

Duty of Care Policy for Staff

Ratification Date: RNS Board 01/09/2021	Next Review: 2022 or after an event or changes to the minimum standards as advised by the VRQA	Availability: <table><tr><td>Web</td><td></td></tr><tr><td>Office</td><td>X</td></tr><tr><td>On Request</td><td>X</td></tr></table>	Web		Office	X	On Request	X	Actions:
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1.0 PURPOSE

River Nile School is a Specialist Reengagement Senior Secondary School for young women who are Humanitarian Refugees and new arrivals to Australia. As such they are extremely vulnerable and generally have experienced significant trauma in their lives.

All River Nile School staff will be made aware of their legal responsibilities. The River Nile School Principal is required to plan, implement and monitor arrangements to ensure the safety, security and wellbeing of students. Creating safe places for children to fully and actively participate in the life of the community benefits everyone. The River Nile School ensures that the students in its care are protected to the best of its ability and in line with their duty of care and Ministerial Order 870, Child Safe Standards — Managing the risk of child abuse in schools.

The River Nile School owes a duty to take reasonable care that any student (and other 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 to the premises. These Child Safe Standards aim to drive cultural change in organisations so that protecting all children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers. This will assist the River Nile School to:

- Prevent child abuse
- Encourage reporting of any abuse that does occur
- Improve responses to any allegations of child abuse
- Implement the Child Safe Standards by strongly promoting the safety of Aboriginal and Torres Strait Islander children; children from culturally and/or linguistically diverse backgrounds; the safety of vulnerable and children with a disability.

In addition to their professional obligations/responsibilities, all School staff members have moral and legal obligations and a duty of care to protect any student under their care from reasonably foreseeable harm (not just staff who are classified as mandatory reports).

This policy aims to ensure that all staff have an understanding of their duty of care to students, and behave in a manner that does not compromise these legal obligations.

2.0 SCOPE

This policy applies to all River Nile School staff in relation to students and will be made available on SharePoint and at reception.

The Child Safety Standards direct staff to act to ensure the safety of children from abuse. All Victorian Schools must comply with the Child Safety Standards and the Ministerial Order No 870.

Consistent with the Education and Training Reform Regulations 2017, the School has policies in place to ensure the safety and welfare of students, including those with special needs. This policy will be implemented in conjunction with a range of associated policies listed in section 6.0.

Consistent with the VRQA Guidelines to the Minimum Standards and Requirements for School Registration – June 2020, this policy and its associated policies cover strategies for the School to undertake reasonable precautions to prevent abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation. This policy recognises that different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty care.

Risks and associated duty of care in relation to COVID-19 is covered in **RNS COVID Safety Plan**.

3.0 DEFINITION

Duty of Care: Whenever a student–teacher relationship exists, the teacher has a special duty of care. This is defined as: “A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teacher’s charge from risks of injury that the teacher should reasonably have foreseen.” (*Richards v State of Victoria* (1969) VR 136 at p. 141) As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also protection from those that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken.

River Nile School authorities in breach of the duty of care may be liable for injuries inflicted by one student on another, as well as for injuries sustained by a student. Schools normally satisfy the duty of care by allocating responsibilities to different staff.

For example, the Principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances. The River Nile School and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury.

School Staff: In a non-Government school, an individual working in a school environment who is:

- Directly engaged or employed by a school governing authority
- A volunteer or a contracted service provider or
- A minister of religion

(Ministerial Order No 870)

4.0 IMPLEMENTATION

4.1 Duty of Care and student individual circumstances

The School recognizes that the implementation of this Duty of Care Policy involves good systems to assess and record the needs of the student cohort as a whole and to recognize particular needs of for younger students or students with disabilities to discharge this duty of care. The needs of younger students or those with disabilities may require reasonable adjustments to the learning and social program provided by the School.

Individual circumstances will determine what constitutes reasonable care. Various factors will be considered in assessing 'reasonable' level of care required for each particular student such as:

- The student's age, background and capabilities – younger students and those with disabilities require more care than mature students
- The students needs and the learning experience they desire
- Provision of support and resources to assist those with different learning approaches to achieve their goals
- Personalised approach to teaching and learning as reflected in individual learning plans
- Enrolment forms and relevant information on disabilities, educational and health needs
- Physical and intellectual disabilities - the level of disability which can expose them to a higher risk of injury
- Medical conditions which may expose them to risk of injury. Special care must be taken to protect students with known conditions such as asthma, anaphylaxis or epilepsy
- Behavioural characteristics which may impact on safety
- The nature of the School activity which may require high level of care for activities which could cause injury
- The nature of the environment and premises in which activities take place, such as, in the yard or on excursions or work placement

The School has established a range of mechanisms to record specific special needs of individual students including but not limited to:

- Educational and learning needs outlined in the Individual Pathway Plan
- Educational history including any psychologists reports etc
- Special needs in the Child Safety Risk Register
- Health needs in Student Health Support Plan; Asthma Care Plan; Medication Administration Log; Individual Anaphylaxis Management Plan; Anaphylaxis Medication and EpiPen Register

