



# Care to Learn Learn to Care

## 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 students from risks of harm that the teacher should reasonably have foreseen.

### Aims:

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

## 1. Implementation

- 1.1 The general duty is to take reasonable steps to protect students from reasonably foreseeable risks of harm. Requirements of the duty include providing adequate supervision in the school or on school activities, providing safe and suitable buildings, grounds and equipment; providing effective anti-bullying strategies; and ensuring appropriate and timely medical assistance is provided to injured or sick students.
- 1.2 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.
- 1.3 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 \ music has played
  - leaving students unattended in the classroom
  - 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
  - inadequate supervision on a school excursion
- 1.4 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.

## 2. Learning Space Supervision

- 2.1 It is **not** appropriate to leave students in the care of volunteers staff, parents or trainee teachers (At law, the Duty of care cannot be delegated)
- 2.2 It is **not** appropriate to leave students in the care of external education providers for example incursions (At law, the duty of care cannot be delegated)

- 2.3 In **an emergency situation** use the phone for the Principal and administration staff or contact the teacher in the next room. (if appropriate – send another student for assistance)
- 2.4 **No student** should be left unsupervised **outside the learning space** as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a colleague's learning space, contacting them first to alert them that the student is on their way (accompanied by 2 other students).

### **3. Movement of Students**

- 3.1 Students moving between specialist teaching areas must do so under classroom teacher or specialist teacher supervision.
- 3.2 Discretion is to be used when allowing students to visit the toilet during learning time.

### **4. Yard Supervision**

- 4.1 Yard supervision is an essential element in teachers' duty of care. In supervising students, teacher's duty of care is one of positive action.
- 4.2 Be alert and vigilant – intervene immediately if potentially dangerous behaviour is observed in the yard. – enforce behaviour expectations and logical consequences for breaches of school expectations.
- 4.3 Teachers should always be on the move focussed on the students at play and be wearing the high visibility vest.
- 4.4 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.
- 4.5 Teachers rostered for yard duty are to attend the designated area at the time indicated on the roster.
- 4.6 Teachers on yard duty are to remain in the designated area until the end of the break period or until replaced by relieving teacher.
- 4.7 The handing over of yard 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 yard duty, the teacher currently on duty should send a message to the staffroom, but not leave the area until replaced.
- 4.8 Teachers scheduled for First Aid duty must promptly attend to the student seeking first aid on arrival at the staffroom. The first aid procedures are as per the First Aid Policy.
- 4.9 No changes to yard duty roster are to be made without the approval of the Principal.

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

- 5.1 Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day. The approach is generally taken is that a teacher's 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 risk.*

### **6. Excursions, In-school visits and Camps**

- 6.1 An in-school visit with an external provider does not absolve supervision duties of a teacher, including first aid duties. A teacher must be present at all times and remain the person designated with duty of care responsibilities.
- 6.2 Camps and excursions outside the school require the teacher to fully comply with the DEECD guidelines, including staff: student ratio compliance 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.
- 6.3 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.
- 6.4 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.
- 6.5 The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. The important part of this is that the teacher, whilst outside the school with students has the required information to make contact as needed.
- 6.6 The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit and student specific medical requirements.

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

- 7.1 All staff will be informed of their legal requirement via:
  - A copy of this document will be provided to each staff member at the first staff meeting at the commencement of the school year, and will be placed on the website
  - 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 the section of Student Safety of the Victorian Government Schools Policy Advisory Guide.
- 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 wellbeing policy annually.

**Resources:**

- Duty of Care DEECD Policy  
<http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>
- Staffing and Supervision DEECD Policy  
<http://www.education.vic.gov.au/school/principals/spag/safety/pages/staffing.aspx>
- Planning and Approval DEECD Policy  
<http://www.education.vic.gov.au/school/principals/spag/safety/pages/planning.aspx>

**Ratified by School Council**

**Date: 14/11/2016**

**Principal: John Barkley**

**School Council President: Stuart Horsburgh**

**Review Date: 14/11/2017**