



Broadmeadows
Valley PRIMARY SCHOOL

DUTY OF CARE POLICY

PURPOSE

The purpose of this policy is to outline to our school community the non-delegable duty of care obligations that all staff at Broadmeadows Valley Primary School (BVPS) owe to our students and members of the school community who visit and use the school premises.

All government school staff will be made aware of their legal responsibilities. As part of the government school Principal contract, government school Principals are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students. Creating safe places for children and young people to fully and actively participate in the life of the school community benefits everyone.

Broadmeadows Valley Primary School ensures that the children in its care are protected to the best of its ability and in line with their duty of care and the compulsory Child Safe Standards. These Child Safe Standards are compulsory for all organisations providing services to children and young people and aim to drive cultural change in organisations so that the protection of all children and young people is embedded in the everyday thinking and practice of leaders and staff.

SCOPE

This policy is to ensure that teachers and school staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.

DEFINITION

Whenever a student–teacher relationship exists, the teacher has a 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 risks of injury that the teacher should reasonably have foreseen.” (Richards v State of Victoria (1969) VR 136 at p. 141) 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 preventive measures could be taken.

School authorities in breach of the duty of care may be liable for injuries inflicted by one student on another, as well as for injuries sustained by a student.

Schools normally satisfy the duty of care by allocating responsibilities to different staff. For example, the Principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in each school, 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. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

POLICY

Broadmeadows Valley Primary School has developed policies and procedures to manage common risks in the school environment, including:

- Bullying Prevention
- Camps, Excursions and Incursions
- Critical Incident
- First Aid
- Child Safe Standards
- External Providers
- Emergency Management
- Visitors
- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health and Safety

Staff at Broadmeadows Valley Primary 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. 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 school or on school activities as well as providing safe and suitable buildings, grounds and equipment.

A teacher's duty of care is not confined to the geographic area of the school, or to school 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 student relationship.

Quite apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or Principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child or young person is being abused or neglected, including sexual abuse.

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:

- arriving late to teaching session or leaving a teaching session early
- inadequate supervision of students attending class during morning tea/lunch breaks
- failing to act appropriately to protect a student who claims to be bullied
- believing that a child or young person is being abused but failing to report the matter appropriately

- being late to supervise students assembling in the hall or line up areas
- leaving students unattended in the school building (e.g., classrooms, hall)
- using a personal mobile whilst undertaking supervision
- ignoring dangerous student behaviours
- leaving the school during time release without using the sign out process
- inadequate supervision on a school excursion or incursion

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 student welfare 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 employers or DET. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

Our school acknowledges we are required 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.

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.

There will be a number of other situations where the school will be under a duty to take reasonable steps. In some instances, the school's control over the activity may require it to take more active measures to satisfy the requirement that it take reasonable steps. For example, a student travelling independently to an excursion/sporting activity from their home address should be able to contact the teacher using the school mobile. In other instances, the school may not control the activity, and the reasonable measures available to it will be limited.

Teachers are responsible for their students at all times. The following instructions and notices apply to all teachers. More specific BVPS staff supervision guidelines are also included as part of this Policy.

Teaching Supervision

- Teachers must not leave the teaching location unattended at any time during the event/activity.
- It is not appropriate to leave students in the care of ancillary staff, voluntary 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, in house activities involving outsourced personnel (At law, the Duty of Care cannot be delegated)
- In an emergency situation contact the Principal or Assistant Principal
- No student should be left unsupervised by BVPS teachers at any time.

Movement of Students

- Care and discretion are required at all times if allowing students to leave the incursion/excursion area, e.g., when allowing students to visit the toilet

- Teachers are responsible for actively supervising students while using any form of transport that is required for travelling to and from school excursions or camp destinations.

Playground Supervision

- Playground supervision is an essential element in a teachers' duty of care. It is now clearly established that in supervising students, teacher's duty of care is one of positive action.
- Be aware that students are sometimes less constrained and more prone to accident and injury in the school playground and external play areas than in a more closely supervised environment.
- Be aware that playground supervision within the school requires the teacher to fully participate and 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. Teachers are also expected to follow school policy whilst supervising students in the playground and all play areas.
- Supervising teachers on duty are to remain in the playground until the end of the break period or until replaced by a colleague, whichever is applicable.
- The handing over of duty from one teacher to another must be quite definite and must occur in the area of the playground. Where a relieving teacher does not arrive for courtyard supervision, the teacher currently on duty should send a message, but not leave the area until replaced.
- Be alert and vigilant - intervene immediately if potentially dangerous behaviour or possible threat is observed in the playground.
- You should always be on the move and highly visible. High visibility vests are provided by the school and must be worn by supervising staff on playground duty.

