



DUTY OF CARE POLICY

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.

All government school staff should be aware of their legal responsibilities. School authorities in breach of the duty of care may be liable for injuries inflicted by one student on another, as well as for injuries sustained by a student.

Schools normally satisfy the duty of care by allocating responsibilities to different staff.

PURPOSE

To ensure that that all staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.

GUIDELINES

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.

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 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.

Teachers should be fully aware of the following common examples of risks to duty of care. These may result in a teacher failing 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 student welfare coordinator, teacher or level coordinator) 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.

Risks to students outside the school environment

It is important that the school takes **reasonable steps** to protect students from risks.

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 may be a number of other situations where the school will be under a duty to take reasonable steps.

While students are moving around the buildings and working independently in break out spaces and designated study areas they must be under adult supervision at all times.

Staff are responsible for their students at all times.

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A Duty of Care Procedures document for all staff contains further details and **applies to all staff**.

Reference:

Links which are connected with this policy are:

[DET Student Supervision Policy](#)

[DET School Policy & Advisory Guide](#)

RATIFIED BY SCHOOL COUNCIL

DATE: October 2016

Date	Version Number:	Update information	Next Review:
25 March 2014	1.0	N/A	October 2016
October 2016	2.0	Changes in line with DET Guidelines including specific mention of classroom supervision, visitors to school and use of learning technology.	2018

DUTY OF CARE PROCEDURES

Classroom Supervision

Staff must **not** leave the classroom unattended at any time during a lesson.

It is **not** appropriate to leave students in the care of Education Support staff, 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, Business Manager or contact the teacher in the next room. (If appropriate – send another student for assistance)

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 on their way.

Movement of Students

Care needs to be taken in allowing students to leave the room to work in other areas of the school.

Use of students as monitors outside the room during class time must only occur with the approval of the Principal

Discretion is to be used when allowing students to visit the toilet or the Resource Centre during class time.

Yard supervision

Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, teacher's duty of care is one of positive action.

Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.

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.

Be aware that 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 also expected to follow school policy whilst on yard duty.

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.

If the supervising teacher needs to leave yard duty during the allocated time, he or she should contact the Principal or nominee, but should not leave the designated area until the relieving teacher has arrived in the designated area.

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**.

If the supervising teacher is unable to conduct yard duty at the designated time, he or she should contact the Principal or nominee to ensure that alternative arrangements are made.

On days of extreme weather, students will be supervised in classrooms, using a modified duty roster.

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

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 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 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 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 DET 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. A 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 a mobile phone 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. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.

All staff must follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the school camps, excursions and incursions Policy and Procedure outlines must also be followed.

Informing staff of the legislative liability of Duty of Care

All staff will be informed of their legal requirement via:-

- A copy of this document will be provided to each member of staff at the first staff meeting at the commencement of the school year, and will be placed on the intranet.

- New staff will be informed of their Duty of Care as part of the school's Induction Program
- Duty of Care will be an agenda item at staff meetings and staff will be directed to familiarise themselves with section Student Safety of the Victorian Government Schools Policy Advisory Guide.
- Staff will undertake a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to the student wellbeing policy annually.