

	<p>Carlton Gardens Primary School</p> <p>DUTY OF CARE POLICY</p>	<p>Authorisation 2021 Review 2024</p>
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Purpose:

The purpose of this policy is to explain to our school community the non-delegable duty of care obligations that all staff at Carlton Gardens PS owe to our students and members of the school community who visit and use the school premises.

Whenever a student-teacher relationship exists, the teacher has a special duty of care. This is a legal obligation to protect students from injury or harm.

"A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teachers charge from the risks of injury that the teacher could have reasonably foreseen."

(Richards v State of Victoria, 1969)

- As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also from those that could arise (e.g. those that the teacher could have easily foreseen) and against which preventative measures could have been taken.
- Teaching is a skilled profession and teachers must accept the legal consequences of such special knowledge and skills.
- Teachers in breach of duty of care may be liable for injuries inflicted by one student on another, as well as the injuries sustained by the student.
- For a teacher or a school to be held guilty of negligence, it must be proved that the injury was a foreseeable result of the action or lack of action. In courts this test **is not a demanding one**.
- In situations where the teacher should reasonably have foreseen the possibility of injury, the teacher has a duty to take reasonable care.
- The teacher's duty of care will increase as the child's age is lower.
- Schools are bound by standards, which are issued under legislative authority; non-compliance with these standards may amount to negligence.

Scope:

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

Policy:

"Duty of care" is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. The reasonable steps that our school may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk.

Our school has developed policies and procedures to manage common risks in the school environment, including:

- Yard duty and Supervision
- Bullying Prevention
- Camps and Excursions
- First Aid
- Child Safe Standards
- External Providers (including RTOS delivering VET/VCAL)
- Emergency Management
- Volunteers
- Visitors

- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health and Safety

Our school acknowledges we are required to take reasonable precautions to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation.

Staff at our school understand that school activities involve different levels of risk and that particular care may need to be taken to support younger students or students with additional needs. Our school also understands that it is responsible for ensuring that the school premises are kept in good repair and will take reasonable steps to reduce the risk of members of our community suffering injury or damage because of the state of the premises.

School staff, parents, carers and students are encouraged to speak to the principal to raise any concerns about risks or hazards at our school, or our duty of care obligations.

Classroom Supervision

- At **no** time are students to be left unsupervised in the classroom or specialist areas (This includes before and after school lunchtimes and recess breaks).
- It is **not** appropriate to leave students in the care of ancillary staff, parents or trainee teachers (***By 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 (***By law, the Duty of Care cannot be delegated***).
- In an **emergency situation** use the phone for the Principal or members of the leadership team or contact the teacher in the next room.
- **No student** is to 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. This should be accompanied by documentation. The teacher **is to be contacted first** to alert them that the student is on their way.

Movement of Children

- Extreme care needs to be taken in allowing students to leave the room for any reason.
- Use of students as monitors outside the room during class time must only occur with the approval of the Principal or a member of the leadership team.
- Utmost discretion is to be used when allowing students to visit the toilet during class time.

Yard supervision

- Playground supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, a teacher's duty of care is one of positive action.
- Be aware that children 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 DET 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 School policy whilst on yard duty.
- Teachers rostered for duty are to attend the designated area at the time indicated on the yard duty timetable.
- Teachers on duty are to remain in the designated area until the bell signals 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 timetable are to be made without the approval of a member of the leadership team.

- If a teacher rostered for duty will be absent due to an excursion, etc it is that teacher's responsibility to notify the timetable organiser of the situation to arrange a swap. Once a swap is arranged the details are to be in writing. All yard duty swaps will appear on the daily bulletin.
- Be alert and vigilant -intervene **immediately** if potentially dangerous behaviour is observed in the playground - enforce school behaviour standards and logical consequences of playground safety rules.
- Always be moving.

Excursions, Incursions and Camps

- Be aware that children 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 excursions outside the school require the teacher to fully comply with DET guidelines and brings 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 camp activities require the teacher to fully comply with DET guidelines and brings 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 DET 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 of an excursion or camp will carry a mobile contact number known to the school, and a first aid kit needs to be available on either the excursion or camp.
- 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 the designated crossing points. Staff are to walk to the middle of crossing to ensure visibility and orderly crossing. Other staff will control the flow of students crossing the road.
- All staff must follow the DET 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. Details of all excursions and camps must be logged on the DET's student Activity Locator (SAL).

Transportation

- Where the school provides transport for students or where the school assumes responsibility in escorting students then a duty of care can be assumed.
- Staff transporting students in their private vehicle must have full comprehensive car insurance and be full licensed holders.

Before School hours on school grounds

- Duty of care commences from the arrival of students on school grounds. The accepted arrival time starts at 8.45 am Monday to Friday. There should be no students on the grounds or in the school before this time. Students who are booked into Out of School Hours Care (OSHClub) from 7.30 am must be escorted to before school care by a parent/guardian.

After School hours on school grounds

- The school has a duty of care to ensure the safety of its students until such a time as they are collected by their parents or an adult requested to collect them by their parents. If a parent has arrived and collected

their child but remains on school grounds, the duty of care has transferred to the parent, unless other arrangements have been made.

- The school is not able to supervise students who remain on school grounds after 3.45 pm. After this time staff will still be present at the school but will not take a supervisory role.
- Students will be dismissed by their class teachers from their classrooms at 3:30 pm and parents are asked to collect their children from the school grounds promptly. If children are not collected by 3.45 pm they will attend Out of School Hours Care (OSHClub). From 3:45 pm parents will be charged OSHC rates. The School cannot accept responsibility for students remaining on school premises unless they are booked into OSHClub.

After School activities on school grounds

- Authorised activities e.g. sporting activities are ones that have the approval of the schools staff consultative committee and/or school council. Activities sanctioned by the school require the staff members undertaking these activities and the school to provide the same duty of care as during school hours. **A staff member will not undertake activities at school after hours that are not sanctioned by the school's consultative committee.**

Activities taking place off school grounds

- In general the school and its staff have duty of care for all students during off campus activities as covered in the Camp and Excursion Policy.
- When a student is required to leave the school grounds during the school day they must be collected by the parent/guardian from the teacher in charge of the student at that time. The parent/guardian must also fill in the Early to Leave register.

External Providers

Staff at our school acknowledge that, as our duty of care is non-delegable, we are also required to take reasonable steps to reduce the risk of reasonably foreseeable harm when external providers have been engaged to plan for or conduct an activity involving our students. Our *Visitors Policy* and *Camps and Excursions Policy* include information on the safety and care of our students when engaged with external providers.

Communication:

This policy will be communicated to our school community in the following ways:

- Provided to staff at induction and included in staff handbook/manual
- Discussed at staff meetings/briefings as required
- Made available publicly on our school website
- Made available in hard copy from school administration upon request

Further Information and resources:

- the Department's Policy and Advisory Library (PAL): [Duty of Care](#)
- the Department's Policy and Advisory Library (PAL): [Structured Workplace Learning](#)

Review Cycle and Evaluation

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

Approved by Principal

Tina McDougall