



Duty of Care Policy

Government school principals are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students.

All school staff and volunteers will be made aware of their legal responsibilities in regard to the safety, security and wellbeing of students.

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 sustained by a student, as well as for injuries inflicted by one student on another.

Schools normally satisfy their duty of care by allocating responsibilities to staff. 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 students 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 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 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 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 teacher's duty of care is greater than that of the ordinary citizen in that a teacher is 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:

- being late to supervise the lining up of students after the bell has sounded
- leaving students unattended in the classroom
- arriving late to scheduled timetabled yard duty responsibilities
- believing that a child is being abused but failing to report the matter appropriately
- failing to instruct a student who is not wearing a hat to play in the shade
- ignoring dangerous play
- leaving the school during time release without approval
- failing to act appropriately to protect a student who claims to have been bullied
- inadequate supervision on a school excursion or 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 a team leader or specialist 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 the Department of Education and Early Childhood Development. Teachers 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 teacher's duty of care does not start nor end at precise times during the day.

The approach generally taken is that a teacher's duty applies, irrespective of 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, proactive steps by a school, depending on the age of students, urgency and threat of injury. There will be a number of situations where the school will be under a duty to take reasonable steps. In some instances, the school's control over the activity may require it to take more active measures to satisfy the requirement that it take reasonable steps.

THE FOLLOWING INSTRUCTIONS AND NOTICES APPLY TO ALL STAFF.

Classroom Supervision

It is not appropriate to leave students in the care of education support staff, parents or preservice teachers. (At law, duty of care cannot be delegated.)

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

In an emergency situation, use the phone to the Principal, 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 principal. This should be accompanied by documentation and appropriate follow up. The teacher or principal is to be contacted first, to alert them that the student is to be sent.

Movement of Children

Care needs to be taken in allowing students to leave their designated learning area (classroom) to go to other areas of the school.

While students are often free to move around the buildings (for instance, to go to the toilet, to another classroom, or the sick bay) they must be under (indirect) teacher supervision, as teachers are responsible for their students at all times. Discretion is to be used when allowing students to visit the toilet during class time.

The use of students as monitors outside the room during class time must only occur with the approval of the Principal.

Yard supervision

Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising pupils, teacher's duty of care is one of positive action. It should be noted that when in the school yard, children are usually less constrained and more prone to accidents and injury than in a more closely supervised classroom.

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's Yard Duty Policy whilst on yard duty.

Teachers on yard 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. For this reason, teachers should not accompany a sick or injured child to sick bay, but should call for assistance from another adult.

The handing over of duty from one teacher to another must be definite, and must occur within 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 principal.

Teachers on yard duty must be alert and vigilant. They must intervene immediately, if potentially dangerous behaviour is observed in the yard, and for breaches of safety rules, they must follow the steps set out in the school's Student Management Policy.

You should always be on the move and highly visible.

Excursions, Incursions and Camps

It should be noted that when involved in excursions, incursions or camps, children are generally less constrained and more prone to accidents and injury than in a more closely supervised classroom.

An incursion with an external provider does not absolve the teacher of mandated supervision duties, including first aid duties. A teacher must be present at all times, and remains the person designated with duty of care responsibilities.

Camps and excursions outside the school require the teacher to fully comply with DEECD guidelines, and bring with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and to remain the person designated with duty of care.

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 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.

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. The principal will remain at school until they arrive.

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

All staff must follow the DEECD guidelines when organising an excursion, incursion or camp.

All procedural steps contained in the school's Camp, Excursions and Incursions Policy and Procedures must be followed.

Informing Staff of the Legislative Liability of Duty of Care

All staff at Briar Hill Primary School will be informed of their legal requirement:

- A copy of this document will be provided to each member of staff, and henceforth, at the first staff meeting at the commencement of the school year.
- A copy of this policy will be placed on the school's intranet, for staff access.
- New staff will be informed of their Duty of Care as part of the school's induction program.
- Duty of Care will be an agenda item at staff meetings, and staff will be directed to familiarise themselves with section 6.16.1 of the Victorian Government Schools Reference Guide.
- Staff will complete a risk assessment, which will include duty of care, when completing planning for camps, excursions and incursions.
- Staff will be directed to related policies, annually.

Related School Policies

- Onsite Supervision Policy
- Student Management Policy
- Incursions & External Providers Policy and Procedures
- Camp Policy and Procedures
- Excursions Policy and Procedures
- Volunteers Policy

References

Supervision and Access (School Policy and Advisory Guide)

<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/supervisionaccess.aspx>

Duty of Care (School Policy and Advisory Guide)

<http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>

Visitors in Schools (School Policy and Advisory Guide)

<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/visitorsinschool.aspx>

Volunteer Workers (School Policy and Advisory Guide)

<http://www.education.vic.gov.au/school/principals/spag/governance/Pages/volunteers.aspx>

EVALUATION

This policy will be reviewed annually or more often if necessary due to changes in regulations or circumstance.

Date Implemented	28 August, 2014
Approved By	Briar Hill Primary School Council
Approval Authority (Signature & Date)	Lisa Watson, President
Responsible for Review	Principal and Education Policy subcommittee
Review Date	August, 2015