



DUTY OF CARE POLICY

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1. INTRODUCTION

John Wollaston Anglican Community School (the School) acknowledges that the School and its staff members owe a duty to take reasonable care of the safety and welfare of all students in the School. The duty of care exists when the teacher-student relationship is established.

Duty of care :

A school authority has a duty to ensure that reasonable care is taken of its students while they are on the school premises during the hours when the school is open and during school-related off-site activities.

This duty is separate from the duty of care owed by each teacher. The duty cannot be discharged simply by appointing competent teaching staff and leaving it to them to take appropriate steps for the care of the students. It is a duty to ensure that reasonable steps are taken for the safety of the students. Neither the duty nor its performance can be delegated. [*Commonwealth v Introvigne (1982) 150 Commonwealth Law Reports 258.*]

Guide to the registration standards and other requirements for non-government schools, 2022, p11

The term 'duty of care' defines the duty a person has to use reasonable care towards others in order to protect them from known or reasonably foreseeable risk of harm and/or injury.

A teacher owes a duty to students to take reasonable care to protect them, from a known or a reasonably foreseeable risk of harm and/or injury. Discharge of this duty requires a teacher to take such proactive measures as are reasonable to prevent harm and/or injury to a student. In particular instances, non-teaching staff members, volunteers and external providers will owe a duty of care to students.

The School has a duty to take reasonable care to ensure that it employs competent teachers and provides safe premises.

2. PROCEDURE

2.1 REASONABLE CARE AND RISK ASSESSMENT

The concept of 'duty of care' is based on reasonable care. It is not a duty to ensure no harm will come to a student but that reasonable care to avoid harm being suffered is taken. What is considered reasonable care varies depending on the circumstances at the time. All activities of the School will be assessed on the concept of 'reasonable care' being afforded the students, taking into account the following factors:

- The age, experience and capabilities of the students – the level of care will generally be greater, the younger the student
- The magnitude of the risk
- The likelihood of its occurrence;
- Physical and intellectual impairment of students;
- Medical conditions of students;
- Behavioural characteristics of students – if a student is known to behave inappropriately then the level of care increases
- The difficulty of alleviating the risk (risk rating)

- The expertise of the supervising staff

When the activity has been assessed and approved, appropriate controls and safeguards will be imposed.

2.2 LIABILITY OF TEACHERS

Teachers will receive information on duty of care legislation and their responsibilities to protect students from harm as follows:

- Duty of care is not delegable, except in certain circumstances as described in 2.3. While non-teaching staff, volunteers and external providers may be employed in activities, the supervising teacher still has the responsibility for duty of care.
- A teacher's duty of care remains at all times while the student is in the teacher's care.
- A teacher's duty of care also includes being aware of and implementing the School's policies and procedures affecting students' safety and welfare e.g. bullying, health, supervision ratios, safety of equipment, excursion, camp and tour protocols, yard duty and child protection.
- In the event that breach of duty action is brought against a staff member, the School would generally be vicariously liable for the action.
- If, however, a teacher fails to comply with the School's policies, procedures and directives relating to the safety and supervision of students, this could lead to an imposition of personal liability for the teacher for any resultant injury to a student and a personal assumption of negligence on the part of the teacher.

2.3 NON-TEACHING STAFF, VOLUNTEERS, PARENTS/GUARDIANS AND EXTERNAL PROVIDERS

Generally, persons in these categories do not have the same duty of personal care to students as teachers do. However, in certain situations and under certain circumstances, it may be necessary to delegate the School's duty of care to them. If this happens, the School and/or the teacher must ensure the following are satisfied:

- The persons are suitable for the task being delegated.
- The persons are covered by the School's insurance or have in place their own adequate insurance cover.
- The persons agree to assume the personal duty of care for the students.
- The teacher provides them with clear instructions as to the level of care required.
- Volunteers and External Providers satisfy the Working With Children Check card (WWCC), where required. Parent/Guardian volunteers are generally exempt from requiring a WWCC card; however, volunteer parents/guardians attending an overnight camp are not exempt.

Once the discharge of the duty of care is entrusted to non-teachers, which includes volunteers, parents and external providers, it will be expected that they will provide the same level of care to students as a teacher.

2.4 OUT-OF-HOURS LIABILITY

The School does not have a 'door to door' responsibility for its students but does have a duty of care for students in certain out-of-hours circumstances as follows:

2.4.1 Primary students arriving to school early

- For reasons of duty of care and personal safety, students are not permitted to arrive at school prior to 8:00am.
- Primary students (Years 2 to 6) who arrive at school between 8:00am and 8:15am will be supervised by a staff member. Students must remain in the Primary or Upper Primary undercover areas. Students are not permitted to use the Primary playground or the School oval.

