



Duty of Care Policy

Definition

Narre Warren North Primary School is committed to child safety and establishing and maintaining child safe and child friendly environments where all children are valued and feel safe. We have zero tolerance of child abuse, and all allegations and safety concerns will be treated very seriously and consistently through our policies and procedures.

At Narre Warren North Primary School we believe that all children have the ability to learn. By providing all school environments (this includes onsite, online activities and offsite for excursions, camps, etc. and outside of school activities) that are stimulating, safe, happy and positive, we foster the learning potential of our children.

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.

RATIONALE

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

Adequate supervision and safety of students in all school environments (this includes onsite in the classroom, yard; during online activities and offsite activities such as excursions, camps, competitions, etc.) 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.

PURPOSE OF THE POLICY

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.

To provide adequate and appropriate supervision of students.

To provide a safe environment for the children to learn and play.

GUIDELINES FOR ACTION

1. 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.
2. School Council is responsible for maintaining the school buildings and grounds, ensuring that they are kept in good order and condition, through provision of a program budget. This ensures that teachers, support staff, students, administration staff and visitors to the school are safe from reasonably foreseeable risks of injury related to the buildings and grounds of the school.
3. If the school or School Council becomes aware of any risk or hazard to students within the immediate school vicinity, parents will be notified as soon as practicable by the Principal or delegate.
4. 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.
5. In addition to 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.
6. 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.
7. 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 as per school policies 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. Teachers should move when the music begins so they are at the line up point when the bell goes.

- 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 APT without signing out
 - inadequate supervision on a school excursion
 - failing to report unsafe building, grounds or environment
8. 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 year level coordinator) specified for them by the principal.
 9. 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.
 10. Parents/carers are discouraged from sending their children to school before the designated supervision time in the morning. Parents/carers are encouraged to pick up their child by the end of the designated end of day supervision period. Parents will also be informed via the school's newsletter the times when staff members will be rostered to undertake yard supervision before and after school each day via the newsletter at the beginning of the school year.
 11. This policy is to be read in conjunction with relevant legislation and DET School Policy, the Advisory Guide and the school's Yard Duty Procedures; Classroom Supervision, Movement of Children, and Excursions, Incursions and Camps Guidelines outlined below.

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

This policy is to be read in conjunction with the school's Child Safe Policy and Code of Conduct and will be reviewed as part of the school's three-year review cycle.

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.

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 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.

1. Yard supervision will include:
 - before school: 8.45-9.00am
 - lunch breaks: 11.30-11.40am/11.40am-12.20am
 - recess breaks: 2.00pm-2.10pm/2.10pm-2.40pm
 - after school: 3.30-3.45pm.

2. One teacher is to be rostered on yard duty before and after school.
During recess and lunch breaks two teachers will be rostered in the main area and one teacher rostered on the oval. There are two rotations of yard duty per break. Some teachers will be rostered on for lunch time activities/Play Pod/Creative HQ.
3. No student is to enter the oval area until the teacher on duty is in attendance.
4. In extreme weather conditions, or surface area hazards on the oval, Creative HQ will be used as an alternative area supervised by the yard duty teacher whose area has been closed.
5. The yard duty roster will be clearly displayed on Sentral at the beginning of each day and all staff are required to check for changes each morning.
6. CRT information will include a copy of the yard duty roster for the day.
7. It is the rostered teacher on duty's responsibility to attend the designated area at the time indicated on the roster and at the sounding of the start bell. Teachers on the second half of duty have 2 minutes to get to the area at their allocated time.
8. The teacher on duty is to move efficiently around the grounds, supervising all play areas.
9. Teachers on duty at the end of recess or lunch:
Oval duty: The oval yard duty teacher is to clear the oval when the music begins and move back to the yard
10. 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.
11. No changes to the yard duty roster are to be made without the approval of the timetabler. Weekly changes are to be put on Sentral.
12. If a teacher rostered for duty will be absent due to an excursion, sporting event, etc. it is that teacher's responsibility to arrange a swap and notify the Assistant Principal of the change. Once a swap is organised the teacher must communicate to staff via Sentral, to make everyone aware of the changes.
13. Yard Duty teachers will wear a fluorescent yellow vest, for increased visibility, while doing their yard duty and carry a bag with anaphylaxis alert; some first aid supplied and office and sick bay cards (refer to the school's First Aid Policy).
14. Yard Duty teachers will wear a broad brimmed hat from September to May, in accordance with the SunSmart Policy.
15. Oval yard duty teachers are to carry the school mobile phone and spare ventolin in the oval yard duty bag.
16. In case of minor injuries and accidents, yard duty teachers are to treat where possible, in the yard E.g. scratch on hands from falling over. If a more serious injury staff will send the child requiring first aid into the First Aid room (refer First Aid Policy). In the case of major injury or accident, teachers will send for assistance from qualified First Aid Staff.

