

PARKHILL PRIMARY SCHOOL

POLICY: Duty of Care Policy

PROGRAM LEADER: Mr Rodney McKinlay

DATE RATIFIED BY SCHOOL COUNCIL: February 2014

RATIONALE

Parkhill Primary School is bound by Duty of Care standards which are defined in common law and legislation, and the school is also required to comply with DEECD guidelines. Parkhill Primary School staff are required to supervise students adequately and they have a Duty of Care towards them. Whenever a student-teacher relationship exists, the teacher has a duty of care. The expectation of a teacher's duty of care is higher when a child's age is lower, when a child is part of the PSD program, and when a child has a known significant medical condition (including but not limited to diabetes, anaphylaxis, epilepsy, cancer, etc).

AIMS

1. To ensure the school has appropriate guidelines and administrative structures to meet its Duty of Care obligations.
2. To ensure school leadership, teachers and staff understand their responsibilities and the potential consequences of breaches in relation to Duty of Care.

IMPLEMENTATION

Parkhill Primary School students are owed a Duty of Care. It is the Principal's responsibility to administer the necessary arrangements for student supervision. The following instructions and notices apply to all staff.

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).
- Students shall not be left in the care of ancillary staff, parents or trainee teachers (At law, the duty of care cannot be delegated).
- Students shall not be left in the care of external education providers; for example incursions (At law, the duty of care cannot be delegated).
- In an emergency the phone is to be used to contact the Principal or Assistant Principal, or the teacher in the next room is to be contacted.
- 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, or to the Assistant Principal or Principal. This should be accompanied/ followed by documentation.

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 should normally occur with the approval of the Area Leader and/or Principal-Assistant Principal. Children must not be unaccompanied; monitors must be accompanied by either another child or an appropriate adult.
- Discretion is to be used when allowing students to visit the toilet during class time. Children must not be unaccompanied: children visiting the bathrooms must be accompanied by either another child or an appropriate adult.

Yard supervision

- Playground supervision is an essential element in teachers' duty of care. 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 expected to follow school policy whilst on duty.
- Teachers rostered for duty are to attend the designated area at the time indicated on the roster and at the sounding of the appropriate bell.
- 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 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 permanent changes to the yard duty roster are to be made without the approval of the person responsible for rosters.
- If a teacher rostered for duty will be absent due to an excursion, sport etc, it is that teacher's responsibility to notify the person responsible for rosters of the situation and arrange a swap. Once a swap is arranged the details are to be recorded.
- When supervising pupils, teachers' duty of care is one of pro-active action.
- Teachers are to be aware that in the yard children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Teachers are to be alert and vigilant and are to intervene immediately if potentially dangerous behaviour is observed in the playground. School behaviour standards and logical consequences of playground safety rules are to be enforced.
- Staff on yard duty should be continuously mobile.

Excursions, Incursions and Camps

- 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.
- Excursions outside the school and camps (and the activities they include) require the teacher to fully comply with DEECD guidelines and require 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.
- The teacher(s) organising excursion and camp activities are required to ensure that the venue(s) and transport required must adhere to DEECD guidelines.
- School policy requires 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 whilst on excursions/camps/swimming programs. A copy of this material will also be kept at school.
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone, the number of which is known by the school and a first aid kit.
- 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.
- Teachers and staff involved in excursions, incursions and camps are to be aware that children are usually less constrained and more prone to accident and injury than in a more typically supervised classroom at school.
- If crossing roads students are to use designated crossing points. Staff are to walk to middle of crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.
- 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.
- Arrangements will be made for students not attending to continue their normal program at school under supervision of another classroom teacher.
- *If children are attending programs outside the school that parents take the children to, the duty of care lies with the service provider and the parent, eg, G.A.T.E.W.A.Y.S.*

LEGAL BACKGROUND

“Duty of care” is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage which arises from the negligent act or omission.

In order to successfully bring a claim in negligence for compensation for an injury, a person must establish, on the balance of probabilities, that:

- a duty of care was owed to the person harmed at the time of the injury
- the risk of injury was foreseeable
- the likelihood of the injury occurring was more than insignificant
- there was a breach of the duty of care or a failure to observe a reasonable standard of care
- this breach or failure was a cause of the injury.

The fact that a duty of care exists does not of itself mean that a school will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.

Standard of care required by schools

Principals and teachers are held to a high standard of care in relation to students. The duty requires principals and teachers to 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
- ensuring that medical assistance is provided to a sick or injured student.

The duty is *non-delegable*, meaning that it cannot be assigned to another party.

Negligent advice: teachers

Teachers are frequently called upon to advise students. When doing so teachers should:

- limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the principal
- ensure that to the best of their knowledge the advice they give is correct and in line with the most recent available statements from institutions or employers.
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

(DEECD - School Policy and Advisory Guide – Duty of Care <http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>)

EVALUATION

This policy will be reviewed initially during the 2014 school year and then as part of the school’s four year review cycle.

APPENDICIES

- Nil

REFERENCES

- DEECD - School Policy and Advisory Guide: <http://www.education.vic.gov.au/school/principals/spag/Pages/azindex.aspx>
- DEECD - School Policy and Advisory Guide – Duty of Care <http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>
- Education and Training Reform Act 2006
[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/575C47EA02890DA4CA25717000217213/\\$FILE/06-024a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/575C47EA02890DA4CA25717000217213/$FILE/06-024a.pdf)
- Parkhill Primary School Yard Supervision Policy
- Parkhill Primary School Excursion, Incursion and Camp Policies