

ST BRENDAN'S CATHOLIC PRIMARY SCHOOL

DUTY OF CARE POLICY



Rationale

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

All teachers owe a 'duty of care' to students within their care by virtue of the special nature of the relationship between school/teacher/principal and the student. A duty of care may also be exercised by a school (and its employees) to persons who are not students, where it is reasonably foreseeable, that a person will sustain injury, loss or damage, by reason of the school's conduct. The concept of duty of care is far-reaching and more often than not, a court will find that the circumstances lead to the creation of a duty of care.

Purpose

The purpose of this policy is to ensure that the staff have an understanding of their duty of care to students and others, and behave in a manner that does not compromise these legal obligations.

Definition

The person who owes duty of care will be in breach of the duty and negligent when that person fails to act in accordance with the required standard of care. The standard of care expected is the same standard of care that would be exercised by a reasonable person in the same circumstances.

Implementation

- Although the general duty is to take reasonable steps to protect students from 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 teacher's duty of care is 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.
- The teacher's duty of care is greater than that of the ordinary citizen in that the teacher is obliged to protect a student from reasonably foreseeable harm or to assist an injured student, while the ordinary citizen does not have a legal obligation to respond.
- 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 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
 - Failing to instruct a student who is not wearing a hat to play in the shade
 - Ignoring dangerous play
 - Leaving the school during time release without approval
 - Inadequate supervision on a school excursion
- 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 a specialist 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.

Restraint of Students

With regard to the restraint of students, the school will comply with Regulation 15 of the Education and Training Reform Regulations, 2007 which states: "A member of the staff of a Government school may take any reasonable action that is immediately required to restrain a student of the school from acts or behaviour dangerous to the member of staff, the student or any other person."

The Regulation authorises 'reasonable' action that is immediately required to 'restrain' a student. In less serious cases, the reasonable action would involve a warning or instruction to the student not to proceed. In more serious cases where a person faces an imminent threat of injury due to the student, the reasonable action could involve the physical restraint of the student.

The object of the restraint is to avert the danger to some person. It should therefore be measured (i.e. reasonable in the circumstances and removed once the danger has passed).

Evaluation

This policy will be reviewed as part of the school's five year review cycle or as required.

Ratification

This policy was last ratified by staff in December 2015.