



DUTY OF CARE

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1.0 RATIONALE

1.1 Duty of Care

St Mark's Anglican Community School owes its students a non-delegable duty to ensure that reasonable care is taken for their safety. All Staff are under an obligation to ensure that reasonable care is taken, and as such, will not avoid liability by saying that it delegated that duty to someone else.

The School takes on the responsible duty to assist students to develop an open and critical attitude to the world today. The belief and undertaking is that the School welcomes young people into the School Community by inviting them to grow in responsibility and freedom.

The duty is to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen. This requires not only protection from known hazards, but also protection from harm that could foreseeably arise and against which preventative measures can be taken. When non-teaching staff, volunteers and external providers agree to perform tasks that require them personally to care for Students (in the absence of a member of the teaching staff), they will also owe a duty of care to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen.

1.2 SCOPE

This Policy applies to everyone who is:

- (a) employed by St Mark's Anglican Community School
- (b) in a teaching, practicum or management position or role at the School

2.0 DEFINITION

Duty of Care refers to:

- The legal duty to take reasonable care so that others aren't harmed.
- Identifying a reasonably likely risk of harm and taking reasonable care in response.
- Ensuring the health, safety and welfare of all Staff, students and visitors whilst engaged in school activities.

Duty of Care relates to:

- The law of negligence: Staff and the School owe a duty of care to students to take all reasonable measures to protect their safety and welfare.

3.0 ELEMENTS OF DUTY OF CARE

3.1 **Negligence:** the concept of negligence and the remedies which flow from the breach of a duty of care rest on establishing key elements

- 1) Reasonable steps are taken for the safety of the students by:
 - All reasonable care is taken to provide suitable and safe premises.
 - All reasonable care is taken to provide an adequate system to ensure that no students is exposed to any unnecessary risk of injury.
 - All reasonable care is taken to see that all procedures are carried out thoroughly and effectively.
- 2) Standard of care is met due to taking in the factual and individual circumstances by:
 - The age and capacity of the students is recognised and factored in.
 - The nature of the activity and gravity of the risk is thoroughly examined.
 - Taking into account whether it is justifiable on educational grounds.
 - Examining whether it would impose unjustifiable hardships to eliminate risk.
 - Predicting whether an injury was foreseeable.

Related Documents:

- Risk Matrix
- Risk Management Documentation – Learning Areas
- Student Accidents/Incidents Policy
- Critical and Emergency Incident Management Policy
- Bullying Prevention Policy

3.2 Educational negligence: occurs when a student suffers harm as a result of negligent or incompetent teaching.

To ensure the high standards of the Duty of Care the School will ensure that:

- Staff are reliable, carefully screened and properly trained.
- Suitable premises resources are provided for students.
- There is an adequate system for the monitoring and appraising Staff.
- There is an adequate system for student assessment and reporting.
- There is an efficient system for the prevention and detection of abuse – physical, emotional and sexual.

Related Documents:

- Student Assessment Policy
- Behaviour Management Policy
- Homework Policy
- Inclusive Education Policy
- Students at Educational Risk Policy
- Pastoral Care Policy

3.3 Negligence of Teachers/Sports Coaches

To ensure that the School is not negligent in their role of providing coaches and trainers for sport, in and out of School, the following criteria is adhered to:

- Sports Coaches are properly trained in their sports' area and in preparation and fitness for the sporting activity
- The venue is safe and all equipment has attained a high safety standard
- A first aid kit is available at all venues and activities

- A risk management policy is attached to each sport

Related Documents:

- Risk Management Policies
- Student Accidents/Incidents Policy

4.0 SUPERVISION

4.1 Playground Supervision: In normal School hours, adequate supervision will be provided at all times. As part of the routine, Staff are on time and actively and vigilantly patrol the required area. Supervising Staff must wear a fluoro vest so that they can be easily identified whilst on duty.

The School will inform parents and students about the times when supervision will be provided.

4.2 Before and After School: If a student is involved in after school sport, rehearsals or tutoring St Mark's will provide supervision until the students are collected by a parent or responsible adult.

4.3 Alerts: If the School is notified of a potential danger issued by the Police or AISWA or other regulatory body to students travelling home, the School will notify all families of a potential threat to the safety of their students.

4.4 Classroom and Specialist Rooms: Supervision in the classroom varies with the age of the student and type of lesson/subject being taught. Much closer supervision is provided in Science laboratories, Home Economics kitchens, Technical workshops, Art and Media Rooms.

4.5 Supervision Early Learning Centre: Kindy - Year 1

An Early Childhood trained teacher will be with every 30 students. An Early Childhood trained teacher must be in attendance at all times when students are present, either in the classroom or in the playground. When an Early Childhood trained teacher takes a break, another suitably qualified Early Childhood teacher must be in attendance with the children.

