



Bungaree Primary School

Duty of Care & School Supervision Policy

Purpose

In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect students in their care from risks of injury that are reasonably foreseeable. This policy will explain the nature of the legal duties owed by teachers and school staff towards students; and ensure that Bungaree Primary School satisfies our duty of care in supervising students.

Background

“Duty of care” is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage which arises from the negligent act or omission.

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.

Implementation

The Principal is responsible for ensuring that there is an adequate system of supervision in place during school hours, before and after school, and on school excursions and camps.

Teachers and other school staff are responsible for following reasonable and lawful instructions from the Principal, including instructions to provide supervision to students at specific dates, times and places. All staff need to be aware that greater measures may need to be taken for younger students or students with special needs or disabilities.

Duty of Care requirements include providing adequate supervision in the school or on school activities; providing safe, well maintained and suitable premises, grounds and equipment to minimize the risk of injury or damage to a person; providing effective anti-bully strategies; and ensuring appropriate and timely medical assistance is provided to injured or sick students.

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 legal duty of care to students:

- a) arriving late to scheduled timetabled responsibilities including yard duty
- b) failing to act appropriately to protect a student who claims to be bullied
- c) believing that a child is being abused but failing to report the matter appropriately
- d) being late to supervise the line-up of students after the bell has sounded
- e) leaving students unattended in the classroom or ignoring dangerous play
- f) failing to instruct a student who is not wearing a hat to play in the designated shade area
- g) leaving the school during ‘non face-to-face teaching time’ without approval and without signing out
- h) inadequate supervision on a school excursion.

Staff members are also cautioned against giving advice on matters that they are not professionally competent to give (as this could be 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 teacher or educational support) specified for them by the Principal. Teachers should not give advice in areas where they may lack expertise.

Standard of Care Required

The Principal and teachers are held to a high standard of care in relation to students. The duty requires the Principal 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
- managing employee recruitment, conduct and performance.

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

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 preps for swimming lessons than when teaching a group of senior students in the classroom.

The important issue 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.

Supervision Responsibilities Before and After School

Parents/Guardians	<p>the care and supervision of students:</p> <ul style="list-style-type: none"> • travelling to and from school • outside the times of school supervision before and after school. <p>To assist the school, parents and guardians are encouraged to:</p> <ul style="list-style-type: none"> • maintain preferred or mandatory points of exit for students at the end of the day (gates at the front of the school) <ul style="list-style-type: none"> • use these exits • make sure that students are familiar with these exits and use them • apply traffic controls at the beginning and end of the school day <ul style="list-style-type: none"> • obey parking regulations, speed limits and other traffic controls to: <ul style="list-style-type: none"> - help to create a safe environment at exits to the school - show respect to neighbours who live close to the school • to provide adequate supervision for students entering or exiting the school at the beginning and end of the school day <ul style="list-style-type: none"> • avoid talking to teachers who are supervising entry or exits about their child's progress and should arrange another time for this discussion.
Principal	<p>ensuring:</p> <ul style="list-style-type: none"> • school supervision is provided for a minimum of 10 minutes before and after school as legislation requires • parents/guardians are regularly informed about supervision available before and after school • sufficient teachers are available to supervise the departure of students at the end of the school day • teachers supervising departures are not called away for other duties without alternate supervision being arranged.

Supervision in Specific Circumstances

Recess and lunch times	Students must be supervised during recess and lunch. For students who seek to leave school premises during lunch or recess, procedures must be in place that incorporate: <ul style="list-style-type: none">• written parent/guardian requests for students• short and long term lunch passes.
Cross-age Tutoring	The Principal will decide how much supervision to provide for formal cross-age tutoring programs based on: <ul style="list-style-type: none">• the age and maturity of students• size of the group• nature of the activities• the location within the school.
Swimming Pools	Students must be supervised at all times while using a swimming pool (including if a swimming pool is owned privately or by the municipal council).
Visitors to School	Visiting speakers/tutors/guests do not have the authority to supervise students in schools. Teachers must supervise their students during a presentation from a guest speaker. Note: This includes instructors providing religious instruction or other special instruction in school.

