



McAuley Catholic Central School

Supervision / Playground Supervision Policy

SUPERVISION/PLAYGROUND SUPERVISION POLICY

Related Policies

Child Protection

Computer Facilities and External Networks - Acceptable Use Discipline

Excursions

Medical Welfare of Students

Purpose

This policy outlines the legal requirements and responsibilities of Principals, teachers, schools and Catholic Education (CE) as the school authority as they pertain to the duty of care owed to students and to those who may be affected by the actions of students in their care.

All staff members have a duty of care to fellow staff members and students. The CE aims to ensure that learning takes place in a safe, happy, positive and caring environment for all students. The CE recognises that a broad, worthwhile education of the individual necessarily involves risks, and those risks have to be carefully managed and taken in the context of an awareness of a school's duty of care to students.

The CE through its schools aims to implement curriculum, programs and organisational structures that aid the development of self-discipline, responsibility and respect for others. This policy ensures development by providing a positive and caring environment in which the experience of teaching and learning is enhanced for all.

Policy

In addition to their professional obligations as educators, Principals and teachers have a legal duty to take reasonable steps to protect students in their charge from risks of injury that are reasonably foreseeable.

Duty of care

Duty of care to students applies whenever there is a school/student, or teacher/student relationship in place. It can apply in the following situations (this is NOT a definitive list):

- classrooms
- playground
- bus line and anywhere outside the school boundaries when the school should reasonably be providing supervision to a student
- camps
- excursions, sport and other extra-curricular activities organised by the school
- before school
- after school
- cyberspace
- laboratories, computer rooms, library, and anywhere curricula or co-curricular activities are taking place
- outdoor and indoor play areas
- pools and change areas
- sport and physical education activities
- when students are moving about the school, regardless of who is supposed to be supervising them
- when in the care of third parties at the behest of the school, such as outside instructors (this is the 'non-delegable' duty).

Standard of care

The standard of care applicable is that of a reasonable school authority or teacher. A general guide is what a reasonable teacher or school would do in similar circumstances given what they know about a particular situation and what they are reasonably able to do about it. The wording of the legislation is 'best practice', but not necessarily 'perfection'. What is reasonable will depend on circumstances.

Acting consistently with the standard of care will generally mean a school has not breached its duty, even if a student has suffered an injury. Acting below the standard of care will generally mean a school is in breach of its duty.

Example 1: it would probably be reasonable to allow a normal Year 12 student to cross a road outside the school unsupervised to catch a bus. However, a reasonable school or teacher would not allow a Year 3 student to do the same unsupervised.

Example 2: if a teacher is supervising some groups of students, and one group is writing on the desks, and another group erupts into a physical fight, it would be prudent to deal with the physical fight as a matter of priority. The teacher cannot be in both places at once and is not expected to be, but a quick evaluation of the situation would dictate that the physical fight has the greater potential to cause harm to students. A 'reasonable' teacher would almost certainly make this assessment.

In the above situation, if the group is excessively large or difficult, and one teacher has been assigned to supervise them, and someone suffers an injury, the school may be in breach of its duty to provide adequate supervision.

Definitions

Negligence

Negligence is doing, or failing to do something that a reasonable person would, or would not, do in a certain situation and which causes another person damage, injury or loss as a result. In schools, common situations where negligence may be alleged include accidents in the playground causing personal injury and bullying by other students which has not been properly dealt with by the school and which has caused the plaintiff (victim) psychological harm.

Whether or not negligence has occurred is a matter of satisfying four questions.

- Did the defendant (i.e. the person being sued) owe the plaintiff (i.e. the person injured) a duty of care?
- Did the defendant breach that duty?
- Did the plaintiff suffer an injury, loss or other damage?
- Was the injury or damage caused as a result of the breach of the duty of care?

All these factors must be satisfied. If even one is not satisfied then the plaintiff will not be able to establish that the defendant was negligent.

Plaintiff

A person who has suffered a loss or injury and seeks legal redress in the form of compensation.

Defendant

A person (or entity) being sued by a plaintiff.