4.6 Excursions: Venues controlled by outside organisations

Staff will decide if the venue is safe for the students to visit and stay if required.

Prior to the excursion, a Staff member will:

- Inspect the premises to ensure they are safe and suitable
- Obtain written confirmation of the qualifications and experience of those involved in organising and conducting the activity
- Enquire about the character and screening processes for recruitment of Staff
- Ensure that the owner of the premises has suitable public liability insurance

4.7 Interstate and Overseas Excursions: Students are supervised 24 hours a day in faraway locations. Parents will give a fully informed consent to all excursions. These excursions require very detailed itineraries and consents.

Related Documents:

- Work Place Learning Policy
- Camps and Tours Policy

5.0 FIRST AID and HEALTH MANAGEMENT

5.1 Staff

A Staff member's first duty is to the students in his/her care. For a student with health support needs, the Staff member will:

- Provide basic first aid
- Help families understand health support planning procedures
- Facilitate individual health support plans
- Offer alternative programs where participation in the planned program could place students with health issues at risk
- Support a range of curriculum access options e.g. hospital based schooling
- Report to parents any observations which could indicate health related concerns
- Take reasonable care to protect their own health and safety
- Is familiar with policies and procedures when providing student health support

5.2 Parents

Parents and guardians are primarily responsible for the health and well-being of their children. It is their responsibility to:

- Provide relevant health care information
- Liaise with health professionals to provide care plans which create minimum disruption to learning programs
- Assist students for whom they are responsible to self-manage, as much as is safe and practical, their health and personal care needs

5.3 Students

Wherever possible, students should be supported to learn responsibility for their own health and personal care needs in non-emergency situations.

Students in the Primary School will need supervision and medications will be kept in ELC for students K -1 and for students Years 2 -12, medication will be kept in a locked cabinet in the Wellness Centre that is accessed by the School Nurse.

Related Documents:

- Allergy Awareness Policy
- Medication Dispensing Policy
- The Health Centre Policy

5.4 Child Protection/Mandatory Reporting

St Mark's Staff have an obligation to:

- Protect children
- Provide a secure, safe environment where children can be safe and feel safe
- Intervene on behalf of children
- Actively work towards empowering children
- Ensure the principles of care, protection and safety are implemented

All Staff will be educated in the area of child protection and mandatory reporting. St Mark's will provide protection and abuse prevention curriculum for students.

Related Documents:

- Mandatory Reporting and Child Maltreatment Policy
- Promoting Protective Behaviours Policy
- Child Abduction Response Plan – AISWA document

6.0 HEALTH AND SAFETY WELFARE

6.1 The Occupational Health and Safety regulations impose duty of care of the School to:

- Identify, assess and eliminate risks
- Provide supervision
- Provide for emergencies
- Monitor and review risk assessments and control measures
- Provide Occupational Health and Safety information, instruction and training to all Staff
- Provide first aid facilities and trained Staff in emergency first aid

6.2 Sun Protection and Hot weather

- The School has a policy regarding wearing hats in Terms 1 and 4. Students are to wear the School's wide brimmed hat and are encouraged to wear sunscreen and other suitable cover up clothing to reduce the risk of sun damage.
- All Staff are to wear a hat in Terms 1 and 4, but may choose their own style and colour.
- Adequate shade in outdoor areas is provided and outdoor activities may be rescheduled to lower UV times of the day.
- Students are encouraged to increase their fluid intake and may have a bottle of water with them for classes held indoors or outdoors.
- For excursions and camps, sun screen lotion is available for all students to access. These bottles are kept with Staff on all locations.

6.3 **Safety in School working areas**

Classrooms, kitchens, laboratories and preparation rooms are inspected and audited regularly to ensure they are safe for all Staff, students and visitors.

The Safety Policies for these areas cover:

- Storage of chemicals and/or food items
- Disposal of residue and waste chemicals and/or food
- Student behaviour in risk areas – workshops, kitchens, laboratories
- Protective clothing and body protection
- Use of Machinery and Kitchen equipment safely
- Safety and first aid equipment
- Emergency evacuation procedures
- Risk management plan

6.4 **Accident Reports**

Reports are prepared for all but very minor accidents that occur on school premises or during a school organised activity. Reports should be kept for a minimum of 7 years, or until the injured student reaches 25 years of age. Reports are collated by a senior member of Staff who was not involved in the accident.

Relevant documentation includes:

- Witness statement, including the injured person
- Details of the supervision arrangements in place at the time
- Sketch plans of the site marking the location of the accident and position of relevant people
- Details of any previous accidents of a similar nature

Parents/guardians will be informed of any accident involving their child as soon as possible. The following information will be conveyed:

- Confirmation that their child was involved in an accident, together with a description of the accident
- Details of any follow-up e.g. first aid, ambulance
- Copies of any correspondence will be kept on the student's file

- Liability for the accident or any opinion as to the legal responsibility for accident will not be expressed at the time of notification

Related Documents:

- Student Accident/Incidents Policy
- Critical and Emergency Incidents Policy
- Risk Management Documentation

6.5 Student motor vehicles

St Mark's cannot prevent students from driving to school, but there are clear criteria if a student chooses to drive their car or ride a motorised bike.

