

Duty of Care Policy:

Definition:

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.

Rationale:

In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect children in their charge from risks of injury that are reasonably foreseeable.

Aims:

To ensure that staff have an understanding of their duty of care to children, and behave in a manner that does not compromise these legal obligations.

Implementation:

- In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect children in their charge from risks of injury that are reasonably foreseeable.
- Although the general duty is to take reasonable steps to protect children from reasonably foreseeable risks of injury, specific (but not exhaustive) requirements of the duty involve providing adequate supervision in the school or on school activities as well as providing safe and suitable buildings, grounds and equipment.
- A teacher’s duty of care is not confined to the geographic area of the school, or to school activities, or to activities occurring outside the school where a child is acting on a teacher’s instructions. The duty also applies to situations both before and after school where a teacher can be deemed to have ‘assumed’ the teacher-student relationship.
- The teacher’s duty of care is greater than that of the ordinary citizen in that a teacher is obliged to protect a child from reasonably foreseeable harm or to assist an injured child, while the ordinary citizen does not have a legal obligation to respond.
- Whilst each case regarding a teacher’s legal duty of care will be judged on the circumstances that occurred at the time, the following common examples may be times when a teacher has failed to meet their legal duty of care responsibilities to their children:
 - arriving late to scheduled timetabled yard duty responsibilities
 - failing to act appropriately to protect a child who claims to be bullied
 - believing that a child is being abused but failing to report the matter appropriately
 - being late to class at the beginning of the day, after recess and after lunch

- leaving children unattended in the classroom
- failing to instruct a child who is not wearing a hat to play in the shade
- ignoring dangerous play
- leaving the school during time release without approval
- inadequate supervision on a school excursion
- Staff members are also cautioned against giving advice on matters that they are not professionally competent to give (negligent advice). Advice is to be limited to areas within a teacher's own professional competence and given in situations arising from a role (such as careers teacher, year level coordinator or subject teacher) specified for them by the principal.
- Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

Classroom Supervision

- At no time are children to be left unsupervised in the classroom or enrichment areas (This includes before and after school, lunch times and recess breaks)
- It is not appropriate to leave children in the care of ancillary staff, parents or trainee teachers (At law, the duty of care cannot be delegated)
- It is not appropriate to leave children in the care of external education providers (At law, the duty of care cannot be delegated)
- In an emergency situation use the phone for the Principal or Assistant Principal or contact the teacher in the next room
- No children are to be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a child to a colleague's classroom, or to the Assistant Principal or Principal. This should be accompanied by documentation. The teacher, Principal or Assistant Principal is to be contacted first to alert them that the child is on their way.

Movement of Children

- Extreme care needs to be taken in allowing children to leave the room for any reason.
- Use of children as monitors outside the room during class time must only occur with the approval of the Principal or Assistant Principal
- Utmost discretion is to be used when allowing children to visit the toilet during class time.

Yard supervision

- Playground supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising children, teacher's duty of care is one of positive action.
- Be aware that children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Be aware that yard duty supervision within the school requires the teacher to fully comply with DEECD guidelines and brings with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and duty of care responsibilities. Teachers are also expected to follow school policy whilst on yard duty.
- Teachers rostered for duty are to attend the designated area **promptly** at the time indicated on the roster
- Teachers on duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable

- The handing over of duty from one teacher to another must be quite definite and must occur in the area of designated duty. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the school office, but not leave the area until replaced.
- No changes to the yard duty roster are to be made without the approval of the Principal or Assistant Principal.
- If a teacher rostered for duty will be absent due to an excursion, sport etc it is that teacher's responsibility to notify the Assistant Principal of the situation to arrange a swap. Once a swap is arranged the details are to be in writing.
- Be alert and vigilant -intervene immediately if potentially dangerous behaviour is observed in the playground - enforce school behaviour standards and logical consequences of playground safety rules
- Always be moving

Excursions, School Activities and Camps

- Be aware that children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Be aware that a school activity with an external provider does not absolve supervision duties of the teacher, including first aid duties. A teacher must be present at all times and remain the person designated with duty of care responsibilities.
- Be aware that excursions outside the school require the teacher to fully comply with DEECD guidelines and brings with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care.
- Be aware that camp activities require the teacher to fully comply with DEECD guidelines and brings with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care.
- Be aware that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DEECD guidelines.
- Be aware that school policy is for children to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities.
- The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. Copy of this material will also be kept at school.
- Arrangements will be made for children not attending to continue their normal program at school under supervision of another classroom teacher.
- The teacher in charge or designated teacher of an excursion or camp will carry mobile contact known to the school and a first aid kit.
- If the return time from an excursion or camp is delayed, the teacher in charge will contact the school to inform the Principal of the new arrival time so that parents can be contacted and a senior staff member will remain at school until they arrive.
- If crossing roads, children are to use designated crossing points. Staff are to walk to middle of crossing to ensure visibility and orderly crossing. Other staff control the flow of children across the road.

All staff must follow the DEECD guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School camping, excursions and incursions Policy and Procedure outlines must also be followed.

Evaluation:

This policy will be reviewed as part of the school's three-year review cycle.

This policy was last ratified by school council in **MARCH 2014**