SCOTS ALL SAINTS COLLEGE



STUDENT DUTY OF CARE (SUMMARY)

Background

Duty of care is a legal principle that has its origins in the common law principle of negligence. This legal concept underpins, and to a large extent drives, many of the Scots All Saints College's policies and practices.

This document explains:

- what the legal principle of "duty of care" means in a school setting
- what the Scots All Saints College, teachers and other staff need to do to meet their duty of care responsibilities.

Both Scots All Saints College and our teachers separately owe a duty of care to students in their care to take reasonable steps to prevent foreseeable risks of harm to the students. This duty applies whenever the students are under the authority and control of the Scots All Saints College or its teachers. including during campus and off campus activities, camps, excursions, sports activities, playground activities and both before and after school when students are present on the Scots All Saints College campus.

The duty of care means:

- taking reasonable measures, with regard to all the circumstances, to protect students from risks of harm and injury that should have been reasonably foreseen
- undertaking an assessment of the risks of harm and injury and ensuring that measures are put in place to prevent those risks of harm from materialising
- protecting students, not only from known hazards, but also from harm and injury that a teacher or the Scots All Saints College can or should have reasonably foreseen and against which preventative measures can be taken
- taking reasonable care that any student (and other person) on the premises will not be injured or damaged by reason of the state of the premises or of things done or omitted to be done in relation to the premises
- taking reasonable precautions to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation
- all staff and volunteers who supervise students, as well as all teachers, need to understand that the Scots All Saints College and its teachers owe a duty of care to our students and make sure that they speak and act appropriately including supervising, controlling and directing students, as required, to ensure that the Scots All Saints College meets its duty of care responsibilities.

Standard of Care required of a school and its teachers

The standard of care required is that of a "reasonable" teacher. This means that the duty of care owed is the duty one would expect from a hypothetical reasonable teacher with normal skills and attributes exercising their professional judgment. The duty owed to students is not an absolute duty to ensure that no harm will ever occur, but a duty to take reasonable care to avoid foreseeable risks of harm occurring.

The duty of care is "non-delegable"

Neither the school's nor its teachers' duty of care responsibilities can be delegated or passed to another person or organisation. A school and its teachers continue to have duty of care responsibilities even when school activities are being undertaken and managed by third parties, volunteers and contractors or, for example, sports associations or transport providers. The legal term "non-delegable duty of care" is used to describe the duty of care responsibilities of schools and teachers.

Taking Steps to Prevent Foreseeable Risks of Harm

The duty owed by a school and by teachers is to take reasonable care: the standard of care that a reasonable teacher would take to prevent harm and injury. What is reasonable will vary depending on the individual circumstances. Factors that should be considered when deciding what is reasonable in all the circumstances include:

- the student's age, experience and capabilities: younger students require more care than mature students
- physical and intellectual impairment: students with disability are exposed to higher levels of risk of injury than students without disability
- medical conditions: special care must be taken to protect students with medical conditions that are known or ought to be known, and which expose them to a higher risk of injury (e.g. asthma or epilepsy)
- behavioural characteristics: the level of care is increased where students are known to behave in a manner that increases the risk of injury
- the nature of hazards present: increased care is required if the Scots All Saints College activity has an inherently high level of risk of injury or the activity takes place in a hazardous environment
- any conflicting responsibilities the Scots All Saints College or teacher may have
- normal practices and procedures within the Scots All Saints College.

Assessing and Managing the Foreseeable Risks of Harm and Injury

The Scots All Saints College and our teachers must ensure that they have identified the foreseeable risks of harm associated with all school activities and taken such measures as a reasonable teacher (or reasonable school) would take to prevent the harm of injury from occurring. "School activities' includes academic and non-academic activities, inside the classroom and outside the classroom, sports and physical education, excursions, extra curricular activities, camps and outdoor education activities. All these activities require that the foreseeable risks of harm are identified and measures put in place to prevent those risks from occurring. Teachers and other staff, including volunteers, must ensure they understand the measures that are in place to prevent the harm from occurring and make sure these measures are effectively implemented.

Child Safety

Our duty of care responsibilities are also discharged through the implementation of the policies, procedures and strategies in our Child Safety Program.

For more information refer to Child Safety Human Resources Management and Participation and Empowerment of Children.

Health and Safety Hazards and Duty of Care

To assist in the discharge of our health and safety responsibilities, we identify workplace health and safety hazards and analyse them in terms of the likelihood of an event occurring, and the potential consequences if the event were to occur. Controls are then put in place to eliminate the hazard or if this is not possible, reduce the risks associated with the hazard as much as possible. A similar risk-based approach is taken with respect to our Scots All Saints College's and teachers' duty of care responsibilities. The likelihood or harm and injury and the consequences of harm and injury are plotted on a risk matrix for the purpose of assessing our duty of care risks of harm and injury.

Duty of Care – Contractors and Third Parties

Because the Scots All Saints College's and our teachers' duty of care is non delegable, it is important that, when using contractors and other third parties as part of the Scots All Saints College's activities (both academic and non-academic), these contractors and third parties are suitable and able to undertake the activity or program with the required degree of care and skill so as to prevent foreseeable risks of harm to our students.