



## Northern School for Autism

*"Learning for Life"*

### **DUTY OF CARE POLICY**

#### **PURPOSE**

The purpose of this policy is to:

- explain to our school community the non-delegable duty of care obligations that all staff at Northern School for Autism owe to our students and members of the school community who visit and use the school premises; and
- assist school staff to understand how to meet their legal duty of care to students.

#### **POLICY**

"Duty of care" is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. The reasonable steps that our school may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk.

Our school has developed policies and procedures to manage common risks in the school environment and to support the school's duty of care including:

- Bullying Prevention and Response
- Camps and Excursions (including local excursions) Policy
- First Aid for Students & Staff
- Child Safe Standards
- Health Care Needs
- Incursions (Safety of Children Working with External Providers)
- Emergency and Critical Incidents Management
- Volunteers in Schools
- Visitors to the School
- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health & Safety
- Yard Duty and Supervision

Our school acknowledges we are required to take reasonable precautions to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation.

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Staff at our school understand that school activities involve different levels of risk and that particular care may need to be taken to support younger students or students with additional needs. Our school also understands that it is responsible for ensuring that the school premises are kept in good repair and will take reasonable steps to reduce the risk of members of our community suffering injury or damage because of the state of the premises.

School staff, parents, carers and students are encouraged to speak to the principal to raise any concerns about risks or hazards at our school, or our duty of care obligations.

### IMPLEMENTATION

- All staff working with students owe a duty of care to those students.
- All staff must take reasonable steps to reduce the risk of reasonably foreseeable harm to students.
- All staff must take reasonable precautions to minimise the risk of child abuse by an individual associated with the school.
- The requirement to take reasonable steps to reduce the risk of reasonably foreseeable harm, continues even when another party is involved (for example, a third party providing services for an excursion or school camp).
- In some circumstances, a school's duty of care will extend beyond school hours and outside of school grounds.
- Principals of Victorian government schools and DET staff can seek legal advice about their particular circumstances from the Department's Legal Division on 03 9637 3146 or [legal.services@education.vic.gov.au](mailto:legal.services@education.vic.gov.au)

School staff have a duty of care in relation to students. Principals, teachers and other staff working with students must take reasonable steps to minimise the risk of reasonably foreseeable harm, including by:

- providing suitable and safe premises
- providing an adequate system of student supervision
- undertaking risk assessments for school activities and events
- implementing strategies to prevent reasonably foreseeable injuries, whether physical or psychological, to students (including injuries suffered as a result of bullying)
- ensuring that appropriate medical assistance is provided to a sick or injured student
- ensuring the school complies with the Child Safe Standards
- taking other reasonable precautions to minimise the risk of child abuse by an individual associated with the school
- implementing relevant Department and local school policies
- managing employee recruitment, conduct and performance

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This duty of care is non-delegable, meaning that it cannot be assigned to another party. However, this does not mean that only one person holds a duty of care to a particular student at any one time. Multiple staff may have a duty of care to the same student, with differing responsibilities and roles to play in relation to the school discharging its overall duty of care. The precise scope of the each staff member's duty of care may be different.

### **Personal Care/ Toileting**

Teachers have primary legal duty of care for students and should – where possible – be in attendance in the classroom. Therefore, as nappy changing usually takes place outside the classroom, nappy changing should be undertaken where possible by teacher aides (ES). Student personal/attendant care is part of the teacher aide (ES) role so there is an expectation teacher aides undertake these duties. Teachers and teacher aides (ES) working in special schools receive an allowance in acknowledgement of the additional demands of working in a special school. Casual staff who do not know the students well should not be changing nappies. Regular casual staff can support with toileting. There are also issues with protective behaviours and ensuring children are attended to primarily by adults who are known to them and around whom they are safe. Ultimately, if a student needs a nappy change then this should be provided as a Duty of Care requirement.

Students with long term toileting issue will have a toileting plan which is devised by the teacher. All staff must follow the strategies of this toileting plan.

### **Classroom Supervision**

Teachers must not leave the classroom unattended at any time during a lesson. It is not appropriate to leave students in the care of ancillary staff, voluntary staff, 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). In an emergency situation use the phone for a Sub School Leader, Assistant Principal, Principal, or contact the teacher in the next room. No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour.

### **Duty of care to students outside the school**

In some circumstances, the duty of care owed by school staff will extend beyond school hours and outside of school grounds. Whether the duty extends outside of school hours or outside school grounds will depend on all the circumstances of each individual case, and the school staff members' knowledge of any reasonably foreseeable risks of injury.

For example, in some circumstances the Department may be liable for injuries to students in the playground before school begins for the day if they occur during the period of time for which the school yard is supervised.

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### External Providers

Staff at our school acknowledge that, as our duty of care is non-delegable, we are also required to take reasonable steps to reduce the risk of reasonably foreseeable harm when external providers have been engaged to plan for or conduct an activity involving our students. The *Visitors to the School Policy, Incursions (Safety of Children Working with External Providers) Policy* and the *Camps and Excursions (Including local excursions) Policy* include information on the safety and care of our students when engaged with external providers.

Our school also takes steps to ensure student safety when they are engaging in off-site workplace learning programs with external providers, such as when students are participating in work experience, school-based apprenticeships and traineeships, structured workplace learning and any other workplace learning program involving external providers. Our School will follow all applicable Department of Education and Training policy and guidelines in relation to off-site learning and will ensure that the safety and welfare of the students engaging in these activities is paramount. The Department’s guidelines in relation to Workplace Learning are available at the following link:

<https://www2.education.vic.gov.au/pal/structured-workplace-learning/policy>

### COMMUNICATION

This policy will be communicated to our school community in the following ways

- Provided to staff at induction and included in staff handbook/manual
- Discussed at staff meetings/briefings as required

### FURTHER INFORMATION AND RESOURCES

- the Department’s Policy and Advisory Library: [Duty of Care](#)
- the Department’s Policy and Advisory Library: [Structured Workplace Learning](#)

In addition please refer also to the school’s *Diabetes Management Policy, Health Care Needs Policy, Anaphylaxis Management, Asthma Management, Epilepsy & Seizures Policies, SunSmart (Sun & UV Protection) Policy, the Emergency & Critical Incident Management Policy* and the *Reporting & Managing School Incidents (Including Emergencies) Policy* and *Duty Policies* all of which relate to the school’s duty of care.

### POLICY REVIEW AND APPROVAL

Policy last reviewed	Aug 2024
Approved by	Principal
Noted at School Council	8 <sup>th</sup> Aug 2024
Next scheduled review date	Aug 2027 – noting that the recommended minimum review cycle is 3-4 years

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