



DUTY OF CARE

POLICY

All government school staff will be made aware of their legal responsibilities. As part of the government school principal contract, government school principals are required to plan, implement and monitor arrangements to ensure 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 teachers 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.

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.

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 reasonable foreseeable risks of injury, specific (but not exhaustive) requirements of duty involve providing adequate supervision in the school or on school activities as well as providing safe and suitable buildings, grounds and equipment.

Whether the duty extends outside of school grounds, beyond school hours depends on all circumstances of each individual case, and the schools knowledge of any dangers.

Principals and teachers are held to a high standards of care in relation to students. The duty requires principals and teachers to take all reasonable steps to reduce risk including

- Provision of suitable & 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

The teachers' duty of care is greater than that of the ordinary citizen in that a teacher is obligated 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.

The following are examples where a teacher may be seen to have failed to meet their duty of care responsibilities to the 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
- Leaving students unattended in the classroom
- Ignoring dangerous play
- Leaving 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 teachers own professional competence and given in situations arising from a 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

- Students must be supervised at all times.
- 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)
- The classroom teacher has ultimate responsibility for the supervision of all students in their care. This duty cannot be delegated to external education providers, parents or trainee teachers.

Yard Supervision (This section to be read in conjunction with the Yard Supervision Policy)

- Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, teachers' duty of care is one of positive action.
- 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**.
- 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 and highly visible.

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 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 guideline and remain the person designated with duty of care.
- **All staff must follow DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School camping, excursions and incursion Policy and Procedure outlines must also be followed.**

Reference:

- This policy has been developed in conjunction with the DET's School Policy and Reference guide <http://www.education.vic.gov.au/school/principals/spag/Pages/spag.aspx>

Evaluation:

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

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| This policy was last ratified by School Council in.... | AUGUST 2016 |
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