



Duty of Care Policy

(Ratified by School Council: February 2018)

PURPOSE:

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.

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.

To ensure that processes and procedures are in place to protect students from the risk of injury.

GUIDELINES:

Standard of care required by schools.

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

- provision of suitable and 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.
- managing employee recruitment, conduct and performance.

The duty is *non-delegable*, meaning that it cannot be assigned to another party.

IMPLEMENTATION:

Whenever a teacher-student relationship exists, teachers have a special duty of care. This has been expressed 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*).

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 a group of Year Six students in the classroom.

The important issue in all cases will be what precautions the school could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:

- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the burden of taking precautions to avoid the risk of harm

A number of cases have established that, in some circumstances, a school's duty (and therefore the Department's duty) will extend beyond school hours and outside of school grounds. The duty will be extended to outside school hours and premises when the relationship between the school and the student requires it *in the particular circumstances*.

It is important therefore that parents are aware that there is no playground supervision before 8:50am and after 3:45pm, other than that which is covered explicitly as part of designated recess yard duties. **No formal supervision of the playground occurs outside the hours of 8:50am to 3:45pm.**

Similarly, where students are taken outside the school grounds, a letter will be sent home informing parents of arrangements, and written permission will be sought from parents/ guardians.

Providing Advice.

Teachers are frequently called upon to advise students. When doing so teachers should:

- limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the principal.
- ensure that the advice they give is correct and in line with the most recent available statements from institutions or employers.
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

RELATED LEGISLATION:

- *Education and Training Reform Act 2006*
- *Victorian Institute of Teaching Act 2001*

RELATED POLICIES:

Mandatory Reporting Policy
Student Engagement and Wellbeing Policy

POLICY EVALUATION:

Evaluation will be conducted every two years by the Educational Policies Subcommittee.

DUE DATE FOR REVIEW:

Due for review in March 2020.

Principal signature:

School Council signature: