



# DUTY OF CARE POLICY AND PROCEDURES

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## **PURPOSE:**

The purpose of this policy is to explain the non-delegable duty of care obligations owed by teachers and school staff to our students and members of the school community who visit and use the school premises. Principals and staff are held to a high standard of care in relation to students. The duty requires Principals and staff to take all reasonable steps to reduce risk, including:

- ensuring the school complies with the seven Child Safe Standards;
- provision of suitable and safe premises;
- provision of an adequate system of supervision;
- implementation of strategies to prevent bullying;
- ensuring that medical assistance is provided to a sick or injured student;
- managing employee recruitment, conduct and performance.

## **DEFINITION:**

Whenever a student–teacher relationship exists, the teacher has a special duty of care. Teachers are expected to take such measures as are reasonable in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury, both physical or psychological. The school takes into account and makes efforts to accommodate the diversity of all children, including (but not limited to) the needs of Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, children with disabilities, and children who are vulnerable.

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

## **AIMS:**

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

## **IMPLEMENTATION:**

Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of injury, specific (but not exhaustive) requirements of the duty involve providing adequate supervision in the school or on school activities as well as providing safe and suitable buildings, grounds and equipment. Staff understand that school activities involve different levels of risk and that particular care may need to be taken to support younger students or students with additional needs, or require more staff to provide adequate supervision. School staff, parents, carers and students are encouraged to speak to the Principal to raise any concerns about risks or hazards at our school.

A staff member'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 student 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- pupil relationship. The school clearly informs parents when playground supervision will be provided and that no formal supervision of the playground occurs outside those hours.

Staff have a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the staff member/s concerned. A breach of this duty of care will be established if staff or principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child is being abused or neglected, including sexual abuse.

Staff's duty of care is greater than that of the ordinary citizen in that staff are obliged to protect a student from reasonably foreseeable harm or to assist an injured student, 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 students:

- arriving late to class or leaving a class early;
- arriving late to scheduled timetabled yard duty responsibilities;
- failing to act appropriately to protect a student who claims to be bullied;
- believing that a child is being abused but failing to report the matter appropriately;
- being late to supervise the line up of students after the bell has sounded;
- leaving students unattended in the classroom;
- failing to instruct a student who is not wearing a hat to report to the "no hats" designated area;
- ignoring dangerous play;
- leaving the school during non-face to face teaching time without approval;
- inadequate supervision on a school incursion, excursion and camp.

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 unit leader, member of the leadership team, member of student wellbeing team) specified for them by the principal.

Staff must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Staff should not give advice in areas outside those related to their role where they may lack expertise.

### **Risks to students outside the school environment**

Legal cases establish that a staff member's duty of care does not start nor end at precise times during the day. The approach generally taken is that this duty applies irrespective whether the risk occurs in or outside the school environment. However, the important issue in all cases will be **whether the school took reasonable steps to protect the student from the risk**. Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency and threat of injury.

The following instructions and notices **apply to all staff**.

#### **Classroom Supervision**

Staff must **not** leave the classroom unattended at any time during a lesson.

It is **not** appropriate to leave students 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 students in the care of external education providers for example incursions (by law, the duty of care cannot be delegated) .

In **an emergency situation** use the phone for the Principal, Assistant Principal, Office staff or contact the teacher in the next room. (if appropriate – send another student for assistance).

**No student should be left unsupervised outside the classroom** as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a colleague's classroom, or to the Assistant Principal or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Assistant Principal **is to be contacted first** to alert them that the student is on their way.

## **Movement of Students**

Care needs to be taken in allowing students to leave the room to work in other areas of the school. While students are generally free to move around the buildings and work independently in break out spaces and designated study areas they must be under (indirect) adult supervision at all times.

Staff are responsible for their students at all times.

Use of students as monitors outside the room during class time must only occur with the approval of the Principal or Assistant Principal

Discretion is to be used when allowing students to visit the toilet or the Library during class time. All students to be accompanied by another student/s when moving around the school.

## **Yard supervision**

Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, teacher's duty of care is one of positive action.

Be aware that students 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 DET 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 the school procedures whilst on yard duty.

Teachers rostered for duty are to attend the designated area 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 office, **but not leave the area until replaced**.

No changes to the yard duty roster are to be made without the approval of the Assistant Principal.

Be alert and vigilant -intervene **immediately** if potentially dangerous behaviour is observed in the yard - enforce behaviour standards and logical consequences for breaches of safety rules.

You should always be on the move, carrying a walkie-talkie, first aid bag, yard duty book and wearing a high visibility vest.

## **Excursions, Incursions and Camps**

Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.

Be aware that an incursion 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 camps and excursions outside the school require the teacher to fully comply with DET guidelines and bring 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 DET guidelines.

Be aware that school policy is for students 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. A copy of this material will also be kept at school.

Arrangements will be made for students 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 a mobile phone and a first aid kit, including student medications.

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 students are to use designated crossing points. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.

All staff must follow the DET 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.

### **Informing Staff of the legislative liability of Duty of Care**

All staff will be informed of their legal requirement via:-

- Information provided at the first staff meeting at the commencement of the school year, and accessible at all times on school Shared Drive.
- New staff will be informed of their duty of care as part of the school's Induction Program.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to the Student Engagement and Inclusion Policy annually.

Our school has developed policies and procedures to manage risks in the school environment including:

Yard Duty and Supervision

Bullying Prevention

Camps and Excursions

First Aid

Child Safe Standards

Emergency Management

Occupational Health and Safety Planning Procedures

Health, Care Needs Policy

Volunteer Occupational Health and Safety Induction Handbook

Contractor Occupational Health and Safety Handbook

Visitors

Working with Children and Suitability Checks

Mandatory Reporting

Mandama Statement of Commitment to Child Safety

Child Safety and Wellbeing

Child Safety Code of Conduct

Restraint of Student (DET)

### **REVIEW CYCLE**

This policy was last updated on 25<sup>th</sup> June, 2018 and is scheduled for review in June 2021.