

Duty of Care Policy

Last Review: 16 th September 2025	Constructed / Reviewed by: The Knox School, with advice from Russell Kennedy Lawyers
Next Review: 16 th September 2027 (and every two years thereafter in accordance with the School's review cycle, or more frequently as required)	Approval Required: Board
Document Date: 16 th September 2025	Board Sign Off Date: 16 th September 2025

1 Statement of Context and Purpose

The Knox School (the **School**) is committed to ensuring the care, safety and welfare of its students.

The care, safety and welfare of students is of paramount importance to the School, and the School seeks to ensure that its culture is defined by a mentality where protecting students from harm forms part of our everyday thinking and activity.

The School has established strategies, practices, policies (including this policy) and procedures to uphold the duty of care it owes to its students, both on or off school premises. This policy sets out the key elements of the School's approach in discharging its duty of care to students, and aims to:

- (a) ensure staff at the School have an understanding of the duty of care owed by the School, teachers and school staff towards children and young people;
- (b) summarise the strategies, practices and procedures the School adopts to uphold its duty of care;
- (c) provide guidance how teaching and non-teaching staff may discharge their duty of care to students.

This policy informs, and does not replace, a risk-management approach to upholding the School's duty of care, which must necessarily have regard to the specific, general and individual risks which may arise from time to time.

2 Scope

This policy applies to all Board members, employees, volunteers, contractors, labour hire workers, secondees and other authorised personnel required to perform functions on behalf of

the School. This policy will refer to all employees, volunteers, contractors, labour hire workers, secondees and other authorised personnel interchangeably as “staff”.

This policy extends to any person who is engaged in student-related work that has direct and regular contact with students.

This policy is not intended to override or form part of the terms of any award or contract that applies to an employee but should be considered a reasonable direction to staff. As such, staff are expected to abide by this policy and report any suspected or known breaches of this policy.

3 Related documents

Student Safety and Wellbeing Policy

Student Code of Conduct

Student Bullying Policy

Camps and Excursions Policy

Occupational Health and Safety Policy

4 Responsibilities

Board	<ul style="list-style-type: none">• The Board is the governing body for the legal entity which operates the School, and ultimately responsible for ensuring that student safety and wellbeing (and in particular the care, safety and welfare of children and young people) is the School's paramount consideration.• The Board is aware of and endorses this policy.
Principal	<ul style="list-style-type: none">• In accordance with good governance, the Board delegates responsibility for the day-to-day operation of the School – and in particular, the care, safety and welfare of students – to the Principal.• The Principal is therefore responsible at a day-to-day level, and accountable to the Board, for taking all practical measures to ensure the School's compliance with this policy.
Staff	<ul style="list-style-type: none">• All staff are required to comply with this policy, as well as their legal and professional obligations with respect to upholding the School's duty of care (and any personal duty of care a staff member may owe a child or young person).• All contractors, labour hire workers, secondees and volunteers involved in student-connected work are required to adhere to this policy, and are responsible for contributing to care, safety and welfare of students in the school environment.
Students	<ul style="list-style-type: none">• Act in accordance with the School's rules, expectations and behavioural standards (including those set out in the <i>Student Code of Conduct</i> and Student Bullying Policy) at all times to, during and from excursions.

5 Duty of care

The School has a legal duty of care to students while they are involved in School activities, or present for the purposes of being involved in School activities.

This duty extends to taking:

- (a) Reasonable measures, with regard to all the circumstances, to protect students from risks of harm and injury that should have been reasonably foreseen, on the assumption

that students are otherwise using age-appropriate and reasonable care for their own safety .

- (b) Reasonable care that any student (and other person) on the School's 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.
- (c) Reasonable precautions to prevent the abuse of a child by an individual associated with the School while the child is under School's the care, supervision or authority.

This requires not only protection from known hazards, but also protection from harm that could foreseeably arise and against which preventative measures can be reasonably taken.

The fact that a duty of care exists, or that there were measures that could have been taken to avert or diminish a particular risk to a student, does not of itself mean that the School will be liable for an injury sustained by a student. In order for the School to have been negligent with its duty of care, it must be established that:

- (d) a duty of care was owed to the person harmed at the time of the injury;
- (e) the risk of injury was foreseeable;
- (f) the likelihood of the injury occurring was more than insignificant;
- (g) there was a breach of the duty of care or a failure to observe a reasonable standard of care;
- (h) this breach or failure was a cause of the injury; and
- (i) whether or not responsibility for the harm should extend to School (scope of liability).

It is important to recognise that the reasonable standard of care in particular circumstances must be considered in light of the fact that it is neither practical nor desirable for the School to seek to exclude every risk of injury to students.

5.1 Duty of care – Teaching staff

Teachers also owe a special duty of care toward students.

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 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 harm being suffered.

5.2 Standard of care – Non-teaching staff, volunteers & external providers

Non-teaching staff, volunteers (including parent volunteers) and external providers may also owe a modified duty of care to protect students from risks of harm that reasonably ought to be foreseen. This duty arises when the duty is consciously passed from a teacher to a non-teaching staff member, volunteer or external provider, and accepted by that individual.

For example, a teacher may ask a non-teaching staff member to accompany a student to a different area of the School. While normally this staff member may not owe a standard duty of care to that student, as they have accepted the duty to care for and supervise the student passed from the teacher they now must protect that student from foreseeable risks of harm.

In any case, all staff are required to act in a manner which upholds the School's duty of care.

6 **Practices that uphold duty of care**

In discharging duty of care responsibilities, the School and staff must exercise professional judgment to achieve a balance between ensuring that students do not face an unreasonable

risk of harm, whilst also encouraging students' independence and maximising learning opportunities.

Non-teaching staff, volunteers and external providers must exercise professional and reasonable judgment appropriate to the circumstances.

- 6.1 The School plays a critical role in enacting its risk management framework by being actively involved in its development, implementation and continuous evaluation.

Through which the School:

- (a) identifies potential student safety and wellbeing hazards;
- (b) analyses hazards in terms of the likelihood of an event occurring, and the potential consequences if the event was to occur; and
- (c) records controls which the School adopts to eliminate or otherwise reduce the likelihood or potential consequences of a hazard.

More generally, the School recommends the following practices for all staff.

6.2 General

- (a) Ensuring students arrive on time to their scheduled timetabled class.
- (b) Promptly following up unexplained student absences.
- (c) Arriving on time to scheduled timetabled yard duty responsibilities.
- (d) Making mandatory reports as required by law.
- (e) Acting appropriately and in accordance with the School's policies to protect a student who claims to be bullied.
- (f) Calling out dangerous play.
- (g) Exercising constant vigilance and planning.
- (h) Ensuring students are fully and actively supervised at all times during all School activities, including excursions and incursions.
- (i) Taking appropriate steps to ensure buildings, grounds and equipment are safe and suitable to help prevent injuries to students and other persons.

6.3 Student safety and wellbeing

- (a) Taking reasonable precautions (including by acting in accordance with the School's student safety policies) to minimise the risk of child abuse by an individual associated with the School.
- (b) Complying with the School's student safety policies (including the Student Safety and Wellbeing Policy).
- (c) Reporting actual and suspected concerns of inappropriate conduct (eg. crossing of processional boundaries) in accordance with the School's processes.
- (d) Complying with mandatory reporting obligations.

6.4 Classroom supervision

- (a) Teachers must not leave students in the care of ancillary staff, parents or trainee teachers.

- (b) Teachers must not leave students in the care of external education providers.
- (c) In an emergency situation, teachers should use the phone to contact their supervisor or the Principal, or otherwise send a teacher's aide to look for assistance.
- (d) No student should be left unsupervised outside the classroom as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted within the classroom or educational environment under the direct supervision of the teacher.

6.5 Movement of students

- (a) Care needs to be taken in allowing students to leave the room to work in other areas of the School, for example, completing jobs such as collecting or distributing notices.
- (b) Use of students as monitors outside the room during class time must only occur with the approval of a member of the Principal or their delegate. (eg. Library monitors).
- (c) Discretion is to be used when allowing students to visit the toilet or other areas of the School (eg. Reception) during class time.

6.6 Yard supervision

- (a) Teachers are required to take positive action to discharge their duty of care while supervising students on yard duty.
- (b) Teachers should be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- (c) Teachers rostered for duty must attend the designated area at the time indicated on the roster.
- (d) Teachers on duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable.
- (e) Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the office but must not leave the area until replaced (the handing over of the duty must occur in the designated area).
- (f) No changes to the yard duty roster are to be made without the approval of the staff timetable or daily organiser.
- (g) Teachers should always be on the move, alert and highly visible.
- (h) Teachers must intervene immediately if potentially dangerous behaviour is observed in the yard.

6.7 Outside the School environment

- (a) A teacher's duty of care is not confined to the geographical location of the School .
- (b) Teacher's must ensure they discharge their duty of care in circumstances outside of the School environment when they have assumed the student-teacher relationship.
- (c) Risks outside the School environment may sometimes require a teacher and the School to take positive and reasonable steps to protect the student from the risk and discharge their duty of care. This may for example include providing a warning to parents and students about an identified risk, or in appropriate circumstances arranging added supervision.
- (d) The steps required to discharge the duty of care owed will depend on the degree of control the School has over the activity. For example, a known bully on a school bus may require the School to suspend or refuse to transport the bully.

- (e) Teachers and other staff with supervision responsibility should be visible and ensure, so far as is reasonably practicable, that the School campus and the means of entering and leaving it are safe and without risks to the health and safety of students.
- (f) Where bus/tram stops are visible from the School's entrances and exits, and are used by students, these should be monitored immediately before and after school.
- (g) For more information about how the School upholds its duty of care to, during and from excursions, please refer to the School's Camp and Excursions Policy.

6.8 Restrictive intervention and seclusion

The School believes that restrictive intervention and seclusion of a student are to be used as a method of last resort. However, at times staff may find it necessary to respond to a student behavioural concern in such a manner where:

- (a) There is an imminent threat of physical harm or danger to a student and others.
- (b) Physical restraint and/or seclusion are reasonable in the circumstances.
- (c) There is no less restrictive measure reasonably available in the circumstances.

Restrictive intervention and seclusion of a student must not occur unless the above criteria are met.

In the rare event that a student is restrained, staff must:

- (a) Use the minimum force required to address the imminent threat of physical harm or danger.
- (b) Only restrain the student for the minimum duration required.
- (c) Monitor the student for any indicators of distress and immediately cease the restraint should these be identified.
- (d) Communicate with the student to make clear why the restraint is being applied.
- (e) Ensure that the restraint used is consistent with the student's individual needs and circumstances, including but not limited to the student's age, gender, size, and any additional needs such as behavioural, intellectual, neurological, sensory, medical or communication impairments.

The decision about whether to use restrictive intervention and seclusion rests with the professional judgement of the staff involved, following consideration of their legal and professional obligations.

Staff must immediately document and report all instances of physical restraint or seclusion to a member of the Executive team.

For further information regarding restrictive intervention and seclusion please refer to the School's *Staff Code of Conduct policy*.

6.9 Personal care and toileting

- (a) Attending to a sick student, or a student who has had a toileting accident should, where possible, be provided by a co-educator or teaching assistant.
- (b) Where possible, teachers should not leave the classroom with the student who is sick or has had the toileting accident.

7 Students' individual circumstances

Individual circumstances will determine what constitutes reasonable care. The School recognises that the standard of care owed to a student who is considered vulnerable may be broader than that owed to other students.

The following issues may be considered relevant in assessing the reasonableness of the level of care in any particular circumstance:

- (a) The student's age, experience and capabilities: younger students require more care than mature students.
- (b) Physical and intellectual impairment: students with disabilities are exposed to higher levels of risk of injury than students without a disability.
- (c) 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 (eg. asthma or epilepsy).
- (d) Behavioural characteristics: the level of care is increased where students are known to behave in a manner that increases the risk of injury.
- (e) Cultural characteristics: the cultural characteristics of students may affect a student's exposure to risk.
- (f) 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.
- (a) Any conflicting responsibilities the School or teacher may have; and normal practices and procedures within the School.

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

8 Working with external providers

The School and its teachers cannot delegate their duty of care to external providers.

9 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:

- (a) The School does not owe a duty of care to warn of an "obvious risk".
- (b) The school will not be liable for harm suffered as a result of the materialisation of an "inherent risk".
- (a) 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).

10 Communication

This policy is available to parents, students and the School community via the [school website](#).

This policy is available to staff as part of the School's internal policies and procedures, and forms part of the School's induction program for incoming staff. Aspects of (and updates to)

this policy will be addressed in the School's professional development updates, training programs, bulletins and newsletters.