

DUTY OF CARE POLICY

Rationale

Whenever a student/teacher relationship exists, the teacher has a special duty of care. This is a legal obligation to protect students from injury.

“A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teachers charge from the risks of injury that the teacher could have reasonably foreseen.”

(Richards v State of Victoria, 1969)

Aims

- to provide a documented outline of how the school ensures that staff are made aware of their legal responsibilities for the care, safety and welfare of students.

Implementation

Background

As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also from those that could arise (those that the teacher could have reasonably foreseen) and against which preventative measures could have been taken.

- Teaching is a skilled profession and teachers must accept the legal consequences of such special knowledge and skills.
- Teachers in breach of duty of care may be liable for injuries inflicted by one student on another, as well as the injuries sustained by the student.
- For a teacher or a school to be held guilty of negligence, it must be proved that the injury was a foreseeable result of the action or lack of action. In courts, this test is not a demanding one.
- In situations where the teacher should reasonably have foreseen the possibility of injury, the teacher has a duty to take reasonable care.
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- The teacher’s duty of care will increase as the child’s age is lower.
- Schools are bound by standards which are issued under legislative authority, noncompliance with these standards may account to negligence.

The Principal is responsible for making and administrating such arrangements for supervision as are necessary according to the circumstances in the school. Teachers are responsible for the carrying out of their assigned supervisory duties in such a way, that students are, as far as can be reasonably expected, protected from injury.

- (This background information is based upon the appropriate sections of the [DET School Policy and Advisory Guide](#) plus information from relevant court judgements and legal texts.)

Principal’s Statement

In the context of duty of care owed to our students and my responsibility as Principal to administer the necessary arrangements for student supervision appropriate to this school, the following instructions and notices apply to all teaching staff.

Child Safety

- As a result of the Royal Commission into Institutional Responses to Child Sexual Abuse, the Victorian Government introduced a range of measures to better protect children. These measures include:
 - The Child Safe Standards

- Reportable Conduct Scheme
- Organisational Duty of Care
- Whittlesea Secondary College (WSC) uphold our Statement of Commitment to Child Safety (refer to the WSC Child Safe Environment Policy, Appendix A).
- All staff, volunteers, contractors, and any other member of the school community involved in child-related work will be informed about, and expected to adhere to, the Whittlesea Secondary College Child Safety Code of Conduct (refer to the WSC Child Safe Environment Policy, Appendix B).
- The Child Safety Code of Conduct applies in all school situations, including school camps and in the use of digital technology and social media.

Classroom Supervision

- Students are not to be left unsupervised in the classroom or specialist areas (this includes before and after school, lunchtimes and recess breaks).
- 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 incursions (At law, the Duty of Care cannot be delegated).
- In an emergency situation, contact the Principal or Assistant Principal or contact the teacher in the next room or request the office to get teacher assistance.
- Students are not to 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 Student Manager, School Manager, Assistant Principal or Principal. This could be accompanied by documentation or prior arrangement. The teacher, Student Manager, School Manager, Principal or Assistant Principal is to be contacted first to alert them that the student is on their way.

Movement of Children

- Extreme 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 only occur with the approval of the Principal or Assistant Principal.

Yard Supervision

- Playground supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising pupils, teacher's duty of care is one of positive action.
- Be aware that children 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 DET School Policy and Advisory Guide 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 College policy whilst on yard duty.
- Teachers rostered for duty are to attend at the time indicated on the roster and at the sounding of the appropriate bell.
- Teachers on duty are to remain on duty until the bell signals the end of the break period or until replaced by the relieving teacher, whichever is applicable.
- Teachers on duty must always be moving.
- Changes to the yard duty roster are to be notified to the Daily Organiser/Assistant Principal.
- If a teacher rostered for duty will be absent due to an excursion, sport etc it is that teacher's responsibility to notify the Assistant Principal and Daily Organiser of the situation to arrange a swap or have the yard duty covered.
- Be alert and vigilant – intervene immediately if potentially dangerous behaviour is observed in the playground – enforce school behaviour standards and logical consequences of playground safety rules.
- Refer to the Yard Duty Guidelines: Whittlesea Secondary College (WSC) – Yard Duty

Excursions, Incursions and Camps

- Be aware that children 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 excursions outside the school require the teacher to fully comply with the DET guidelines and brings 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 camp activities require the teacher to fully comply with DET guidelines and brings with it 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 mobile contact known to the school 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 are to 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 Procedures outlines must also be followed.

Advising Students

- 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 advisor, 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 well documented and, where appropriate, in line with the most recent available statements from institutions or employers.
- Teachers should not give advice in areas where they may lack expertise.

Related Legislation and Policies

- [Ministerial Order No. 870](#)
- [DET Child Safety Policy](#)
- [DET School Policy and Advisory Guide](#)
- WSC Child Safe Environment Policy
- WSC All Policies

Appendices

Evaluation

This policy will be reviewed as part of the school's three-year review cycle.

This Policy was last ratified by School Council in: 2017