997) states: "There are many contributing factors to suicidal ideation and behaviour, and the Task Force does not believe suicide specific curriculum should be built into the programs of schools. Rather, the curriculum should provide opportunities for students to develop strong communication and problem-solving skills, and more practical training in how to access professional and medical services. This should be done through networking with other professionals in the local community, and through developing a health-promoting framework for appropriate parts of the curriculum."

4.6.4.2 Suicidal behaviour

The *Framework for Student Support Services in Victorian Government School* is based on local and international research that indicates that a population based preventative approach that aims to build resilience in young people is far more effective than intervention based processes focusing on suicide itself.

With changes in staff at many schools since the delivery of support documentation concerning students' disclosure of suicidal intent or self-harm and with the development of privacy laws and obligations concerning schools, it is prudent to confirm:

- the existence of relevant documentation
- the online availability of relevant documentation
- the requirement that the focus of the school must be in accordance with that outlined in the framework and include the school policy and practices applicable at individual schools
- the need for schools to ensure all staff receive appropriate training

- that school documentation is created and retained which confirms that members of staff have received professional development and training on the framework, and
- that school induction programs include training on the framework.

The school's response to suicide prevention should focus on the strategies and protocols outlined in the framework.

Suicide is an extremely rare event and even experts in this field cannot accurately predict warning signs for depression and suicide. However, they all concur that all disclosures of intent to self-harm and suicidal ideation must be treated very seriously.

Individual students who disclose intent to suicide or self-harm need to be referred immediately to student support services officers. The principal must be informed and must manage this process.

The *Suicide Prevention Victorian Task Force Report*, 1997, strongly emphasised that the combination of risk factors that lead an individual to suicide are not predictable and further that the service system and every element of the wider community needs to work collaboratively to respond to suicide.

As outlined in the framework, the focus for schools should be the development of a positive, safe and supportive school environment through:

- a coordinated approach to welfare within the school
- a range of broadly based programs focusing on primary prevention and early intervention
- the development and enhancement of networks and protocols with community agencies and service providers to ensure the provision of a full range of services for young people at risk and continuity of care.

Two important documents are:

- The *Framework* - Teacher Resource contains information about suicide prevention curriculum on page 17 and dealing with unsafe behaviour on pages 44–45.
- The *Framework* - Professional Development Support Materials for Student Support Services Officers contains information on suicide intervention on pages 31–33.

However, a whole school approach to building resilience is critical and schools should not employ a narrow approach that focuses only on suicide.

These documents are available at:

www.education.vic.gov.au/healthwellbeing/wellbeing/policy.htm

Principals should ensure that appropriate procedures are in place so that teachers are aware of what are the appropriate actions and responses

when a student discloses suicidal intent or self-harm and that school staff are made aware of and receive training in the *Framework for Student Support Services* documentation.

4.6.4.3 Information privacy: confidentiality of health information

The *Health Records Act 2001* prohibits disclosure of a person's health information to anyone other than the person themselves, for any purposes other than the provision of the health service for which it was collected—unless one of the prescribed exceptions applies, for example:

- the person has consented to the disclosure, or
- the disclosure is necessary to lessen or prevent a serious and imminent threat to a person's life, health, safety or welfare, or to public health, safety or welfare, or
- the disclosure is required by law (for example, a court summons or warrant), or for law enforcement or investigation purposes and is not a breach of confidence.

Further information on the Department's Health Privacy Principles is available at www.eduweb.vic.gov.au/privacy

See also section 6.28 Information Privacy.

4.6.4.4 Critical incidents

Teachers must promptly advise their principal of any instances where they believe a student's safety is compromised. In some instances a teacher will not be able to leave the student in order to do so, and will have to tell someone else to take a message immediately to the principal.

Schools need policies and procedures for managing those emergencies that threaten the physical and/or psychological safety of students. The *Managing School Emergencies: Minimising the impact of trauma on staff and students* manual, is a comprehensive resource to help all schools with the management of critical incidents.

The manual provides schools, regions and school support services with procedures for managing a range of emergencies and traumatic events. The manual details such important areas as:

- planning to manage risks and deal with emergencies
- trauma reactions—students, their families, staff and others
- short-, medium- and long-term tasks
- roles and responsibilities for regional and school-based staff
- how traumatic incidents should be reported.

There are also sheets that can be photocopied about reactions to trauma, tasks, record-keeping, contact lists and media releases.

Further information about managing critical incidents can also be found in the following documents:

- Framework for Student Support Services in Victorian Government Schools, Restoring Wellbeing (Postvention section) available at:

www.education.vic.gov.au/healthwellbeing/wellbeing/policy.htm

- Get Real: A Harm Minimisation Approach to Drug Education for Primary and Secondary Schools, Critical Incident Guidelines available at:

www.education.vic.gov.au/studentlearning/programs/drugeducation/tchlearnteach.htm

Sexual assaults and serious physical assaults

All critical incidents should be reported promptly, including notification to the Emergency and Security Management Branch on phone number 03 9589 6266.

The Emergency and Security Management Branch will notify the appropriate Regional Emergency Management Coordinator to ensure that the response is timely, and that appropriate supports can be put in place to minimise the impact on the wellbeing of students involved in such incidents.

A specialised Student Critical Incident Advisory Unit has been established within the Student Wellbeing Branch to provide advice and support related to sexual and physical assaults involving students.

The Student Critical Incident Advisory Unit will provide advice to regional personnel and principals and monitor the progress and management of such incidents.

4.6.5 Photographing students

There are occasions where the photographs of students are used in the media or to publicise or promote the school and its activities.

Parents and students should be informed that photographs of students will be included in publications intended for the school community such as school newsletters. The school newsletter and school website should have information about the use of photographs.

As the availability of information concerning the whereabouts of students is restricted (see 4.6.14.4), the permission of parents/guardians must be obtained before the photograph of a student is used in any material that will be seen by people outside of the immediate school community.

