



**CLYDE**  
GRAMMAR

## Duty of Care Policy

### Rationale

All employees have a common law duty of care to take reasonable care to minimise the risk of harm to another. Employers and employees also have a statutory duty to maintain a safe working environment and minimise the risk of physical, mental and emotional harm.

This policy forms part of Clyde Grammar's commitment to child safety and zero tolerance of child abuse.

In addition to their professional obligations, 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.

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:

- (a) providing adequate supervision in the school or on school activities
- (b) providing safe and suitable buildings, grounds and equipment

The teacher's duty is greater than that of the ordinary citizen in that a teacher is obliged to protect a student from reasonably foreseeable harm or to assist an injured student, while the ordinary citizen may choose to do nothing in a similar situation.

- While special supervision may be rostered, all teachers must exercise a continuing role in loco parentis. Thus even if one is not formally on duty, there is a responsibility to take care of all children at the school whenever and wherever one sees a need, not just in the classroom. This responsibility goes all the way from the urgent duty to care for an injured child to the insistence on, and therefore the teaching of, manners, behaviour and dress.
- **Reasonable care** means that a teacher (or other adult in charge) is expected to exercise a greater care of children than is expected of a responsible parent – the younger the child the more constant the supervision; the more hazardous the conditions the stricter the control required. Teachers on duty should also help prevent children doing something potentially dangerous, e.g. climbing onto a high roof to retrieve a ball.
- Clyde Grammar considers the diversity of all children and aims to make reasonable attempts to accommodate the needs of (but not limited to):
  - Aboriginal and Torres Strait Islander children;
  - Children from culturally and linguistically diverse backgrounds;
  - Children with disabilities; and
  - Children who are vulnerable.

### Aim

Clyde Grammar aims to reduce risk and ensure the safety of students and staff at the school by providing a safe environment. The nature and extent of the duty of care will vary according to the circumstances.

### Implementation

#### On-Site Student Supervision

- Supervision of the grounds is a non-negotiable part of every Clyde Grammar teacher's duty at school, and each teacher is responsible for carrying out the duty for which they are rostered each day.
- An independent playground supervision timetable is operated during the hours of 8:35am and 3:25pm, with at least two Clyde Grammar staff members required to supervise Clyde Grammar students during recess and lunch.



- Students are expected to abide by school playground rules and play only in the designated areas (highlighted in Appendix 1), which are supervised by Clyde Grammar staff at all times during recess and lunch.
- All staff must carry a “bum bag” when on duty, which holds basic first aid needs. If Clyde Grammar students require first aid beyond what the “bum bag” can provide, they will be taken to the Casey Grammar School nurse for care/attention. If deemed necessary by the nurse, parents will be called and the students will be picked up by a parent (following the Clyde Grammar sign out procedure). The nurse will notify classroom teachers of this prior to the student leaving the school.
- Clyde Grammar classes transitioning around the school grounds must always be led by Clyde Grammar staff.
- Clyde Grammar Foundation students have toilets within their classroom building, situated at the end of the bag room between the two classrooms. Students are expected to inform the teacher when they need to use the bathroom.
- When in the school yard, Clyde Grammar students are expected to use the male and female toilets situated outside the Casey Grammar School library building. If a student attends these toilets during class time, they must always seek permission from the teacher and take a friend with them.
- At the end of each school day, students in years F-2 are to be picked up from inside or directly outside the child’s classroom. Teachers must sight the parent or nominated person upon collection.
- Any children not collected must remain in the care of the classroom teacher. If the child has not been collected by 3:30pm, they will be escorted to the Principal, where phone calls will be made to locate their parent/guardian.

### **Interactions between the schools whilst operating under the Shared Location Agreement**

It is the duty of care of any teacher to address immediate issues or risks with any child/student, regardless of whether it is a Clyde Grammar student or a Casey Grammar School student. All staff are briefed by their respective Principal on procedures and expectations for managing students from the other school.

