

Duty of Care Policy 2016

Aims

- A. To fulfil our duty of care towards all students in the school.
- B. To retain a fulfilling, interesting and challenging educational program.

Scope and Application

This policy is available on the school website and applies to:

- A. Employees
- B. Students
- C. Parents
- D. Community members
- E. Visitors to the school

Definitions

- A. **Duty of Care** - is a legal concept that defines the duty a person has to take all reasonable steps to ensure the safety and welfare of students from both known and reasonably foreseeable risks of harm or injury.
- B. **Reasonable Care** - is defined as an appropriate level of care that takes into account the circumstances, including:
 - 1. student's age, experience and capabilities
 - 2. physical and intellectual impairment
 - 3. medical condition
 - 4. behavioural characteristics
 - 5. nature of the activity and the environment in which it is held
 - 6. school policy and procedures
 - 7. probability and magnitude of, and difficulty in alleviating, identified risks.

Examples

- A teacher organising a trip to the pool would need to consider the swimming ability of the students (among other considerations) when deciding the number of adults required to properly supervise them.
- A teacher planning a physical education program would consider the needs of a student with a disability for exercise and inclusion.
- The school balances the benefits of climbing trees against the risk of serious injury to allow students to "climb trees".

- Extra supervision at lunch time may be put in place when a new student enrolls, to alleviate the possibility of exclusion or bullying.

Principles

- A.** The school owes a duty of care to all students.
- B.** The duty of care exists whenever the student/teacher relationship is established.
- C.** Teachers owe a duty to students to take reasonable care to protect them from known or reasonably foreseeable risk of harm or injury. Duty of care may be breached by failing to take action as well as by acting.
- D.** The school is under a duty to employ competent teachers and provide safe premises.
- E.** The school is responsible for the actions of staff and volunteers.
- F.** Assessing risk and planning to minimise risk can enable most desired activities to take place.
- G.** Policies and procedures are designed to assist in fulfilling the school's duty of care.

Establishment of Student/Teacher Relationship

- A.** The student/teacher relationship is established whenever a student is engaged in a school activity.
- B.** The school maintains a duty of care towards students, parents and any Third Party even during activities at Kerry Street, such as end of term picnics, which are considered family activities.
- C.** Before and after school hours:
 - 1.** Except in unusual circumstances, a staff member will be present 30 minutes before school starts (8.15am), and 30 minutes after school ends (3.45pm).
 - 2.** This 30 minute window may only be exceeded if prior arrangements have been made with the Coordinator.. An application must be made in writing and prior to the day in question. The coordinator will notify the family if a mutually convenient arrangement can be organized. .
 - 3.** Students are required to be dropped off and supervised inside the school building if an agreement has been reached for drop offs that occur prior to 8:15am.
- D.** If a student arrives at school late or leaves before the end of the school day, the parent or student will explicitly notify their child's teacher that they have arrived or are leaving and what time they are coming back, if applicable. Written notification is recommended if the absence is planned.

Police Clearances and Confidential Declarations

Police clearances are not considered a failsafe method of ensuring suitability for working with children when employing staff or volunteers and it is logistically unworkable to ensure all volunteers have provided one to the school. Therefore:

- A. All formally employed staff and council members will provide the school with a federal police clearance, working with children check and/or be members of the Teacher's Registration Board of Western Australia, as appropriate.
- B. All volunteers supervising students without a member of staff present, will provide the school with a Confidential Declaration (see Attachment A). A working with children check and/or police clearance may be required, at the discretion of the council. If the volunteer is not a parent of students at the school, they will provide a working with children check.
- C. All parents staying overnight on school camps are required to have a Working With Children Check
 - 1. Volunteers responsible for supervising students will be familiar with this policy and willing to accept the duty of care for those students.
- D. All volunteers are asked to sign a Confidential Declaration.
- E. All external providers supervising students without a member of staff present, will provide the school with a police clearance, confidential declaration or working with children check, as appropriate.

