

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE

POLICY

Rationale:

Mordialloc College is required to explain the nature of the legal duties owed by teachers and school staff towards students. This policy is underpinned by legislation as outlined in the DET Policy and Advisory Guide and should be read in conjunction with such. 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.

Aim:

To ensure that staff 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 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. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

Standard of care required by schools

Principals and teachers are held to a high standard of care in relation to students. The duty requires Principals and teachers to take all reasonable steps to reduce risk, including:

- Provision of suitable and safe premises
- Provision of an adequate system of supervision
- Implementation of strategies to prevent bullying
- Ensuring that medical assistance is provided to a sick or injured student

Implementation:

- 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

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE

POLICY

- 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
- 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
- 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 their legal duty of care responsibilities to their students:
 - Arriving late to scheduled timetabled yard duty responsibilities
 - Arriving late to a scheduled timetabled class
 - Arriving late to an 'extra' or 'in lieu' class or yard duty
 - Failing to attend a class, extra, in lieu or yard duty
 - 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
 - Ignoring dangerous play
 - Leaving the school ground during time release without approval
 - Inadequate supervision on a school excursion
- 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
- 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

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.

*The following instructions and notices **apply to all staff.***

Classroom Supervision

- It is **not** appropriate to leave students in the sole care of ES (when the ES is not in the line of site of a teacher), parents or trainee teachers (At law, the Duty of care cannot be delegated)
- It is **not** appropriate to leave students in the care of external education providers for example incursions (At law, the Duty of care cannot be delegated)

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE

POLICY

- In an **emergency situation** use the phone for the Principal or Assistant Principal or contact the teacher in the next room (if appropriate – send another student for assistance)
- **No student** should be left unsupervised outside the classroom

Movement of Students

- Care needs to be taken in allowing students to leave the room to work in other areas of the school
- Use of students as monitors outside the room during class time must only occur with the approval of the Principal or Assistant Principal. One off activities (eg. toilet, seeing another staff member) require the student to have a note in their student planner approved by the teacher
- Discretion is to be used when allowing students to visit the toilet during class time, if such is required student planners must be signed by the teacher

Yard supervision

- Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising pupils, teacher's duty of care is one of positive action
- Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom
- Be aware that 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 timetabled for duty are to attend the designated area at the time indicated on the timetable
- Teachers on duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable
- The handing over of 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 duty, the teacher currently on duty should send a message to the office, **but not leave the area until replaced**
- No changes to the yard duty timetable are to be made without the approval of the Daily organiser, Timetabler or Assistant Principal
- Be alert and vigilant -intervene **immediately** if potentially dangerous behaviour is observed in the yard - enforce Mordialloc College behaviour standards and logical consequences for breaches of safety rules as required
- Staff should continually be on the move and highly visible

Late arrival at school

- All students are expected to arrive at school in time for the commencement of the first session 8.55 am. Students arriving late must sign in at the General Office then go immediately to class

Early departure from school

- The school must receive written permission or telephone contact from a parent/carer before the school will authorise a student to be dismissed from school prior to the end of the school day. Parents/carers are encouraged to provide advance notice when this is to occur

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE

POLICY

- A record of early departures is kept in the office and recorded on the Compass system and is completed for all students departing the school early. Students must be signed out of the school by their parent/guardian if departing prior to dismissal time
- In the event that it is not the parent/guardian collecting the student during the school day, prior arrangement must be made by the parent/guardian notifying the office who will be collecting the student. Students should only be collected by a responsible person 16 years and over, otherwise the parent/guardian will be contacted to verify
- No students will be sent home on their own outside of normal dismissal time unless prior contact has been made with parents

Permission for students to leave school grounds

- The school does not authorise students to go home, or down the street, at lunchtime. All students are required to remain at school during lunchtime
- The exception to this is senior students who do not have a scheduled timetabled class after lunch. In these circumstances senior students are permitted to go home at the beginning of lunch if they are up to date with all work requirements

Unauthorised departure

- When a student departs from the school (following initial attendance) without authorisation, the parent/guardian will be informed as soon as it becomes known to the school
- Where there is reasonable concern for the student's safety or the safety of others, immediate contact will also be made with the police and the Department's Emergency and Security Management Branch

