



# Eastern Ranges School

## Autism Spectrum Disorder

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## Duty of Care POLICY

### 1. POLICY STATEMENT

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.

Adequate supervision of students at school is a requirement of the school's duty of care. This is also an integral part of maintaining a Child Safe Environment.

The school will satisfy the duty of care for the on-site management of students, outside normal timetabled class time, by allocating responsibilities for supervision to different staff. At all times throughout the school day and including extended hours, i.e. school camps, all students must be supervised by school staff in all programs both on site and during off site activity.

The principal is responsible for making and administering such arrangements for supervision, as are necessary, according to the circumstances in the 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.

### 2. DEFINITION

Whenever a student–teacher relationship exists, the teacher has a special 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, teacher’s / teacher assistants 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 / education support staff 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.

Teacher Assistants, Therapists and other school staff who work directly with our students also have a duty of care at all times and in all situations where students are attending a school program or an out of school hours' activity, i.e. camp, school disco etc.

### 3. RATIONALE:

The classroom teacher has ultimate responsibility for the supervision of all students in their care. This duty cannot be delegated to external education providers, parents or trainee teachers / students on placement or volunteers.

In addition to their professional obligations, principals, teachers & education support staff have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable

### 4. AIMS:

To ensure that all staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.

### 5. IMPLEMENTATION:

#### **Mandatory Reporting & Duty of Care**

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.

Quite apart from mandatory reporting requirements, a teacher / education support staff member 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/staff member 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 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.

Although Teacher Assistants, Therapists and other School Support Staff are not legally mandated to report situations where students may be at risk, as part of their duty of care they must relate any information to a member of the school leadership group. For further information, please refer to the Mandatory Reporting Policy / Guidelines.

Whilst each case regarding a teacher / staff member'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 / staff member has failed to meet their legal duty of care responsibilities to their students:

- arriving late to class or leaving a class early without adequate supervision
- failing to act appropriately to protect a student who claims to be bullied
- believing that a child is being abused but failing to report the matter appropriately
- leaving students unattended in the classroom or any other learning environment
- ignoring dangerous play or a potentially unsafe situation
- inadequate supervision on a school excursion / camp

## Playground supervision

Playground supervision is an essential element in staff's duty of care. It is now clearly established that in supervising students, staff's duty of care is one of positive action.

It is important to note that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom. The student's age & disability must also be considered.

Be aware that playground supervision within the school requires the teacher / teacher assistant to fully comply with Department of Education & Training (DET) guidelines which brings with it an increased duty of care. It is the staff member's responsibility to be aware of these guidelines and duty of care responsibilities.

Staff rostered for duty are to attend the designated area at the time that they are scheduled for duty and are to remain in the designated play area until replaced by the relieving staff member.

Be alert and vigilant - intervene **immediately** if potentially dangerous behaviours is observed in the yard. Be proactive and ensure that an identified potential situation does not develop where ever possible.

## Excursions, Incursions and Camps

Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom. They are also out of their routines and may find the unknown situation stressful. This is particularly relevant for students with special needs and particularly so for students with autism.

Be aware that an incursion with an external provider does not absolve supervision duties of the teacher, including first aid duties. A teacher / staff member must be present at all times and remain the person designated with duty of care responsibilities.

Be aware that camps and excursions outside the school require the teacher / staff member to fully comply with Department of Education & Training (DET) guidelines and bring with it an increased duty of care. It is a teacher's / staff member's responsibility to be aware of these guidelines and remain the person designated with duty of care.

Excursion and camp activities require the teacher to ensure that the venue and transport adhere to Department of Education & Training (DET) guidelines.

The teacher in charge will have copies of all medical forms and permission notes with contact details. A copy of this material will also be kept at school. Medical action plans, EpiPen and asthma kits are required for all excursions off school premises and general first aid kits are located in each school bus and a more comprehensive kit is required for overnight camps.

Arrangements will be made for students not attending to continue their normal program at school under supervision of another classroom teacher.

All staff must follow the Department of Education & Training (DET) guidelines when organizing an excursion, incursion or camp. All procedural steps contained in the School camping, excursions and incursions Policy and Procedure outlines must also be followed.

## Parents & Caregivers

It is essential parents/carers are kept informed as to when supervision of students is available before and after school, and that outside these times supervision and/or the collection of students is the responsibility of parents/carers. This information should be clearly provided to parents/guardians on a regular basis.

Parents/carers must notify administration if they want to pick up their child earlier from school or if their child will be absent from school. If a change in regular arrangements includes the student not traveling on the school bus, both school administration and the bus contractor must be notified.

Parents/carers are discouraged from sending their children to school before the designated supervision time in the morning. Parents/carers are encouraged to pick up their child by the end of the designated end of day supervision period.

The school must receive written permission from a parent/carer before the school will authorise a student to be picked up from school by someone other than a parent / guardian. In the case of a court order, the school must have advance knowledge including a copy of the legal document.

In order to maintain a Child Safe Environment, parents and carers are requested to come to the school office after 9am and a staff member will accompany the student to their classroom. Parents & carers are required to come to the school office if they are wanting to pick up their child prior to the end of the school day (before 3pm).

All visitors to the school must report to the school office at all times.

### **Informing Staff of the legislative liability of Duty of Care**

All staff will be informed of their legal requirement via: -

- All staff are inducted on Duty of Care as part of their Professional Development at the commencement of each new school year.
- All staff are required to read the Classroom Information Manual & School Policies on the Public Drive and complete a Professional Development Checklist
- New staff will be informed of their Duty of Care as part of the School's Induction Program
- Student Matters will be a regular agenda item at staff meetings
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.

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