**Duty of Care**

**Context**
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 document will refer to principals and teachers collectively as “teachers” unless otherwise specified.

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)*.

**AIM**
To ensure that teachers have an understanding of their duty of care to students and behave in a manner consistent with legal obligations.

**POLICY**

**Implementation:**
- In addition to their professional obligations, teachers have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable.

- A teacher’s duty of care is not confined to events occurring during school hours both in and out of school property. The duty also applies to situations both before and after school where a teacher can be deemed to have ‘assumed’ the teacher pupil relationship.

- Every teacher, as a part of the induction process, is clearly explained their obligations in relation to Duty of Care.

- Teachers have a duty 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, providing safe and suitable buildings, grounds and equipment, providing effective anti-bully strategies, ensuring appropriate and timely medical assistance is provided to injured or sick students and managing employee recruitment, conduct and performance. This duty is *non-delegable*, meaning that it cannot be assigned to another party.

- 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.
DONBURN PRIMARY SCHOOL POLICY

- Each case regarding a teacher’s legal duty of care will be judged on the circumstances that occurred at the time. The following are common examples where a teacher has failed to meet their legal duty of care responsibilities to their students:
  - Believing that a child is being abused, but failing to report the matter appropriately.
  - Failing to act appropriately to protect a student who claims to be bullied.
  - Leaving students unattended in the classroom or ignoring dangerous play.
  - Inadequate supervision on a school excursion.
  - Arriving late to scheduled timetabled yard duty responsibilities.
  - Being late to supervise the line up of students after the second bell has sounded.
  - Failing to instruct a student who is not wearing a hat to play in the shade.
  - Leaving the school during ‘non-face to face teaching time’ without approval.

- Teachers 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 careers teacher, year level coordinator or subject teacher) specified for them by the Principal.

- Teachers must ensure that the advice they give is correct, well documented and where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas where they may lack expertise.

BREACH OF POLICY

All breaches should be reported to the School Principal, with the School Principal to determine appropriate cause of action.

OTHER CONSIDERATIONS & RELATED DONBURN POLICIES

Donburn Primary School, Recruitment Policy
Donburn Primary School, Child Safety & Working with Children Checks Policy
Donburn Primary School, Recruitment Policy
Donburn Primary School, Camps, Excursions & School Events Policy
Donburn Primary School, Student Engagement and Wellbeing Policy

REFERENCES


## DEFINITIONS

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## APPROVAL

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<th>Policy Owner:</th>
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<tr>
<td>Principal</td>
<td>Donburn Primary School Council Education Sub Committee, Teacher review group.</td>
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## DOCUMENT CONTROL

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