Supervision Procedures

Classroom (including Gym, Art Room, other indoor/outdoor learning spaces)

1. The class teacher has ultimate responsibility for the supervision of all students in their care. It is not appropriate to leave students in the care of ancillary staff, parents or pre-service 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 in-school visits (by law, the Duty of care cannot be delegated).
3. In a situation where the teacher needs to leave the classroom, where practicable, contact the teacher in an adjoining learning space. The teacher should wait until alternate supervision is in place prior to leaving the room.
4. No student should be left unsupervised outside the learning space as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a buddy classroom, as detailed in the Bungaree Primary School Behaviour Hierarchy.

Recess and Lunch Times

1. Yard duty supervision within the school requires the staff member 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.
2. In order to ensure that students are adequately supervised, a 'Yard Duty Roster' will be created each year allocating teachers and education support staff to supervise students during these times. Details of the roster are communicated to staff at staff meetings. Staff rostered for yard duty are to attend at the time indicated on the timetable. Staff on yard duty are to remain in the playground until the end of the break or until replaced by the relieving teacher.
3. Yard supervision is an essential element in teachers' duty of care. At Bungaree Primary School, this responsibility extends to Educational Support Staff. In supervising students, teacher's duty of care is one of positive action.
4. Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised learning space, especially towards the end of a break time.
5. 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 (or refer to a teacher or the Principal as appropriate).
6. Staff should always be on the move focused on the students at play and be wearing a high visibility vest.
7. The handing over of yard duty from one staff member to another must be quite definite and must occur in the in the playground. Where a relieving teacher does not arrive for yard duty, the teacher currently on duty should send a message to the office/staffroom, but not leave the area until replaced.
8. Staff members must promptly attend to a student seeking first aid on arrival at the staffroom.

Before and After School

1. The school will provide staff supervision for students arriving before school between 8.45am and 9.00am.
2. The school will provide staff supervision for students after school between 3.30pm and 3.45pm.
3. This information is provided to parents/guardians on a regular basis via the school newsletter. Outside of these times the supervision and/or the collection of students is the responsibility of parents/guardians.
4. Sufficient teachers will be allocated by the Principal or their nominee to supervise students during these periods.
5. Should a teacher be called away to other duties alternate supervision arrangements will be put in place in consultation with the Principal or their nominee.

Student Late Arrival/Early Departure from School

1. Students must be signed in to the school if arriving after commencement of learning time (9:00am).
2. Students must be signed out of the school if departing prior to dismissal time (3:30pm).
3. A record of early departures is to be kept in the Office and completed for all students departing the school early. Details will include the student's name, grade, the time of departure, reason for departing and the name of the person collecting the student.
 - No parents/carers are permitted to take students directly from the classroom without signing the student out.
 - Students can only be collected by a responsible person 16 years and over.
 - No students will be sent home on their own outside of normal dismissal time.

Arrangements for Students Not Collected After School

1. Parents/guardians will be informed when supervision of students is available before and after school hours and that supervision outside of these times and/or the collection of students is the responsibility of parents/guardians. Students remaining in the school yard awaiting collection after 3.45pm will be directed to the office.
2. If it becomes known that a student who is normally collected from the school, remains at the school well beyond the normal time of collection, attempts will be made to contact the parents/guardians, or the emergency contact person identified by the parent/guardian in the school records.
3. Where all reasonable attempts have been made to locate the parents/guardian and the emergency contact persons, and the time is well beyond a reasonable time for collection, consideration will be given to contacting the police or the Department of Health and Human Services and for them to arrange for the care and protection of the student.
4. Information about the whereabouts of the student will be left with appropriate friends of the student, or next-door neighbours, if known, and at the school.

Arrangements for Student Supervision on School Camps and Excursions

1. The school will provide supervision ratios in line with the Department of Education and Training's policy, depending on the nature and location of the school activity.

Evaluation

This policy will be reviewed as part of the school's three-year review cycle.

References

<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/dutyofcare.aspx>
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/supervision.aspx>