

DUTY OF CARE POLICY

1.0 INTRODUCTION

St Brendan's Catholic Primary School, Lakes Entrance (the School) *Duty of Care Policy* (Policy) identifies the duty of care which requires all staff to take all reasonable steps to reduce risk, including:

- provision of suitable and safe premises to ensure that persons on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done on the premises
- taking reasonable steps to reduce the risk of reasonably foreseeable harm
- provision of an adequate system of supervision
- implementation of strategies to prevent bullying
- ensuring that medical assistance is provided to a sick or injured student
- prevention of child abuse by any individual associated with DOSCEL.

Duty of care requiring greater measures may be needed for younger students or students with a disability.

The duty of care is non-delegable, meaning that it cannot be assigned to another party.

2.0 PURPOSE

This Policy supports the delivery of a sustainable and inclusive education that nurtures each student's potential, equips them to thrive in a dynamic world and is enriched by DOSCEL's flourishing Catholic culture. This Policy is underpinned by the DOSCEL values of Integrity, Excellence and Inclusion.

This Policy explains the legal duties owed by the staff towards students. This Policy informs the School and staff responsibility that must always be considered when enacting all policies and procedures related to the care, safety and welfare of children.

3.0 CATHOLIC MISSION

The School brings to life the mission of the Catholic Church by engaging and aligning all efforts toward the achievement of DOSCEL's vision for education: *faith-inspired educational excellence for a hope filled future.*

4.0 COMMITMENT TO CHILD SAFETY

The School holds the care, safety and wellbeing of children and young people as a central and fundamental responsibility of Catholic education. This commitment is drawn from the teaching and mission of Jesus Christ.

5.0 SCOPE

This Policy fulfills the Victorian Registration and Qualification Authority's Minimum Standard for School Registration obligations, requiring the School to have policies and procedures to provide students with a safe environment where the risk of harm is minimised, students feel safe and all staff are aware of their legal obligations.

This Policy applies to the School. Principals and teachers are held to a high standard of care in relation to students. Principals and teachers are required to take reasonable steps to minimise the risk of reasonably foreseeable harm. For further information please refer to Appendix 1 - *Standard of Care Required by Schools*.

Duty of Care is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of a negligent act or omission of another, the injured person should be compensated for loss and damage flowing from that negligence.

To bring a compensation claim in negligence successfully a person must establish, on the balance of probabilities, that:

- a duty of care was owed to them at the time of the injury
- the risk of injury was reasonably foreseeable
- the likelihood of the injury occurring was more than insignificant
- there was a breach of the duty of care or a failure to observe a reasonable standard of care
- this breach or failure caused or contributed to the injury, loss or damage suffered.

The fact that a duty of care exists does not mean that DOSCEL will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.

6.0 POLICY OUTCOMES

As a result of implementing this *Duty of Care Policy*, the School and staff will:

- 6.1 Comply with the Child Safe Standards.
- 6.2 Provide a suitable and safe premises to ensure that persons on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done on the premises.
- 6.3 Ensure adequate systems of supervision are in place.

- 6.4 Implement strategies to prevent bullying.
- 6.5 Ensure that medical assistance is provided to any sick or injured student.
- 6.6 Manage employee recruitment, conduct and performance to uphold safety and care standards.
- 6.7 Share information with prescribed Information Sharing Entities (ISEs) regarding a child's wellbeing or safety and share information to assess or manage the risk of family violence under the Child Information Sharing Scheme (CISS) and Family Violence Information Sharing Scheme (FVISS).
- 6.8 Prevent child abuse by any individual associated with the School.
- 6.9 Only provide advice to students which is:
 - 6.9.1 within their professional competence, related to their professional responsibilities and in accordance with their designated roles
 - 6.9.2 is accurate, current, and aligns with official guidance from DOSCEL and the School.

7.0 COMMUNICATION

This Policy is available on the School portal and provided to parents upon request.

This Policy is communicated to school staff through the staff portal.

8.0 POLICY INFORMATION

Policy Owner	Governance
Approving Authority	DOSCEL Board
Assigned Board Committee	Culture Ethics and Conduct
Board Approval	12 December 2025
Risk Rating	Low
Implementation	January 2026
Review Date	2029

POLICY DATABASE INFORMATION	
Supporting Documents	

APPENDIX 1 - STANDARD OF CARE REQUIRED BY SCHOOLS

Whenever a teacher-student relationship exists, teachers have a special duty of care. Generally, teachers are expected to take such measures as are reasonable in the circumstances to protect a student under their charge from reasonably foreseeable risks of injury.

The nature and extent of this duty will vary according to the circumstances. For example, the standard of care required will be higher when taking a group of preps for swimming lessons than when teaching a group of Year 12s in the classroom.

The important issue in all cases will be what precautions DOSCEL could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:

- identifying the risk of harm
- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the burden of taking precautions to avoid the risk of harm
- the social utility of the activity that creates the risk of harm.

Additionally, any enrolling international students under the age of 18 (who are not being cared for by a parent or suitable relative) are expected to have a comprehensive homestay policy and procedures in place to assess and monitor the suitability of accommodation arrangements.

Duty of care to students outside the school

The law has established that, in some circumstances, a school's duty (and therefore DOSCEL's duty) will extend beyond school hours and outside of school grounds. The duty will be extended to outside school hours and premises when the relationship between the School and the student requires it in the particular circumstances. For example, in some circumstances, schools may be liable for injury sustained by students in the playground before school begins for the day, particularly if it occurs during the period of time for which the school yard is supervised.

In one case, a non-government school was found liable for injury to a primary student at an unsupervised bus stop approximately 350 metres from the school and located outside a government secondary school. The school knew that a large group of students regularly caught the bus from outside the neighbouring secondary school and that there was a risk of harm. In addition, a teacher from the primary school witnessed the incident but did not intervene. The court found that the teacher-student relationship was still in existence at the time of the injury and therefore the school authority had a duty of care.

Whether the duty extends outside of school grounds therefore depends on all the circumstances of each individual case and the school's knowledge of any dangers.

It is important that schools clearly inform parents when playground supervision will be provided and that no formal supervision of the playground occurs outside those hours. Similarly, some risks outside of school will involve informing parents of bus arrangements and leaving it to parents to make appropriate arrangements for transporting their children to and from school.

There will be other situations in which schools will be under a duty to take reasonable steps to avoid injury. For example, a known bully on a school bus may require the school to suspend or refuse to transport the bully. If the danger to students is beyond the control of the school, reasonable steps may involve contacting police or issuing warnings to parents.