



**BURNSIDE**  
Primary School  
*Inspired minds thrive*

## Duty of Care Policy

### Rationale

All government school staff will be made aware of their legal responsibilities. As part of the government school principal contract, government school principals are required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students. Creating safe places for children to fully and actively participate in the life of the community benefits everyone. Burnside Primary School ensures that the children in its care are protected to the best of its ability and in line with their duty of care and the compulsory Child Safe standards. These Child Safe Standards are compulsory for all organisations providing services to children, and aim to drive cultural change in organisations so that protecting all children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers. This will assist organisations to:

- prevent child abuse
- encourage reporting of any abuse that does occur
- improve responses to any allegations of child abuse

The Child Safe Standards also strongly promote the safety of Aboriginal children; children from culturally and/or linguistically diverse backgrounds and the safety of children with a disability.

### Implementation 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, including:

- Yard duty and Supervision
- Bullying Prevention
- Camps and Excursions
- First Aid
- Tree Maintenance
- Grounds Maintenance
- Child Safe Standards
- Emergency Management
- Volunteers
- Visitors
- Working with Children Checks

- Mandatory Reporting
- Occupational Health and Safety

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 as well as providing safe and suitable buildings, grounds and equipment.

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 and after school where a teacher can be deemed to have 'assumed' the teacher pupil relationship.

Quite apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child is being abused or neglected, including sexual abuse.

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.

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:

- arriving late to class or leaving a class early
- arriving late to scheduled timetabled yard duty responsibilities
- 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
- being late to supervise the line-up of students after the bell has sounded
- leaving students unattended in the classroom
- failing to instruct a student who is not wearing a hat to play in the shade
- ignoring dangerous play
- leaving the school during time release without approval
- inadequate supervision on a school excursion

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.

Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

Non-teaching staff have a duty of care which includes anyone employed under contract by the School Council as well as a volunteer or a contracted service provider. If working within the vicinity of children, then a person is deemed to be 'staff.' Non-teaching staff also need to understand that they have a duty of care and need to intervene if required E.g. call for teacher help; suggest to a student to stop what they are doing if deemed dangerous;

### **Further Information and Resources**

- School Policy and Advisory Guide: [Duty of Care](#)

### **Review Cycle**

This policy was last updated on August 2020 and is scheduled for review in [month/year].