

## STUDENT HEALTH, SAFETY, WELLBEING AND ENGAGEMENT

### Duty of Care Policy

#### PURPOSE

The purpose of this policy is to:

- explain to our school community the non-delegable duty of care obligations that all staff at Springvale Rise Primary School owe to all students and members of the school community who visit and / or use the school premises.
- 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.

#### SCOPE

- This policy applies to all staff, including casual relief teachers.

#### POLICY

“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.

This will involve consideration of the following factors:

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

Springvale Rise Primary School has developed policies and procedures to manage common risks in the school environment and ensure that duty of care is maintained at all times, these include a:

- Yard Duty and Supervision Policy
- Bullying Prevention Policy
- Staff Code of Conduct
- Child Safe, Mandatory Reporting Policy
- Camps, Excursions and Incursions Policy
- Volunteers Policy
- Visitors Policy
- Digital Learning Policy
- Mobile Phones Policy
- Emergency Management and Critical Incidents Policy
- Sharps Procedure Policy
- Attendance Policy, and
- First Aid, Asthma, Anaphylaxis, Administration of Medication and Health Care Needs Policies

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Our school also follows the Victorian Department of Education polices for:

- Working with Children and Suitability Checks
- Occupational Health and Safety
- Privacy.

Staff at Springvale Rise Primary School understand that:

- they owe all students a duty of care to take reasonable measures to protect them from reasonably foreseeable risks of injury and that any student (and 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.
- 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.
- they are 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.
- they owe 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.
- different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty of care.

Staff are advised to seek advice and support from their Sub-School Team Leader, Assistant Principal or Principal if they believe duty of care has been (or will be) compromised. Parents, carers, and students are also encouraged to speak to the Assistant Principal / Principal to raise any concerns about risks or hazards in the school, or our duty of care obligations.

'Duty of Care' is an element of the tort of negligence. In broad terms, the legal position is that if a person is injured as a result of a negligent act, or omission of another, the injured person should be compensated for loss and damage flowing from that negligence.

## Implementation

The Principal and all staff are held to a high standard when caring for students. The duty requires staff to take all reasonable steps to reduce risk, including:

- compliance with the seven Child Safe Standards and upholds the Mandatory Reporting requirements
- provision of suitable and safe premises, grounds and equipment
- provision of adequate systems of supervision
- implementation of strategies to prevent bullying and support student engagement
- systems to ensure appropriate medical assistance is provided to a sick or injured student
- management of employee recruitment, conduct and performance

The duty is non-delegable, meaning that it cannot be assigned to another party. However, this does not mean that only one person holds a duty of care to a particular student at any one time. Multiple staff may have a duty of care to the same student, with differing responsibilities and roles to play in relation to the school discharging its overall duty of care. The precise scope of each staff member's duty of care may be different.

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The Principal is responsible for making and administering arrangements for supervision as necessary and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury.

The school will clearly inform parents when playground supervision will be provided and that no formal supervision of the playground occurs outside of those hours.

The school will also from time to time, when appropriate, inform parents of potential risks outside of the school, of which the school has become aware of.

## Classroom Supervision

Teachers are responsible for their students at all times. At law, the duty of care cannot be delegated.

- It is not appropriate to leave students in the care of educational support staff, volunteers, parents, or trainee teachers.
- It is not appropriate to leave students in the care of external education providers for example during incursions without adequate supervision arrangements (*see Camps, Excursions, and Incursions Policy for further information*).
- In an emergency, the teacher should phone for the Principal / Assistant Principal or contact the teacher in the next room (if appropriate send two students for assistance).

No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour. If a student does need time away from the classroom, withdrawal is to be conducted by:

- first alerting the Sub-School Team Leader or Principal/Assistant Principal that the student will be sent to them
- sending the student to the Sub-School Team Leader / Principal / Assistant Principal with two other students if appropriate
- arranging appropriate follow-up.

All teachers must:

- arrive on time to supervise the line-up of students before the bell has sounded
- request the Principal's permission to leave the school during non-student contact time
- ensure that the advice given is correct and, where appropriate, in line with their level of expertise and the most recent available statements from institutions or employers
- avoid giving advice in areas unrelated to their role or where they may lack expertise.

