



Black Hill Primary School

Duty of Care Policy

Rationale:

In addition to their professional obligations, principals, teachers and education support staff have a legal duty to take reasonable steps to implement and monitor arrangements to ensure the safety, security and wellbeing of students.

Purpose:

In addition to their professional obligations, principals, teachers and education support staff have a legal duty to take reasonable steps to implement and monitor arrangements to ensure the safety, security and wellbeing of all students.

The duty requires principals, teachers and education support staff to take all reasonable steps to reduce risk, including:

- provision of suitable and safe premises
- provision of an adequate system of supervision
- implementation of strategies to prevent bullying
- ensuring that medical assistance is provided to a sick or injured student
- managing employee recruitment, conduct and performance.

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

Whenever a teacher-student relationship exists, teachers have a special duty of care. This has been expressed 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*).

Aims:

To ensure that staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.

Implementation:

- In addition to their professional obligations, principals, teachers and education support staff have a legal duty to take reasonable steps to protect students in their charge from risks of harm that are reasonably foreseeable.
- Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of harm, 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.
- 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.
- The teacher's duty of care is greater than that of the ordinary citizen in that a teacher is obliged to protect a student from reasonably foreseeable harm or to assist an injured student, while the ordinary citizen does not have a legal obligation to respond.
- 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 their legal duty of care responsibilities to their students:
 - arriving late to scheduled timetabled yard duty responsibilities
 - failing to act appropriately to protect a student who claims to be bullied
 - believing that a child is being abused but failing to report the matter appropriately
 - being late to supervise the line up of students after the bell has sounded
 - leaving students unattended in the classroom
 - failing to instruct a student who is not wearing a hat to play in the appropriate area
 - ignoring dangerous play
 - leaving the school during school hours without approval (notifying the office)
 - inadequate supervision on a school excursion/camp
- Staff members are also cautioned against giving advice on matters that they are not professionally competent to give (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 must ensure that the advice they give is correct, and where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.
- **Classroom supervision**
 - Staff must **not** leave the classroom unattended at any time during a lesson.
 - it is **not** appropriate to leave students in the care of ancillary staff, parents or trainee 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 incursions (at law, the Duty of Care cannot be delegated)
 - In an **emergency situation** use the phone to contact the Principal or Student Welfare Coordinator or contact the teacher in the next room (if appropriate – send other students for assistance).
 - **No student** should 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 Student Welfare Coordinator or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Student Welfare Coordinator **is to be contacted first** to alert them that the student is on their way.
- **Movement of students**
 - Care needs to be taken in allowing students to leave the room to work in other areas of the school.
 - Use of students as monitors outside the room during class time must only occur with the approval of the Principal or Student Welfare Coordinator.
 - Discretion is to be used when allowing students to visit the toilet or other school resource and all children must go in pairs.
- **Yard supervision**
 - Teachers rostered for duty are to do so at the time indicated on the roster.
 - Teachers on duty are to remain in the designated area until 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 is to be in the Court Yard. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the office, **but not leave the area until replaced**.
 - No changes to the yard duty roster are to be made without the approval of the designated roster coordinator, or Principal.
 - 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 as outlined in the Parent and Staff Handbooks.
 - Teachers on yard duty should always be on the move and vigilant and wear a high visibility vest whilst on duty
 - Teachers on duty must carry a first aid bag and a phone (oval only) to communicate with the school office should assistance be required.

Evaluation

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

This policy was ratified by School Council in: August 2015, Reviewed July 2019
To be reviewed July 2022

Related policies

- [Personal Liability of School Employees](#)
- [SERS Insurance Claims and Settlement Process](#)
- [Volunteer Workers](#)
- [Risk Management](#)