Excursions and Incursions

- Be aware that students are sometimes less constrained and more prone to accident and injury than in a more closely supervised environment.
- 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 excursions outside the school require the teacher to fully comply with Department of Education and Training (DET) guidelines and bring with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and 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 DET 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 an 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 information will also be kept at the Broadmeadows Valley Primary School General Office.
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit appropriate to the activity/venue.
- 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/carers 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. Teachers are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other teachers control the flow of students across the road.

Informing Staff of the Legislative Liability of Duty of Care

All staff will be informed of their legal requirement as follows:

- A copy of this document will be provided to each member of staff at the first staff meeting at the commencement of the school year, and will be placed on the Intranet
- New teachers will be informed of their Duty of Care as part of the school's Induction Checklist

- Duty of Care will be a regular agenda item at staff and team meetings and staff will be directed to familiarise themselves with the section relating to Student Safety of the Victorian Government Schools Policy Advisory Guide
- Staff will complete a risk assessment including duty of care when completing and submitting plans for camps, excursions and incursions

Staff at our 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 involving our students. Our *Visitors Policy* and *Camps and Excursions Policy* include information on the safety and care of our students when engaged with external providers.

BVPS Student Supervision Staff Guidelines

Before school and end of recess and lunch

- PLT's are required to be providing adequate teacher supervision of students within the Learning Neighbourhoods from 8:50am. Doors should be unlocked and accessible from this time on Thursday and Friday and iFIT will run Monday to Wednesday with outdoor supervision in place at this time.
- ESO's need to be on duty in their affiliated Learning Neighbourhoods or designated workspace at the commencement of their working day
- Staff assume the responsibility at the beginning of the day to ensure that the learning space is both safe and secure and also visually engaging with adequate preparation given to the provision of seating, tables and access to learning materials/resources
- All designated staff need to be within the Learning Neighbourhood when the 'come in' music concludes at 9:00am Monday to Friday.

Removing Students from LN's with three or four dots

- During instruction time the supervision of students within the Learning Neighbourhoods remain the responsibility of the Learning Group teacher at any given time including the movement of students with three dots within the learning spaces
- Students that have received 3 dots as part of the school's formal developmental management process are to be escorted by the staff member issuing the third dot to the most convenient and logical Learning Neighbourhood to serve their 'time away'
- Students that have been removed need to be 'handed over' to a senior staff member or preferably the Learning Neighbourhood Leader and then placed in a comfortable, visible and convenient position within the Learning Neighbourhood for the intended period of time
- The nominated teacher will then assume responsibility for supervising the student until such time that they are either collected by the issuing staff member, or appropriate arrangements have been made to have the students escorted back into their Learning Neighbourhood and returned to their group
- At the conclusion of the students time away, the issuing staff member has a responsibility to repatriate the student back into their learning space and appropriate discussion between the student and teacher around the behaviour should in turn follow
- Please refer to the BVPS Developmental Management Process chart for further clarification on the progression of responses

Discrete Learning Spaces

- Students working within any of the detached or small group learning spaces within the learning neighbourhood proper are to be supervised by the delegated member of staff charged with the initial responsibility of monitoring that student's engagement

- Regular mutually engaging interaction between student and staff member is also required

During Instruction

- Staff are required to engage and monitor the participation of all students within their allocated Learning Group
- Staff are required to implement the agreed whole school Student Developmental Management Process with attention to both positive and negative action and consequence
- Any incident of students that leave the Learning Group with dissent and without approval should be reported immediately to the Learning Neighbourhood Leader or senior staff member within the learning space
- Any student that absconds from the Learning Neighbourhood proper with dissent and without staff approval should be reported directly to the Learning Neighbourhood Leader and then to a Principal Class Officer or the Student Wellbeing Officer
- The Learning Neighbourhood Leader is responsible for ensuring that the learning need of students presenting with a formal ILP, BMP or AMP are articulated to all members of staff with the Learning Neighbourhood or relevant specialist and CRT's
- Staff have a responsibility to inform themselves of the particulars specific to the needs of a student presenting with either a ILP, BMP or AMP