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
- Be aware that an incursion with an external provider 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
- Be aware that camps and excursions outside the school require the teacher to fully comply with DET guidelines and bring with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care
- Be aware that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DET guidelines
- Be aware that school policy is for students to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities
- The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. A copy of this material will also be kept at school
- Arrangements will be made for students not attending to continue their normal program at school under supervision of another classroom teacher
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE

POLICY

- If the return time from an excursion or camp is delayed, the teacher in charge will contact the school to inform the general office of the new arrival time so that parents can be contacted and a senior staff member will remain at school until they arrive
- If crossing roads students are to use designated crossing points. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road
- **All staff must follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the College camps and excursions policies must also be followed**

Visitors

The Principal will ensure that there is a procedure to monitor all visitors in the school. This is outlined in the Visitors to the School policy which includes the following procedures:

- All visitors to the College must register their arrival at, and departure from the school at reception, including their name, signing and recording the date, times and purpose of the visit. This will ensure that the College has a record of all visitors in the event of a school emergency or any future investigation
- Visitors must comply with DET policies and legal considerations concerning privacy, photographing of students, mandatory reporting, custody restrictions etc.
- Regular visitors may require a Working with Children Check in terms of DET policy and will be made familiar with the school routines, including the emergency management plan

Use of Information and Communication Technologies (ICT)

Teachers and other staff of Mordialloc College also have a responsibility to reasonably supervise the use of ICT, and the use of online learning environments at school.

In doing so, teachers and other staff should be guided by the following policies at Mordialloc College which are aligned to DET requirements:

- Student Engagement Guidelines
- Acceptable Use and e-safety agreement
- Student Code of Conduct
- Bullying prevention policy
- Equal Opportunity and anti-harassment and
- Personal Digital Device policy

It is important to note that:

- It is not reasonable or practicable for a teacher or Principal to inspect every website that will be accessed by a student. The nature of the internet means that there can be no guarantee against inappropriate content or changing circumstances in website content
- It is not reasonable or practicable for a teacher or Principal to supervise an online learning environment 24 hours a day

The Principal and teachers are expected to respond to an online incident that impacts on students at the school as soon as they have knowledge of its occurrence.

Roles and Responsibilities:

The Principal will:

- Regularly communicate the duty of care and supervision obligations and responsibilities to all staff

MORDIALLOC COLLEGE

SUPERVISION AND DUTY OF CARE POLICY

- Regularly communicate the supervision arrangements to parents
- Determine the level of student supervision to be provided to students in all of the 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 and supervision 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 Department and school policies
- Perform supervisory duties as required

Parents, guardians and carers will:

- Make appropriate arrangements for the transport, care and supervise 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
- Comply with late arrival and early departure policies and other school based policies

Procedures for Implementation:

The Principal will communicate this policy to all staff using the following mechanisms:

- A copy of this document will be provided to each member of the Mordialloc College staff at the commencement of the school year, and will be placed on the college network under policies
- New staff will be informed of their Duty of Care as part of the College's Induction Program
- Supervision and Duty of Care will be an agenda item at staff meetings/briefings and staff will be directed to familiarise themselves with section Student Safety of the Victorian Government Schools Policy Advisory Guide
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.

Related school policies and links:

- Teachers, students & the law- A quick reference guide for Australian Teachers- Victoria Law Foundation
- VIT Professional Code of Conduct:
<http://www.vit.vic.edu.au/media/documents/imported-files/spl/Code-of-Conduct-2015.pdf>
- DET Policy and Advisory Guide: Duty of Care
- Excursions and Camps Policy
- Anti bullying policy
- Student Engagement Guidelines
- Acceptable Use and e-safety agreement

MORDIALLOC COLLEGE SUPERVISION AND DUTY OF CARE POLICY

- Student Code of Conduct
- Bullying prevention policy
- Equal Opportunity and anti-harassment and
- Personal Digital Device policy

Evaluation:

This policy will be reviewed annually or more often if necessary due to changes in regulations or circumstances.

This policy was last ratified by School Council in

May 2016