

	<p><b>FRANKSTON PRIMARY SCHOOL</b></p> <p><b>Duty of Care and Supervision</b></p>	<p><b>Developed</b> 2018 <b>Review: 2021</b></p>
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## **RATIONALE**

At Frankston Primary School, in addition to their professional obligations, the Principal and teachers have a legal duty to take reasonable steps to protect students in their care from risks of injury and harm that are reasonably foreseeable.

The duty is not to prevent injury or harm in all circumstances – it is a duty to take reasonable steps to prevent injury or harm that is known or foreseeable. The question of what are reasonable steps will depend on the individual circumstances of the case, and 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

This policy is to be read in conjunction with the school’s Child Safe Policy, Mandatory Reporting Policy, First Aid Policy, Visitors Policy, Working with Children Check Policy and Camp Policy.

## **DEFINITION**

Whenever a teacher student 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 physical injury or harm that the teacher should reasonably have foreseen.

The duty may, in some circumstances, extend outside school hours and outside the school premises. This will depend on whether the relationship between staff and student extends to the individual circumstances, whether the risk was known or foreseeable, and whether there were any reasonable steps that could be taken to prevent the injury or harm from occurring.

## **AIM**

- To ensure that staff have an awareness and understanding of their duty of care obligations and responsibilities in order to provide adequate supervision at all times
- To ensure that staff consistently conduct themselves, at all times, within the legal obligations and responsibilities.

## **GUIDELINES AND 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.
- 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 minimise the risk of injury

or damage to a person; providing effective anti-bullying strategies; and ensuring appropriate and timely medical assistance is provided to injured or sick students.

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.

- All staff need to be aware that greater measures may need to be taken for younger students or students with disabilities.
- 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
  - i. Failing to notice or prevent students from leaving the learning space without permission whilst under the teacher's care
- 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 specified for them by the Principal.
- Teachers should not give advice in areas where they may lack expertise.
- All staff at Frankston Primary School including teachers, education support staff, the Principal and Assistant Principal will ensure that they are never in the position where they are alone with only one student. All staff should ensure that they are in line of sight of another staff member when working one on one with a student. This requirement also applies to any other visitors to the school, such as parent/carer helpers, allied health professionals etc.

### **Classroom Supervision**

- The class or specialist teacher has ultimate responsibility for the supervision of all students in their care. It is not appropriate to leave students in the care of education support staff, external providers (e.g. incursion staff) parents or pre-service teachers (at law, the duty of care cannot be delegated). If a student is attending a scheduled therapy session with an allied health professional, they must remain in line of sight of a teacher at all times.

- It is not appropriate to leave students in the care of external education providers, for example in-school visitor (at law, the duty of care cannot be delegated). Where the school has contracted an external provider (e.g. registered training organisation), then a DET approved contractual agreement needs to be signed by the school and other provider.
- In a situation where the teacher needs to leave the classroom, they must phone for the Principal or Assistant Principal or contact the teacher in an adjoining learning space. The teacher should wait until alternate supervision is in place prior to leaving the room.
- 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 colleague's learning space, contacting them first to alert them that the student is on their way accompanied by two other students. If the Principal or Assistant Principal are required to supervise a student who is withdrawn from class, the teacher in charge should contact the Principal or Assistant Principal by phone.

### **Yard Supervision**

- Students must be supervised for a minimum of 10 minutes before and after school. This supervision may include some or all of the following:
  - (a) Monitoring of entry or exit points and /or designated pick up and drop off areas
  - (b) Yard supervision
  - (c) Classroom supervision
- Yard supervision is an essential element in teachers' duty of care. In supervision students, teacher's duty of care is one of positive action.
- Teacher should 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.
- Teachers should 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 expectations according to the FPS consequence guidelines.
- Teachers should always be on the move, actively supervising the students at play and wearing the high visibility vest.
- Yard duty supervision within the school requires the teacher 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.
- Teachers rostered for yard duty are to attend the designated area at the time indicated on the roster.
- Teachers on yard duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher. If not replaced teachers should send a message to the office/staffroom, but not leave the area until replaced.
- The handing over of yard duty from one teacher to another must be quite definite and must occur in the area of designated duty. 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.
- Staff scheduled for First Aid duty must promptly attend to the student seeking first aid on arrival at the office/sickbay area. The first aid procedures are as per the First Aid Policy.

- No changes to the yard duty roster are to be made without the approval of the Assistant Principal or Principal.
- If a teacher rostered for duty will be absent due to an excursion, sport etc, it is that teacher's responsibility to arrange a swap and ensure that their scheduled yard duty is covered. Once a swap is arranged, the details are to be communicated to the Assistant Principal who will advise staff through the agreed school communication avenues.
- If a parent, guardian and carer (or other authorised person) drops off or otherwise arranges for a student to be on the school premises before supervision commences at the beginning of the day, the school will, as soon as practicable, follow up with the parent, guardian and carer to:-
  - (a) Advise of the supervision arrangements before school, and
  - (b) Request that the parent, guardian or carer make alternate arrangements.