Outdoor Learning

- Staff are encouraged to use the outdoor learning areas available with the Dimboola road precinct as a place of learning for students in their groups at appropriate times
- Students and staff are required to adhere to the same Sun Smart rules as they would at recess and lunch time during terms 1 and 4
- Staff are required to have an increased level of vigilance in outdoor learning spaces
- Visual and audible contact is essential with students in LN1 and LN2 with students in LN3 allowed to participate in self-directed learning activities situated around the immediate confines of the four main school buildings

Local Excursions

- Students may participate in locally based out of school experiences situated within a **3km radius** of the school grounds without written parental approval. Considered attempts to notify parents of this upcoming experience is however required
- Students may not travel on a bus, car or any other form of transport other than by foot without the explicit written authorisation from a parent or guardian
- Approval for locally based out of school ground experiences **must** be applied for in line with agreed school processes for Future Event Approval available on SharePoint
- Staff/student ratio's for locally based out of school experiences are to be within 1:10 or 2:30. At least one qualified, registered and appropriately deployed teacher is required to supervise any excursion of this kind

Toilet access for students

- PLT's are required to determine, implement and monitor age-appropriate processes for student toilet access during the course of the instruction period

Student Computer Access

- All staff shall be responsible for monitoring and notifying the Learning Neighbourhood Leader of any inappropriate material so that access can be blocked, and action can be taken in line with the school Appropriate Use of ICT policy and Guidelines for Students

Yard Supervision

- Supervision of students is the responsibility of all staff
- A roster system will be used to timetable staff members for yard supervision
- A teacher will be responsible for coordinating the roster, and for negotiating specific duty times or days with individual staff members
- Yard supervision will include before school, recess and lunch breaks, and after school
- Parents will be informed regularly via the newsletter that staff members are not rostered to take yard duty until 8:45am each morning. Parents are discouraged from sending their children to school before this time
- Parents will also be informed via the newsletter that staff members will not be rostered to undertake yard supervision after 3:30pm each day. Parents are required to make sure that their children have been collected or have left the school grounds by this time. Students still in or about the school yard after that time will be brought to the school office by the supervising teacher and parents contacted
- The yard supervision roster will basically require staff members to undertake yard duty either before school or after school, for half of recess and half of lunchtime on a specific day
- The timetable will require a minimum of three teaching staff members on duty at any one time, each responsible for supervising a designated area of the school (Johnstone, Dimboola and Central)
- All staff members on yard duty are expected to be on duty in the designated areas at the commencement of their duty time
- Yard duty staff members will be provided with a kit bag containing basic first aid supplies; and a clear plastic pocket containing yard duty raffle tickets, a map of the zones, a timetable, First Aid passes, guideline teacher response statements, a pen and Time Away tickets
- The office staff will be responsible for replenishing the supplies in the Yard Duty kits.
- In addition, Level 2 first aid trained staff members will be responsible for the supervision of the first aid room during recess and lunch times
- Yard duty staff members will keep a record of individual student behaviour in line with agreed school processes and with adherence to guideline response statements
- Casual Relief Teachers will be responsible for the yard duty responsibilities of staff members they are replacing or additional replacements to be determined and informed by the yard duty coordinator
- The BVPS Daily Organiser will be responsible for coordinating staff deployment within the yard duty roster.
- Students are not permitted within the Learning Neighbourhood without the explicit knowledge and supervision of a staff member
- Staff members who are aware that they cannot fulfil their yard duty obligations due to appointments or excursions etc. are required to either make a swap with another staff member, or discuss the matter with the coordinating teacher and yard duty coordinator
- When a whole Learning Neighbourhood excursion has been planned for part of or a whole day, alternate arrangement for duty and play space will be negotiated and published on SharePoint
- Staff are required to adhere to Sun Smart policy guidelines in terms 1 and 4
- Staff on yard supervision must approach intruders or unknown people in the yard, or seek assistance
- Inclement Weather: When students are required to participate in recess or lunch breaks indoors due to the weather, staff supervision will occur in each Learning Neighbourhood. The BVPS Daily Organiser will be responsible for coordinating staff deployment within the wet day timetable roster.

End of the School Day

- Students are to be dismissed by the supervising teacher, in an orderly fashion only upon hearing the school bell at 3:15pm

COMMUNICATION

This policy will be communicated to our school community in the following ways:

