



DUTY OF CARE POLICY

RATIONALE

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

Hamilton Special Developmental School is cognisant of its obligations under the **Child Safe Standards** (Ministerial Order 870 – effective August 1, 2016) to protect students from all forms of child abuse. To this end, all necessary precautions will be taken to ensure that all duty of care requirements pose no risk to child safety.

AIMS

At all times Hamilton Special Developmental School (HSDS) will adhere to the DET guidelines for duty of care. This policy should be implemented in alignment with:

1. DET Duty of Care Policy
<http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>
2. DET Reporting (emergency and incidents):
<http://www.education.vic.gov.au/school/principals/spag/management/pages/reporting.aspx>
3. DET Emergency Response Procedures - Medical Conditions:
<http://www.education.vic.gov.au/school/principals/health/Pages/outdoorresmedic.aspx>
4. DET Health Support Planning Forms:
<http://www.education.vic.gov.au/school/principals/spag/health/Pages/supportplanning.aspx>
5. DET PROTECT Guidelines
<http://www.education.vic.gov.au/about/programs/health/protect/Pages/default.aspx?Redirect=1>
6. VRQA Child Safe Standards
<http://www.vrqa.vic.gov.au/childsafes/Pages/default.html>
7. HSDS's Accidents and Incidents Reporting Policy
8. Any other current or future policy related to the health and safety of staff and students of our school

Hamilton Special Developmental School staff will 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.

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 providing adequate supervision in the school or on school activities, providing safe and suitable buildings, grounds and equipment, providing effective anti-bully strategies, and ensuring appropriate and timely medical assistance is provided to injured or sick students.
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



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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. 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:-
 - a. arriving late to scheduled timetabled yard duty responsibilities
 - 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 students at beginning of sessions
 - 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 shade
 - g. leaving the school during 'non-face to face teaching time' without approval
 - h. 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 well documented and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas where they may lack expertise.
8. Parents must provide the school with up-to-date information regarding the medications and medical conditions of their child.
9. Students must be adequately supervised at all times, which includes a minimum of 10 minutes before and after school.
10. The classroom teacher has ultimate responsibility for the supervision of all students in their care. This duty cannot be delegated to external provider's, parents, or trainee teachers.

EVALUATION

This policy will be reviewed as a part of the school's three year policy review cycle.