Further information is available on the Department's website at:

<https://www.eduweb.vic.gov.au/privacy/>

4.6.5.1 Photographers and student photographs: confidentiality deed

A photographer normally comes once a year to take individual, class and team photographs for sale to parents and for use within the school. Before photo day parents receive notice of when photographs will be taken and they are afforded the opportunity to opt out of this if they so desire. This practice has been part of school life for decades and the taking of class photographs is part of usual school practice.

Photographers are required to sign a confidentiality deed prior to the principal approving the taking of the school's annual class photographs.

A copy of this confidentiality deed can be found on [EduLibrary at Schools/Forms/General School Forms](#).

4.6.5.2 Student photographs on the Internet

Under the *Information Privacy Act 2000*, schools have a duty to protect the interests of the individual with regard to their personal information and respect the individual's right to control how their personal information is used, and for what purposes.

If photographs of students are to be placed on a school website this should only be done with the informed consent of the parent and, in the case of a secondary school child, with the consent of the parent and child. More information is available on the Department's website at:

<https://www.eduweb.vic.gov.au/privacy>

Schools publishing material on the Internet should ensure that the material does not contain personal details such as names, home addresses, telephone numbers or other contact details, for example, student email addresses, and that no identifying information accompanies student photographs.

Group photographs rather than individual photographs may be a safer option for web publication.

Further information can be obtained from the Department's website at:

www.education.vic.gov.au/management/elearningsupportservices/www/management.htm

4.6.6 Drug education and drug-related issues in schools

Government schools are expected to provide drug education programs for all students as part of a broad, whole of government approach to reducing the harms from licit and illicit drug use and misuse.

Schools develop, implement and review Individual School Drug Education Strategies (ISDES) to ensure that all young Victorians have access to drug education programs and support. These programs and support are based on a harm minimisation approach.

A harm minimisation approach to drug education

A harm minimisation approach to drug education aims to minimise the harms associated with young people's drug use. It involves a range of strategies to prevent and reduce drug-related harm, including prevention, early intervention, safer drug use and abstinence. It takes into account the relationships between people, the drugs they use and the environments in which they use them. A harm minimisation approach allows schools the flexibility to develop specific focus areas and implementation strategies that address relevant issues within the school context.

- On an ongoing basis, all government schools are expected to:
- implement relevant and comprehensive drug education as an ongoing core component of the curriculum
- provide each student with appropriate drug education prevention and intervention programs in line with the *Framework for Student Support Services in Victorian Government Schools*
- develop and review drug-related school-based policies
- provide a supportive environment that involves parents and the wider school community in drug-related curriculum and welfare issues.

Schools provide drug education prevention and intervention programs within the constraints of their resources and available staff, and in light of local issues identified through consultation with students, staff and parents.

A detailed outline of the model is contained in the [Guidelines for Reviewing Drug Education in Victorian Schools](#) and can be found at:

www.education.vic.gov.au/studentlearning/programs/drugeducation/policy.htm

For further information on the following issues:

- Drug education: see 3.17.3
- Framework for student support services: see 4.6.1.1
- Responding to drug related incidents, including those involving illicit drugs: see 4.6.6.1
- Illicit drug use in schools: see 4.6.6.2

4.6.6.1 Responding to drug-related incidents including those involving illicit drugs

In the case of incidents involving illicit drugs, initial actions and responses should focus on the safety and welfare of those directly and indirectly involved. Sanctions or consequences may then follow according to the school's code of conduct. Any responses or actions should reflect the school's responsibility to provide support to students.

The immediate response may last from a few minutes to a number of hours. During this time it is important that staff members appear calm, gather whatever information is practicable, focus on safety, and seek assistance as soon as possible.

In summary:

- act immediately
- stay calm
- get the facts
- ensure safety
- seek assistance
- involve the school administration.

Follow up should include:

- informing parents/guardians
- notifying health, community and welfare services, if appropriate
- contacting police if relevant
- following up with school communication if required.

References

Detailed information can be found in the following resources available at:

www.education.vic.gov.au/studentlearning/programs/drugeducation/policy.htm

- 'Drug related student welfare: critical incidents in primary schools' (in *Get Real*)
- 'Drug-related critical incidents: guidelines for secondary schools' (in *Get Real*)
- 'Principal's guide and student welfare action manual' (in *Get Wise*)
- Managing School Emergencies: Minimising Impact of Trauma on Staff and Students available at:
www.education.vic.gov.au/management/emergency.htm

For further information on the following issues:

- Drug education: see 3.17.3
- Framework for student support services: see 4.6.1.1
- Drug education and drug related issues in schools: see 4.6.6.1

- Illicit drug use in schools: see 4.6.6.2

4.6.6.2 Illicit drug use in schools

The possession, use, distribution or selling of illicit drugs on school premises at any function or activity organised by the school (by students, parents, teachers or visitors) is prohibited.

Where school personnel become aware that illicit drug use by students is occurring or is likely to take place, there is a clear 'duty of care' to pass on this information via the defined school channels. These channels may include year level coordinators, or student welfare coordinators, through to the Principal.

A comprehensive drug education program based on harm minimisation involves teaching about illicit drugs utilising age appropriate curriculum and approaches. Such a program would explore the additional potential harms when legal issues are involved.

Policies and procedures

Schools are advised to have clearly defined policies and procedures relating to illicit drugs clearly documented and included in the school's drug education policy framework. Staff should be made aware of these policies and procedures and be provided with professional development in responding to drug related incidents. A guide has been prepared to assist principals of Victorian Government schools respond to drug-related incidents. The *Drugs and Schools: Legal Issues* document is available at http://www.eduweb.vic.gov.au/edulibrary/public/stratman/Policy/schoolgo/v/druged/drugs_and_schools_legal_issues_2009.pdf.

Duty of care

Irrespective of whether illicit drug use is occurring on or outside the school grounds and irrespective of the drug involved, teachers have a 'duty of care' to prevent injury and must advise the principal of information given to them by students. This includes information about the use of an illicit drug by a member of the student's family. Under 'duty of care' staff members are precluded from being able to promise unconditional confidentiality to students (see 4.6.1.2 Duty of care).

