



Atlantis Beach Baptist College

Duty of Care to Students

Title of Policy/Procedure	Duty of Care to Students
Endorsed by	Principal
Reviewed	October 2019
Next review date	October 2020
To whom issued	College staff and community

Duty of Care to Students

All professionals involved in education are expected to exercise a very high standard of care for the young people in their charge. Educators need to be aware that in recent years, an increasingly litigious environment has imposed more onerous duties of care and supervision on teachers, administrators and schools. This is due to changing attitudes, enhanced requirements for accountability, and increased areas of regulation and a greater awareness of the individual's legal rights.

Duty of care requires schools and teachers to take all responsible steps to ensure the safety and welfare of the students from both known and reasonably foreseeable risks of harm and/or injury. In particular instances, non-teaching staff will also owe a duty of care to students.

Legal risks cannot be eliminated but they can be managed. The College has a range of policies and procedures which manage risk and ensure that teachers meet their duty of care obligations.

1.0 Duty of Care

The school is under a duty to take reasonable care to ensure that it employs competent teachers and provides safe premises. The school will be vicariously liable for the actions of the teachers whilst they are acting in the course and scope of their duties as an employee of the school.

1.1 Examples of breach of Duty of Care, include:

- the failure to take sufficient care for a student's safety during school hours, resulting in the student injuring him/herself; e.g. an accident after a student has been let out of class early; an injury caused or sustained by a truant who has not been immediately identified and followed up; an accident occurring when a teacher is late to a class; a teacher late for yard duty during which time an accident occurred
 - the failure to exercise sufficient control of the behaviour of students either before, during or after school and which resulted in one student injuring another; e.g. teacher failing to act when students were throwing objects during recess resulting in an eye injury; teacher without adequate classroom control - students fooling around in class with a resultant injury
 - the failure to identify or to institute effective measures to alleviate bullying against individual students. Several recent cases have been brought against schools which have not taken action to restrain the aggressive or inappropriate activity of a student known to be a bully, or which failed to provide a hostile-free, safe environment for a student
 - the failure to take into consideration the age of the students when showing films or video clips to a class. All material should be screened for content and rating prior to being shown, and if need be, parental permission sought prior to viewing
 - discriminatory conduct by staff – for example, failure by a teacher to be aware of and provide adequately for a student with disabilities or learning difficulties; homophobia/racist attitudes and behaviours directed at students
 - the failure to act where there is a reasonable suspicion of abuse of a student, or a disclosure of abuse by a student to a staff member
 - the failure to undertake adequate planning and supervision while on a school excursion, which results in injury to a student.
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2.0 Liability of teachers

A teacher's duty of care is not limited to specific school activities such as excursions and incursions, it remains at all times whilst the student is in the teacher's care. A teacher's duty of care also includes being aware of and implementing school policies affecting students' safety and welfare such as bullying, Occupational Health and Safety, student health, supervision ratios, safety of equipment and grounds.

Duty of care is non-delegable. Duty of care requires the teacher to take all reasonable measures to ensure the safety and welfare of students, and this overall responsibility cannot be delegated to parents, volunteers or other contracted staff. A school/teacher does not discharge duty of care obligations simply by employing competent teachers or outside service providers.

The onus to fulfil duty of care obligations to students and to ensure that reasonable care is taken at all times, remains with the school and individual teacher.

It is clear that whenever, and wherever, the student-teacher relationship is in existence, a teacher must exercise a high standard of duty of care, with its associated standards of professionalism, foresight, supervision, diligence and risk management. The concept of duty of care does not, however, prescribe what steps are required of the teacher who owes the duty of care, beyond a requirement that the teacher must take reasonable care in all circumstances. The law does not provide a duty of care checklist or instruction manual. To make it more difficult, the question of whether the duty of care has been breached is determined by others, with the benefit of hindsight.

College policies, procedures and directives provide clear standards which, when implemented, ensure that a teacher meets his/her duty of care obligations.

In the event that a breach of duty action is brought against a staff member, the College would generally be vicariously liable for the action and handle the action on behalf of the teacher. Teachers need to understand however, that failure to comply with College policies, procedures and directives relating to the safety and supervision of students may lead to an imposition of personal liability by the teacher for any resultant injury to a student, and a personal assumption of negligence on the part of the teacher. If it were established, for example, that a staff member had disregarded an instruction or College procedure, it would be possible for the employer's insurer, where negligence was established, to bring a claim against a staff member to recover costs.

3.0 Related College policies and documents

It is the duty of all ABBC teaching staff members to study and fully implement, all College policies and procedures pertaining to student duty of care including but are not limited to:

- Student Behaviour Management Plans
 - Yard Duty Instructions
 - Camps Policy
 - Excursion Policy
 - College Staff Handbook
 - Student Organiser/SEQTA
 - Attendance Policy
 - Bullying Prevention Policy
 - Evacuation Procedures
 - Child Protection Policy
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- Individual Documented Student Plan
- Emergency and Critical Incident Policy
- Emergency and Critical Incident Manual
- Co-curricular and After Hours Supervision of Students Policy
- Equal Opportunity Discrimination and Harassment Policy
- Student Health Policy