Key principles and procedures:

- Clyde Grammar staff are responsible for all of Clyde Grammar’s students. Responsibility cannot be delegated to Casey Grammar School staff. However, the safety and wellbeing of students is of utmost priority, and as such, there may be circumstances in which Casey Grammar School staff are required by their duty of care to deliver medical attention to Clyde Grammar students or intervene when they consider there to be a reasonable risk to a Clyde Grammar student’s safety.
- Clyde Grammar staff must always notify Casey Grammar School staff of any interventions or dealings with their students and vice versa.
- During recess and lunch, on-duty Clyde Grammar staff are required to wear pink high visibility vests to distinguish them from Casey Grammar School staff, who wear yellow and orange vests.
- If there are issues between Clyde and Casey Grammar School students, Clyde Grammar staff will be notified immediately and directly, and issues will be handled between both Principals if necessary.

All Clyde Grammar parents/guardians are required to sign a consent form, to authorise Casey Grammar School staff and the Casey Grammar School nurse to administer care to their child in situations where such care is required and Clyde Grammar Staff are unable to effectively respond to the situation.



### Communication with parents

- Parents receive a “welcome pack” upon commencement of their student’s enrolment, which includes:
  - written information identifying Clyde Grammar Staff. This information is also delivered verbally at parent information sessions.
  - information about school drop off procedures, including where to drop off and pick up students. This information is also delivered verbally at parent information sessions.
  - procedures for contacting Clyde Grammar teachers or the Principal. School contact details (email and phone) are available on the school’s website/intranet.
- Annual parent information sessions, run by the classroom teachers, occur in early Term One for each year level. Where a parent is unable to attend these sessions, notes given out on the evening are sent home in the student diary.
- To contact teachers, parents are advised to either call the Clyde Grammar reception, place a note in their child’s school diary (which is checked and signed daily by classroom teachers) requesting a meeting, or email the teacher via their school email address, which is provided during the annual information session.
- Classroom teachers are available for short meetings with parents regarding any queries at the end of each school day. Longer meetings may require scheduling.
- Emails are sent to parents informing them of parent teacher interviews, which are held twice a year. Parents make these appointments online through the Synergetic Management System.
- Clyde Grammar has its own phone line, which is answered by a designated Clyde Grammar Administration staff member. Phone calls made to the Clyde Grammar Administration Office are directed through to either the teacher’s classroom phone or Principal’s office phone. Similarly, emails sent to the Administration Office will be forwarded to appropriate staff.
- If a parent needs to visit their child during school hours, they must sign in at the Clyde Grammar administration desk and a Clyde Grammar staff member will escort them to the appropriate classroom.

### Handling medical issues with students

- A registered Nurse is employed by Casey Grammar School and required under the shared location agreement to provide medical assistance to sick and injured Clyde Grammar students. Consent forms authorising shared staff to care for Clyde Grammar students is signed by parents/guardians at the commencement of their child’s enrolment.
- When a student is unwell, the classroom teacher will ask another two students or the learning assistant to escort the ill student to the Casey Grammar School nurse. The nurse decides on the appropriate care for the child and whether the child’s parents need to be contacted to collect the child. If the child does not need to go home, the nurse sends them back to their classroom with the escort/s.
- If a student requires any medication which needs to be given during school hours, parents are required to read, complete and sign the Medication Authority Form. All medication to be administered at Clyde Grammar must be in the original medication bottle or package and clearly labelled including the name of the student, dosage and time to be administered. The medication is to be left in the Medical Centre. Students must not carry any form of medication on them except for an asthma inhaler. This includes over the counter medication such as Panadol.
- Staff undertake First Aid training, Anaphylaxis and Asthma training.

### Managing Bullying and Harassment

- Policies and procedures are in place to minimise and manage bullying and harassment and cyber bullying. Refer to the **Clyde Grammar Bullying, Harassment and Discrimination Policy**.