Informing the police

Subsequently, if the Principal of a school has knowledge of an alleged criminal offence, including the use, possession and distribution of illicit drugs, the local designated police contact person must be advised. Internal procedures and actions undertaken should be clearly documented (see 4.6.12.1 Police interviews).

Informing parents

In the case of incidents involving illicit substances the Principal would normally contact the student(s) parents or guardians as soon as practicable. While there are implications in civil law it should be noted that a teacher or Principal does not breach any part of the criminal law by failure to notify a parent of use of an illicit drug.

Drug testing in schools

The Department does not support any type of drug testing in schools for students or teachers. Drug testing is controversial because it raises a number of legal, technical, ethical and financial issues. It also raises the issue of lack of trust between schools and students.

When drug use is identified, schools respond with a variety of welfare and discipline sanctions including warnings, contracts, education programs, counselling, case management and notification of parents and police where appropriate.

All efforts should be made by schools to retain students within the education system as students are often at greater risk if disengaged from school.

Privacy of students undergoing detoxification, methadone or alternate pharmacotherapies

The status of students undergoing detoxification, methadone or alternate pharmacotherapies is a private matter between the student, their parent/guardian, supporting community agency, and the school designated student welfare staff.

Students should not be excluded from attendance on the grounds that they are undergoing detoxification. All students have a right of access to education. With the student's consent relevant and appropriate staff may be discretely notified. It is further advised that a case management approach be adopted as part of a whole school student welfare strategy.

Access to education during absence

Any student who is absent from school due to illness should be provided with appropriate curriculum support as determined by teachers in consultation with parents/guardians. This should be extended to any student absent from school due to drug misuse or undergoing detoxification, methadone or alternate pharmacotherapy programs. The school's appointed case manager should be included in the consultation process together with the parents/guardians.

While a principal will use discretion, with such students confidentiality is critical and only staff directly responsible for that student's management and welfare should be informed. As some of these medications may effect concentration, the relevant teachers may need to be informed, with the student's consent, that the student is taking a prescribed medication that may reduce concentration or alertness. Advice should be sought from the student's doctor or case manager.

Dealing with the media

Schools are advised to have procedures in place for dealing with the media. Media contact is the responsibility of the principal with support, where appropriate, from the appropriate regional director and/or the Department's Media Unit (telephone 9637 2871).

See also 6.22 Relationships with the media.

Website

<https://www.eduweb.vic.gov.au/intranet/communications/branchmedia.htm>

References

Principal's guide and student welfare action manual (in *Get Wise*), available at:

www.education.vic.gov.au/studentlearning/programs/drugeducation/tchlearnteach.htm

Drugs and Legal Issues A Guide for Principals is available at:

http://www.eduweb.vic.gov.au/edulibrary/public/stratman/Policy/schoolgov/druged/drugs_and_schools_legal_issues_2009.pdf

For further information on the following issues:

- Drug education: see 3.17.3
- Framework for student support services: see 4.6.1.1
- Drug education and drug related issues in schools: see 4.6.6.1
- Responding to drug related incidents including those involving illicit drugs: see 4.6.6.1

4.6.7 Smoking ban on Government school premises

The Minister for Education has exercised the power vested in the *Education and Training Reform Act 2006* to prohibit smoking on all Victorian Government school premises, effective as of 1 July 2009.

This action was taken as part of the Victorian Tobacco Control Strategy 2008-2013. The public consultations that occurred during development of the strategy found a high level of support for schools to be smoke-free.

The ban applies to anyone who is present on Victorian Government school premises both during and after school hours, including students, teachers, parents, contractors and the wider community, for example sporting groups.

The ban extends to all activities that take place on school premises, including pre schools, kindergartens, out of school hours care, cultural, sporting or recreational activities and school fetes.

4.6.7.1 Actions required by the school/principal

Schools may take lawful measures to promote and implement the smoking ban.

“Smoke Free School” and “No Smoking” signs should be prominently displayed throughout the school. These have been provided to schools by the Department of Education and Early Childhood Development (DEECD) and are available at:

<http://www.education.vic.gov.au/studentlearning/programs/drugeducation/tchlearnteach.htm> (see Smoking related resources).

Schools are encouraged to take the following actions:

- communicate the smoking ban to DEECD employees at the school and encourage them to promote the policy to the school students;
- communicate the ban to parents/guardians via the school newsletter and remind the school community that smoking is actively discouraged at all times;
- ensure that all new students and parents/guardians are informed of the ban during the enrolment process;
- develop and implement a smoke-free school policy;
- ensure that information on tobacco education is available from the school if required (refer to Smoking related resources at <http://www.education.vic.gov.au/studentlearning/programs/drugeducation/tchlearnteach.htm>);
- encourage DEECD employees to use the Employee Assistance Program and contact Converge International on 1800 337 068 if they require support to comply with the ban;
- if advice is required in relation to drug education policy and curriculum learning strategies, including the Smoke Free Schools resource, contact the relevant officers for drug education and student wellbeing based in your region. Contact details are available at <http://www.education.vic.gov.au/studentlearning/programs/drugeducation/contact.htm>; and;
- if necessary, arrange training workshops with Quit Victoria on smoking cessation. Please contact Quit Victoria on 9635 5529 to arrange these workshops.
- Further information for schools is available on the learning and teaching page of the Department's drug education website at www.education.vic.gov.au/drugeducation.

4.6.7.2 Actions required by the school council

Under section 2.3.5(d) of the *Education and Training Reform Act 2006*, school councils are required to regulate and facilitate the after hours use of school premises and grounds.

In accordance with this section, school councils should ensure, wherever possible, that all agreements entered into by the school council include a requirement that the other party to the agreement, and any person invited or permitted by the other party to be on the school premises, must comply with the smoking ban.

The standard contractual templates provided by the Legal Services Unit have been drafted to include this requirement. To obtain a copy of these templates, please contact the Legal Services Unit on 9637 3146.

4.6.8 Alcohol and schools

4.6.8.1 Consumption of alcohol on school premises

The prior approval of the school council is required before alcohol may be consumed on school premises. It is suggested that councils may approve the consumption of alcohol in circumstances such as:

- at fundraising or private functions organised by the council if students are not present
- when school buildings are leased or hired to outside organisations
- at private staff functions from which students are excluded.

