

## **DUTY OF CARE POLICY**

**DUTY OF CARE: Instructions for the supervision of Students, Student Care and Supervision**

### **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. We have a zero tolerance of child abuse, and all allegations and safety concerns will be treated very seriously and consistently with our robust policies and procedures.

### **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.

### **Definition**

Whenever a student-teacher relationship exists, the teacher has a special duty of care. This is a legal obligation to protect students from injury.

"A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teachers charge from the risks of injury that the teacher could have reasonably foreseen."

(Richards v State of Victoria, 1969)

As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also from those that could arise (those that the teacher could have easily foreseen) and against which preventative measures could have been taken.

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.

*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.*

Quite apart from mandatory reporting requirements, a teacher has 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 individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher 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.

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:

- 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 play in the shade
- ignoring dangerous play
- leaving the 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 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.

- Teaching is a skilled profession and teachers must accept the legal consequences of such special knowledge and skills.
- Teachers in breach of duty of care may be liable for injuries inflicted by one student on another, as well as the injuries sustained by the student.
- For a teacher or a school to be held guilty of negligence, it must be proved that the injury was foreseeable result of the action or lack of action. In courts this test is **not a demanding one**.
- In situations where the teacher should reasonably have foreseen the possibility of injury, the teacher has a duty to take reasonable care.
- The teacher's duty of care will increase in accordance with the age of the child.
- Schools are bound by standards which are issued under legislative authority and non-compliance with these standards may amount to negligence.

The Principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in the school. Teachers are responsible for the carrying out of their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury.

(This background information is based upon the appropriate sections of the Schools Reference

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Guide, plus information from relevant court judgements and legal texts).

## 2. Implementation

In the context of duty of care owed to our students, and the responsibility of the Principal to administer the necessary arrangements for student supervision appropriate to this school, the following instructions and notices **apply to all teaching staff.**

### 2.1 Classroom Supervision

At **no** time are students to be left unsupervised in the classroom or specialist areas (This includes before and after school, lunchtimes and recess breaks)

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 (At law, the Duty of care cannot be delegated)

In **an emergency situation** use the phone for the Principal or Assistant Principal or contact the teacher in the next room

**No student** is to 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 an Executive Team member, or Principal. This should be accompanied by documentation. The teacher, Principal or Executive Team member **is to be contacted first** to alert them that the student is on their way.

### 2.2 Movement of Children

- Extreme care needs to be taken in allowing students to leave the room for any reason.
- Use of students as monitors outside the room during class time must only occur with the approval of the Principal or Executive Team.
- Utmost discretion is to be used when allowing students to visit the toilet during class time.
- Students are not to go to the toilet or to the office by themselves during class time.

### 2.3 Yard supervision

Playground 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.

Be aware that children 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 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 College policy whilst on yard duty.

Teachers rostered for duty are to attend the designated area at the time indicated on the roster and at the sounding of the appropriate bell.

Teachers on duty are to remain in the designated area until the bell signals 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**. The office staff will put out an announcement for the relieving teacher to attend. The Principal is then to be informed that a staff member failed to attend to yard duty on time.

No changes to the yard duty roster are to be made without the approval of the Daily organiser.

If a teacher rostered for duty will be absent due to an excursion, sport etc it is that teacher's responsibility to notify the Daily organiser of the situation to arrange a swap. Once a swap is arranged the details are to be in writing.

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

Always be moving and highly visible. Teachers on yard duty must wear their high visibility vest.

## **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 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. Consider for example, if a live power line came down outside the school, no emergency workers had arrived, and primary children are about to be dismissed to walk home. No school would allow the children to walk out to that danger unsupervised.

There will be a number of other 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. For example, a known bully on a school bus may require the school to refuse to transport the bully. In other instances, the school may not control the activity, and the reasonable measures available to it will be limited. For example, fights at a local train or bus stop between students from rival schools may involve informing the police, contacting the other school to implement preventative measures, and notices to parents.

## 2.4 Excursions, Incursions and Camps

Be aware that children 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 excursions outside the school require 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 remain the person designated with duty of care.

Be aware that camp activities require 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 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 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. 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 mobile contact know to the school 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 and a senior staff member will remain at school until they arrive.

If crossing roads students are to use designated crossing points. Staffs are to walk to middle of crossing to ensure visibility and orderly crossing. Other staffs 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 camping, excursions and incursions Policy and Procedure outlines must also be followed.**

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## References and Links

- *Refer to the River Gum Primary School's Mandatory Reporting Policy, 2016*
- *Refer to the River Gum Primary School's Child Safe Policy 2016*
- *Refer to the River Gum Primary School's Code of Conduct Policy 2016*

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