- Accidents or other incidents in Child Safe Incident Report Form



All staff will be familiar with the Child Safe Risk Register and mitigation strategies including:

- Following safety standards
- Ensuring staff have skills and abilities to undertake their duties
- Ensuring policies and procedures are followed such as those listed in section 6.0 of this document including use of the Excursion/Incursion/Camp Risk Management Plan to plan and ensure safety.
- Staff receiving first aid training and adequate first aid facilities are available having regard to the nature of the activities being undertaken
- Accidents and incidents are promptly dealt with through appropriate treatment and/or intervention; are recorded and corrective action implemented where required

Teachers will be provided with a document to assist their teaching and support strategies "Teachers Guide to Working with Diverse At-Risk Students". Teachers with First Aid will be listed on the **QMS:400-06 Register of Staff Trained in First Aid.**

4.2 Board and Staff responsibilities with Duty of Care

Meeting the requirements of the Ministerial Order No. 870 Child Safe Standards – managing the risk of child abuse in the River Nile School is the direct responsibility of the River Nile School Board.

River Nile School staff, have the duty to take reasonable steps to protect students under their care and supervision from harm that is reasonably foreseeable. The question of what constitutes "reasonable steps" will depend on the individual circumstances of each case.

The Principal is responsible for allocating supervision responsibilities and teachers are responsible for carrying out their assigned supervisory duties in such a way that students, insofar as can be reasonably expected, are protected from injury. The Principal is responsible for informing parents, guardians and the School community of supervision arrangements through normal School communication channels.

Younger students aged between 15 years and 17 years of age and students with special needs or disabilities, may require more supervision and greater responsibility in reporting to parents and guardians. Students with a disability may be more vulnerable to bullying and abuse. Students with medical conditions will be supervised closely and staff will be trained and registered with appropriate first aid certifications.

Duty of care towards a student may be breached if the staff fail to act in the way a reasonable or diligent professional would have acted in the same situation. In relation to suspected child abuse, reasonable steps may include (but are not necessarily limited to):

- Acting on concerns and suspicions of abuse as soon as practicable
- Seeking appropriate advice or consulting with other professionals or agencies when the School staff member is unsure of what steps to take
- Reporting the suspected child abuse to appropriate authorities such as Victoria Police and DHHS child protection
- Arranging counselling and/or other appropriate welfare support for the student
- Providing ongoing support to the student – this may include attending DHHS child protection case planning meetings, and convening regular student support group meetings
- The Four Critical Actions for Schools must be followed to ensure fulfilment of duty of care obligations for all children who are involved in, or affected by, the suspected child abuse. Refer to RNS **Four Critical Actions for Schools** and **RNS Responding and Reporting Policy and Procedure**.

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 providing adequate supervision in the River Nile School or on River Nile School activities as well as providing safe and suitable buildings, grounds and equipment.

A teacher's duty of care is not confined to the geographic area of the River Nile School, or to School activities, or to activities occurring outside the School where a student is acting on a teacher's instructions. The duty also applies to situations both before and after River Nile School hours where a teacher can be deemed to have 'assumed' the teacher pupil relationship.

Apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or Principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child is being abused or neglected, including sexual abuse.

The teacher's duty of care 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 does not have a legal obligation to respond.

Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following common examples may be times when a teacher has failed to meet their legal duty of care responsibilities to their students:

- Arriving late to class or leaving a class early
- Arriving late to scheduled timetabled yard duty responsibilities
- Failing to act appropriately to protect a student who claims to be bullied
- Believing that a child is being abused but failing to report the matter appropriately
- Leaving students unattended in the classroom
- Ignoring dangerous play
- Leaving the River Nile School during time release or breaks without approval
- Providing inadequate supervision on a River Nile School excursion or camp

Staff members are also cautioned against giving advice on matters that they are not professionally competent to give. Advice is to be limited to areas within a teacher's own professional competence and given in situations arising from a role (such as career practitioner, year level coordinator or subject teacher) specified for them by the Principal. Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

4.3 Risks to students outside the River Nile School

Legal cases establish that a teacher's duty of care does not start nor end at precise times during the day. The approach generally taken is that a teacher's duty applies irrespective whether the risk occurs in or outside the School environment. However, the important issue in all cases will be whether the River Nile School took **reasonable steps** to protect the student from the any reasonable foreseeable risk.

Risks outside the School environment may sometimes call for immediate and positive steps by the River Nile School depending on the age of students, urgency and threat of injury. Consider for example, if a live power line came down outside the River Nile School, no emergency workers had arrived, and children are about to be dismissed to walk home. No School would allow the children to walk out to that danger unsupervised.

There will be a number of other situations where the River Nile School will be under a duty to take reasonable steps. In some instances, the River Nile School's control over the activity may require it to take more active measures to satisfy the requirement that it take reasonable steps. For example, a known bully on a River Nile School bus may require the River Nile School to suspend or refuse to transport the bully. In other instances, the River Nile School may not control the activity, and the reasonable measures available to it will be limited. For example, fights at a local train or bus stop between students from rival Schools may involve informing the police, contacting the other River Nile School to implement preventative measures, and notices to parents and students.