When deciding to approve alcohol consumption on school premises school councils should be mindful of school community attitudes towards the consumption of alcohol and school policies related to Drug Education and Health and Wellbeing. Schools are reminded that drug education activities are best understood and practiced as part of a comprehensive and holistic approach to promoting health and wellbeing for students. Through a whole school approach schools can provide a coherent and consistent framework for their policies, programs and practices.

School councils are reminded that schools are not exempt from the requirements of the *Liquor Control Reform Act 1998*.

Further information can be obtained from Consumer Affairs Victoria by visiting their walk in centre at 113 Exhibition Street, Melbourne; or by post at GPO Box 123, Melbourne 3001, by telephone on 1300 558 181 or on the internet at:

www.consumer.vic.gov.au

Answers to frequently asked questions, such as the types of different liquor licences, can be found on the website.

4.6.8.2 School functions off premises

Some school functions are held off the school premises. An example would be a presentation/debutante ball at a town hall to which parents/guardians and members of the public have been invited. The consumption of alcohol is subject to the legal requirements covering the provision of alcohol in public situations.

If liquor is to be sold, students under the age of eighteen years may only be on the premises if:

- they are accompanied by a parent, guardian or spouse over eighteen
- they are having a meal

- they are a resident of premises holding a liquor licence
- they are engaged in a training program in hospitality or for the purposes of employment or work experience and have the approval of the Director under section 122 of the *Liquor Control Reform Act 1998*
- during ordinary trading hours they are on premises in respect of which an 'on premises' licence has been granted as a restaurant
- approved by Liquor Licensing Victoria for an under-aged function.

4.6.8.3 Students consuming alcohol during school hours

The action to be taken when students are known to have been drinking during school hours, or to have brought alcohol onto school premises, is to be determined by the principal in accordance with the school's student code of conduct. However, such incidents should be regarded as serious and the use of suspension seen as an appropriate action.

In the case of underage students if the source of supply can be identified, the police should be notified where appropriate.

4.6.8.4 Consumption of alcohol during school camps or excursions

The consumption of alcohol at school camps or excursions by students (whether under or over the age of eighteen) is prohibited. Parents/guardians and students are to be informed of this before departure and warned that offenders will be severely disciplined and, where appropriate, returned immediately to school or home (see 4.4.2.9).

Members of staff are advised that they owe a legal duty of care to their students during the entire period of the camp or excursion. The consumption of alcohol on camps or excursions is inconsistent with the standard of professional conduct necessary to maintain community confidence in such activities.

Under these circumstances, the consumption of alcohol on camps or excursions is most unwise and may lead to allegations of negligence and/or loss of WorkCover rights.

Website

www.education.vic.gov.au/healthwellbeing/wellbeing/default.htm

For further information on the following issues:

- Duty of care: see 4.6.1.2
- Framework for student support services: see 4.6.1.1
- School excursions: see 4.4.2
- Student searches and seizure of property: see 6.16.5
- Get Wise (available at the teaching and learning section of the Department's drug education website)

www.education.vic.gov.au/studentlearning/programs/drugeducation/default.htm

- Drugs and Schools: Legal Issues, A Guide for Principals of Schools (available at the Policy for Principals and School Leaders section of the Department's drug education website)

www.education.vic.gov.au/studentlearning/programs/drugeducation/default.htm

4.6.9 Solvent misuse

Solvent misuse is also referred to as inhalant misuse or glue-sniffing. Examples of solvents are:

- glues
- thinners
- correction fluids
- aerosol sprays
- butane gas
- petrol.

Most solvents are highly inflammable and readily available.

Solvent misuse can be dangerous. Suffocation, choking, heart failure and accidents have contributed to the deaths of solvent misusers.

As solvents make the body more sensitive to adrenaline, it is important not to frighten or chase solvent misusers.

Where there is no evidence of solvent misuse in the local area, it may be counterproductive to raise such matters in the classroom. However, as solvent misuse is known to increase sharply when publicity occurs in the local area, schools should be prepared to deal with this situation with appropriate education and counselling.

Should a solvent misuse emergency occur:

- stay calm
- assess the situation
- ensure safety and provide assistance to those overcome by effects
- seek further assistance, if necessary
- inform the school administration
- contact parents/guardians
- if necessary, report the incident to the Victorian WorkCover Authority.

Website

www.education.vic.gov.au/healthwellbeing/wellbeing/default.htm

For further information on the following issues:

- Drug education: see 3.17.3
- Framework for student support services: see 4.6.1.1
- Drug education and drug related issues in schools: see 4.6.6
- Responding to drug related incidents including those involving illicit drugs: see 4.6.6.1
- Illicit drug use in schools: see 4.6.6.2

4.6.10 Use of non-prescribed addictive drugs

Taking addictive drugs without prescription is illegal and their use by students or staff members is prohibited.

Website

www.education.vic.gov.au/healthwellbeing/wellbeing/default.htm

For further information on the following issues:

- Framework for student support services: see 4.6.1.1
- Drug education and drug related issues in schools: see 4.6.6
- Responding to drug related incidents including those involving illicit drugs: see 4.6.6.1
- Illicit drug use in schools: see 4.6.6.2
- Students and medication: see 4.5.2

4.6.11 Information about students: release to parents, guardians and other persons

4.6.11.1 Reports on students

Information about students: release to other persons

Principals and teachers are frequently asked for information about students. The Department's position is that it is important in all cases that principals satisfy themselves as to the identity of the person seeking the information.

Whereabouts

Guidelines on the provision of information on the whereabouts of students will be provided in 4.6.14.4.

Student reports

Reports on a student's progress at school may be supplied to an estranged parent/guardian only under the conditions set out in 4.6.14.2.

Solicitors' requests for information

When a solicitor requests information about a student's wellbeing or progress, the principal should forward the request to the appropriate regional director, who will supply an answer on behalf of the Department.. This situation may involve the supply of information from school records to the regional director.