Vicarious liability

Vicarious liability occurs where one person is held liable for the negligent actions of another. It is commonly relied upon for negligence on the part of employees carrying out their duties. In most cases the employer will be vicariously liable for the employee's negligence. In a school situation, the CE or school would be liable for the negligent actions of an employee, when that employee is acting in the course of their employment.

Duty of care

A duty of care is a legal obligation to avoid causing harm to others and arises where harm is 'reasonably foreseeable' if care is not taken. The duty that schools and teachers have to their students is a special 'established' category of duty – making it very difficult to avoid. This is based on the special care relationship that exists between schools and their students and the special vulnerability that students have.

Non-delegable duty

This is a special type of duty of care that applies to schools. It means that a duty cannot be delegated to another party such as a third party contractor. For example, if a school brings in an outside dance instructor to take dance classes, and students are injured due to that instructor's negligence, the school will still most probably be liable for those injuries as the school's duty cannot be delegated to another party.

Procedures

Discharging the duty of care

There is no definitive formula for how schools and teachers may properly discharge their duty of care. The main point to remember is that the duty is a 'special category' of duty, meaning that it requires a pro-active approach. It is also non-delegable, meaning it cannot be delegated to others, like outside instructors. This means it is a very high level of duty and while ever the teacher/student relationship is in existence, it is virtually impossible to avoid. As a general guide, schools and teachers should consider:

- the age and capacity of students in a particular situation
- the behaviour of the group and the need for more supervision
- student/teacher ratios
- the level of risk involved in an activity
- past experiences with similar groups and activities.
- In broad terms, a school's duty entails:
 - ensuring adequate supervision of students
 - protecting students from dangerous situations and activities
 - maintaining safe premises and equipment
 - protecting children from bullying and excessively rough play by other students.

Schools are required to:

- Ensure that adequate levels of supervision are in place for all activities, including playground duty and excursions. This will vary according to the age of students and what is known about them. For example, a group of students with behavioural issues will generally require greater supervision than a group of mainstream students. A playground duty roster is prepared by the Assistant Principal at the beginning of each school year.
- Ensure that all equipment is safe and that students and staff are trained in its use. This includes equipment in classrooms, such as science and cooking equipment, and equipment in the playground. Equipment deemed unsafe or risky is removed from use immediately.
- Act immediately on allegations of bullying or potential harm to students.
- Record all actions taken for the safety of students. For example, record actions taken when responding to an allegation that a student is being bullied. These are recorded in Behaviour Management Folders located in staffrooms on both the secondary and primary campus. Significant issues are also recorded in individual student files.
- Keep parents informed of serious issues relating to students' safety and wellbeing. For example, inform parents when a student has had an accident or is alleged to have been bullied. A phone call is generally made to the parent, a letter if parents cannot be contacted by phone.
- Ensure that staff are aware of special health or other needs in relation to students and there is a plan in place for reacting to emergencies that arise from these issues. For example, those with allergies or other health issues. It is the responsibility of supervising teachers on excursions to ensure that all medications, including epipens are taken on the excursion.
- Ensure that students are appropriately supervised in their use of ICT facilities and receive education on their responsibilities on the internet, and what to do if they feel they are being bullied, harassed or stalked by electronic means.
 - Ensure that comprehensive acceptable use agreements for ICT facilities and networks are in place and that staff and students are aware of them and have signed them. At the beginning of each school year students from Year 3-10 and staff are asked this form and is collected and filed by the school.
- Act on safety issues before they arise, if they have prior knowledge of them. For example, if a school becomes aware that two students are planning to have a fight on the oval after school, they act to prevent it before it occurs.
- Call for the assistance of outside authorities where necessary. For example, if a large group of students is planning a dangerous activity, such as 'muck up day' activities, the police may need to be informed. Or, if a student is threatening suicide, a counsellor or mental health intervention service may need to be called.
- Develop and maintain policies directed to the particular circumstances of the school, and ensure that staff, parents and students (where appropriate) are aware of them.

References

Civil Law (Wrongs) Act 2002 (ACT)

Civil Liability Act 2002 (NSW)

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