



# BUXTON PRIMARY SCHOOL

No: 1669

## Duty of Care Policy

### **Rationale:**

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.

### **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:**

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 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 students in the BER 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 Mathematics Specialist, assessment 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.

### **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 the school depending on the age of students, urgency and threat of injury.

There will also be a number of other situations where the school will be under a duty to take reasonable steps. In some instances, the school's control over the activity may require it to take more active measures to satisfy the requirement that it take reasonable steps. For example, a known bully on a school bus may require the school to suspend or refuse to transport the bully. In other instances, the school may not control the activity, and the reasonable measures available to it will be limited. For example, fights at a local train or bus stop between students from rival schools may involve informing the police, contacting the other school to implement preventative measures, and notices to parents and students.

At Buxton primary School we want the students to use different spaces that are appropriate for their learning and while students are generally free to work in the library or the Art room they must be under (indirect) adult supervision at all times.

Staff are responsible for their students at all times.

### **Classroom Supervision**

It is **not** appropriate to leave students in the care of 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** inform the Principal immediately using the internal communication system or

send a message to the office using two reliable students and contact the teacher in the next room for help.

**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 Principal. This should be accompanied by a note detailing the reason for withdrawal and appropriate follow up. The teacher, 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 work in other areas of the school. This particularly important when students are completing their assigned classroom jobs that require them to leave the BER building or they are collecting printing from the Printer in the Resource room. Students must always travel in pairs to different parts of the school even if it is only a short distance.

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

Discretion is to be used when allowing students to visit the toilet, the Art Room or the Chook shed during class time.

### **Yard supervision**

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.

Teachers should be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.

Teachers should 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 Buxton Primary School's Duty of Care policy whilst on yard duty.

Teachers and other staff rostered for duty are to supervise the designated area at the time indicated on the roster. This will involve staff moving proactively around the school to ensure that all students are adequately supervised.

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 at the Lower Building**. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the Principal, **but not leave the area until replaced**.

No changes to the yard duty roster are to be made without the approval of the Principal.

Staff should be alert and vigilant and intervene **immediately** if potentially dangerous behaviour is observed in the yard. Staff must enforce behaviour standards and logical consequences for breaches of safety rules.

Staff should always be on the move and highly visible.

**Excursions, Incursions and Camps**

Teachers should be aware of the following when organising and supervising Excursions, incursions or camps

- that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- 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.
- 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.
- that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DEECD guidelines.
- that the Buxton primary School Camps and Excursions Policy states that 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 (As required by the Camps and Excursions Policy).
- 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 and the school mobile will be used to text parents this new time. A senior staff member will remain at school until the excursion or camp participants return to school making suitable arrangements for bus parking and parents to pick up their children in a timely manner.
- 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.

All staff must follow the DEECD guidelines when organising an excursion, incursion or camp. All procedural steps contained in the Buxton Primary School's 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 school website.
- 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.

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