

Laurimar Primary School



DUTY OF CARE POLICY

Rationale:

All teachers have a duty of care responsibility to ensure that the supervision, safety and well-being of the students are maintained at all times.

Aim:

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

Implementation:

All staff are provided with professional learning annually about their mandatory reporting responsibilities.

Although the general duty is to take reasonable steps to protect students from 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.

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 should not give advice in areas outside those related to their role where they may lack expertise.

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 have 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.

Staff are responsible for their students at all times.

The following instructions and notices **apply to all staff.**

Classroom Supervision

- Staff **must not** leave the classroom unattended at any time during instructional time.
- It is **not** appropriate to leave students in the care of ancillary staff (Education Support 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 during incursions (At law, the duty of care cannot be delegated)
- In **an emergency situation** staff members must use the phone for the Principal or an Assistant Principal or contact the teacher in the next room (if appropriate – send two students for assistance)
- **No student** should be left unsupervised **outside the classroom** as a withdrawal consequence for misbehaviour. Withdrawal may only be conducted by sending a student to a colleague's classroom, or to the Assistant Principal or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Assistant 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.
- Discretion is to be used when allowing students to visit the toilet 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.
- Students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Yard duty supervision within the school requires the teacher to fully comply with Department of Education 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.
- The handing over of duty from one teacher to another must be 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**.
- No changes to the yard duty roster are to be made without the approval of the Daily Organiser, or the relevant Assistant Principal.

- Teachers must be alert and vigilant –they are required to intervene **immediately** if potentially dangerous behaviour is observed in the yard - behaviour standards and logical consequences for breaches of safety rules must be enforced at all times.
- **Teachers on yard duty should always be on the move and highly visible.**

Excursions, Incursions and Camps

- Students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- 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.
- 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.
- Excursion and camp activities require the teacher to ensure that the venue and transport adhere to DET guidelines.
- 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 camping, 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 available electronically.
- 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 Student Safety of the Victorian Government Schools Policy Advisory Guide.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to relevant policies annually

References: <http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>

EVALUATION:

This policy will be reviewed annually.

This policy was last ratified by School Council in November 2016
