

Duty of Care Policy - 2018

Avondale Primary School



Commitment to Child Safety

Avondale Primary School is committed to safety and wellbeing of all children and young people. This will be the primary focus of our care and decision making. Avondale Primary School has zero tolerance for child abuse.

Avondale Primary School is committed to providing a child safe environment where children and young people are safe, and their voices are heard about decisions that affect their lives. Particular attention will be paid to the cultural safety of Aboriginal children and children from culturally and / or linguistically diverse backgrounds, vulnerable children as well as the safety of children with a disability.

Every person involved in Avondale Primary School has a responsibility to understand the important and specific role he/ she plays individually and collectively to ensure that the wellbeing and safety of all children and young people is at the forefront of all they do and every decision they make.

Rationale:

To identify and explain the nature of the legal duty of care owed by teachers and other school staff to students, the wider community and ourselves.

Aims:

To ensure that staff provide a high standard of care in relation to students and the wider community and 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
- Ensure appropriate preventative and management steps for students with existing health conditions are taken
- The provision of appropriate medical assistance to sick and injured students
- The management of employee recruitment, conduct and performance

A duty of care cannot be delegated to another person.

Definition of Duty of Care

Whenever a student–teacher relationship exists, the teacher has a special duty of care.

“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 Standard of Care Required

The nature and extent of the duty owed by a staff member will vary according to circumstance e.g. the standard of care expected by a teacher supervising prep students at a pool would be different to that of a teacher supervising year 6s in a classroom.

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The important issue in all cases will be *what precautions the school could reasonably be expected to have taken to prevent the injury from occurring.*

The following factors need to be considered:

- The probability that harm would occur if care were not taken
- The likely seriousness of that harm
- The burden of taking precautions to avoid the risk of harm
- The social utility of the activity that creates the risk of harm

Duty of Care and School Hours

Case law has established that in certain circumstances, a school's duty extends beyond school hours and even beyond school grounds. The duty will be extended to outside school hours when the relationship between the school and the student requires it *in the particular circumstances.*

- In 1977 the High Court found a school authority **liable** for an injury sustained by a student in the playground 15 minutes before school began for the day (*Geyer v Downs*). In that case the principal was aware that children were coming onto the grounds before school, and had instructed that children who did read or talk quietly. The Court took the view that in so doing, the principal had brought the school-student relationship into existence and therefore created a duty to ensure that there was adequate supervision before school.
- In 1996, a non-government school in NSW (*Trustees of the Roman Catholic Church for the Diocese of Bathurst v Koffman*) was **found liable** for an injury to a primary student at an unsupervised bus stop approximately 350 metres from the school and located outside a government secondary school. In that case, the school was aware that a large group of students regularly caught the bus from outside the neighbouring secondary school, and that there was a risk of harm. Moreover, a teacher from the primary school witnessed the incident but did not intervene. The Court found that the teacher-student relationship was still in existence at the time of the injury, and therefore the school authority had a duty of care.
- In 2001, a school in NSW (*re Graham v NSW*) was **found not liable** for injuries to a student with a disability who was hit by a motor vehicle when crossing a busy road a kilometre from school, when walking to school by herself. The allegation against the school was that it should have provided a bus, but the New South Wales Court of Appeal held that the school had discharged its duty by informing the parent at the start of the year that the bus service was no longer being provided, and that the parent should make appropriate arrangements.

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. The important issue in all cases will be *whether the school took reasonable steps to protect the student from the risk.*

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Classroom Supervision

Teachers are required to be in attendance at least 10 minutes before classes commence.

Student attendance must be recorded in the morning and after lunch.

Teachers must **not** leave the classroom unattended at any time during a lesson.

It is **not** appropriate to leave students in the care of ES staff, ancillary staff, volunteer staff, parents, trainee teachers or work experience students (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** phone the Principal or Assistant Principal or contact the teacher in the next room. (if appropriate – send another student 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 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.

Movement of Students

Care needs to be taken in allowing students to leave the room to move to other areas of the school e.g. visit the office, go to the library, attend specialist classes or when allowing students to visit the toilet.

Use of students as monitors outside the room during class time must only occur with the approval of the classroom teacher.

Students moving as a class must always be supervised by a teacher. Students acting as monitors or going to the toilet must always do so with a partner.

Yard Supervision

The school must regularly communicate to parents when playground supervision will be provided.

Yard duty commences before school at 8.40am and ends after school at 3.30pm. At the end of the day the yard duty teacher announces when yard supervision has concluded.

Yard duty is an essential element in a teachers' duty of care. It has been clearly established that when supervising students a teacher's duty is to be proactive.

Be aware that students are more prone to accident and injury in the school yard than in a 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. Teachers are expected to follow school procedures and practices whilst on yard duty. It is a teacher's responsibility to be aware of their duty of care responsibilities.

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Yard supervision

Teachers rostered for yard duty must supervise the designated area at the time indicated on the yard duty roster.

A teacher on yard duty needs to remain in their designated supervision area until replaced by the relieving teacher or until the end of recess or lunch time.

The handing over of duty from one teacher to another **must occur in the area of designated duty and involve the handing over of a first aid bag.**

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 Assistant Principal. Teachers temporarily swapping yard duty must record this on the daily organiser in the staffroom.

Staff on yard duty, need to be alert and intervene **immediately** if potentially dangerous behaviour is observed in the yard. The yard duty teacher must enforce behaviour standards and logical consequences for breaches of safety rules.

Staff on yard duty should always be on the move and highly visible.

Excursions, Incursions and Camps

Teachers must be aware that camps and excursions outside the school require them to fully comply with DET guidelines. It is a teacher's responsibility to be aware of these guidelines and have taken those precautions the school could reasonably be expected to have taken to prevent injury from occurring.

Precautions for camps and incursions would include:

- Completing a camp / excursion risk assessment as part of the planning process
- Submitting an online student locator report prior 3 weeks prior to departure
- Ensuring that confidential student medical forms and permission notes with contact details are always available to teachers on camp or the excursion and that copies are kept at school
- Ensuring the camp or excursion is accompanied by at least one Level 2 First Aid Trained person to manage medications and deal with basic first aid issues
- Ensuring that students suffering from allergies are accompanied by their own epipens and that teachers supervising those students are aware of their duty of care roles
- Ensuring that supervising teachers carry mobile phones and that they have all staff contact details
- Being aware that students can be more prone to injury than in a closely supervised classroom and making appropriate adjustments to that supervision
- All staff having access to the venues risk management plans
- Ensuring that excursion and camp activities adhere to DET guidelines
- Ensuring that transportation adheres to DET guidelines

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- Ensuring that all staff are aware of the protocols for counting students on and off busses and in and out of venues
- Ensuring that all staff are aware of the protocols for crossing the roads
- Ensuring all staff understand they must lead their groups in a controlled manner
- All DET and school policies relating to camps and excursions must be adhered to.

Informing Staff of their Duty of Care

All staff will be informed of their legal requirement via:-

- A copy of this document will be provided to each member of staff at the first staff meeting commencing the school year, and will be placed on the online staffroom.
- New staff will be informed of their Duty of Care as part of the school's Induction Program
- Duty of Care will be an agenda item at staff meetings and staff will be directed to familiarise themselves with section Student Safety of the Victorian Government Schools Policy Advisory Guide.

Related school policies and procedures include:

- Anaphylaxis Policy
- Student Engagement Policy
- Camps Policy
- Excursions Policy
- Code of Conduct
- Anti-bullying Policy
- OH&S and workplace procedures and practices

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