



## AL-TAQWA COLLEGE Duty of Care

### **RATIONALE**

All staff members have a duty of care for both students and fellow staff members. Al-Taqwa College aims to ensure that learning takes place in a safe, happy, caring and positive environment in which the experience of teaching and learning is enhanced for all. Al-Taqwa College ensures that the students 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. Al-Taqwa College has zero tolerance for child abuse and is committed to meeting the requirements of Ministerial Order 870 and the Child Safe Standards.

### **TARGET AUDIENCE**

All staff

### **IMPLEMENTATION**

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 teachers duty of care is 'non-delegable' and 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 being abused or neglected, including sexual abuse or social media bullying, harassment or inappropriate conversations.

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 or learning area. Teachers must maintain a direct line of sight to children;
- failing to instruct a student who is not wearing a hat to play in the shade;
- ignoring dangerous play;
- failing to provide adequate adjustments to the learning and environment to support to students with additional needs;
- failing to provide adequate adjustments to learning and environment for students with temporary or permanent medical needs;
- leaving the school during time release without approval;
- Inadequate supervision on a school excursion / incursion / camp.

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.

### **Risks to students outside the school environment**

Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day. The approach generally taken is that a teacher's duty applies irrespective whether the risk occurs in or outside the school environment. However, the important issue in all cases will be whether the teacher took reasonable steps to protect the student from the risk. Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency

and threat of injury.

The courts recognise that accidents happen in schools and a teacher will have breached their duty of care if:

- The injury was reasonably foreseeable i.e. not completely unexpected
- The injury occurred because the teacher did not carry out their responsibilities in a sufficiently careful manner
- Teachers on yard duty can be implicated if they have failed to do their rostered yard duty and as a result, no teacher was present to stop a student fight. (For example, teachers on yard duty would not be responsible for a sudden unforeseeable attack by one student on another. However, you could be implicated if you had seen tensions rising between students who were playing rough which broke out into a fight). Be alert and vigilant. You should always be on the move and highly visible. Teachers on yard duty need to ensure that they are wearing their hi-vis vest and carrying the first aid bag and walkie talkie.
- The duty of care also requires you to be proactive where students could be injured even if you are not officially rostered on duty.

Schools and teachers have a duty of care to students whenever the school is exercising control over the students' actions. This includes:

- In classrooms, laboratories, computer rooms, library and anywhere curricula or co-curricular activities are taking place (including the mosque). This now includes online activities (refer to cyberbullying policy).
- In outdoor and indoor play areas.
- During sport or physical education activities.
- When students are moving about the school.
- On transport arranged by the school including to/from school, excursions and camps.
- When students are playing school sport away from the school.
- During excursions and school camps.
- After school, including in the home environment, where the principal or teacher has knowledge that the student is being subjected to cyber bullying.

The following applies to all staff.

- Teachers must not leave the classroom unattended at any time during a lesson. It is not appropriate to leave students in the care of ancillary staff, voluntary staff, parents or trainee teachers (By law, the Duty of Care cannot be delegated).
- It is not appropriate to leave students in the care of external education providers for example incursions (By law, the Duty of Care cannot be delegated).
- No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour.
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***Some strategies (but not limited to) to ensure that Duty of Care is provided:***

- Punctuality (to class and yard duty).
- Attendance (ensure you are where you are meant to be according to the timetable and yard duty roster. If you cannot attend a duty then the Daily Organiser needs to be informed prior).
- Diligence.
- Movement (while out on duty, move around constantly. Do not stand in one spot and chat to other teachers).
- Respect.
- Observation (constantly look around, do not let one student take all your focus and attention).

**How careful do you have to be?**

A court will consider the following when deciding whether sufficient care has been exercised:

- Was the particular incident foreseeable?
- The age and capacity of the students e.g. a BBQ may be a hazard for Preps but not for Year 12s.
- The behaviour of the group or individual – classes or individuals who are known to behave badly should be supervised more carefully than students known to be generally well behaved.
- Weighing the risk against the likelihood of it occurring - most playground risks would be eliminated if most of the staff were on duty there all the time, courts only require 'reasonable' supervision of the playground.
- The gravity of the risk – greater care has to be taken in a science class where chemicals are being used than, say, in a class where students are watching a film.

All staff will be informed of their legal requirement via:-

- A copy of this document will be provided to each member of staff at the first staff meeting at the commencement of the school year, and will be placed on the intranet.
- New staff will be informed of their Duty of Care as part of the College's Induction Program
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to the Student Wellbeing and Behaviour Guidelines annually.

***This policy is written in accordance with the Mandatory Reporting Policy and Education and Training Reform Act, Child Safe Standards - Managing the Risk of Child Abuse in Schools, Ministerial Order 870. As emphasized in the College's Child Safety Policy, Al-Taqwa College is committed to child safety and has zero tolerance for child abuse.***

## **RESOURCES**

Teachers, Students and the Law – ACER

Department of Education – School Policy and Advisory Guide- Duty of Care

Department of Education – Legal Duty of Care

Mandatory Reporting Policy

Education and Training Reform Act

Child Safe Standards, - Managing the Risk of Child Abuse in Schools, Ministerial Order 870.