Responsibilities

In broad terms, as the governing body, the council is responsible for developing policies, employing staff and maintaining the buildings and grounds. The council delegates certain responsibilities to the Coordinator, especially related to the educational program and behaviour and supervision of students. The Coordinator in turn delegates this responsibility to teachers. Teachers may delegate responsibilities to volunteers. **Ultimately, the school remains responsible for any breach in duty of care that occurs during a school activity.**

A. Council

- 1. Writing and updating this policy in consultation with relevant parties

B. Coordinator

- 1. If a student is not collected from school by 3:45, parents will be contacted by telephone. If parents are not contactable, emergency contacts will be contacted by telephone. A staff member will remain with the student at school until a parent or emergency contact collects student

C. Teachers

- 1. Staff will view the photo identification of a person unknown to the community who is responsible for picking up a student.

D. Adult members of school community

- 1. All members of the school community are morally responsible for bringing to the attention of the relevant person or group within the school, any risks they observe. In this way, they can contribute to the care of students at the school and the duty of care the school owes to the students

E. Parents

- 1. Parents taking students home from excursions prior to the end of the school day must inform the class teacher so that they can be signed off from the register of attendance.

2. Parents will inform staff if pick up arrangements change. If a person who is unknown to the community is responsible for picking up a student, photo identification such as a Driver's Licence must be viewed to ensure the identification of the individual

Related Legislation

- A. Teacher Registration Act, 2012
- B. Working with Children (Criminal Record Checking) Act 2004
- C. Volunteers (Protection from Liability) Act 2002 (WA)
- D. Occupational Safety and Health Act 1984 (WA)
- E. Civil Liability Act 2002
- F. Occupiers Liability Act 1985
- G. School Education Act (WA) s63 (1) and 64(1)
- H. School Education Regulations 2000 (WA), regulations 38 and 39

These sections of the School Education Act and Regulations apply only to government schools, however, the issues contained are also relevant to non-government schools eg. functions of Principals and teachers, care and welfare of children

Related Kerry Street Documentation

- A. All the school policies are designed to give guidelines to help members of the school community, and the school itself, fulfil our duty of care to students.
 1. Child Protection
 2. Hiring Policy
 3. Employment and Dismissal of Staff Policy.
 4. Volunteers Policy
 5. Complaints Policy and Procedures
 6. Bullying Policy
 7. Behaviour Guidance Policy
 8. Excursions Policy
 9. Camps Policy
 10. Supervision Policy
 11. Staff Code of Conduct
 12. Illness and First Aid Policy
 13. Administration of Medication Policy
- B. Working With Children Check
- C. Police Clearance

Contact Person

Enquires relating to this policy should be directed to the School Coordinator or Council President.

Breaches of this Policy

Any breach of this policy may result in disciplinary action up to and including termination.

Attachments

- A. Confidential Declaration for Volunteers

Review and Authorisation

- A. This policy has been read, discussed and endorsed by the staff on 17/11/04.
- B. This policy was authorised by the Kerry Street Community School Council on 25/11/04.
- C. Policy reviewed by meeting of staff and council on 13/1/06.
- D. Revised 2/8 to incorporate WWC legislation
- E. This policy was reviewed September 2012
- F. Reviewed October 2014
- G. Reviewed 27-06-2016
- H. To be reviewed November 2019

Helen Sugars Duff

Duty of Care Policy 2016 – Attachment A
Confidential Declaration for Volunteers

This form is for persons requiring access to Kerry Street Community School who are NOT employees of the school.

Please place a tick in ONE of the boxes below:

I declare that **I do not have** any convictions, circumstances or reasons that might preclude my working with or near children.

I declare that **I do have** convictions, circumstances or reasons that might preclude my working with or near children. The nature of these convictions, circumstances or reasons is outlined below.

I certify the accuracy of the above information. I am aware that I may be required to provide a police clearance if it is considered necessary to verify the information provided.

Name (block letters): _____

Signature: _____

Company: _____

Address: _____

Telephone: _____

Date: _____

Reference: AISWA file, Policies and Procedures Guidelines for Schools, Section 2, Duty of Care.