



Duty of care

Policy statement

All government school staff will be made aware of their legal responsibilities. As part of the government school principal contract, government school principals are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students. Creating safe places for children to fully and actively participate in the life of the community benefits everyone. Newbury Primary School has a responsibility to any student or person in relation to an injury or damage whilst on the school premises to ensure that the children in its care are protected to the best of its ability and in line with their duty of care and the compulsory Child Safe Standards.

Adequate supervision of students at all times is a requirement of the school's duty of care. The school will normally satisfy the duty of care for the on-site management of students outside normal timetabled class time by allocating responsibilities for supervision to different staff. The Principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in the school 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. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

Further to this teachers are reminded that it is their responsibility (duty of care) to supervise students during school hours whether in or out of class.

Guidelines

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.” (*Richards v State of Victoria* (1969) VR 136 at p. 141) 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 preventive measures could be taken. Greater measures may need to be taken for younger students or students with a disability.

It is essential parents/carers are kept informed as to when supervision of students is available before and after school, and that outside these times supervision and/or the collection of students is the responsibility of parents/carers. This information should be clearly provided to parents/carers on a regular basis. Parents/carers may require their child to be dismissed early and leave the school grounds to attend an appointment. The school has a process to authorise these requests and maintain accurate student records.

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. For example, the principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in each school, 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.

As part of its duty of care the school is required to adequately supervise students for a defined period before school; at recess time and lunch time; and after school. This on-site supervision requires not only protection from known hazards, but also protection from those that could arise (that is, those the teacher should reasonably have foreseen) and against which preventive measures could be taken.

Implementation

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.

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.

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 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 non-face to face teaching time 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 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.

Non-teaching staff have a duty of care which includes anyone employed under contract by the School Council as well as a volunteer or a contracted service provider. If working within the vicinity of children, then a person is deemed to be 'staff.' Non-teaching staff also need to understand that they have a duty of care and need to intervene if required Eg. call for teacher help; suggest to a student to stop what they are doing if deemed dangerous.

Program

A roster system will be used to timetable staff members for yard supervision. Yard supervision will include before school, recess and lunch breaks and after school. In determining whether supervision of students entering or exiting the school is adequate, the Principal or their nominee will consider a number of factors including:

- Which entry/exit points should be or are used by students.
- Whether any entry or exit points should be locked, designated as out of bounds, or supervised.
- Road traffic conditions.
- Designated pick up and drop off areas.

The supervision of the arrival and departure of any school contract buses is a matter for the discretion of the principal who will consider the following:

- the number of students alighting from and boarding the bus at the school
- the age of students alighting from or boarding the bus
- the times of the arrival and departure of the bus(es)
- the location of the pick-up and drop-off points in relation to the other areas of the school
- whether supervision is required to protect students on the bus, or from unruly student behaviour when boarding or alighting from the bus

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.

There will be a number of other situations where the school will be under a duty to take reasonable steps. In some instances, the school's control over the activity may require it to take more active measures to satisfy the requirement that it take reasonable steps. For example, a known bully on a school bus may require the school to suspend or refuse to transport the bully. In other instances, the school may not control the activity, and the reasonable measures available to it will be limited. For example, fights at a local train or bus stop between students from rival schools may involve informing the police, contacting the other school to implement preventative measures, and notices to parents and students.

Staff are responsible for their students at all times.

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

Classroom Supervision

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

It is **not** appropriate to leave students in the care of ancillary staff, voluntary 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 or Assistant Principal 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 Assistant Principal or Principal or by following the school's Student Behaviour Management Plan. Any action taken should be accompanied by

documentation and appropriate follow up.

Movement of Students

Care needs to be taken in allowing students to leave the room for any reason.

Use of students as monitors outside the room during class time must be limited.

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.

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 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.

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**.

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

If a teacher rostered for duty will be absent due to an excursion, sport etc it is that teachers responsibility to notify the Assistant Principal and or daily organiser of the situation to arrange a swap. Once a swap is arranged the details are to be in writing.

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.

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 Department of Education and Training (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 Administration Staff and/or 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.
- New staff will be informed of their Duty of Care as part of the school's Induction Program.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.

Links & Appendices (including processes related to this policy)

Links which are connected with this policy are:

[DET Student Supervision Policy](#)

Appendices which are connected with this policy are: Appendix A: On-Site Supervision of Students procedures

APPENDIX A

On-Site Supervision of Students Procedures

The processes outlined below provide adequate and appropriate supervision of students in the school yard so the school fulfils its duty care to its students in terms of on-site supervision.

Supervision before and after school

The school will provide staff supervision for students arriving before school between 8.45am and 9.00am.

The school will provide staff supervision for students after school between 3.10pm and 3.25pm.

This information is provided to parents/carers on a regular basis via the school newsletter. Outside of these times the supervision and/or the collection of students is the responsibility of parents/carers. Sufficient teachers will be allocated by the school principal or their nominee to supervise students during these periods. Should a teacher be called away to other duties alternate supervision arrangements will be put in place in consultation with the Principal or their nominee.

Supervision at recesses and lunch time

Students are required to be adequately supervised during recesses and lunch times. In order to ensure that students are adequately supervised, a 'Yard Support Roster' will be created allocating teachers to supervise students in defined areas of the school grounds during these times. Details of the roster are communicated to teachers by the Daily Organiser.

Unauthorised student departure from school

When a student departs from the school (following initial attendance) without authorisation, the parent/carer will be informed immediately. Where there is reasonable concern for the student's safety or the safety of others, immediate contact will also be made by the principal or their delegate with the police and the Department's Emergency and Security Management Branch, telephone **9589 6266** (24 hour service).

Early departure of students prior to dismissal time

Students must be signed out of the school if departing prior to dismissal time.

A record of early departures is to be kept in the Administration Office and completed for all students departing the school early. Details will include the student's name, grade, the time of departure and the name of the person collecting the student.

- No parents/carers are permitted to take students directly from the classroom without completing the sign out procedures.
- Students can only be collected by a responsible person 16 years and over with written permission of the parent/carer.
- No students will be sent home on their own outside of normal dismissal time.

Arrangements for students not collected after school

Parents/carers will be informed when supervision of students is available before and after school hours and that supervision outside of these times and/or the collection of students is the responsibility of parents/carers. Students remaining in the school yard awaiting collection after 3.25pm will be directed to the office waiting area.

If it becomes known that a student who is normally collected from the school, remains at the school well beyond the normal time of collection, attempts will be made to contact the parents/carers, or the emergency contact person identified by the parent/carer in the school records. Where all reasonable attempts have been made

to locate the parents/carer and the emergency contact persons and the time is well beyond a reasonable time for collection, consideration will be given to contacting the police or the Department of Health and Human Services and for them to arrange for the care and protection of the student. Information about the whereabouts of the student will be left with appropriate friends of the student, or next-door neighbours, if known, and at the school.

Arrangements for student supervision on school camps and excursions

The school will provide supervision ratios in line with the Department's policy as outlined in the School Policy & Advisory Guide, depending on the nature and location of the school activity.