



**Arthurs Creek Primary School**  
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## DUTY OF CARE

### (CHILD SAFE STANDARD 6)

#### Purpose

The purpose of this policy is to explain to our school community the duty of care obligations that all staff at Arthurs Creek Primary School owe to our students and members of the school community who visit and use the school premises.

#### 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.

Our school has developed policies and procedures to manage common risks in the school environment, including:

- Yard duty and Supervision
- Bullying Prevention
- Camps and Excursions
- First Aid
- Child Safe Standards
- Emergency Management
- Volunteers
- Visitors
- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health and Safety

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.

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.



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## Broad Guidelines

***This policy is written in accordance with the Child Protection Reporting Policy and Education and Training Reform Act, Child Safe Standards, Managing the Risk of Child Abuse in Schools, Ministerial Order No. 870. As emphasised in the schools' Child Safety Policy, "Arthurs Creek Primary School is committed to child safety and has a zero tolerance of child abuse".***

In order to successfully bring a claim in negligence for compensation for an injury, a person must establish, on the balance of probabilities, that:

- a duty of care was owed to the person harmed at the time of the injury
- the risk of injury was foreseeable
- the likelihood of the injury occurring was more than insignificant
- there was a breach of the duty of care or a failure to observe a reasonable standard of care
- this breach or failure was a cause of the injury.

The fact that a duty of care exists does not of itself mean that a school will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.

### *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 all reasonable steps to reduce risk, including:

- 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

The duty is *non-delegable*, meaning that it cannot be assigned to another party.

Whenever a teacher-student relationship exists, teachers have a special duty of care. This has been expressed 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*).

## Implementation

The nature and extent of the duty will vary according to the circumstances. For example, the standard of care required will be higher when taking a group of



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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:

- 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

#### *Duty of care to students outside the school*

A number of cases have 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 during camps.*

Whether the duty extends outside of school grounds therefore depends on all the circumstances of each individual case, and the school's knowledge of any dangers.

It is important that schools clearly inform parents when playground supervision will be provided and that no formal supervision of the playground occurs outside those hours. The playground of Arthurs Creek Primary School is supervised from 8.45am to 9.00am daily. At the conclusion of the school day the front gate will be supervised from 3.30-3.45. Students will then be taken to the staffroom and parents will be called.

#### **Resources**

- [Personal Liability of School Employees](#)
- [SERS Insurance Claims and Settlement Process](#)
- [Volunteer Workers](#)
- [School Policy and Advisory Guide](#) – Duty of Care



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