



## Duty of Care Policy

***This policy addresses issues in relation to:***  
*Safe and Supportive Environment – Student Welfare 3.6.2*

***(See also Policies on Excursions, Medical Care, Anti Bullying, Behaviour Management, Playground Duty and Break Supervision and Code of Conduct)***

### Definition

In Australia, a person owes a duty of care to others to not cause injury as a result of their negligent act or omission.

The nature of the duty as it applies in New South Wales has now been set out in legislation. The *Civil Liability Act 2002* ('**Civil Liability Act**') applies in relation to any claim for damages for personal injury, death, damage to property or economic loss resulting from negligence.

The duty of care owed by a staff to a student is a duty or a responsibility binding the staff member to care for the student. The duty of care is that expected of a '*reasonable parent*' or '*reasonable professional*' in the area of supervision. Duty of care relates to the law of negligence and, simply, it means that the teachers and school owe a duty to students to take all reasonable measures to protect their safety and welfare.

A school will be held to be in breach of its duty of care if a student is injured and the student can show that:

- a) the risk of harm was foreseeable;
- b) precautions could reasonably have been taken against the risk because it was '*not insignificant*' (for example, it was not farfetched or fanciful);
- c) causation - these precautions more likely than not would have prevented the harm (that is, the failure to take precautions caused the harm); and
- d) it is **reasonable** to require the school to take the precautions taking into account:
  - i. the probability that the harm would occur;
  - ii. the burden of taking the precautions;
  - iii. the seriousness of the harm; and
  - iv. the burden of taking precautions to prevent similar harm.

### School Policies and Procedures

Staff are expected to be aware of, and comply with, all school's policies, especially those relating to the safety and welfare of the students in our care. These policies have been developed, implemented and reviewed to ensure that the school has sound preventative risk management strategies and fulfils its Duty of Care responsibilities.



## Rationale

Al-Faisal College values the relationships between all members of the school community. As well as the educational, spiritual and social aspects of these relationships, the school is also aware of its legal and ethical responsibilities in regard to the students in its care. The School's Duty of Care in protecting students from reasonably foreseeable injuries includes adequate supervision of students, protecting students from dangerous situations and maintaining safe premises and equipment. The school is aware that the duties and responsibilities of the staff at school is to protect the physical and moral welfare of all students.

## Guidelines

To ensure Duty of Care policies and procedures are understood and followed, the school will ensure:

1. the safety of the students is paramount at all times.
2. staff are aware of the existence of Duty of Care.
3. staff are aware that the School has a Duty of Care to students whenever the school is exercising control over the students' actions.
4. staff are aware of their responsibilities in regards to adequate supervision of students in all situations.
5. staff recognise their responsibilities in protecting students from dangerous situations and activities.
6. preventive risk management procedures are in place.
7. maintenance of safe premises and equipment is in place.
8. measures are taken to protect students from bullying and excessively rough play.
9. staff are aware that liability depends on failure to take reasonable care in the circumstances and on the damage caused by that failure.

## General Supervision

While students are on school premises, school authorities and teachers owe students a Duty of Care of general supervision concerning their physical safety.

Staff must take reasonable precautions for the well-being of students and others. There is a need for sound behaviour management and supervision skills in classrooms, around the school grounds and buildings, in sport activities, and while on school excursions. The appropriate level of supervision depends on the activities in which students are involved.

## Before and After School

The presence of students on school grounds is sufficient to establish a legal Duty of Care. On setting rules concerning behaviour in the playground or setting supervision times, before and after school, the school realises that it has a Duty of Care and that adequate supervision should be provided. Teachers must carry out their rostered supervision for the full term of that duty.



Playground supervision by duty staff commences at 8.00am. No active supervision of students is provided before this time. Students are not to arrive earlier than this time for safety reasons. It is the parents' responsibility to ensure students do not come to school before this time.

All students must be collected by 3.45pm. Active supervision will be provided until this time.

## **Playground Supervision**

Supervision of students at recess and lunch must be carried out with due care and diligence by the staff member on duty. The care required does vary according to such aspects as the age and nature of the students, the place and type of equipment being used and the space used and numbers using it. The Duty of Care rests with the rostered teacher and every effort needs to be made to fulfil the supervision duties.

At recess and lunchtime, students must be seated to eat their food under the supervision of the duty teacher. The area is to be left tidy. Once they finish eating, they may move to play. Staff will move around the designated areas and ensure children are behaving safely and appropriately.