17. Children who wish to go to the Office or First Aid room must see the yard duty teacher first to receive a First Aid or Office card. Students with asthma do not require a card to attend First Aid.
18. Children will be made aware that if they are unable to find a teacher on duty and the matter is **urgent**, they may proceed to the Office or First Aid Room without card. Children will be given the opportunity to explain their actions without fear of punishment.
19. For children experiencing an anaphylactic attack, the yard duty teacher will alert the office and all teachers will follow the emergency procedure as outlined in the First Aid Policy and on display on the staffroom notice board.
20. Yard duty teachers will monitor the yard for any hazards, notifying the Office of any assistance required. Before school yard duty teachers are to conduct the Playground inspection and complete the checklist each day.
21. Teachers shall periodically check the playground equipment and report any potentially dangerous or faulty equipment, eg loose bolts, to the Principal and/or the OHS representative.
22. Students are to be made aware that any dangerous or harmful equipment or substances, e.g. syringes, broken glass, articles with blood, should not be handled but should be reported to the teacher on duty.
23. Staff on yard supervision must approach any adults without a visible lanyard (containing WWCC/registration) in the yard, direct them to the office or notify the office for assistance.
24. On wet weather days children will be able to enter the classrooms at 8.50am. Teachers will be on duty from this time.
25. On wet days and extreme weather days at recess and lunch times, teachers in each area will share the supervision of children in the classrooms.
26. Education Support (ES) staff must perform 'Duty of Care' for the child they are in charge of, as well as provide reasonable care of all other children, alerting the yard duty teacher for assistance.
27. All incidents of bullying will be handled in accordance with the School's Student Behaviour Management Policy.
28. Parents will be informed regularly via the newsletter that teachers are not rostered on duty until 8:45am each morning or after 3:45pm each afternoon. Parents are required to make sure that their children have been collected or have left the school grounds by 3.45pm.
29. The after school yard duty teacher will direct students still in or about the schoolyard after 3.45pm to the school office. Children are supervised before school from 8.45am and after school to 3.45pm. If children are not collected by 3:45pm, parents will be contacted and the children be placed in OSHC at the parents' expense.

Classroom Supervision Guidelines

1. 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). Teachers should not be alone with individual students and students should not be left in withdrawal rooms with the door closed.
2. It is **not** appropriate to leave students in the care of parents, volunteers or trainee teachers (at law, the duty of care cannot be delegated). ESS and the Chaplain may work with individual students in sight of teachers/students e.g in a withdrawal space with the door open.
3. 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) unless they are qualified teachers.
4. In **an emergency situation** use the phone for the Principal or Assistant Principal or contact the teacher in the next room
5. **No student** is to be left unsupervised **outside the classroom** as a withdrawal consequence for misbehaviour. During withdrawal the child must be in direct view of the teacher at all times. Withdrawal can also be conducted by sending a student to the Behaviour Buddy classroom, or to the Assistant Principal or Principal as per the school's Behaviour Management procedures.

Lining up

1. When the music begins in the morning the children go directly to their classrooms.
2. If a teacher is late due to an unforeseen circumstance, the yard duty or neighbouring classroom teachers are to supervise the grade until the teacher arrives. No grades are to be left unsupervised.
3. Teachers must prepare to leave the staff room/area to return to their classrooms when the music begins, not when the bell is rung.

Movement of Children

1. Teachers are to supervise students moving from one area to another, or to and from a Specialist session in an orderly manner. They should not be sent on their own to a specialist session or back to class.
2. Extreme care needs to be taken in allowing students to leave the room for any reason.
3. Small groups of students working outside the classroom must be supervised by a teacher.
4. Utmost discretion is to be used when allowing students to visit the main block toilets during class time. If a child needs to go to the toilet, he or she must be accompanied by another child or two children who are to wait in the toilet area.

Excursions, Incursions and Camps

1. Be aware that children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
2. 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.
3. 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. Refer to the school's Excursion Policy.
4. 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. Refer to the school's Camping Policy.
5. Be aware that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DET guidelines. 'At Risk' assessment documentation is required for all activities on site and off site.
6. 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.
7. The teacher in charge will have copies of all confidential medical forms and permission notes with contact details.
8. Arrangements are to be made for students not attending to continue their normal program at school under supervision of another classroom teacher.
9. The teacher in charge or designated teacher of an excursion or camp will carry mobile contact known to the school and a first aid kit.
10. 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 if after school hours. A senior staff member will remain at school until the children return from the excursion.
11. Collection of students after a camp or excursion is by the parent UNLESS a written note is sent to school approving someone else will collect the child. If a note is not sent by the parent, the child's parent must be rung. The parent must let TWO staff members know by phone that permission is given for their child to be collected by another party. If the third party is not known by staff ID must be sighted before the child leaves with that person.
12. 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 are to control the flow of students across the road.
13. **All staff must follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School's Camping Policy and Excursion Policy must also be followed.**

Arrangements for students not collected after school

Parents/guardians will be informed when supervision of students is available before and after school hours and that supervision outside of these times and/or the collection of students is the responsibility of parents/guardians. Students remaining in the school yard awaiting collection after 3.45pm will be directed to the office waiting area.

If it becomes known that a student who is normally collected from the school, remains at the school well beyond the normal time of collection, attempts will be made to contact the parents/guardians, or the emergency contact person identified by the parent/guardian in the school records.

Where all reasonable attempts have been made to locate the parents/guardian and the emergency contact persons, and the time is well beyond a reasonable time for collection, students will be taken to the Out of Hours School Care Program.

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 a school depending on the age of students, urgency and threat of injury. Consider for example, if a live power line came down outside the school, no emergency workers had arrived, and primary children are about to be dismissed to walk home. No school would allow the children to walk out to that danger unsupervised.

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.
- 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.

This policy must be read in conjunction with the school's Child Safety Policy and Code of Conduct.

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