

Duty of Care Policy

Rationale

All Gisborne Secondary College 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.

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

Purpose

To ensure that teachers 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 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, 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 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.

Implementation

1. In addition to their professional obligations, principals and teachers have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable.
2. 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 keeping and marking classroom rolls, providing adequate supervision in the school or on school activities as well as providing safe and suitable buildings, grounds and equipment.
3. 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 pupil relationship.
4. 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.
5. While 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:-
 - 5.1. failing to accurately record who the students are who are in the teachers care
 - 5.2. arriving late to scheduled timetabled yard duty responsibilities
 - 5.3. failing to act appropriately to protect a student who claims to be bullied

- 5.4. believing that a child is being abused but failing to report the matter appropriately
 - 5.5. leaving students unattended in the classroom
 - 5.6. failing to recommend to a student to wear a hat when exposed to the sun for prolonged periods
 - 5.7. ignoring dangerous play or behavior
 - 5.8. leaving the school during time release without notifying college reception
 - 5.9. inadequate supervision on a school excursion
6. 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 careers teacher, year level coordinator or subject teacher) specified for them by the principal.
 7. Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

In Summary

8. Teachers have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable.
9. Provide adequate supervision in school
10. Provide adequate supervision on school activities
11. Provide safe buildings, grounds and equipment
12. If a teacher can be shown to have assumed the teacher-pupil relationship, the duty of care applies in situations outside of school and school activities
13. The teacher's duty of care is greater than that of the ordinary citizen
14. Teachers should not give advice in areas they cannot demonstrate or prove professional competence.

Evaluation

This policy will be reviewed as part of the school's three-year review cycle, or at times when the principal believes that policy warrants a review.

This policy was last ratified by School Council in November 2013.