

**DUTY OF CARE  
POLICY  
STRATHAIRD PRIMARY SCHOOL  
May 2018**

**Purpose:**

In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect students in their care from risks of injury that are reasonably foreseeable.

The duty is not to prevent injury in all circumstances – it is a duty to take reasonable steps to prevent injury that is known or foreseeable. The question of what are reasonable steps will depend on the individual circumstances of the case, and consideration of the following factors:

- 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 utility of the activity that creates the risk of harm

This policy is to be read in conjunction with the school's **Child Safe Policy** and **Mandatory Reporting Policy** and **Camps and Excursions** policies.

**Definition:**

Whenever a student–teacher relationship exists, the teacher has a special duty of care. This is defined as:

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*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 physical injury that the teacher should reasonably have foreseen.*

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The duty may, in some circumstances, extend outside school hours and outside the school premises. This will depend on whether the relationship between staff and student extends to the individual circumstances, whether the risk was known or foreseeable, and whether there were any reasonable steps that could be taken to prevent the injury from occurring.

**Aims:**

To ensure that staff have an awareness and understanding of their duty of care obligations and responsibilities in order to provide adequate supervision at all times.

To ensure that staff consistently conduct themselves, at all times, with these legal obligations and responsibilities.

**Implementation:**

The principal is responsible for ensuring that there is an adequate system of supervision in place during school hours, before and after school, and on school excursions and camps.

Teachers and other school staff are responsible for following reasonable and lawful instructions from the principal, including instructions to provide supervision to students at specific dates, times and places.

Duty of Care requirements include providing adequate supervision in the school or on school activities; providing safe, well maintained and suitable premises, grounds and equipment to minimize the risk of injury or damage to a person; providing effective anti-bully strategies; and ensuring appropriate and timely medical assistance is provided to injured or sick students.

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.

All staff need to be aware that greater measures may need to be taken for younger students or students with disabilities.

Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following common examples may be times when a teacher has failed to meet legal duty of care to students:

- a) Arriving late to scheduled timetabled responsibilities including yard duty
- b) Failing to act appropriately to protect a student who claims to be bullied
- c) Believing that a child is being abused but failing to report the matter appropriately
- d) Being late to supervise the line-up of students after the bell has sounded
- e) Leaving students unattended in the classroom or ignoring dangerous play
- f) Failing to instruct a student who is not wearing a hat to play in the designated shade area
- g) Leaving the school during 'non face-to-face teaching time' without approval and without signing out
- h) Inadequate supervision on a school excursion.

Staff members are also cautioned against giving advice on matters that they are not professionally competent to give (as this could be 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 careers teacher, year level coordinator or subject teacher) specified for them by the principal. Teachers should not give advice in areas where they may lack expertise.

### **CLASSROOM SUPERVISION**

The class teacher has ultimate responsibility for the supervision of all students in their care. It is not appropriate to leave students in the care of ancillary staff, parents or pre-service 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 in-school visits (At law, the Duty of care cannot be delegated). Where the school has contracted an external provider (E.g. registered training organization) to provide VET/VCAL units for example, then a DET approved contractual agreement needs to be signed by the school and other provider.

In a situation where the teacher needs to leave the classroom, use the phone for the Principal or Assistant Principal or contact the teacher in an adjoining learning space. The teacher should wait until alternate supervision is in place prior to leaving the room.

No student should be left unsupervised outside the learning space as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a colleague's learning space, contacting them first to alert them that the student is on their way accompanied by two (2) other students.

### **MOVEMENT of STUDENTS**

Care needs to be taken in allowing students to leave the room to work in other areas of the school. Discretion is to be used when allowing students to visit the toilet, children are to visit the toilet in pairs during class time.

## YARD SUPERVISION

Students must be supervised for a minimum of 10 minutes before and after school. This supervision may include some or all of the following:-

- Monitoring of entry or exit points and/or designated pick up and drop off areas
- Supervision of the arrival and departure of school contract buses
- Yard supervision
- Classroom supervision

Yard supervision is an essential element in teachers' duty of care. In supervising students, teacher's duty of care is one of positive action.

Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised learning space, especially towards the end of a break time.

Be alert and vigilant - intervene immediately if potentially dangerous behaviour is observed in the yard - enforce behaviour standards and logical consequences for breaches of safety rules.

Teachers should always be on the move, focused on the students at play and be wearing the high visibility vest.

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 rostered for yard duty are to attend the designated area at the time indicated on the roster.

Teachers on yard duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher.

The handing over of yard 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 yard duty, the teacher currently on duty should send a message to the office/staffroom, but not leave the area until replaced.

Teachers scheduled for First Aid duty must promptly attend to the student seeking first aid on arrival at the staffroom. The first aid procedures are as per the First Aid Policy.

No changes to the yard duty roster are to be made without the approval of the Daily organiser, or Principal Class Employee or nominee.

