

Duty of Care Policy

VISION STATEMENT

GERALDTON GRAMMAR SCHOOL WILL PROVIDE OUTSTANDING EDUCATION AND A STRONG SENSE OF COMMUNITY, CULTIVATING PEOPLE OF INTEGRITY, INDEPENDENCE OF MIND AND A LOVE OF LEARNING.

Introduction	This statement outlines the Geraldton Grammar School policy on the duty of care of students at the school.
Scope and application	Policy applies to all employees of Geraldton Grammar School.
Related legislation and guidelines	No legislation but all AISWA guidelines are used as a format for this policy.
Related Policies	Anti-Bullying Policy, Positive Behaviours Policy, Camps Policy, Child Protection and Mandatory Reporting Policy, Drugs Policy, Excursions Policy, First Aid Policy, Anaphylaxis and Food Allergies, Playground Duty Policy, Sexual Harassment Policy, Sun Safety Policy
Evaluation	Annual

Date	Action (issue, reissue, amendment, replacement of pages, etc)	Initials
1996	Drafted	AAB
2000	Amended	SSW
5/2/09	Amended	SSW
31/3/10	Revised	SSW,SPN
5/9/11	Amended	SSW,SPN
25/3/13	Crest	SPN
08/09/15	Amended	NJE
04/10/16	Amended – minor changes	NJE
18/07/17	Revised – no amendments	NJE
04/03/19	Revised – no amendments	NFT
02/08/19	Amended - minor changes	NFT
11/12/23	Reviewed no amendments	TLE

DUTY OF CARE POLICY

1 Introduction

Schools and teachers owe a duty of care to take reasonable care for the safety and welfare of all students in the school. The duty of care exists when the teacher/student relationship is established.

The duty requires all staff at Geraldton Grammar School to take all reasonable 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, volunteers and external providers will also owe a duty of care to students.

When organising activities for the students to participate in, the teacher needs to balance the risk involved in the activity with what the students will learn from undertaking the activity in order to fulfil their duty of care obligations.

2 Duty of Care

The term 'duty of care' is a legal concept that 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. The notion of duty of care is one that is contained in most school policies and procedures.

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.

A teacher owes a duty to students to take reasonable care to protect them, from a known or a reasonable 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.

3 Reasonable Care

The concept of 'duty of care' is based on reasonable care. What is considered reasonable care will vary depending on all the circumstances.

Listed below are some factors to consider when assessing the 'reasonableness' of the level of care required to a particular student.

- Student's age, experience and capabilities
 - the level of care will generally be greater the younger the student.
- Physical and intellectual impairment
 - a student with a disability is generally at greater risk of injury than a student without a disability. This could be due to a physical inability to complete the activity without difficulty or an intellectual inability to appreciate the risks involved.
- Medical condition
 - Particular medical conditions including conditions such as anaphylaxis, asthma and epilepsy require special attention to ensure that they are not exposed to a greater risk of injury.

- Behavioural characteristics
 - If a student is known to behave inappropriately then the level of care increases.
- Nature of the activity and the environment in which the activity is held
 - School activities with a higher level of risk and held in hazardous environments require a higher level of care. Health & Physical Education, Design and Technology, Science and Visual Arts departments all have risk management procedures pertaining to their areas for the safe use of equipment, machinery and hazardous substances.
- Playgrounds, outdoor courts and school ovals are there for the enjoyment of students during recess and lunch. Students are aware of expectations and duty teachers are present at all time to ensure the safe use of facilities.
- School policy and procedures
 - Following the school's normal practices within the various policies and procedures will ensure that the teacher is adhering to all the steps required.
- Assessing the level of risk involved in any individual activity
 - Probability of the risk occurring;
 - Magnitude of the risk;
 - Expense, difficulty and inconvenience involved in alleviating the risk.

It is important to understand that what is 'reasonable' will vary from circumstance to circumstance. For example, taking a primary school class on a beach excursion is completely different to taking members of a high school swimming team on a beach excursion. What will be reasonable supervision for one will be wholly inadequate for the other.

4 Duty of Care Owed by Teaching Staff

The teacher's duty of care responsibility is automatic, arising from the teacher/student relationship. As stated above, the level of care is based on what is considered 'reasonable'. This will depend on a variety of factors eg age of students, behaviour of students, nature of activity, location of activity etc.

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 eg bullying, occupational health and safety, supervision ratios, safety of equipment and grounds.

Generally, the duty of care owed by teachers to students is non-delegable however, in certain situations the teacher may delegate this duty of care to non-teaching staff, volunteers and/or external providers.

5 **Duty of Care Owed by Non-Teaching Staff, Volunteers and External Providers**

Non-teaching staff: employees of the school who work on the school premises and are not part of the teaching staff. Eg librarians, laboratory assistants, education assistants, office personnel, IT technicians, exam supervisors, cleaners.

Volunteers: an adult or organisation who/which offers services for school activities, but receives no remuneration from the school for the services provided. Eg parents/guardians and other relatives, community members, employers who accept students on work experience, student teachers.

External Providers: a business/individual paid by the school to provide a venue, service and/or expertise appropriate to a particular school activity. Eg private dance teacher, Perth Zoo, AQUA, Sci Tech.

Generally, non-teaching staff, volunteers (eg parents) and/or external providers must take reasonable care to avoid doing things that could reasonably be foreseen as causing harm and/or injury to others (including students).

Non-teaching staff, volunteers (eg parents) and/or external providers are not generally personally responsible for students and do not have the same duty of personal care to students as do teachers.

However, in certain situations and under certain conditions teachers may delegate their duty of care to non-teaching staff, volunteers (eg parents) and/or external providers in which case they will then owe the same level of care to students as a teacher.

Before the school and/or the teacher delegate the duty of care responsibility to non-teaching staff, volunteers (eg parents) and/or external providers, it is necessary for the school and/or the teacher to ensure the following are satisfied, as a failure to do so could result in a break of the school and/or the teacher's duty of care to the student:

- That the non-teaching staff, volunteers (eg parents) and/or external providers are suitable for the task being delegated.
- That the non-teaching staff, volunteers (eg parents) and/or external providers involved are covered by either the school's insurance or have in place their own adequate insurance cover.
- That the non-teaching staff, volunteers (eg parents) and/or external providers agree to assume this personal duty of care for the students.
- That the teacher has provided the non-teaching staff, volunteers (eg parents) and/or external providers with clear instructions as to the level of care required.

6 Police/Working with Children Clearances

At Geraldton Grammar School:

- All teaching and non-teaching staff require a current Working with Children card.
- Volunteers require a Working with Children card depending on the activity.
- Board Members require a National Police Check.