No student is to leave the grounds or to go to an unsupervised area unless given permission by a staff member who will then provide supervision.

Incidents of rough play or bullying are to be assessed and prevented. A report to the relevant coordinator, (primary) or (secondary) may be required. When the bell rings, students are to move quickly to their designated areas.

## **Sport and Physical Education**

Sport and Physical Education are areas of school life which often require a great deal of supervision and care. Activities designed to enhance student's capabilities are an important part of the educational process but, by their nature, they usually involve a level of physical activity beyond that experienced in the classroom. The following points need to be noted in providing sport and Physical Education opportunities for students in the school.

- Students with low skill levels should not be placed in situations beyond their ability to participate safely.
- Careful instruction concerning safety should precede any physical education activity and ongoing monitoring of students during an activity is vital.
- Appropriate equipment and protective clothing should be available at all times.
- Staff should be adequately trained to supervise sport and should carry out supervision duties in a sufficiently careful manner and for the total time a Duty of Care exists.
- If adequate supervision cannot be provided, the activity should not take place.
- If the school is concerned that a student is not fit to participate in a particular activity, the school could require the student to obtain a medical clearance from a doctor or physiotherapist before participating in the sport.



## Excursions / Incursions

Schools and teachers owe a Duty of Care to students for the duration of the excursion/incursion. Excursions/Incursions need to be assessed to ensure they are justified in terms of risk of harm and the value of the activity. It is important to thoroughly plan all aspects of the excursion/incursion and keep records of procedures followed. The following points should be noted when staff is planning an excursion/incursion:

- The environment the students will be entering should be assessed for any hazards and procedures put in place to minimise any risk.
- A minimum student/teacher (or adult) ratio needs to be set to ensure adequate supervision in all circumstances.
- Parents or guardians must sign a form consenting to the student's participation based on the full knowledge of what the excursion/incursion involves. A separate form must be completed for every excursion/incursion.
- Staff should plan for emergencies by ensuring a first aid kit and emergency phone numbers are available.

## Bullying

School bullying has been recognised as a serious problem in schools in Australia. In addition, bullying is becoming an increasingly important public policy issue, following concern about the negative effects of bullying on student's academic attainment and emotional well-being. The duty of a school extends to reasonably protecting a student from the reasonably foreseeable conduct of other students and from the student's own conduct. The school has policies and procedures in place to deal with bullying and reasonable steps will be taken to ensure that these practices are put into practice.

## Non - Teaching Staff and Parent helpers/Volunteers

Non-teaching staff and parent helpers/volunteers owe a Duty of Care where they take part in a school activity. The following points need to be taken into consideration. It is the responsibility of the school to ensure that staff or parent helpers/volunteers are appropriately skilled to carry out any responsibilities which involve the safety of students.

- Non-teaching staff who are asked to carry out basic first aid for students are expected to exercise due care when doing this, even though the Duty of Care rests mainly with the school.
- Parent helpers/Volunteers need to be made aware of their Duty of Care if taking responsibility for a group of students.



## Preventative Steps

Considering the nature of students to injure themselves and the limited benefit of parental indemnity, the school will:

1. **Create a safe environment:** Schools and teachers should be careful about ensuring that the school environment is a safe and danger-free one. School grounds and buildings should be properly maintained, safety-checked regularly, and be free of spillages and dangerous toys. Dangerous toys and implements should be discouraged and confiscated if found to be present. Dangerous chemicals should be clearly labelled and locked away.
2. **Supervision:** Students should be supervised as continually as possible. Teachers must be competent (particularly in relation to Science and Physical Education activities) and must provide appropriate supervision of students. Any safety manuals or guidelines should be carefully followed.
3. **Communication:** In order to take advantage of the provisions of the Civil Liability Act, schools should share information with one another as to the approaches adopted to manage the risks facing students. This information could assist a school in establishing that there was no breach of its professional duty.
4. **Instruction:** Students should be clearly and regularly warned not to engage in specified behaviour which is considered to be dangerous or risky.

## Revision History

| Version | Policy Date  | Review date of policy | Notes                                                                                                              |
|---------|--------------|-----------------------|--------------------------------------------------------------------------------------------------------------------|
| 1.0     | January 2024 | January 2025          | <i>Amendments to this policy will be made based on updated legislative requirements or changes to school needs</i> |
| 2.0     | January 2025 | January 2027          | <i>Amendments to this policy will be made based on updated legislative requirements or changes to school needs</i> |