

# Duty of Care Policy



## Help for non-English speakers

If you need help to understand the information in this policy, please contact the school on 9802 0663 for support.

## Rationale

In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect students and members of the community who visit and use the school premises in their charge from risks of injury that are reasonably foreseeable.

The Duty of Care policy will:

- Identify that the school will take reasonable steps to reduce the risk of any foreseeable harm
- Ensure that staff understand their duty of care to students and behave in a manner that does not compromise these legal obligations
- Ensure that processes and procedures are in place to protect students from the risk of injury.

## Policy

'Duty of Care' is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. The reasonable steps that Weeden Heights Primary School may decide to take in response to a potential risk or hazard will depend on the circumstances.

## 1. Guidelines

- 1.1 Whenever a student-teacher relationship exists, the teacher has a special duty of care. This is defined 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"
- 1.2 As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also protection from those that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventative measures could be taken
- 1.3 A teacher's duty of care includes the geographic area of the school, school activities, activities occurring outside the school where the student is acting on a teacher's instructions as well as to situations both before and after school where a teacher can be deemed to have 'assumed' the teacher-pupil relationship
- 1.4 A teacher's duty of care does not start nor end at precise times during the day. A teacher's duty applies irrespective whether the risk occurs in or outside the school environment. In all cases the teacher and the school must take **reasonable steps** to protect the student from the risk

- 1.5 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 much older group of students in a classroom situation.

## 2. Implementation

- 2.1 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, grounds and equipment
- 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
- The upholding of Mandatory Reporting requirements (See Child Safety, responding and Reporting Obligations Policy and Procedures incl Mandatory Reporting).

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

- The Principal is responsible for making and administering arrangements for supervision as necessary and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury
- The school will clearly inform parents when playground supervision will be provided and that no formal supervision of the playground occurs outside of those hours
- The school will also from time to time, when appropriate, inform parents of potential risks outside of the school, of which the school has become aware.

### 2.2 Classroom supervision

- 2.2.1 Teachers are responsible for their students at all times. At law, the duty of care cannot be delegated.

- 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 during incursions without adequate supervision arrangements (At Law the duty of care cannot be delegated) - See Incursion and Excursion – when learning with an external provider Policy)
- In an **emergency situation** the teacher should phone for the Principal or contact the teacher in the next room (if appropriate send two students for assistance).

- 2.2.2 No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by:

- First alerting the teacher or Principal that the student will be sent to them
- Sending the student to a colleague's classroom or to the Principal
- Sending accompanied documentation and arranging appropriate follow-up

- 2.2.3 All teachers must:

- Arrive on time to supervise the line-up of students before the bell has sounded
- Request the Principal's permission to leave the school during time release
- Limit advice given to that which is within a teacher's own professional competence and give such advice through the role specified for them by the Principal (e.g. Year Level Coordinator)

- Ensure that the advice they give is correct and, where appropriate, 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.

### 2.3 Movement of Students

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

- Monitors must travel in pairs and only with the permission of a teacher, Assistant Principal or Principal
- Students must travel to visit the toilet in pairs and only with the permission of a teacher or Principal

### 2.4 Yard Supervision

2.4.1 Yard supervision is an essential element of teachers' duty of care. Teachers must:

- Arrive on time to scheduled timetabled yard supervision responsibilities
- Remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable
- Hand over the duty from one teacher to another in an area of designated duty. Where a relieving teacher does not arrive for duty, the teacher should send a message to the office but not leave the area until replaced
- Use positive action to ensure the safety of students
- Instruct a student not wearing a hat to play in the shade
- 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, intervening immediately if potentially dangerous behaviour is observed in the yard
- Enforce behaviour standards and logical consequences for breaches of safety rules
- Fully comply with Department of Education (DE) guidelines and the school's **On-Site Supervision of Students Policy**.

2.4.2 Risks to students outside the school environment. The school may on occasion need to implement positive steps to protect the safety of students outside the school environment including:

- Keeping students at school beyond the dismissal time because there is an external threat of danger to students until such point as the danger is over or they can be safely supervised to return home. (e.g. power line down outside the school)
- Taking more active measures to ensure that other students do not negatively affect the safety and wellbeing of students. (e.g. a known bully on a school bus may require the school to suspend or refuse transport to the bully)
- Informing other agencies such as the police or other schools of potential intervention required where the school is not in control of the activity (e.g. fights at a local bus stop between students from other schools).

### 2.5 Excursions, Incursions and Camps

2.5.1 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

2.5.2 The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit including any asthma medication, Epipens or

Anapens and other medication and relevant medical plans, if there are students in the group who may need them

- 2.5.3 If the return home from a camp or excursion 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 if necessary and a senior staff member will remain at school until they arrive
- 2.5.4 If crossing roads students are to use designated crossing points. Staff should walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff should control the flow of students across the road
- 2.5.5 All staff need to be aware that:
  - Students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom
  - 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 DE guidelines and bring with it an increased duty of care. It is the teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care
  - 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
  - All staff must follow DE guidelines when organising an excursion, incursion or camp
  - All procedural steps for camping, excursions and incursions - with an external provider of learning, must also be followed.

## **2.6 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
- Regular reminders and updates at staff meetings
- New staff will be informed of their duty of care as part of the school's Induction Program
- Staff will be directed to the school's other related policies.

## **3. Communication**

The policy will be communicated to our school community in the following ways:

- Provided to staff at induction
- Discussed at staff meetings
- Made available publicly on our school website
- Made available in hard copy from school administration on request.

## **4. Resources**

4.1 Other policies which underpin this policy:

- Bullying Prevention
- Behaviour Management Policy
- Camps and Excursions Policy
- Health Care Needs Policy
- Incursion and Excursion Policy – when learning with an external provider
- Child Safety Responding and Reporting Obligations Policy and Procedure (Inc. Mandatory Reporting)
- Child Safety Policy
- On-Site Supervision of Students Policy
- Student Engagement and Wellbeing Policy
- Student Welfare Policy

## Relevant Documents / Links

<https://www.education.vic.gov.au/school/teachers/support/diversity/eal/Pages/default.aspx>

## 5. Evaluation

- 5.1 The Education Sub Committee and Weeden Heights staff will review the effectiveness of the school's Duty of Care Policy on a cyclical basis in accordance with Department of Education guidelines and priorities.

### Policy Review and Approval

Policy last reviewed	2023
Consultation	Principal Staff Education Sub Committee and School Council Newsletter item to the school community
Approved by	School Council
Next scheduled review date	2027 <i>Mandatory review cycle for this policy is 3 - 4 years.</i>