- Parents/Guardians of ELC students (Pre-Kindergarten to Year 1) must remain with their child until classrooms are opened at 8:15am. A staff member is in attendance at the ELC drop off from 8:15am.
- Parents/Guardians are notified through the eNewsletter of the student arrival time, being 8:00am to 8:25am. They are also advised that students will not be supervised before 8:00am and that the School cannot accept responsibility for students delivered to the campus prior to this time. Should parents/guardians deliver students prior to 8:00am they will be contacted by the Head of Primary or Deputy Head of Primary. Reference: Attendance Policy and Procedures Primary School

2.4.2 Secondary students arriving to school early

- Heads of House greet students on a daily basis at the front of the School from 8:10am. Secondary staff monitor student movement in and around the buildings and grounds before classes commence at 8:30am.
- Parents are requested not to have their child arrive at school before 8:00am. In the event that this is unavoidable, students are to report to the verandah outside Student Services Reception and are to remain there until 8:00am. Students will then be able to access other in-bound areas on the School campus.
- Parents/Guardians are notified through the eNewsletter of the student arrival time, being 8:00am to 8:25am. They are also advised that supervision of students will not be provided before 8:00am and that the School cannot accept responsibility for students delivered to the campus prior to this time. Should parents/guardians deliver students prior to 8:00am they will be contacted by the Dean of Pastoral Care. Reference: *Attendance Policy and Procedures Secondary School*

2.4.3 Students leaving the school late

- Parents/guardians/other approved adults assume responsibility for their child/the student once collected at the end of the day. This responsibility extends to their child/the student using playground equipment or other recreational areas of the campus e.g. school ovals.
- Students waiting for a scheduled bus in the bus bays or for their parents/guardians in the drop off/pick-up zone will be supervised by school staff. The responsibility for providing supervision will extend at least until the last bus departs the premises or until 3:30pm, whichever occurs last.
- Students who are waiting at the BDISC car park for their parents/guardians in the drop off/pick-up zone will be supervised by school staff. The responsibility for providing supervision will extend until 3:30pm. Any remaining Primary students will be escorted to Primary Reception for collection. Any remaining Secondary students will be escorted to Administration for collection.
- All students should depart the School by 3:30pm unless alternative arrangements have been made with the School. In the event that parents cannot collect their children by 3:30pm, for safety reasons, Secondary students will be required to wait for their parents on the lawn area at the front of the School inside the main gate or, in wet weather, on the front verandah of the School's Administration building. Primary children will be required to wait inside at Primary Reception. Should ELC students not be collected by 3:30pm, they will be supervised by a teacher.
- School Administration is staffed until 4:00pm. Telephone calls will be made to parents/guardians to ensure collection of students by this time. No student will be left on school premises without adult supervision.

Reference: *Attendance Policy and Procedures Primary School/Attendance Policy and Procedures Secondary School*

2.4.4 After school activities

- Staff members who conduct student activities after school hours owe a duty of care to the participating students.
- After school activities attended by students include the Primary Clubs Program, Secondary Clubs Program, Secondary School Tutorials, Junior Southern Associated Schools (JSAS) and Southern Associated Schools (SAS) Secondary sporting program, Arts curriculum events i.e. School production rehearsals.
- Student attendance at after school activities is recorded via SEQTA.
- If students are absent from their club, including JSAS and SAS, written notification from a parent/guardian must be forwarded to Primary Reception, Student Services Reception or the Teacher-in-Charge of the Club.
- All unexplained absences from Primary Clubs are followed up by the Primary Receptionist.
- The Dean of Pastoral Care is to be informed of persistent/frequent/unexplained absences from Secondary Clubs. Parents/Guardians will be notified if students were present during the school day but not present at an after school club (unless a valid reason has already been provided by the parent/guardian). Reference: *Primary Clubs Policy/Secondary Clubs Policy*