Officers of the Family Court of Australia

The Family Court may use investigating officers to examine school-level, personality and behaviour patterns of students. The court usually seeks parental consent for this procedure but has the power to order that relevant confidential material be provided to the investigators. Principals are required to cooperate with these officers after proof of identity has been provided.

Private agents

Private agents, including inquiry agents, asking questions about students must not be provided with any information unless the legal custodian has given consent in writing and the agent can provide proof of identity. Private inquiry agents have no greater power than strangers to gain information about students from schools (see 4.6.14).

Court proceedings

See 4.16.13 Students and the courts.

4.6.11.2 Reports to employers

The regular progress report, term report, half-yearly report and so on about a student's classroom attitudes, level of skill development, scholastic achievement, and the other matters commonly contained therein are, as far as the parent/guardian and the student are concerned, a confidential communication. It is not for publication as far as the school is concerned, unless at the request of the student or parent/guardian.

When the student leaves school the principal may write, or cause to be written, an official reference addressed 'To whom it may concern' and hand it to the student on departure. Copies of this reference may be provided to the student on request. In addition, with the consent of the student, the principal may respond factually to letters or telephone requests for comment on the capacity to perform particular tasks or for a confidential reference to a potential employer. Copies of all letters and notes of telephone conversations should be retained in the student's confidential file, to which the student has access under freedom of information provisions.

4.6.12 Access to students

4.6.12.1 Police interviews

There are various circumstances in which the police may wish to interview students under the age of eighteen. The student may be a victim, a witness, or a suspect. Whatever the situation, the principal is required to balance the obligation to protect the rights of the student and the parents/guardians with the obligation to assist the police in the exercise of their duty.

The following guidelines and those provided in the protocol between Victoria Police and the Department concerning criminal offences (see 4.6.15) are designed to assist principals and police to cope with what are often delicate situations. Their implementation requires that the principal knows beforehand the identity of the student concerned and the precise reasons for police interest. Principals are reminded that students have the right to approach the police directly.

Interviews relating to child maltreatment are covered in 4.6.12.3 and 4.6.2.6.

The student as victim or witness

When the principal or person in charge of the school is satisfied that a situation calls for immediate action and it is not possible to contact the parents/guardians, the police should be allowed to interview the student with the principal or a suitable delegate representing the parents/guardians present.

Prior to the police interview taking place, to comply with privacy requirements the student should be informed that a note of the circumstances and the content of the interview will be made and communicated to the parents/guardians as soon as possible. The notes should then be made and communicated to the parents/guardians, except in cases in which it appears that the student is at risk of being abused by their parents/guardians (see 4.6.2.6).

Except in certain special circumstances (see note below) if the principal is not satisfied that immediate action is necessary, an interview should only be permitted if a parent/guardian, or a nominee of the parent/guardian, is present unless the parent/guardian authorises the principal or a suitable delegate (either orally or in writing at the principal's discretion) to act as a representative.

In both situations outlined above, the principal or delegate should support and encourage the student, in a potentially stressful situation, to provide as much accurate information to the police as possible.

Note: Circumstances may arise in which the police need to interview a number of students to identify potential witnesses. In this situation, the principal may permit interviews without the presence of the parent/guardian (but in the presence of the principal or a suitable delegate) only for the purpose of identifying such witnesses for further interviews to be carried out as outlined.

The student as suspect

When the student is a suspect or requires to be eliminated as a suspect, the principal must always be conscious of the duty of care for the student as well as the duty of care owed to all other students of the school. The rights of the parents/guardians should also be considered.

The principal must also endeavour to ensure that the parents/guardians have been advised of the situation. In some situations parents/guardians or their nominee may not be present because:

- they cannot be contacted
- they do not agree to an interview
- having agreed or not objected to an interview, they do not authorise the principal or a suitable delegate (orally or in writing) to act as a representative.

In these cases, the principal may consent to an interview if the principal believes that the interview may assist to avert a possible physical injury to any person, further damage to property, or a miscarriage of justice. However, if the parents/guardians do not consent to the interview, then the principal should only consent to the interview taking place if the questioning or investigation is so urgent (having regard to the safety of other people), that it should not be delayed.

A note of the circumstances and the content of the interview should be made and communicated to the parents/guardians or their representatives as soon as possible.

Reporting an offence

If a matter is reported to the police and they wish to interview a student or students at the school, the principal should act in accordance with the protocol between the Victoria Police and the Department of Education and Early Childhood Development concerning criminal offences (see 4.6.15) and the guidelines above in deciding whether to allow an interview. If the principal allows an interview to take place without the presence of parents/guardians or their nominee, a previously uninvolved member of staff should be appointed to represent the parents/guardians.

The duty of representatives in regard to suspects

Employees of the Department of Education and Early Childhood Development acting as representatives of parents/guardians should advise student suspects as if they were students of their own in similar situations. This can only be done with a reasonable knowledge of the relevant circumstances, which may be obtained by discussion with those involved, including the student.

Any Department employee should avoid asking 'leading questions' or adopting an investigative approach that would implicate the students in wrong doing.

A 'leading question' is one which suggests a particular answer to the question, or assumes the existence of facts that are in dispute.

In serious cases, the most appropriate advice that may be given is that there is no compulsion to answer police questions (see below) and that the student should seek legal advice. In less serious cases, the most appropriate advice may well be to cooperate fully with the police.

Prior to the police interview taking place, to comply with privacy requirements the student should be informed that a note of the advice given and the content of the interview will be made and communicated to the parents/guardians as soon as possible. The notes should then be made and communicated to the parents/guardians as soon as possible.

Students should be informed that, although it is advisable to do so, there is no legal obligation to state their name and address when asked to do so by the police except in the following cases:

- when driving a motor vehicle
- if the police believe on reasonable grounds that the student has committed or is about to commit an offence or if the student may be able to assist in the investigation of an indictable (i.e. serious) offence (see section 456AA of the *Crimes Act 1958*, Vic.)
- if an officer authorised under section 218B of the *Transport Act 1983*, or a member of the police force, believes on reasonable grounds that the student has committed or is about to commit an offence against that Act or its regulations (for example, travelling on a train without a valid ticket).

