

Letter M5  
Masking and Children/Students

We have also been lucky to receive the assistance from one of our associates Michelle Saminaden, who has also cleverly put together the following sample letter in relation to masking and children for you to use to send to schools and/or the Education Department. Customise this template to your State/school.

CC: Office of the Minister for Education [ome@edumail.vic.gov.au](mailto:ome@edumail.vic.gov.au), Public Sector Commissioner

**Re: Mask Mandate**



“To the Principal,

I correspond in regard to the extraordinary decision for the Education Department to mandate masks for Victorian school children. Thank you in advance for your consideration of my concerns, as follows.

I bring to your urgent attention that evidence supports that the mask mandate may be an unlawful, unsound and potentially harmful directive, which is not fit for purpose. I respectfully request that the Education Department facilitate a common sense, independent and evidence-based approach in the best interests of students, legislative obligations, (inclusive of our Constitution, and human rights considerations), to revoke the mandatory mask direction in Victorian schools. Please

review appendix 3 for relevant legislative instruments that the Department must consider.

Please note, this is from the Federal Government health website:

***Where there is low community transmission of COVID-19, wearing a mask in the community when you are well is not generally recommended.***

<https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-covid-19/masks>

I have grave concerns, and do not believe that the mask mandate enforced on Victorian Secondary students, (over 12 years of age), is in compliance with various sections of the Victorian Public Health and Wellbeing Act, (2008). Numerous other legislative instruments have been scrutinised by a rigorous risk analysis, (as detailed in Appendix 4), and are based on credible science.

The science and lawfulness supporting many Victorian public health directives is not settled. For example, the WHO changed its stance on lockdowns on 11/10/2020, and Dr David Nabarro from the WHO claimed that the only thing lockdowns achieved was poverty. Our education system and students cannot afford to continue to rely on untested opinion.

I do not believe the decision making around the mask mandate, has adequately considered the vast majority of peer reviewed science, (which overwhelmingly find that masks are ineffective), for the purposes of reduction of community disease transmission.

The Chief Health Officer has claimed that masks reduce transmission without providing verifiable peer reviewed research. I state that that the mask mandate is not only disproportionate to the risk. It is ineffective and according to the weight of verified science, there is an unacceptable risk that this mandate may actually increase disease transmission, (as detailed below).

I am also concerned regarding the impact of this mandate on the physical and psychological health of affected students. Concerning reports of illness and death due to mask use are being reported globally. For example, Chinese schools have prohibited mask use during exercising, after two teenage boys died during their

physical exercise class<sup>1</sup>. In addition a 26-year-old man suffered a collapsed lung after running two and a half miles while wearing a mask. *Dr Chen Baojun, a Chief Medic from the Wuhan Hospital, suggested the 26-year-old Chinese resident was already more susceptible to the condition as he was 'a very tall man and quite thin'. He added that the face covering directly caused the sudden increase of pressure to Mr Zhang's lungs due to intense running. Education authorities in China said today that they are set to ban school students from wearing face masks during PE lessons due to the health risks*<sup>2</sup>. The assumptions of minimal benefit, if any, due to mask use should be weighed against the strength of evidence, which indicates that they may cause more harm to health than benefit.

I am also concerned about discrimination towards mask exempted students. On 09/10/2020, a teacher at a school in regional Victoria was reported by a parent to be bullying a student to wear a mask during physical exercise, despite this child's objections. This is very concerning. The Department may choose to remind teachers of very robust workplace safety laws, surrounding misconduct leading to harm, and discrimination.

**In light of the significance of the issues raised so far, I respectfully request a written response, in accordance with the Charter of Human Rights and Responsibilities Act, sec 15(2)<sup>3</sup>, as soon as possible, to the following:**

- Does the school/Department intend to provide information to parents, students and teachers about lawful exemptions such as trauma, anxiety and respiratory issues?
- Have educators been offered training and health safeguards to help them identify and adequately respond to a child suffering symptoms of illness or distress from mask use?
- How will the Department honour the genuine necessity for these vulnerable students to attend school without a mask, without discrimination, pressure or consequence?

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<sup>1</sup> Reported in the New York Times by Jackie Salo, on May 6,2020, "Two boys drop dead in China while wearing masks during gym class", sourced online at <https://nypost.com/2020/05/06/two-boys-drop-dead-in-china-while-wearing-masks-during-gym-class/>

<sup>2</sup> Reported via Kelly-Ann Mills on 13<sup>th</sup> May, 2020, sourced at <https://www.mirror.co.uk/news/world-news/man-26-suffers-collapsed-lung-22018788>

<sup>3</sup> Charter of Human Rights and Responsibilities Act, sec 15(2), Sourced at [http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol\\_act/cohrara2006433/s15.html](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s15.html) on 23/10/2020

- I hold concerns the Andrews Government may have enacted the directive for students to wear masks at school in an unlawful manner. I request transparency and clarification regarding what legal advice the Education Department has received from the Solicitor-General or other legal professionals, to confirm the legality of the imposition of this directive.
- I respectfully request to be provided with the legislative authority, specific Acts and instruments, and any risk analysis relied upon, to support and enforce a school mask mandate.
- Are you aware if the individual who is responsible for this decision has sought and understood, independent, verifiable specialist medical and science research and responsible views, in a risk analysis, which also align with the best interests of students, the purpose of the Education System, and relevant legislation?
- I would appreciate the contact details of the person(s) in the school/Education Department, who is responsible for the decision to mandate masks. Alternatively, I am happy for you to forward this correspondence if you deem appropriate.
- I request clarification regarding what verifiable advice the Education Department has received from scientists, medical professionals, or the Andrews Government, to confirm and verify the belief that wearing masks is likely to reduce transmission of disease, and specifically Covid-19, if available.
- I request reassurance that the directive for students over 12 years of age to wear masks at school has been supported by verifiable, independent health advice, subject to risk analysis, supporting that this decision is aligned with the best interests of Victorian Students and is lawful. If this is not available, then an immediate withdrawal of this mandate must be facilitated in the interests of good governance.
- It was the Queensland Chief Health Officer's position to close schools to send a message. I request to understand if the Victorian Education Department closed schools, or are endorsing the mask mandate, because they have been instructed by the Victorian Government, to send a message.
- The Charter of Human Rights and Responsibilities Act, sec 17, states that children have the right to be protected by the State as needed to uphold his/her best interests, and sec 7 which upholds scrutiny between the relationship of the limitation (mask mandate) and its purpose, in addition to a legislative instruction that the limit must be the "less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve". Will the Education Department

honour this legislation, through notification to the UN Secretary General under Article 41a of the ICCPR, or notify the Human Rights Commission, for State Labor Party breaches of the State Public Health and Welfare Act, Federal Biosecurity Act, ICCPR, articles 4 and 17, which are disproportionate to the risk, unjustified, arbitrarily unreasonable, and as this document may establish, not founded on peer reviewed credible science?

- In consideration of the specific legislative conditions and due process, detailed throughout the Compliance with legislation and Human Rights Considerations found in Appendix 4 of this document, can the Education Department please detail the reasoning behind why they feel a mask mandate is lawful for children and students.
- In consideration of the details throughout this document, (inclusive of the meta-analysis and legislative considerations provided in the Appendix), I request that the Education Department please detail the reasoning supporting that a mask mandate is evidence based, reasonable, necessary and proportionate to the risk, and in the best interests of students, as is lawfully required even under the conditions of a State of Emergency/Disaster.