



## **DUTY OF CARE POLICY & PROCEDURES**

### **BLACKBURN LAKE PRIMARY SCHOOL**

Florence Street Blackburn 3130

### **RATIONALE**

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.

### **INTRODUCTION**

One way Blackburn Lake Primary School aims to satisfy its duty of care is by allocating responsibilities to different staff and by communicating to staff their duty of care, and providing ongoing induction and training processes. Details below.

### **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.

- Teaching is a skilled profession and teachers must accept the legal consequences of such specialised knowledge and skills.
- In situations where the teacher should reasonably have foreseen the possibility of injury, the teacher has a duty to take reasonable care.
- Schools are bound by standards which are issued under legislative authority, non compliance with these standards may amount to negligence.

### **IMPLEMENTATION**

#### **Classroom Supervision**

- At no time are students to be left unsupervised in the classroom or specialist areas, including 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. (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.)
- Visiting music teachers and special program providers (such as Wise Ones, Camp Australia, Kelly Sports, etc) take on duty of care when running their lessons, with appropriate documentation (whether VIT – Victorian Institute of Teaching, or WWCC – Working With Children Check) filed by the Principal.
- In an emergency situation teachers must contact the teacher in the next room or use the phone for the Principal or Assistant Principal.
- 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.

#### **Movement of Children**

- Care needs to be taken in allowing students to leave the room for any reason (including going to the toilet); students will always travel in pairs or threes.
- Use of students as monitors outside the room during class time should only occur with the approval of the Teaching Team Coordinator or Principal/Assistant Principal.

## **Yard supervision**

- Playground supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising pupils, teacher's duty of care is one of positive action.
- Children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- 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 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.
- No changes to the yard duty roster are to be made without the approval of the Assistant Principal/Principal.
- 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 in the Staffroom.
- 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, recording any student concerns in the "Behaviour Folder"
- Folder, high vis jacket, bum bag with first aid supplies, walkie talkie must be carried at all times.
- Staff on yard duty should be, as far as reasonably practicable, continuously mobile.

## **Excursions, Incursions, Camps, Sporting Events**

- Children are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- 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.
- Excursions outside the school (such as sport, museum etc) require the teacher to fully comply with DET guidelines including risk assessment documents and brings with it an increased duty of care. It is the organising teacher's responsibility to communicate all information to staff attending the excursion.
- Camp activities (overnight) require the teacher to fully comply with DET Guidelines, including risk assessment documents and brings with it an increased duty of care. It is the organising teacher's responsibility to communicate all information to staff attending the excursion. Be aware that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DET guidelines.
- 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. Copies 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 a designated teacher of an excursion or camp will carry a mobile phone with the number known to the school and other supervising adults.
- The teacher in charge or a designated teacher of an excursion or camp will carry a first aid kit.
- 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 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.
- All staff must follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School Camps, Excursion and Incursion policies 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 beginning of each school year, as a part of the Staff Operational Manual. It is the staff responsibility to read this material.

- New staff will receive the Staff Operational Manual (including this policy) as part of the school's Induction Program.
- Staff will complete a risk assessment including duty of care analysis when completing planning for all camps, excursions and incursions.

### **Failure to disclose offence**

In addition to mandatory reporting and duty of care obligations, **any adult** who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 must report that information to police. Failure to disclose the information to police is a criminal offence except in limited circumstances, such as where the information has already been reported to Child Protection or the child is older than 16 when the belief is formed. More information about the offence can be found at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence>

### **EVALUATION**

This policy will be reviewed within three years.

**RATIFIED BY SCHOOL COUNCIL:** September, 2017

**PRINCIPAL:** Loisia Steed

**SCHOOL COUNCIL PRESIDENT:** Dan Watts

### **Relevant Documentation & Links:**

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence>  
<http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/excursions.aspx>  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/supervisionaccess.aspx>  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/supervision.aspx>  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/safety.aspx>  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotectobligation.aspx>