It should be noted that deportees and prohibited immigrants must also answer certain questions but it is unlikely that these categories will be relevant.

4.6.12.2 Explosives inspector interviews

Students may be interviewed at school by an inspector of explosives on the same basis as police interviews are permitted.

4.6.12.3 Interviews relating to child maltreatment

Principals will be contacted by Department of Human Services (DHS) child protection workers when interviews with children are required at school. In cases involving criminal issues, the police may also contact the principal, or may conduct a joint interview with child protection workers. Where DHS child protection workers are unable to attend due to other work priorities, police may attend in their place and report back to DHS regarding the outcome of the interview. Principals should facilitate such interviews as requested.

4.6.13 Students and the courts

4.6.13.1 Court proceedings and appearances by teachers

When a principal or member of staff is subpoenaed as a witness, the subpoena must be obeyed. There are three types of subpoenas:

- to attend and give evidence

- to produce documents
- to produce documents and to attend and give evidence.

In all cases where principals and staff must attend and give evidence, they are advised to prepare a concise and objective statement of their knowledge or understanding of the specific situation.

In relation to custody proceedings, the school must maintain a position of complete impartiality. Teachers should not involve themselves voluntarily in favour of one party or the other in custody cases.

4.6.13.2 Students on parole and probation

Teachers need to be very sensitive in handling students on probation or parole. Comments or actions such as a teacher pointing out a student who has been in the Children's Court to classmates as an example of the results of wrong doing are totally inappropriate. The cooperation of teachers during the probation or parole period is a vital factor in successful rehabilitation.

4.6.14 Parental responsibility for children

The following Acts of Parliament commonly affect parental care and responsibility of children:-

- the *Family Law Act 1975*
- the *Crimes (Family Violence) Act 1987*
- the *Children, Youth and Families Act 2005*.

The duties, powers, responsibilities or authority of parents in respect of children will depend on:

- the law under the relevant Act
- the terms of any Court Order (see 4.6.14.2).

The laws regarding parental care and responsibility of children (formerly including custody and guardianship) are complex, and the following information is not intended as a comprehensive statement of those laws. Instead, it provides a guideline in the more usual circumstances as to who is responsible, in law, for students and their educational welfare. It should not be applied to any circumstance other than where a principal is faced with a parent/guardian claiming a duty, power, responsibility or authority in respect of a student at the school.

In the absence of a current court order to the contrary, each of the parents of a child who is not eighteen, has equal parental responsibility for the child. This is so regardless of their past or present marital status or whether they live, have lived or have never lived together.

Considering the emotive nature of parent/guardian disputes, principals and staff should deal with any situation sensitively and realise that a

satisfactory resolution may not be possible. Principals and staff should avoid becoming involved in disputes. Such disputes should be referred by staff at once to the principal or his or her delegate for action. In secondary colleges, the student welfare coordinator may have responsibility in this area.

Schools are not the place to resolve family disputes. Principals should not try to determine disputes between parents/guardians but must comply with the law, as far as possible, on the information provided to them. These disputes should be resolved between the parents/guardians for instance through attendance at a Family Relationship Centre or by the appropriate court such as the Family Court of Australia, Federal Magistrates Court or the Children's Court of Victoria.

If principals find themselves involved in disputes between those who are responsible for a child, they should only be concerned with the child's educational welfare and not with matrimonial or like disagreements. Where disputes cause difficulty at the school and principals are unsure what to do, they should maintain the status quo until they receive legal advice or the dispute is resolved by the parents/guardians. If difficult situations arise, or a situation arises involving complex legal issues or matters not covered below, the principal may contact the Legal Services Branch of the Department of Education and Early Childhood Development.

If potentially dangerous situations arise and the protagonist refuses to leave the premises at the principal's request, the police should be called immediately. (Also see section 6.16.11)

Subject to information contained in section 4.6.12, the principal should confirm with the parent who normally looks after the child, the identity of any person unknown to the principal who seeks information on or access to a child.

Principals must therefore:

- remain neutral and not adopt any side in a dispute between parents
- act sensitively and in accordance with the best interests of their students and the school community
- not attempt to resolve disputes between parents or get involved. It is for the parents to sort them out, in court, if necessary
- make decisions with the child's best interests as the paramount consideration
- attempt to co-operate with family law orders where the terms are clear and consistent. If the court order is not clear, that fact should be stated to the parents involved. (The parties preferably should either agree on the interpretation or seek a further court order).

A principal is not bound to follow the instructions or request of any parent in relation to the education which is provided at the school. The principal is bound to administer the school according to the *Education and Training Reform Act 2006* and any lawful direction he or she receives, such as those found in Teaching Service (Employment Conditions, Salaries,

Allowances, Selection and Conduct) Order 2009 (No 199) clause 11.2.2 see:

<http://www.eduweb.vic.gov.au/edulibrary/public/hr/policy/TSO-165.pdf>

4.6.14.1 The Family Law Act

The *Family Law Act 1975* has been subject to various amendments since its commencement.

The amendments include the abolition of the terms 'custody', 'guardianship', and 'access'.

The duties, powers, responsibilities and authority which by law parents have toward their children are incorporated under the heading of 'parental responsibility'. Parental responsibility can be exercised separately by each parent.

Amendments also provide that children have the right of contact with both parents on a regular basis, to know and be cared for by both parents (whether the parents are married, separated, never married or have never lived together) and that the parents share duties, powers, responsibilities and authority concerning the care, welfare and development of their children.

Persons other than birth parents may also be given parental responsibility by court order.

Subject to any Family Court order (see 4.6.14.2), parents have equal 'parental responsibility' in respect of the child, including an entitlement to know where their child is enrolled. One parent should not be denied any benefits or privileges given by the school to the other parent, including, participating in school related activities (unless the parent has been excluded from the school for failing to comply with standards generally required of all parents), taking the student out of school temporarily or permanently or being provided with reports.

It should be noted that although the term 'guardian' has been abolished under the *Family Law Act 1975*, it is still used in the *Children, Youth and Families Act 2005*, the *Crimes (Family Violence) Act 1987*, and for persons appointed as guardians under a will.

4.6.14.2 Court orders

Family Court orders may affect 'parental responsibility' and the child's rights referred to above. In all cases, a court order takes precedence and its terms must be followed.

When faced with a dispute, the principal must ask whether a court order or subsequent court order exists and if so, a copy of the court order(s) should be requested. It is the parents' responsibility to provide the school with copies of any court orders that impact on the relationship between the family and the school.

However, if a principal is unaware of a court order(s) then they cannot be blamed for taking or refusing to take action which may be contrary to an existing court order.

A parenting order is a set of orders made by a court about parenting arrangements for a child. A court can make an order based on an agreement between the parties (consent orders) or after a court hearing or trial. When a parenting order is made, each person affected by the order must follow it.

A parenting order may deal with one or more of the following:

- who the child will live with (sometimes described as 'residence' orders)
- how much time the child will spend with each parent and with other people, such as grandparents (sometimes described as 'contact' orders)
- the allocation of parental responsibility (sometimes described as 'specific issues' orders and refer to day to day care, welfare and development and long term care, welfare and development)
- how the child will communicate with a parent they do not live with, or other people
- any other aspect of the care, welfare or development of the child.

If a parent breaches a parenting order and cannot be found, a court may make a 'location' order. This requires other people or organisations such as the Department or a school to give information they have about where a child may be located. A 'location' order applies to information, which a person has in his or her possession or may obtain during the currency of the order.

A court may also make a 'recovery' order. This is an order issued to the Marshal of the Family Court, all officers of the Australian Federal Police and all state and territory police officers to find and recover the child. The order may also allow a search of any premises (including a school) where the child may be found.

All Family Court orders made before 11 June 1996 will continue to operate without being re-issued by the Court. However, custody, guardianship and access orders made before 11 June 1996 will be interpreted as meaning residence, contact or specific issues orders.

Family Court orders post 11 June 1996 are likely to be more detailed and should be read carefully.

4.6.14.2.1 Day-to-day care, welfare and development

Where a parenting order provides for a child to spend time with a person as a general rule, it can be expected that the parent with whom the child is spending time will be responsible for making the decisions in relation to day to day issues which are not major long term issues. Such issues may include consents and authorities relating to excursions and incursions within school hours, daily homework requirements, sporting activities and minor disciplinary matters.

It should be noted that an order to spend time with a person does not of itself permit, or give the right, to that person to prohibit contact with another person outside of the time or times that are expressed in the

order; in the absence of a clearly stated prohibition to this effect. If such contact is prohibited it should be clearly expressed in the order.

4.6.14.2.2 Long-term care, welfare and development

Where a parenting order refers to the long-term care, welfare and development of the child being given to a parent (possibly jointly) then the parent may, subject to normal school policy:

- be involved in discussions relating to the student's schooling and other matters that may affect the long-term educational welfare of the student (including serious discipline matters, religious upbringing, counselling, out of school hours excursions, tertiary education and careers)
- receive all types of school reports
- participate in parent–teacher interviews (but not necessarily at the same time as the other parent), and
- attend school activities and functions that parents are invited to attend (but not as a means of gaining 'contact' or spending time with the student).

Principals should be aware that from time to time parents may disagree on what is a major long term issue or a day to day issue in relation to their child's education. In such circumstances such disputes should be settled outside the school for instance at a Family Dispute Resolution Centre or by further court order.

If a parenting order provides for *shared parental responsibility* decisions about major long term issues about children they are to be made jointly by those persons who are to share parental responsibility. They are required to:

- consult the other person in relation to the decision to be made about that issue; and
- make a genuine effort to come to a joint decision about that issue.

A major long term issue means an issue about the care, welfare and development of the child and includes the child's name and the child's current and future education.

The *Family Law Act 1975* provides that other people acting on a decision about the child communicated by one of the parents (such as a school) are not required to establish that the decision has been made jointly.

It should be borne in mind however that as soon as a school becomes aware that persons with parental responsibilities are in dispute regarding the exercise of those responsibilities the procedures set out at the start of 4.6.14 should be followed.

4.6.14.3 Parenting plans

Parenting plans are agreements between parents and may deal with matters, including those normally found in parenting orders. Parents who

seek enforceable parenting plans require court orders. These can be obtained by consent.

4.6.14.4 Whereabouts of students

'Whereabouts' means the school and home address.

The whereabouts of students must not be divulged to anyone except when:

- a person has parental responsibility
- an informal relative carer who has provided a signed Informal Relative Carer's Statutory Declaration to the school
- the principal reasonably believes that the disclosure is necessary to lessen or prevent a:
 - serious or imminent threat to an individual's life, health, safety or welfare; or
 - serious threat to public health, public safety or public welfare
- the disclosure is required or authorised by or under law
- the principal has reason to suspect that unlawful activity has been, is being, or may be engaged in, and discloses the information as a necessary part of an investigation of the matter or in reporting its concerns to relevant persons or authorities.
- the principal reasonably believes that the disclosure is reasonably necessary for one or more of the following reasons by or on behalf of a law enforcement agency:
 - the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law
 - punishment of criminal offences or breaches of a law imposing a criminal penalty or sanction
 - the enforcement of laws relating to the confiscation of the proceeds of crime
 - protection of the public revenue
 - the prevention, detection, investigation or remedying of seriously improper conduct
 - the preparation for, or conduct of proceedings before any court or tribunal, or the implementation of the orders of a court or tribunal.

(Also see section 6.28)

Some common examples of where information may be required to be disclosed when it is required to be disclosed or requested by-

- the Family Court of Australia under a location order pursuant to the *Family Law Act 1975*
- the Secretary, Department of Human Services or his or her delegate having statutory power to compel disclosure under Health (Infectious Diseases) Regulations 2001 (See 4.5.6)
- an explosives inspector under the provisions of the *Dangerous Goods Act 1958* (see 4.5.8)
- authorised officers under the provisions of the *Transport Accident Act 1986* having statutory power to compel disclosure of the information sought
- Centrelink as an agency of the Department of Human Services under the provisions of the *Social Security (Administration) Act 1999*
- Department of Education and Early Childhood Development personnel in the course of their duties.

