

Duty of Care Policy

(Ratified by School Council: September 2019)

PURPOSE:

To explain the nature of the legal duties owed by teachers and school staff towards students.

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:

- ensuring the school complies with the Seven Child Safe Standards.
- 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.
- reasonable precautions are taken to prevent child abuse
- 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. Generally, teachers are expected to take such measures as are responsible in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury.

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:

- identifying the risk of harm
- 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
- the social utility of the activity that creates 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*.

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

It is important therefore that parents are aware that there is no playground supervision before 8:45 am and after 3:45pm . **No formal supervision of the playground occurs outside the hours of 8:45 am to 3:45pm.**

Similarly, where students are taken outside the school grounds, a letter will be sent home informing parents of arrangements.

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*
- *Ministerial Order No.870 2016*

RELATED POLICIES:

Mandatory Reporting Policy

Student Engagement and Wellbeing Policy

Child Safe Standards

(<http://www.education.vic.gov.au/school/principals/spag/Pages/chilsafestandards.aspx>)

POLICY EVALUATION:

Evaluation will be conducted by the Education Committee.

DUE DATE FOR REVIEW:

Due for review in September 2021