



DUTY OF CARE POLICY

CATEGORY

Governance

I. BACKGROUND

Duty of care is a legal concept that has its origins in the common law principle of negligence. Student duty of care not only underpins, but to a large extent drives, many of Penrhos College's policies and practices

This policy explains in plain English:

- What “duty of care” owed to students means;
- The impact of civil liability laws;
- How teaching staff may discharge their duty of care to students; and
- The circumstances in which non-teaching staff, external providers and volunteers may owe students a duty of care

Duty of Care Owed to Students

Penrhos College and its teachers owe a duty to take care of students whilst they are involved in College activities, or are present for the purposes of a College activity. This duty of care is non-delegable.

The duty is to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen. This requires not only protection from known hazards, but also protection from harm that could foreseeably arise and against which preventative measures can be taken.

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 teacher with normal skills and attributes exercising their professional judgement. 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 harm being suffered.

Individual circumstances will determine what constitutes reasonable care. The following issues may be considered in assessing the reasonableness of the level of care in any particular circumstance

- The student's age, experience and capabilities – Younger students require more care than mature students;
- Physical and intellectual impairment – Students with disabilities are exposed to higher levels of risk of injury than students without a disability;
- Medical condition – Special care must be taken to protect students with known, or ought to be known, medical conditions 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 College activity has an inherently high level of risk of injury or the activity takes place in a hazardous environment;
- Any conflicting responsibilities the College or teacher may have; and
- Normal practices and procedures within the College.

These factors should be taken into account when planning student activities.

Civil Liability Laws

The Commonwealth and all Australian States and Territories have enacted civil liability laws that apply in relation to claims for damages resulting from negligence.

These laws limit liability in certain circumstances including, in broad terms:

- The College does not owe a duty of care to warn of an “obvious risk”; and
- The College will not be liable for harm suffered as a result of the materialisation of an “inherent risk”.

The existence of civil liability laws means that issues of liability for student care claims in Australia will ultimately be determined by a complex mixture of legislation and common law (judge’s decisions).

Discharging Duty of Care Responsibilities – Our Risk Based Approach

In discharging duty of care responsibilities, the College and teaching staff must exercise professional judgment to achieve a balance between ensuring that students do not face an unreasonable risk of harm and encouraging students’ independence and maximising learning opportunities.

To assist the College to discharge its safety responsibilities, Penrhos College has developed a **Workplace Safety Program** through which we identify potential safety hazards and analyse them in terms of the likelihood of an event occurring, and the potential consequences if the event was to occur. A similar risk based approach is taken with respect to **Student Duty of Care**, with the definitions of **likelihood** and **consequences** together with the **Risk Matrix** used in our Workplace Safety Program, for the purpose of assessing student safety risks.

Against each identified student safety hazard it is the College’s policy to develop risk controls and/or treatment plans. Risk controls often take the form of documented policies that are made available to all College staff through the College intranet. All policies relating to student safety are set out under the Student Duty of Care menu on our intranet.

It is important that all teachers consistently enforce College rules and safety policies, and actively engage in ensuring the physical and emotional wellbeing of students.

Non-Teaching Staff, Volunteers & External Providers

When non-teaching staff, volunteers and external providers agree to perform tasks that require them personally to care for Students (in the absence of a member of the teaching staff), they will also owe a duty to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen.

Information provided by AISWA and the Department of Education detail the concept and extent of Duty of Care.

The Duty of Care is summarised as follows:

“Schools and teachers owe a duty to take reasonable care for the safety and welfare of all students in the school. The duty of care exists when the teacher/student relationship is established.

The duty requires schools and teachers to take all reasonable steps to ensure the safety and welfare of students from both known and reasonably foreseeable risks of harm and/or injury. In particular instances, non-teaching staff, volunteers and external providers will owe a duty of care to students.

When organising activities for the students to participate in, the teacher needs to balance the risk involved in the activity with what the students will learn from undertaking the activity in order to fulfil their duty of care obligations.”

*AISWA Duty of Care Policy 1105.doc
This document is available on the College Portal.*

2. POLICY STATEMENT

In recognising the duty of care to its students, the College has formulated policies and procedures that cover student safety, security and on-site medical care.

Underpinning these policies is the need to communicate this information to staff, students and parents and the cooperation of all groups in carrying out the procedures.

Staff are required to undertake a formal risk assessment for all excursions whether it be academic, co-curricular or pastoral in nature. These should be forwarded to the relevant Dean or Head of Junior School prior to the planned excursion being approved.

Staff should refer to the specific policies indicated under the sub-heading: Associated Policies and Procedures

3. STUDENT SAFETY AND SECURITY

3.1 Staff Recruitment and Training

The College undertakes to:

- a) recruit appropriately qualified staff to all areas of its activities
- b) recruit staff who have a Working with Children Check and National Police Clearance (Operational Services Staff) and current Teacher Registration (Teaching Staff)
- c) provide an initial induction program to all staff which includes emergency procedures and other student-safety issues, including Child Protection identification and reporting requirements and how to access these policies and procedures
- d) ensure all staff have read and signed the College's Code of Conduct policy
- e) provide ready access to all relevant policies and procedures through access to Complispace

3.2 Student Interactions

Penrhos College is committed through policy and practice to a shared vision of a safe and friendly school.

The College undertakes to:

- a) foster a friendly, inclusive environment based on respect for and acceptance of others
- b) provide opportunities for grievances to be resolved through impartial and just procedures

3.3 Student Safety

The College undertakes to provide:

- a) a safe and comfortable physical and emotional environment for students,
- b) appropriate access to students, which complies with legal requirements (e.g. Family Court Orders) or by signed parental consent (boarding students)
- c) procedures to account for the whereabouts of students,
- d) procedures for emergency situations.

3.4 Records Management

The College undertakes to:

- a) secure all student records against inappropriate access,
- b) provide opportunity for parents to update essential contact information,
- c) collect and disseminate relevant information regarding student health and well-being.

3.5 Provision of Medical Care

The College undertakes to provide:

- a) qualified nursing care to students on each school day in accordance with information provided by parents,
- b) appropriately-equipped facilities to provide nursing care to its students,
- c) information, procedures and communications as required, about communicable diseases and the limitation of their spread,
- d) anaphylaxis Management Procedure.

Nursing care includes, but may not be limited to:

- a) first aid treatment in the event of accident,
- b) administration of prescribed medication,
- c) administration of patent medication limited by Parental Consent forms,
- d) nurses' assessment of students and staff presenting at the Health Centre and taking of appropriate action,
- e) referral of students and staff for further medical attention,
- f) notification of the occurrence of contagious disease.

3.6 Communication with Staff, Students and Parents

The College undertakes to provide:

- a) induction training to new staff which includes aspects of Duty of Care,
- b) access to information for staff, students and parents via the College Portal, newsletters, staff meetings, assemblies and information evenings,
- c) regular opportunities for parents to update student emergency contact information

ASSOCIATED POLICIES AND PROCEDURES

Refer to Study Duty and Pastoral Care Home Page – Complispace

Refer to Human Resources Home Page – Complispace

Refer to Information and Communication Technology Home page

Penrhos College Privacy Policy

Intellectual Property Policy

OWNER

Dean of Pastoral Care/Head of Junior School

ADOPTION AND REVIEW

A copy is made available to all staff.

This policy and its accompanying procedures are evaluated and reviewed every three (3) years.

COMPLETION DATE:

February 2004

LAST REVIEW DATE:

June 2016

NEXT REVIEW DATE:

June 2019 R91/2016