

## DUTY OF CARE POLICY

### RATIONALE

All government school staff members need to be aware of their legal responsibilities. As part of the government school principal contract, government school principals are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students. In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable.

All staff members have a duty to take reasonable steps to protect children under their care and supervision from harm that is reasonably foreseeable (this applies to ALL school staff).

### BROAD GUIDELINES:

- 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. 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 of 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.
- All staff must follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the school's camping, excursions and incursions policies and procedure outlines must also be followed.
- The handing over of duty, particularly 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 duty, the teacher currently on duty should send a message to the office, but not leave the area until replaced.
- 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.
- School authorities 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.
- New staff will be informed of their Duty of Care obligations as part of the school's Induction Program.

### IMPLEMENTATION:

- The principal will ensure all aspects of the child safety standards are covered by allocating roles and responsibilities to different members of staff
- The school will arrange counselling and/or other appropriate welfare support for the child
- The school will provide on-going support to the child – this may include attending DHHS Child Protection Case Planning meetings, and convening regular Student Support Group meetings
- The school will share information with other school based staff who will also be responsible for monitoring and providing on-going support to the child.

The following instructions apply to all staff:

- You must follow the Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse, to ensure that you fulfil your duty of care obligations for all children who are involved in, or affected by, the suspected child abuse.
- 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 during incursions. At law, the Duty of Care cannot be delegated.
- In an emergency situation use the phone to contact the Principal, Assistant Principal or a senior staff member via the Office, or contact the teacher in the next room. If appropriate, send two students for assistance.
- No student should be left unsupervised inside or 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. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Assistant Principal is to be contacted first to alert them that the student is on their way.
- Discretion is to be used when allowing students to visit the toilet during class time. Students must always walk to the toilet in pairs during class time.

THOMASTOWN WEST PRIMARY SCHOOL  
POLICY

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 any room
- failing to instruct a student who is not wearing a hat to play in the shade
- ignoring dangerous play
- leaving the school during time release without approval
- inadequate supervision on a school excursion.

**EVALUATION:**

- This policy will be reviewed annually as part of the policy review cycle.