- Parents and students must sign a **Student Acceptable User Agreement** outlining the operational guidelines for safe, responsible and ethical use of digital technologies.

### **Responsibilities of non-teaching staff, volunteers and external providers**

- Non-teaching staff, volunteers and external providers do not have the same special duty relationship with students as do teaching staff and unless requested to do so are not responsible for caring for students. They also have a right to refuse a request to personally care for students and to have their decision respected by members of the teaching staff.
- If non-teaching staff, volunteers and external providers agree to perform tasks that require them to personally care for students (e.g. supervise students without a member of the teaching staff also being present) or their position requires them to have regular contact with and supervision of students, they will owe the same duty of care to those students as the duty owed by teaching staff. In other words, they will be required to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen.

### **Duty of Care to students outside the school**

- A number of cases have established that, in some circumstances, a school's duty of care 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.
- Playground supervision is provided between 8.35am and 3.25pm. Outside these hours there is no formal supervision of the playground and children/families will be encouraged to leave these areas.
- The law in the area of the legal liability of schools towards students in areas affecting safety is covered mainly in the common law area of negligence. There is no single test, therefore, to determine whether or not a school is going to be found negligent in a particular case and the law is, indeed, extremely flexible in this area. There are no hard and fast steps or rules which can be applied to any specific set of circumstances to ascertain whether in legal proceedings the court will be prepared to make a finding of negligence on behalf of a teacher. There are, instead, hundreds of common law cases from which principles can be deduced which will produce guidelines for lawyers advising schools. There are three sets of legal principles which apply to this area. Firstly, those of the common law area of negligence, secondly, the concept that teachers and schools stand in the place of parents and therefore have a duty of care toward children under their supervision, and thirdly, the concepts of vicarious liability, whereby an employer becomes responsible for reasonable acts of its employees.

### **Incidents and Accidents**

Incident and Accident Registers are located in the Medical Centre. An Incident Report is to be completed by any member of staff who is on duty or witnesses an incident or accident where injury to a student is of a serious nature. An Incident report must be completed by staff members who sustain an injury – however minor they perceive it to be.

### **Negligence**

**Negligent Advice** - Teachers are frequently called upon to advise students. When doing so teachers should:

- Limit their advice to students to areas within their own professional competence and given in situations arising from their specified role in the school.

- Ensure that the advice they give is correct and in line with the most recent information available.
- Avoid giving advice in areas unrelated to their role or where they may lack expertise.

**Negligent Conduct** - For a student to succeed in suing for negligence a teacher, Principal or school, the law requires three elements to be established. They are:

- that the party sued owes the injured party a duty of care and a standard of care is required to fulfil that duty;
- that the standard of care has been breached and the breach of that duty has caused the injury for which the injured party is seeking redress, which is usually in the form of monetary damages;
- that the breach of the duty must lead to actual damage, which may be physical damage, psychological damage or consequential losses.

The above three factors then require the concept of "reasonable foreseeability" to be established before negligence will be found. Needless to say, every set of circumstances is different, with the variables including the following elements at least:

- The age of the student.
- The existence of any physical handicaps of the student
- The nature of the activity in which the student has taken part
- The hazards or dangers that are known or should be known to the school and its teachers
- The previous practices of the school.

### Vicarious Liability

It is also important for teachers to appreciate the concept of vicarious liability. Under the principles of vicarious liability, employers assume responsibility for the reasonable acts of employees. Therefore, in almost all cases where teachers are sued for negligence, the employer is also joined with the action and in effect is the person who has been sued. Where employees take actions which go beyond those which could be seen as reasonable actions of employees, then they may be solely liable, but this in practice is fairly rare. It can be seen then that the law in this area is fairly complicated and that there are no clear hard and fast rules to guide teachers. In effect, common sense at all times should provide a reasonable answer to what is expected of teachers, but there is, without doubt, a trend towards the courts expecting more and more of teachers in recent years.



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Appendix 1 – Map of Designated Play areas.



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