

1. 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 or harm. *"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).

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 easily foreseen) and against which preventative measures could have been taken.

Legal Background

"Duty of care" is an element of the tort of negligence. 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 which arises from the negligent act or omission.

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.

2. Broad Guidelines:

2.1 Teaching is a skilled profession and teachers must accept the legal consequences of such special knowledge and skills.

2.2 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.

2.3 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.

2.4 In situations where the teacher should reasonably have foreseen the possibility of injury, the teacher has a duty to take reasonable care.

2.5 The teacher's duty of care will have a higher expectation as the child's age is lower.

2.6 Schools are bound by standards which are issued under legislative authority; non compliance with these standards may amount to negligence.

2.7 The Principal is responsible for making and administering 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.

(These Broad guidelines are based upon the appropriate sections of the Schools Policy and Advisory Guide, plus information from relevant court judgements and legal texts).

3. Implementation:

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

3.1 Classroom Supervision

At no time are students to be left unsupervised in the classroom, community spaces or specialist areas (This includes before and after school, lunchtimes and recess breaks). Teachers should be moving between areas to supervise student's utilising the different learning spaces. 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, staff performing an incursion. (At law, the Duty of care cannot be delegated). In an emergency situation, send a student with a message for the Principal or Assistant Principal, or contact the teacher in the next learning space.

No student is 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 Assistant Principal or Principal. The teacher, Principal or Assistant Principal is to be given a note to alert them of the reason for the student's withdrawal from class.

3.2 Movement of Children

When moving through or around the buildings as a class, students should walk in two lines and keep noise to a minimum so as not to disturb the learning of others. Teachers should lead the class, supervising how the students are moving and regularly stopping to ensure the group remains together.

Extreme care needs to be taken in allowing students to leave the supervised learning space for any reason. All students who leave the classroom space for any reason must travel through the school with a partner. Use of students as monitors outside the room during class time must only occur with explicit instructions. Utmost discretion is to be used when allowing students to visit the toilet during class time.

3.3 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 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 the school's policy whilst on yard duty. (See Yard Duty Policy) 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 bell signals 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 or call the office on the yard duty phone, but not leave the area until replaced.

No changes to the yard duty roster are to be made without the approval of the person responsible for rosters. If a teacher rostered for duty will be absent due to an excursion, sport, etc it is that teacher's responsibility to arrange a swap and then notify the person responsible for rosters of the situation. Once a swap is arranged the teacher needs to put the details in writing on the staff whiteboard.

Staff must 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.

** This policy is written in consultation with Department of Education Victoria Guidelines.*

Staff must always be moving and monitoring the yard. Teachers must wear a fluoro staff vest and carry a first aid bag during all allocated Yard Duty times. All Educational Support staff should also be wearing a fluoro vest when completing their Yard Support. This displays who has the duty of care and the teacher can be easily identified. They must also be excellent role models by wearing an approved broad brimmed hat as per Sun Smart Policy.

Teachers must reinforce the school-wide TEAM Learning Program and regularly implement appropriate strategies to ensure there is a proactive approach to maintaining a safe and secure school environment.

Negligent advice: teachers (As per DET Guidelines)

Teachers are frequently called upon to advise students. When doing so teachers should:

- limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the principal
- ensure that the advice they give is correct and in line with the most recent available statements from institutions or employers. Teachers and coordinators should keep concurrent notes of advice given to individuals and maintain these records via Compass.
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

3.4 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 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 an increased duty of care. All procedural steps contained in the school's *'Guidelines For Planning Camps, Excursions and Incursions'* must also be followed.

Students must be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities. If crossing roads students are to use designated crossing points. Staff are to walk to middle of crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.

The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. 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.

Arrangements will be made for students not attending to continue their normal program at school under supervision of another teacher.

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.

4. Evaluation

This policy will be evaluated as a part of the school's cyclic review process.

5. Reference

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