

Duty of Care

PHILOSOPHY:

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.

PURPOSE:

- To ensure that staff have an understanding of their duty of care to students.
- To ensure staff behave in a manner that does not compromise these legal obligations.
- To ensure processes are in place to meet school staff Duty of Care.

IMPLEMENTATION:

- Whenever a teacher-student relationship exists, teachers have a special duty of care.
- 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.
- 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, protecting children from harm and providing safe and suitable buildings, grounds and equipment.
- The nature and extent of the duty will vary according to the circumstances. For example, the standard of care required will be higher when taking a group of preps for swimming lessons than when teaching them in the classroom.
- 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-student relationship.
- 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 Training. Teachers should not give advice in areas outside those related to their role, where they may lack expertise.

Classroom Supervision

- Students are not to be left anywhere in the school unsupervised.
- Students are not to be left in the care of education support staff, parents or pre-service teachers. (At law, duty of care cannot be delegated.)
- Students are not to be left 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 contact the office, or contact a teacher within your Level.
- 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.

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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.
- 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 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 expected to follow school's Onsite Supervision Policy whilst on yard duty.
- Camp Australia provide an Out of School Hours Care program for students who need to be dropped off before 8.45am or picked up after 3.45pm. This program is advertised to parents.

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 DET 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.
- All procedural steps contained in the school's Camp and Excursions Policy and Procedures and External Providers Policy must be followed.

RELATED POLICIES

Onsite Supervision of Students Policy

Camps and Excursion Policy and Procedures

External Providers Policy

Anaphylaxis Policy

First Aid Policy

Medicines Policy

Student Engagement, Wellbeing and Inclusion Policy

Critical Incident Management and Recovery Policy

Mandatory Reporting Policy

Child Safety Policy

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