Our Lady Help of Christians Primary School

Duty of Care Policy

Rationale:
At Our Lady Help of Christians, 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.

Aims:
This policy ensures that the staff of Our Lady Help of Christians Primary School has an understanding of their duty of care to students, and behaves in a manner that does not compromise these legal obligations. The duty of care requires a high standard of care to be met.

Implementation:
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. The Principal's duty of care applies as occupier to all who use the premises, in and out of school hours (See also: Occupational Health and Safety Act 2004 (Vic.) There is also a duty of care to ensure that students under teacher supervision do not injure other students.

Where a student is acting on teacher instructions, not confined to the geographic area of the school, or to school activities, or to activities occurring outside the school, duty of care must be applied. The duty of care also applies to situations both before and after school, where a teacher can be deemed to have 'assumed' the teacher pupil relationship. (e.g. High Court decision Geyer v Downs(1977) 138 CLR 91
The teacher's duty of care is greater than that of the ordinary citizen. 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 has 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
- Leaving a scheduled yard duty before being replaced by another teacher
- Being late to supervise the line-up of students after the second bell has sounded
- 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
- Failing to instruct a student who is not wearing a hat to sit on the time out seat
- Ignoring dangerous play
- Inadequate supervision on a school excursion (1:10 or less)
- Staff members 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 including a specialist teacher of a key learning area, Position of Leadership or subject teacher

Communicating this policy to staff...
At the beginning of each school year staff will clarify the school policy as a group and review its implementation expectations.
The Principal has the responsibility for ensuring that any new staff to the school are familiarised with the school's policy and its implementation. These policies are freely available on the school website.
Parents are advised of the school's policies regarding supervision of students including times for before school and after school supervision through the school's newsletter, at the beginning of each year and reminders are included at regular intervals.

**Evaluation:**

This policy will be reviewed annually.