

Duty of Care Policy

Background

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). The nature and extent of the duty will vary according to the circumstances. 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. 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.

Schools 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. In order to successfully bring a claim in negligence for compensation for an injury, a person must establish, on the balance of probabilities, that:

- A duty of care was owed to the person harmed at the time of the injury
- The risk of injury was 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
- This breach or failure was a cause of the injury.

The fact that a duty of care exists does not of itself mean that a school will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.

At Huntingdale Primary School we understand our duty of care and that teachers are required to supervise all learning environments that students are working in- the school grounds, classroom and online spaces as well as excursions and camps. This duty also requires protection from risks that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken.

As part of the Victorian Government state school system we are committed to the safety and wellbeing of all children and young people, regardless of their age, culture, beliefs, socio-economic circumstances, disability, family living situation, child rearing practices or educational level. There is a culture of ‘no tolerance’ for child abuse. The school is aware of and compliant with the Child Safe Standards.



Purpose

To ensure:

- Staff understand their legal duties towards students.
- That staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.
- Huntingdale Primary School is compliant with Department of Education and Training's (DET) policies and procedures and the Child Safe Standards.

Implementation

- The Principal has the overall responsibility of implementing this policy, but may delegate certain roles to suitably qualified staff.
- The following policies work in conjunction with this policy:
 - Camp Policy
 - Child Safe Standards Policy
 - Custody Restrictions Policy
 - Excursion Policy
 - External Providers Policy
 - In School Visits Policy
 - Student Engagement Policy
 - User Agreement Policy
- The school will manage Duty of Care in the following ways:

Informing Staff of Duty of Care

All staff will be informed of their legal requirement in the following ways:

- A copy of this policy will be provided to each member of staff at the first staff meeting at the commencement of the school year, and will be placed on the server.
- New staff will be informed of their Duty of Care as part of the school's Induction Program.
- Duty of Care will be discussed from time to time in staff meetings.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to other policies which support Duty of Care obligations.

Child Safe Standards

- Ensure that we have a Child Safe Standard Policy and meet all of the standards outline.

School Facilities

The school will ensure it provides safe and suitable buildings, grounds and equipment by:

- Assigning Occupational Health and Safety as a role of a staff member of the school.
- Completing regular workplace inspections of school premises.
- Ensuring all regular maintenance works on SAMS is completed e.g. electrical tagging, air conditioner maintenance.



Teaching and Learning Programs

Our teaching and learning programs clearly establish:

- The educational purpose for the activity, the appropriate tools and online spaces which support the activity's educational purpose and additional support that is available for students who may need assistance.
- Whole-school programs that support quality relationships between students e.g. Play is the Way, Creating Our Learning Community (COLC).
- Professional Development for teachers to develop and refresh skills to collaboratively create and maintain a safe and respectful learning environment e.g. Mandatory Reporting, Occupational Health and Safety Modules.

Advice

- Staff members are cautioned against giving advice to parents or students on matters that they are not professionally competent to give.
- Advice is to be limited to areas within a teacher's own professional competence and given in situations related to education.
- Staff should not give advice in areas outside those related to their role where they may lack expertise. e.g. medical advice or diagnosis of a learning disability.

ICT and Online Environments

The school will ensure:

- All students have signed a User Agreement
- Teach students safe online behavior through COLC and e-Learning sessions
- That students are supervised at all times when using ICT devices
- That only suitable online programs are used with students
- Follow up any breaches of online behavior, record it on Grade Xpert and follow up with parents

Classroom Supervision

- Students should be supervised at all times by teachers.
- It is not appropriate to leave students in the care of ancillary staff, parents or trainee teachers.
- It is not appropriate to leave students in the care of external education providers for example incursions.
- In an emergency situation use the telephone to call for assistance of another teacher.
- No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending the student with another student (with a note) to a colleague's classroom, or to the Assistant Principal or Principal. This should be followed up by the teacher and documented on GradeXpert.
- Teachers should also consider their duty of care when seating students in the class. For example, not sitting particular students together if there has been a case of bullying or misbehaviour.