If a parent, guardian or carer (or other authorised person) has failed to collect the student after school, the next steps may include some or all of the following:

- (a) Attempting to contact the parents, guardians or carers
- (b) Attempting to contact the emergency contacts
- (c) Placing the student in the out of school hours care program (if appropriate)
- (d) Contacting the Victoria Police and/or the Department of Human Services (Child Protection) to arrange for the supervision, care and protection of the student

### **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. Consider for example, if a live power line came down outside the school, no emergency workers had arrived, and students are about to be dismissed to go home. The school should not allow the students to walk out to that danger unsupervised.

### **In-school visits, camps and excursions**

- The class or specialist teacher has ultimate responsibility for the supervision of all students in their care. An in-school visit with an external provider or visitor such as a speaker/presenter 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.
- Camps and excursions outside the school require teachers to fully comply with DET guidelines, including staff: student ratio compliance. It is a teacher's responsibility to be aware of these guidelines and to ensure that all students are appropriately supervised.
- Supervision can be provided by others including volunteer parents, campsite staff, specialist instructors and pre-service teachers.

Most excursions and camps must:

- (a) Be under the direct control of a teacher with at least one other excursion staff member present Have enough teachers to maintain appropriate control of the excursion and each activity
  - (b) Have teachers comprising at least half of the excursion staff
  - (c) Any person (other than a teacher) who supervises students on an excursion or camp must provide the school with a copy of their current Working with Children check.
- Prior to the commencement of the excursion or camp, the Principal must ensure that the specific roles and responsibilities of each supervisor are clarified and understood by all supervisors and students.
  - If crossing roads, students are to use designated crossing points where available. Staff are to walk to the middle of the crossing to ensure visibility and that students cross in a safe and orderly manner.
  - The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and direct the staff member responsible for first aid treatment and student specific medical requirements.
  - The teacher in charge will have access to all confidential medical forms and permission notes. The important part of this is that the teacher, whilst outside of the school with students has the required information to make contact with parents as needed.

### **Late arrival or early departures**

When students are dropped off late or picked up during school hours, parents are required to notify the school of the date, time and reason.

Students will be only permitted to leave the school premises under the supervision of a parent or another adult person authorised by parents to collect the student.

### **Visitors to the school**

Visitors to the school are required to sign in and out at the office, recording their name, the date, time and reason for visit. Frankston Primary School will implement the school Visitors Policy.

### **Use of information and communication technologies:**

Teachers and other staff also have a responsibility to reasonably supervise the use of information and communication technologies, and the use of online learning environments at school.

In doing so, teachers and other staff should be guided by the following:

- (a) FPS Student Wellbeing and Engagement Policy
- (b) FPS E-Smart and Learning Technology Policy
- (c) Computer, Internet Agreement

### **Roles and Responsibilities**

The Principal will:

- Regularly communicate the duty of care and supervision obligations and responsibilities to all staff within the professional learning on day 1 of each school year.
- Regularly communicate the supervision arrangements to parents via the school newsletter and through the standing agenda item of Child Safe Standards and Child Safety at FPS within the School Council Agenda.
- Determine the level of student supervision in all circumstances.

- Allocate specific responsibilities to staff members to provide the supervision that is required.
- Communicate the specific supervision responsibilities allocated to staff members.
- Regularly review the level of student supervision provided to students and make adjustments as and when deemed appropriate.
- Regularly review the duty of care policy to ensure that it is consistent with the School Policy and Advisory Guide, and continues to meet the duty of care obligations and responsibilities for all students.

**Teachers and other staff will:**

- Comply with the lawful and reasonable directions of the Principal.
- Comply with all DET and school policies.
- Perform supervisory duties as required.

**Parents, guardians and carers will:**

- Make appropriate arrangements for the transport, care and supervision of students travelling to and from school.
- Make appropriate arrangements for the care and supervision of students outside the times of supervision before and after school
- Communicate to the school the details of the late arrival or early departure of students, including date, time and reason.

**Related Policies**

- [DET Schools Policy Advisory Guide - Duty of Care Policy](#)
- [DET Schools Policy Advisory Guide – Supervision Policy](#)

<b>DEVELOPED</b>	2018
<b>PRINCIPAL</b>	Renée Kennedy
<b>SCHOOL COUNCIL PRESIDENT</b>	Chad Wilson
<b>EVALUATION</b>	This policy will be reviewed as part of the school’s three year review cycle, or as required due to changes in relevant Acts, Laws, DET mandates, or should situations arise that require earlier consideration.