



Edinburgh College

Duty of Care Policy

Document History

This policy is to be ratified by the School Council on Nov 2022

The life cycle of this policy is three years. It will be reviewed in 2025

Preamble

All Seventh-day Adventist Schools in Victoria are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students including:

- That it owes all students a duty of care to take reasonable measures to protect them from reasonably foreseeable risks of injury
- That it owes a duty of care to take reasonable care that any student (or other persons) on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done to the premises
- That it owes a duty 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
- That different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty of care.

Purpose

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

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 risk of injury that the teacher should reasonably have 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 protection from those that could arise [that is, those that the teacher should reasonably have foreseen] and against which preventative measures could be taken. This includes the Child Safe Standards under Ministerial Order 870.

Implementation

- 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 College or on College activities as well as providing safe and suitable buildings, grounds and equipment.
- A teacher’s duty of care is not confined to the geographic areas of the College, or to college 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.
- 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.
- 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:-

- o Arriving late to scheduled timetabled yard duty responsibilities
 - o Failing to act appropriately to protect a student who claims to be bullied
 - o Believing that a child is being abused but failing to report the matter appropriately
(see Also Child Protection Policy)
 - o Being late to supervise the line-up of students after the bell has sounded
 - o Leaving students unattended in the classroom
 - o Failing to instruct a student who is not wearing a hat to play in the shade
 - o Ignoring dangerous play
 - o Leaving the school during time release without approval
 - o Inadequate supervision on a school excursion.
- 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 careers teacher, year level coordinator or subject teacher] specified for them by the principal.
 - 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.

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.

The following instructions and notices apply to all staff.

Classroom supervision

- 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]
- In **an emergency situation** use the phone to phone the Principal or Assistant Principal or contact the teacher in the next room [if appropriate – send another student for assistance]
- **No student** should 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 Head of School or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Head of School **is to be contacted first** to alert them that the student is on their way.

Movement of Children

- Care needs to be taken in allowing students to leave the room to work in other areas of the school
- Discretion is to be used when allowing students to visit the toilets during class time.

Yard supervision

- Yard supervision is an essential element in teachers’ duty of care. It is now clearly established that in supervising pupils, teachers’ duty care of 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 of the cultural safety of Aboriginal children, cultural safety for children from culturally and/or linguistically diverse backgrounds, and to providing a safe environment for children with a disability (*VRQA CSS resource: Toolkit resource 2 - Department of Health and Human Services DHHS*).
- Be aware that yard duty supervision within the school 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 rostered for duty are to attend the designated area at the time indicated on the roster
- Teachers on duty are to remain in the designated area until 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 roster are to be made without the approval of the Daily Organiser or Head of School and/or Principal
- Be alert and vigilant – intervene **immediately** if potentially dangerous behaviour is observed in the yard – enforce behaviour standards and logical consequences for breaches of safety rules
- You should always be on the move and highly visible.

Before and After School Care

- Students must be adequately supervised at all times, which includes a minimum of 15 minutes before and

after school (Edinburgh College supervises 30 minutes).

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 camps and excursions outside the school require the teacher to 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 school 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
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and 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 the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road
- All staff **MUST** follow the school guidelines when organising an excursion, incursion or camp - this includes following the EOTC Policy.

Ensuring a Safe Workplace for all People

- It is the responsibility of each employee to ensure the school premises are safe at all times
- Regular checks of each employee's own work space is required as outlined in the WH&S policies to minimise risk of injury to any persons on the school premises.
- If a risk is identified by an employee in an area outside this immediate workspace, it is the responsibility of the employee to ensure no person is put in an immediate risk of harm and then immediately notify the school administration of the issue (as per the WH&S policies).