Identification must be produced by those persons referred to above if unknown to the principal.

4.6.14.5 Students who are minors and living independently from parents and other guardians

Parental consent is required in a range of circumstances throughout a student's schooling, for example, participation in school camps and excursions (see section 4.4.2.4) and participation in research (see section 6.18).

These requirements do not apply to adult students (eighteen years of age and older) who should complete and sign their own forms.

In situations where a student is under the age of eighteen years and is living separately and independently from parents/guardians, the consent of parents/guardians may be inappropriate or may be difficult to obtain. In such circumstances, where the principal is satisfied that:

- the student is living separately and independently from parents/guardians and other guardians, and
- the student is unable to obtain the required parental consent, or is unwilling to approach their parents/guardians, and
- the student has sufficient maturity, understanding and intelligence to be capable of making up their own mind on the issue in question (such students will generally be fifteen years and over).

The student may:

- sign enrolment forms
- enter into agreements with the school about such things as the purchase of educational and school material, including textbooks and

stationery, and the payment for required curriculum options and camp/excursion expenses.

In relation to medical treatment and participation in outdoor education activities, including camps and excursions, these students may give effective consent if fully comprehending the nature and consequences of whatever is proposed without requiring the consent of parents/guardians. In these cases, the consent forms will require amendment.

A report to the Department of Human Services should be made where a student does not appear to have sufficient understanding and intelligence to be capable of making up their own mind on the issue in question.

Initial enquiries on any of the above matters may be made through the relevant regional office.

4.6.14.6 Students who are minors and residing with an Informal Relative Carer

Where a student is under the age of eighteen years and is not living with a parent/guardian but is living in an informal care arrangement, the carer may sign:

- enrolment forms
- excursion forms
- and provide any other consent required

-: if the carer provides a signed Informal Relative Carer's Statutory Declaration to the school. The informal carer may be a relative, significant friend or a person within the child's extended social network,

See http://www.ocsc.vic.gov.au/publications/parents_resources.htm for a copy of the statutory declaration and information booklet. Although the statutory declaration is titled for 'relative carers', it may be used by informal carers who are not relatives but who have the day to day care of the student and with whom the student is regularly residing, The statutory declaration applies for 12 months.

In the event of a dispute between a parent legally responsible for a student and an informal relative carer, the wishes of the parent prevail. Advice can also be sought from the Department's Legal Services Unit.

4.6.15 Protocol between the Victoria Police and the Department of Education and Early Childhood Development concerning criminal offences

4.6.15.1 Situation

The Department of Education and Early Childhood Development and the Victoria Police have agreed on the following protocol concerning a crime alleged to have been committed by students at school, travelling directly to or from school, or during school-sponsored activities.

4.6.15.2 Purpose

The purpose of the procedure is to facilitate the timely flow of relevant information to enable each party to effectively meet its responsibilities. This means police responding to or pre-empting crime by a student while at school, or travelling directly to or from school, or engaged in school-sponsored activities. In turn, schools will protect the educational opportunity and wellbeing of all students, including any student subject to a criminal charge.

4.6.15.3 Criminal offences

For the purpose of this protocol, a criminal offence means any behaviour that could seriously threaten the safety, security or wellbeing of any person or property for which the principal has responsibility and includes:

- assaults
- assaults with weapons
- sexual assaults
- possession of a weapon
- use, possession or distribution of drugs
- theft or criminal damage.

4.6.15.4 Contact persons

The contact persons at a local level will be each principal and the station commander (or a sub-officer nominee) of the local sub-district. The school liaison sub-officer must initiate contact with each principal in their sub-district in accord with this policy.

4.6.15.5 Procedure

The principal must refer all alleged criminal offences as listed in 4.6.15.3 to the police¹⁷. If in doubt, the principal may obtain advice from the police contact person.

¹⁷ A reference or notification by the principal of a criminal offences is permitted under the *Information Privacy Act 2000* [Section 14, Schedule 1 Principle 2 (d) to (g) inclusive] and the *Health records Act 2001* [Section 19 and Schedule 1 Principle 2 (h), (i) and (j) inclusive] as an exemption to interference with the privacy rights of students, providing that the Principal holds the **reasonable belief** that a:

“ disclosure is necessary to lessen or prevent—

a serious and imminent threat to an individual’s life, health, safety or welfare; or ... a serious threat to public health, public safety, or public welfare; or has reason to suspect that unlawful activity has been, is being or may be engaged in...” and...the Principal “..uses or discloses the ...information as a necessary part ofreporting..” the Principal’s concerns to the Police and the Principal “...reasonably believes that the use or disclosure is reasonably necessary for, investigation..... of criminal offences....”

(See also 4.6.14)

The principal is also required to notify the parents/guardians in accordance with the procedures as outlined in 4.6.12.

Police will investigate and decide whether an offence has occurred.

In less serious matters, the principal should be guided by their knowledge of a student and the circumstances of the case as to whether or not the matter is reported.

The police contact person (station commander or a sub-officer nominee) will initiate the appropriate police action. In addition they will:

- provide advice to principals when requested
- notify the principal of a school when a student at the school has been charged with an offence against a student or other person for whom the safety, security and wellbeing at the time of the offence was the responsibility of the principal, or against property for which the principal is responsible
- assist schools to safeguard student welfare by informing the principal of any action taken, or the result of the information received. Note: This does not breach section 26 of the *Children and Young Persons Act 1989*.

4.6.15.6 Reports of crime

Where the school liaison sub-officer receives reports or information concerning a criminal offence requiring investigation, that information must be referred to the district or regional crime coordinator for attention and referral and, where necessary, to State crime squads.

Contact

Legal Services Branch

Phone: 9637 3146

Student Wellbeing and Support Branch

Phone: 9637 2012

Learning Programs Branch

Phone: 9637 3477