## Movement of Students

Care needs to be taken in allowing students to leave the room to, for example, work in other areas of the school, or visit the toilet, sick bay, or office. Students must travel in groups of two and only with the permission of the supervising teacher. When a student requires medical care and needs to spend time in the sick bay, the supervising teacher should send two students to accompany the child (making a total of three), so that when the students return to the classroom, they remain in a group of two. Supervising teachers may send a student to the toilet on their own, for example, the toilet is in the same building and the teacher is always able to maintain supervision.

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## Yard Supervision

Yard supervision is an essential element of teachers' duty of care. Staff at Springvale Rise primary school will follow the *Yard Duty and Supervision Policy*. In this policy, it also outlines that teachers must:

- arrive on time to scheduled timetabled yard supervision responsibilities
- remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable
- hand over the duty from one teacher to another in an area of designated duty. Where a relieving teacher does not arrive for duty the teacher should send a message to, or call, the office but not leave the area until replaced
- use positive action to ensure the safety of students
- instruct a student not wearing a hat to play in the shade
- be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom
- be alert and vigilant, intervening immediately if potentially dangerous behaviour is observed in the yard
- implement behaviour standards and logical consequences for breaches of safety rules
- fully comply with DET guidelines and the school's *Yard Duty and Supervision Policy*.

In some circumstances, the duty of care owed by school staff will extend beyond school hours and outside of the school grounds. Whether the duty extends outside of school hours or outside of the school grounds will depend on all the circumstances of each individual case, and the school staff members' knowledge of any reasonably foreseeable risks of injury. Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency and the threat of injury.

## Excursions, Incursions and Camps

Staff at Springvale Rise Primary School acknowledge that, as our duty of care is non-delegable, we are also required to take reasonable steps to reduce the risk of reasonably foreseeable harm when external providers have been engaged to plan for or conduct an activity with our students.

The teacher in charge is responsible for ensuring that all camps, excursions and incursions are planned for and operate in accordance with the Department of Education and Training's *Camps and Excursions (including Adventure) Policy*. Staff must also follow the Springvale Rise Primary School's *Visitors Policy* and *Camps, Excursions and Incursions Policy*, which include information on the safety and care of our students when engaged with external providers. This responsibility includes:

- having two copies of all confidential medical forms and permission notes with contact details, one left at the school and one taken on the excursion
- ensuring a First Aid trained member of staff is in attendance and that an appropriate number of first aid kits are taken for the size of the group, including any asthma medication, Epipens / Anapens and other medication / relevant medical plans, if there are students in the group who may need them
- all staff carrying a mobile phone and having the phone number of all other staff members in attendance
- contacting the school in advance if arrival times are delayed to inform the Principal of the new arrival time so that parents can be contacted (if necessary) and ensuring that a senior member of staff remains at school until they arrive

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- ensuring staff are always spread out across the group of students (keeping to the front, middle and back) and when crossing a road, that there is a staff member in the middle of the crossing to ensure visibility and orderly crossing.

All staff need to be aware that:

- students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom
- a teacher must always be present and remain the person designated with duty of care responsibilities. Duty of care cannot be delegated to an external provider
- camps and excursions outside the school require the teacher to fully comply with DET guidelines and bring with it an increased duty of care. It is the teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care
- school policy expects students to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities
- all staff must follow DET guidelines when organising an excursion, incursion or camp
- all procedural steps for camping, excursions, and incursions, with an external provider of learning, 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.
- Regular reminders and updates will be provided at staff forums
- New staff will be informed of their duty of care as part of their induction
- Staff will be directed to the school's other related policies

## FURTHER INFORMATION AND RESOURCES

- the Department's Policy and Advisory Library: [Duty of Care](#)
- Springvale Rise Primary School's website: [local school policies, including for example, those listed above.](#)

## REVIEW CYCLE

This policy was last updated in May 2021 and is scheduled for review prior to the next school review, or if guidelines change.