



# Duty of Care

## POLICY



### **Rationale:**

The purpose of this policy is to explain to our school community the non-delegable duty of care obligations that all staff at Port Melbourne Primary School owe to our students and members of the school community who visit and use the school premises during business hours on school days and during authorised school events.

### **Aims:**

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

### **Implementation:**

“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:

- Anaphylaxis Policy
- Asthma Policy
- Yard Duty and Supervision
- Student Code of Behaviour
- Camps and Excursions
- First Aid Policy
- Child Safe Standards/ Policy
- Emergency Management Plan
- Visitors Policy
- Mandatory Reporting Policy
- Occupational Health and Safety Procedures / Policy
- Medication Policy
- Personal Digital Device Policy
- Communication Policy
- Privacy Policy

These policies are available for all staff to access via *Compass* and staff must make themselves aware of the processes to ensure they meet their Duty of Care.

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.

### ***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 reasonable steps to minimise the risk of reasonably foreseeable harm, including:

- ensuring the school complies with the seven Child Safe Standards
- 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
- managing employee recruitment, conduct and performance.

The duty is non-delegable, meaning that it cannot be assigned to another party. While students are generally free to move around the buildings and work independently in break out spaces and designated study areas they must be under (indirect) adult supervision at all times. Staff are responsible for their students at all times.

Whenever a teacher-student relationship exists, teachers have a special duty of care. Generally, teachers are expected to take such measures as are reasonable in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury.

The nature and extent of this duty will vary according to the circumstances. For example, the standard of care required will be higher when taking a group of Preps for swimming lessons than when teaching a group of Year 6s in the classroom.

The important issue in all cases will be what precautions the school could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:

- identifying the risk of harm
- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the burden of taking precautions to avoid the risk of harm
- the social utility of the activity that creates the risk of harm.

Whilst each case regarding a staff member'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 staff member 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 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 following correct procedure
- inadequate supervision on a school excursion

### ***DUTY OF CARE TO STUDENTS OUTSIDE THE SCHOOL***

The law has established that, in some circumstances, a school's duty (and therefore the Department's duty) will extend beyond school hours and outside of school grounds. The duty will be extended to outside school hours and premises when the relationship between the school and the student requires it in the particular circumstances. For example, in some circumstances schools may be liable for injury sustained by students in the playground before school begins for the day, particularly if it occurs during the period of time for which the school yard is supervised.

### ***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 the advice they give is correct and in line with the most recent available statements from institutions or employers. Careers teachers and coordinators at senior levels should keep contemporaneous notes of advice given to individuals
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

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.

### ***INFORMING STAFF OF THE LEGISLATIVE LIABILITY OF DUTY OF CARE***

All staff will be informed of their legal requirements.

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 schools website.

New staff will be informed of their Duty of Care as part of the school's Induction Program

### **Further Information and Resources**

- School Policy and Advisory Guide: Duty of Care
- List of PMPS Policies

### **Evaluation:**

To be reviewed as part of the school's four year review process