DUTY OF CARE POLICY and PROCEDURES

Manchester Primary School staff will be made 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.

DEFINITION

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

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.

Schools normally satisfy the duty of care by allocating responsibilities to different staff. For example, the principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in each school, and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

RATIONAL

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

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.

POLICY STATEMENT

Adequate supervision of students in the school is a requirement of the school’s duty of care. The principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in the school, and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury.
GUIDELINES
As part of its duty of care the school is required to adequately supervise students. This includes for a defined period before school; at recess time and lunch time; and after school. This on-site supervision requires not only protection from known hazards, but also protection from those that could arise (that is, those the teacher should reasonably have foreseen) and against which preventive measures could be taken.
It is essential parents/carers are kept informed as to when supervision of students is available before and after school, and that outside these times supervision and/or the collection of students is the responsibility of parents/carers. This information should be clearly provided to parents/guardians on a regular basis.
Parents/carers may require their child to leave the school grounds to:
• be dismissed early from school to attend an appointment
It is important the school has a process to authorize these requests and accurate student records are maintained.

IMPLEMENTATION
Teachers and other staff in a school have a responsibility to take reasonable steps to protect students from risks of injury, including those that may be encountered within the online learning environment. Teachers must understand their Duty of Care responsibilities and other school-based policies that work to support it such as the Student Engagement Policy and Acceptable Use Agreements.

Teachers are required to supervise all learning environments; the school grounds, the classroom and excursions - online spaces are also considered a learning environment. Therefore as part of that duty, teachers are required to adequately supervise students who are working in these spaces. This duty also requires protection from risks that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken.

Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of injury, 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.

Quite apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child is being abused or neglected, including sexual abuse.

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 class or leaving a class early
- 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 shade
- ignoring dangerous play
- leaving the school during time release without approval
- inadequate supervision on a school excursion

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.

**Yard supervision**

**PROGRAM**

A roster system will be used to timetable staff members for yard supervision. Yard supervision will include before school, recess and lunch breaks, and after school. In determining whether supervision of students entering or exiting the school is adequate, the principal or their nominee will consider a number of factors including:

- which entry/exit points should be or are used by students
- whether any entry or exit points should be locked, designated as out of bounds, or supervised
- road traffic conditions
- designated pick up and drop off areas

Yard supervision is an essential element in teachers' duty of care. It is now clearly established that 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 classroom.

Be aware that yard duty supervision within the school requires the teacher to fully comply with DEECD 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 College/school policy whilst on yard duty.

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 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, **but not leave the area until replaced**.

No changes to the yard duty roster are to be made without the approval of the Daily organiser, or Assistant 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.
You should always be on the move and highly visible.

**Excursions, Incursions and Camps (see also Camps Policy and Excursion/Incursion Policy)**

Be aware that students 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 camps and excursions outside the school require the teacher to fully comply with DEECD guidelines and bring 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 excursion and camp activities require the teacher to ensure that the venue and transport adhere to DEECD guidelines.

Be aware that school policy is for students to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities.

The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. A copy of this material will also be kept at school.

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

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

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.

If crossing roads students are to use designated crossing points. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.

All staff must follow the DEECD guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School camping, excursions and incursions Policy and Procedure outlines must also be followed.

**Informing Staff of the legislative liability of 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 at the commencement of the school year, and will be placed on the intranet.
- 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.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to the student wellbeing policy annually.

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