These criteria are:

- Students are not permitted to drive their vehicle onto school grounds
- Parking is on the outside street, the School will not accept any responsibility if drivers are fined for parking illegally
- St Mark's takes no responsibility for damage to any vehicles
- Registration number and make of vehicle being driven should be provided
- Students are prohibited from accessing vehicles during school hours, irrespective of where the vehicle is parked, unless specific prior approval has been given
- Students are not to use their own vehicle to attend school organised activities. If vehicle is to be used due to the time of the activity, specific written consent should be given by the relevant parent.

6.6 Playground Equipment Safety

The School complies with the Australian Standards to ensure all equipment is tested and assessed. This is completed through a regular audit.

6.7 Food Safety

The School has a duty of care to provide safe food and complies with the Food Safety Standards. The School Canteen is assessed regularly by the

Health Department. There are no nut products sold in the Canteen or held in the Home Economics areas.

For camps, tours and other activities where a meal is provided, parents access the platform to put in dietary requirements for their child. Using this information will ensure that students with allergies are catered for. Every parent must fill in this documentation before their child can go on a camp or tour.

7.0 RISK MANAGEMENT

Risk Management is a part of the continuing assessment of management responsibilities. In the event of an injury, incident or near miss, the Principal and members of the Executive are responsible for initiating the following actions:

- Consider the welfare of the injured person and any others affected
- Investigate the incident, injury or near miss in consultation with the Health and Safety Representative
- Complete relevant records (and lodge any applicable claims for any students or Staff members involved)
- Identify immediate, medium and long term preventative action and implement accordingly
- Review such actions and ensure they are relevant and effective

Related Documents:

- Excursions/Incursions Risk Management
- High Ropes Course Risk Management
- Outdoor Education Risk Management
- Roping Procedures Risk Management
- Ski Trip Risk Management
- Student Accidents/Incidents Policy
- Sailing and water safety
- Working safely policies for Design and Technology, Domestic Sciences and Science Laboratories

8.0 STUDENT ALERTS

As part of the ongoing supervision and monitoring of students' health and learning needs, alerts will be posted on SEQTA. There are 4 types of alerts: Access, Medical, Learning, and Social. Information gathered from parents, specialists such

as medical and psychological, will be recorded. Students who have alerts will be flagged on Class and Pastoral Care Group Lists. There will be action plans or Individual Education plans attached to these student names for teachers to follow. All information recorded on Scholaris will be treated with confidentiality according to the School's Privacy Policy.

9.0 PHYSICAL CONTACT WITH STUDENTS

The School forbids any form of child abuse, or other degrading punishment that would humiliate a child.

Under *Regulation 38 of the School Education Regulations 2000*, staff may under certain conditions, use physical contact with a student.

Staff may take action, including physical contact with a student or a student's property, as is reasonable to:

- Manage or care for a student; or
- Maintain or re-establish order; or
- Prevent or restrain a person from:
 - Placing at risk the safety of any person; or
 - Damaging any property.

The duty of care is to minimise the risk of harm to another.

The restraint must always be reasonable, should never be used to harm a student, and must only be used if there is clear evidence that a child is about to harm themselves, another person or property.

Planned intervention should contain the following principles:

- De-escalation strategies are always preferable to physical contact to maintain order or restrain students.
- There are different levels of intervention and an appropriate level needs to be chosen.
- Restraint should only be used in an emergency.
- The level of intervention must be in proportion to the circumstances of the incident or behaviour or the consequences it is intended to prevent.

- Any physical intervention must be the minimum needed to achieve the desired result.
- Physical contact or restraint must not be used to provoke, punish or humiliate a student, or inflict pain.

Before any form of physical contact is used with a student, Staff must consider the:

- Age of the student
- Situation in which it is used
- Purpose of the physical contact
- Likely response of the student

The misuse of physical contact or restraint increases the risk of complaints that may be regarded as potential misconduct.

The Principal is responsible for any response and recovery process that may occur following an incident.

10.0 STUDENT RECORDS

Documentation will be kept until the student is 25 years old.

The records to be retained should be:

- Application for Enrolment and Acceptance Form
- Admission register
- Student records including marks, grades and comments
- Accident and injury reports
- Record of suspensions and other serious disciplinary records
- Any guidance test results, Specialists or Psychologists reports
- Access Reports, including Custody Orders or limited visiting rights issued by the Courts
- Any correspondence relating to the above
- All information and data gathered will be kept confidential