If a parent, guardian and carer (or other authorised person) drops off or otherwise arranges for a student to be on the school premises before supervision commences at the beginning of the day, the principal will, as soon as practicable, follow up with the parent, guardian and carer to:-

- Advise of the supervision arrangements before school, and
- Request that the parent, guardian or carer make alternate arrangements.

If a parent, guardian or carer (or other authorised person) has failed to collect the student after school, the next steps may include some or all of the following:

- Attempting to contact the parents, guardians or carers
- Attempting to contact the emergency contacts
- Placing the student in the out of school hours care program (if appropriate)
- Contacting the Victoria Police and/or the Department of Human Services (Child Protection) to arrange for the supervision, care and protection of the student

## RISKS TO STUDENTS OUTSIDE THE SCHOOL ENVIRONMENT

Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day. The approach generally taken is that a teacher's duty applies irrespective whether the risk occurs in or outside the school environment. However, the important issue in all cases will be whether the school took reasonable steps to protect the student from the risk.

Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency and threat of injury. Consider for example, if a live power line came down outside the school, no emergency workers had arrived, and primary children are about to be dismissed to walk home. The school should not allow the children to walk out to that danger unsupervised.

### **IN-SCHOOL VISITS, CAMPS AND EXCURSIONS**

An in-school visit 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.

Camps and excursions outside the school require teachers to fully comply with DET guidelines, including staff: student ratio compliance. It is a teacher's responsibility to be aware of these guidelines and to ensure that all students are appropriately supervised. The Schools Policy and Advisory Guide provides minimum requirements.

Supervision can be provided by others including volunteer parents, campsite staff, specialist instructors and pre-service teachers.

Most excursions and camps must:

- Be under the direct control of a teacher with at least one other excursion staff member present
- Have enough teachers to maintain appropriate control of the excursion and each activity
- Have teachers comprising at least half of the excursion staff

Any person (other than a teacher) who supervises students on an excursion or camp must have a Working with Children check.

Prior to the commencement of the excursion or camp, the Principal must ensure that the specific roles and responsibilities of each supervisor are clarified and understood by all supervisors and students.

If crossing roads, students are to use designated crossing points where available. Staff are to walk to the middle of the crossing to ensure visibility and that students cross in a safe and orderly manner.

The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit and student specific medical requirements.

The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. The important part of this is that the teacher, whilst outside of the school with students has the required information to make contact as needed.

### **LATE ARRIVALS AND EARLY DEPARTURES**

The Principal will ensure that the school has a procedure in place for the safe collection and drop off of students at school during school hours (e.g. late arrival or an early departure). This will include a record of the date and time, the reason for the late arrival or early departure, and the person who has authorised the late arrival or early departure.

In relation to early departure from school, the procedure will also include:

- Students will be only permitted to leave the school premises under the supervision of a parent or another person authorised by parents to collect the student
- If the person collecting the student is unknown to school staff, school staff will request photo identification to verify the person's identity

### **VISITORS AT SCHOOL**

The Principal will ensure that there is a procedure to monitor all visitors in the school. As a minimum,

this procedure must require all visitors arriving and departing the school premises during school hours to use a visitors' book to record their name, their signature, the date and time, and the purpose of the visit.

### **USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES:**

Teachers and other staff also have a responsibility to reasonably supervise the use of information and communication technologies, and the use of online learning environments at school.

In doing so, teachers and other staff should be guided by the following:

- Relevant Departmental policies (e.g. Student Engagement Guidance, Bully Stoppers, Acceptable Use Policy)
- Relevant Strathaird Primary School policies (e.g. Acceptable Use Agreements)

### **Roles and Responsibilities**

#### **THE PRINCIPAL WILL:-**

- Regularly communicate the duty of care and supervision obligations and responsibilities to all staff
- Regularly communicate the supervision arrangements to parents
- Determine the level of student supervision to be provided to students in all of the circumstances
- Allocate specific responsibilities to staff members to provide the supervision that is required
- Communicate the specific supervision responsibilities allocated to staff members
- Regularly review the level of student supervision provided to students and make adjustments as and when deemed appropriate
- Regularly review the duty of care and supervision policy to ensure that it is consistent with the School Policy and Advisory Guide, and continues to meet the duty of care obligations and responsibilities for all students

#### **TEACHERS AND OTHER STAFF WILL:**

- Comply with the lawful and reasonable directions of the Principal
- Comply with all Department and school policies
- Perform supervisory duties as required

#### **PARENTS, GUARDIANS AND CARERS WILL**

- Make appropriate arrangements for the transport, care and supervision of students travelling to and from school
- Make appropriate arrangements for the care and supervision of students outside the times of supervision before and after school

#### **Resources:**

- [Duty of Care DET Policy](#)
- [Staffing and Supervision DET Policy](#)
- [Student Safety](#)
- [Cybersafety](#)

#### **Evaluation:**

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

This policy was last ratified by School Council on 15<sup>th</sup> May, 2018

**Julie Kennedy**  
Principal

**Chris Johnstone**  
School Council President