

Duty of Care Policy



MERENDA HILLS CHRISTIAN COLLEGE

Policy Type: Welfare

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 risk of injury that the teacher should reasonably have foreseen." (Richards v State of Victoria).

As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known harms and hazards, but also protection from those that could arise [that is, those that the teacher should reasonably have foreseen] and against which reasonable precautions and preventative measures could be taken.

This includes the 2016 Child Safe Standards under Ministerial Order 870, made in response to the Betrayal of Trust Inquiry, and the 2017 amendments to the Wrongs Act (1958) (Vic), Part XIII: *Organisational liability for child abuse*; Section 91: *Duty of Care to Prevent Child Abuse*.

PROCEDURE

Overview

1. Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of injury and harm, specific [but not exhaustive] requirements of the duty involve providing adequate supervision in the school or on **off-campus** school activities, as well as providing safe and suitable buildings, grounds and equipment.
2. Duty of care to prevent child abuse applies not only to teachers, but to all adults associated with the College.
3. A teacher's duty of care is not confined to the geographic areas of the College, or to school activities, or to activities occurring outside the College 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.
4. 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.
5. Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following **is a list (though not exhaustive) of common examples that** may be times when a teacher has failed to meet their legal duty of care responsibilities to their students:
 - i. Arriving late to scheduled timetabled yard duty responsibilities

- ii. Failing to act appropriately to protect a student who claims to be bullied
 - iii. Believing that a child is being abused but failing to report the matter appropriately (see also the *College Child Safe Protection Policy*)
 - iv. Being late to supervise the line-up of students after the bell has sounded
 - v. Leaving students unattended in the classroom
 - vi. Ignoring dangerous play
 - vii. Leaving the College during time release without approval
 - viii. Inadequate supervision on a school excursion
6. Teachers are also cautioned against giving advice on matters that they are not professionally competent to give [negligent advice].
 7. 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.
 8. 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.

Outside the normal school environment

1. Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day.
2. 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.
3. 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

1. 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]
2. It is NOT appropriate to leave students in the care of external education providers for example **during** incursions **or on excursions** [at law, The Duty of Care cannot be delegated]
3. In an emergency situation use the nearest phone [e.g. classroom office phone] to phone the Principal, Head of Campus, or Head of School or contact the teacher in the next room. [if appropriate – send another student for assistance]
4. No student should be left unsupervised outside the classroom as a withdrawal consequence for behaviour. Withdrawal is to be conducted by sending a student to a colleague's classroom, or to the Head of School or Deputy Head of School, Head of Campus, or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Head of School or Deputy Head of School, Head of Campus, or Principal is to be **contacted first** to alert them that the student is on their way.

Movement of children

1. Care needs to be taken in allowing students to leave the room to work in other

areas of the College

2. Discretion is to be used when allowing students to visit the toilets during class time.

Yard supervision

1. 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
2. Be aware that children are usually less constrained in school yards and more prone to accident and injury than in a more closely supervised classroom
3. 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.
4. Teachers rostered for duty are to attend the designated area at the time indicated on the roster
5. 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
6. 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
7. Changes to the yard duty roster are not to be made without the approval of the Head of School or Deputy Head of School or designated Roster Organiser
8. Be alert and vigilant – intervene immediately if potentially dangerous behaviour is observed in the yard – enforce PB4L behaviour standards and logical consequences for breaches of safety rules
9. You should always be on the move and highly visible [Wear provided Hi-vis vests]

Before and after school

1. Students must be adequately supervised at all times, which includes a minimum of 15 minutes before and after school.

Excursions, incursions and school camps

1. Be aware that children are usually less constrained under education outside of the classroom (EOTC) circumstances 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 camps and excursions outside the school require the teacher to remain the person designated with duty of care
4. Be aware that excursion and camp activities require the teacher to ensure that all venue and transport employees adhere to College Child Safe policies and processes, as well as procedure guidelines. (See *Excursion policy, Child Safe Protection Policy, Child Safe Protection Code of Conduct* and other relevant policies.)
5. Be aware that College policy whilst on excursion or camp activities is for students to be counted on and off transport and at other times on a regular basis
6. 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
7. The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit

8. If the return time from an excursion or camp is delayed, the teacher in charge will contact the College to inform the Principal, Head of Campus, or Head of School of the new arrival time so that parents can be contacted, and a senior staff member will remain at school until they arrive
9. 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.
10. All staff MUST follow the College policies, processes, and procedure guidelines when organising an excursion, incursion or camp.

Duty of Care to Prevent Child Abuse

1. Duty of Care to Prevent Child Abuse applies to all adults associated with the College, not only to teacher/student relationships.
2. It is the responsibility of each adult associated with the College to take reasonable precautions and measures to prevent the sexual or physical abuse of children and young people under our care, supervision or authority
3. Adults associated with the College include all employees of the College in any capacity, employees of the Adventist Schools (Victoria) Inc. system, pastors and chaplains employed by the school and the Seventh-day Adventist church, volunteers or contractors associated with the College, College Council members, College students 18 years and older, and other stakeholders associated with the College.
4. To understand and apply the expected Child Safe preventable precautions and measures refer to our *Child Safe Protection Policy*, *Child Safe Protection Code of Conduct*, *Child Safe Statement of Commitment and Principles*, *Child Safe Five Critical Actions – Responding to Incidents, Disclosures and Suspicions of Child Abuse* poster [in all offices], *Child Safe Abuse Response Report Template*, and *Mandatory Reporting Policy*. [SEQTA; Admin. Workspace; Documents]

Ensuring a Safe Workplace for all People

1. It is the responsibility of each employee to ensure the school premises are safe at all times.
 - i. Regular checks of each employee's own workspace is required as outlined in the *OH&S policies* to minimise risk of injury to any persons on the school premises.
 - ii. If a risk is identified by an employee in an area outside the 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 College administration of the issue (as per the *OH&S policies*).

Related Policies:

- *Child Safe Protection Policy*,
- *Child Safe Protection Code of Conduct*,
- *Child Safe Statement of Commitment and Principles*
- *Child Safe Five Critical Actions – Responding to Incidents, Disclosures and Suspicions of Child Abuse* poster
- *Child Safe Abuse Response Report Template*,
- *Mandatory Reporting Policy*.

This policy was shared with Taylors Hill staff in Oct 2021

This policy was shared with Mernda staff in Oct 2021

This policy was checked by ADCOM Sept 2021

This policy was ratified by the College Council Oct 2021

This policy was updated Sept 2021

This policy is due for review 2022