Movement of Students

- Students must be supervised by teachers when moving from room to room. e.g. Classroom to art room.
- Students must go in pairs to go to the toilet, taking messages to the office or completing other monitor roles.



Yard Supervision

- The school will ensure there are adequate yard duty teachers on before and after school and also recess and lunchtimes.
- There will be a yard duty timetable completed each term by the Assistant Principal.
- There will be an indoor yard duty timetable for wet/hot/windy day timetables.
- The Office Manager will alert Casual Replacement Teachers (CRT's) to their yard duty requirements.
- Teachers, including CRTs, should check the Daily Bulletin to confirm yard duty for the day and any swaps that have occurred.
- Teachers will ensure they move around their designated area to supervise students.
- Teachers will ensure that they are on yard duty at the correct times and are on time for swap over. If a teacher does not come out for duty, the teacher should send a child to the office to alert them of this.
- Yard duty teachers will have a yard duty bag which contains cards to alert the office of any emergency situation. e.g. anaphylaxis.
- Any incidences that occur on yard duty should be followed up by the yard duty teacher on at that time. For more serious incidences it may require follow up by the classroom teacher, Assistant Principal or Principal. All incidences should be recorded on GradeXpert.
- The school will inform parents in the newsletter each term of their duty of care to look after students in the school yard before 8.45am and after 3.45pm. The school will make an announcement each day for any student who has not been collected from school to come to the office so that suitable arrangements can be made to ensure the child gets home safely e.g. phone parents, send to after school care. The school will also emphasise to parents the need to supervise their children carefully in the car park and crossing roads.

Alerts

- The school will ensure that it follows any alerts sent by the Emergency and Security Management Branch e.g. Weather alert, security alert.
- The school will ensure that all students are kept safe and supervised in such instances.

Student Support and Bullying

The school will ensure it has:

- Support Programs in place for students on the Program for Students with a Disability (PSD) and also other students with learning needs that may not necessarily be funded through this program, including adequate supervision, an Individual Education Plan (IEP) and educational support.
- A Student Engagement and Anti-Bullying Policy to support student needs.
- Instances of bullying or other misbehaviour is recorded on GradeXpert.
- Programs in place to prevent bullying e.g. Play is the Way, COLC

Medical Incidences and Emergency

The school will ensure that:

- It has up to date First Aid, Anaphylaxis and Asthma Policies.
- That all students in a medical emergency are adequately supervised.



Excursions, In School Visits and Camps

The school will ensure:

- That it follows DET guidelines for teacher/student ratios for camps and excursions.
- That it ensures that all excursions, in school visits and camp providers are aware of and follow the Child Safe Standards, understand duty of care obligations and have adequate first aid facilities.
- That risk assessments are undertaken for all camps and excursions.
- Check that camp and excursion providers have allowed for enough staff in the supervision of activities.
- That the Office Manager completes the DET online excursion form.
- That teachers supervise students as they leave/return to the school and at the camp/excursion facility and regularly count student numbers.
- 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.
- Teachers will take copies of all confidential medical forms and permission notes with contact details in case of emergency.
- That teachers attending the excursion or camp will carry a mobile phone and a first aid kit.
- Arrangements will be made for students not attending camps or excursions and be supervised by another teacher at school.
- 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.
- All In School Visits must be supervised by teachers.

Staff Recruitment, conduct and performance

- The Principal will ensure that they follow DET policies in regards to staff recruitment, conduct and performance management and that staff comply with duty of care obligations.

References:

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

<http://www.education.vic.gov.au/about/programs/bullystoppers/Pages/prindutycare.aspx>

Evaluation

This policy will be reviewed as part of the school's 3 year cycle or as needed to comply with DET policy changes.

Certification

This policy was endorsed by School Council at the meeting held on 15 November 2016.

Signed.....

Principal

Signed.....

School Council President