Staff are responsible for their students at all times. The following instructions and notices outlined in 4.4- 4.9 apply to all staff.

4.4 Classroom Supervision

- Teachers will be fully briefed about the health or disability background of their students as recorded on enrolment forms
- Teachers should be vigilant to ensure adequate age appropriate supervision having regard to the nature of the activities being undertaken
- Teachers must **not** leave the classroom unattended at any time during a lesson
- It is **not** appropriate to leave students in the care of ancillary staff, voluntary staff, parents or trainee teachers (at law, the Duty of Care cannot be delegated)
- It is **not** appropriate to leave students in the care of external education providers for example incursions (at law, the Duty of Care cannot be delegated)
- Any plant and equipment or any hazardous substances are properly used or handled and proper protective equipment is used
- In an **emergency situation** use the phone to call the Principal or contact the teacher in the next room (if appropriate – send another student or the Education Support for assistance)
- **No student** should be left unsupervised **outside the classroom** as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a Colleague's classroom, or Principal or by following the River Nile School's **RNS Student Behaviour Management Policy**. Any action taken should be accompanied by documentation and appropriate follow up.
- Issues relevant to classroom supervision will be monitored at regular staff meetings

4.5 Movement of Students

Care needs to be taken in allowing students to leave the room to work in other areas of the River Nile School. Discretion is to be used when allowing students to visit the toilet during class time.

4.6 Yard supervision

Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, teacher's duty of care is one of positive action. Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.

Be aware that yard duty supervision within the River Nile School requires the teacher to fully comply with **RNS Yard Duty Supervision Policy** and brings with it an increased duty of care. This policy provides guidelines and a code of behaviour for teachers supervising to ensure safety in designated supervision areas.

Teachers rostered for duty are to attend the designated area at the time indicated on the roster.

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.

The handing over of duty from one teacher to another must be quite definite and **must occur in the area of designated duty**. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the office using school supplied device (ie walkie talkie), **but not leave the area until replaced**.

No changes to the yard duty roster are to be made without the approval of the Principal.

Be alert and vigilant - intervene **immediately** if potentially dangerous behaviour is observed in the yard
- enforce behaviour standards and logical consequences for breaches of safety rules.

You should always be on the move and highly visible.

4.7 Excursions, Incursions and Camps

When planning and undertaking excursions, incursions and camps, the Principal and staff will:

- Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom
- Be aware that an incursion with an external provider does not absolve supervision duties of the teacher, including first aid duties. A teacher must be present at all times and remain the person designated with duty of care responsibilities
- Be aware that camps and excursions outside the River Nile School require the teacher to fully comply with the relevant policy and bring with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care
- Be aware that excursion and camp activities require the teacher to ensure that requirements in the relevant policies are followed
- Be aware that River Nile School policy is for students to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities.
- The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. A copy of this material will also be kept at River Nile School
- Arrangements will be made for students not attending to continue their normal program at the River Nile School under supervision of another classroom teacher
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit
- If the return time from an excursion or camp is delayed, the teacher in charge will contact the River Nile School to inform the Principal of the new arrival time so that parents can be contacted and a senior staff member will remain at River Nile School until they arrive.
- If crossing roads, students are to use designated crossing points. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road

4.8 Visitors, Volunteers and shared facilities



All visitors and volunteers to River Nile School must follow procedures outlined in **RNS Volunteers Policy** and **RNS Visitors Policy**. They are required to report to the School office on arrival and must:

- Record their name, the name of the School contact person and the purpose of the visit
- Provide proof of identification to office staff upon request
- Produce their valid Working with Children Check where required by this policy
- Wear a visitor's/volunteer's name tag at all times
- Follow instruction from School staff and abide by all relevant policies relating to appropriate conduct on School grounds including Child Safety Code of Conduct, and Anti-bullying and Harassment
- Return to the office upon departure and sign out

For trainers and any students from other schools coming on site to access **VET Delivered in Schools** programs (refer to:

- The VET trainer will be VIT registered or have Permission to Teach
- All students will be given a site induction in relation to safety, emergency procedures, COVID procedures and code of behaviour
- All students are supervised upon arrival/departure and during breaks
- All students sign in/sign out on a weekly basis and
- The River Nile School will complete and adhere to all the necessary school/training provider Department of Education and Training VET agreements that outline roles, responsibilities and duty of care requirements.

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4.9 Informing Staff of the legislative liability of Duty of Care

All staff will be informed of their legal requirement via:

- Staff will be informed of their Duty of Care as part of the River Nile School's Induction Program which includes distribution of the Staff Handbook
- A copy of this document will be available on SharePoint (shared folder)
- Duty of Care will be an agenda item at staff meetings
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.
- Staff will be directed to the Student Welfare, Care and Safety policies annually

5.0 COMMUNICATION

The River Nile School is committed to communicating our duty of care strategies to the School community through:

- Ensuring that this policy is available on the School website
- The River Nile School newsletter
- Student and staff induction programs and summaries in respective handbooks
- Sharepoint for School staff
- IMVC and Youth2Industry child safety compliance meetings