



Duty of Care Policy

Purpose

To successfully bring a compensation claim in negligence, a person must establish on the balance of probabilities, that:

- a duty of care was owed to them at the time of the injury
- the risk of injury was reasonably foreseeable
- the likelihood of the injury occurring was more than insignificant
- there was a breach of the duty of care or a failure to observe a reasonable standard of care; and
- this breach or failure caused or contributed to the injury, loss or damage suffered

The fact that a duty of care exists does not mean that a school staff member will be liable for every injury

sustained by a student. In order for the student to succeed in a negligence claim, all of the above elements

must be established.

In Victoria since 1 July 2017, and only specifically in relation to child abuse claims, there is a 'presumption of

liability' for any organization that exercises care, supervision or authority over children, including schools.

This means that school staff need to prove that they took 'reasonable precautions' to prevent child abuse by

an individual associated with the school, if the Department is to successfully defend a legal claim. This does

not change existing duties that school staff already have, but instead reinforces the importance of ensuring

that schools take reasonable precautions to minimize the risk of child abuse.

Related Legislation, Regulations, Policies, & Procedures

All Department policies relating to the care, health, safety and wellbeing of students including:

- Bullying Prevention and Response

- Child Safe Standards
- Child Protection and Child Safe Standards (PROTECT)
- Excursions
- International Student Program (ISP)
- Legal Claims, Subpoenas, Summonses and Other Legal Documents
- Risk Management — Schools
- Supervision of Students
- Volunteers in Schools

Other policies relevant to duty of care include:

- Insurance for Schools
- Personal Liability of School Employees
- School Council — Liability and Legal Proceedings

Related legislation

- Wrongs Act 1958 (Vic)

POLICY REVIEW AND APPROVAL

Policy last reviewed	August 2024
Consultation	School Council
Approved by	Principal
Next scheduled review date	August 2027