



Duty of Care Policy

Rationale:

We believe that for our students to flourish as learners, as creative human beings, and as citizens, they need a platform of physical and emotional safety. We accept our duty, so far as is reasonably possible, to provide that platform.

Aims:

To outline the duties and the limits of the Duty of Care owed by teachers and School staff towards our students.

Definitions:

“Duty of Care” is an obligation, recognised by law, to avoid conduct fraught with unreasonable risk or danger. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage arising from the negligent act or omission. A Duty of Care is not a duty of insurance against harm but a duty to take reasonable care to avoid harm being suffered.

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.

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

The fact that a Duty of Care exists does not of itself mean that the School will be liable for any injury sustained by a student.

Implementation:

The School subscribes to the Duty of Care guidelines set out by the Victorian Education Department.

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.

The Principal and teachers will take all reasonable steps to reduce risk, including:

- providing suitable and safe premises
- offering an adequate system of supervision
- implementing strategies to prevent bullying

- ensuring that medical assistance is provided to a sick or injured student.

The nature and extent of the duty will vary according to the circumstances. The School will consider the following factors in determining the level of care required:

- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the burden of taking precautions to avoid the risk of harm
- the social, artistic, athletic or pedagogical utility of the activity that creates the risk of harm.

Duty of Care outside the school or outside of school hours

The School will clearly inform parents/guardians when playground supervision will be provided and that no formal supervision of the playground occurs outside those hours.

Parents and carers are expected to make appropriate arrangements for transporting children to and from school.

Where a danger to students is beyond the control of the School, reasonable steps may involve contacting police, cooperating with Emergency Services, issuing warnings to parents, or holding students back from leaving school premises.

Duty of Care and Advice

Teachers are frequently called upon to advise students. When doing so they will limit their advice to areas within their own professional competence and given in situations arising from a role specified for them by the Principal.

Duty of Care and Supervision

The Principal will plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students.

Our teachers will be made aware of their Duty of Care responsibilities and other school-based policies that work to support it, such as our Student Engagement Policy and Acceptable Use agreements. They are required to supervise all learning environments: the school grounds, the classroom and excursions. This duty requires protection from risks that could arise (ie, those that the teacher should reasonably foresee) and against which preventive measures could be taken. This duty extends to intervention in single-sex areas, if need be, by a teacher of the other gender.

Evaluation:

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

This policy was ratified by School Council - August 2017