2.4.5 Students arriving late or leaving school during school hours

- Secondary students arriving to school late are required to sign in, via the iPad (using the Passtab application), at Student Services Reception. A late stamp with the time of arrival at school recorded is stamped into the student's Homework Diary. Student Services staff will update the SEQTA attendance record.
- If a Years 2 to 6 student is late to school, he/she must sign in at Primary Reception. The student will be given a Late Slip (red) to give to his/her class teacher. The Primary Receptionist will update the SEQTA attendance record.
- If a Pre-Kindergarten to Year 1 student is late to school, he/she must be signed in by his/her parent/guardian at the Early Learning Centre (ELC) Reception. The ELC Receptionist will escort the student to class. The ELC Receptionist will update the SEQTA attendance record.
- If a Secondary student has to leave early, the student must report to Student Services Reception to meet with his/her parent/guardian. The student must be signed out by the child's parent/guardian, via the iPad (using the Passtab application), at Student Services Reception. Student Services staff will update the SEQTA attendance record.
- If a Years 2 to 6 student has to leave early, his/her parent/guardian must first report to Primary Reception. Parents/Guardians will be given a Student Leave Pass (yellow) to give to their child's class teacher. The Primary Receptionist will update the SEQTA attendance record.
- If a Pre-Kindergarten to Year 1 student has to leave early, his/her parent/guardian must first report to ELC Reception. The ELC Receptionist will collect the student from the class. In the event that the ELC Reception is unattended, the student will be signed out via the Early Departure Register at the classroom. The ELC Receptionist will update the SEQTA attendance record.

Reference: *Attendance Policy and Procedures Primary School/Attendance Policy and Procedures Secondary School*

2.5 ASC RECRUITMENT AND SELECTION POLICY AND PROCEDURES

All staff must comply with the *ASC Recruitment and Selection Policy and Procedures (WA)*.

3. RELEVANT LEGISLATION

- Children and Community Services Amendment Act 2021
- Civil Liability Act 2002
- Disability Discrimination Act 1992 (Commonwealth)
- Emergency Management Act 2005
- Emergency Management Regulations 2006
- Equal Opportunity Act 1984
- Health Act 1911 and Regulations
- Industrial Relations Act 1979
- Occupiers Liability Act 1985
- Public Sector Management Act 1994 (WA)
- School Curriculum and Standards Authority Act 1997 (WA)
- School Education Act 1999
- School Education Regulations 2000
- Sex Discrimination Act 1984 (Commonwealth)
- State Records Act 2000 (WA)
- Teacher Registration Act 2012 (WA)
- Volunteers (Protection from Liability) Act 2002 (WA)
- Work Health and Safety Act 2020 (WA)
- Work Health and Safety (General) Regulations 2022 (WA)
- Working with Children (Criminal Record Checking) Act 2004 (WA)
- Working with Children (Criminal Record Checking) Regulations 2005 (WA)

4. RELATED POLICIES AND DOCUMENTS

Duty of care spans a wide range of specific School policies and procedures relating to curricular and non-curricular activities, pastoral care and the environment of the School.

It is the duty of all staff members to be aware of these policies and procedures and to implement them.

These include but are not restricted to the following:

- Access to Students Policy and Procedures
- Alcohol and Drug Policy and Response to Incidents of Drug Use
- Recruitment and Selection Policy and Procedures (WA) (ASC)
- Asthma Care for Students Policy
- Attendance Policy and Procedures Primary School
- Attendance Policy and Procedures Secondary School
- Behaviour Management Policy and Procedures Secondary School
- Bullying and Harassment Policy
- Bus Conduct Policy
- School Canteen (Café) Policy
- Child Safe Policy (WA) (ASC)
- Code of Conduct for Staff Policy
- Educational Tours/Cultural Exchanges Policy
- Emergency Procedures Lock-In Policy
- Emergency and Critical Incident Management Policy
- Evacuation Policy
- Excursions, Incursions, Camps and Tours Policy
- ICT Appropriate Use Policy: Students
- Health Care Policy
- Management of Hazardous Substances Policy
- Mobile Device Policy

- Nut Minimisation Policy
- Pandemic Response Policy
- Pastoral Care Policy, System and Procedures: Secondary School
- Pastoral Care Policy Primary School
- Primary Clubs Policy
- Promoting Positive Behaviours Policy and Procedures Primary School
- Radioactive Radiation Policy and Procedures
- Reporting Critical and Emergency Incidents in ASC Schools (WA)
- Risk and Compliance Policy, Framework and Strategy (ASC)
- School Grounds Supervision Policy
- School Security Policy and Procedures
- Secondary Clubs Policy
- Student Code of Conduct: Primary
- Student Code of Conduct: Secondary
- Student Driver Policy
- Visitors on School Premises Policy
- Workplace Learning Policy and Procedures
- Work Health and Safety Policy and Procedures