

# Wa student duty of care policy

[Experience](#), [Human Nature](#)



Memo for The Department of Education and Training, Western Australia

(DETTWA) To: All School Principals within the DETWA. Subject: A GUIDE TO HELP PARENTS UNDERSTAND, THE WESTERN AUSTRALIAN DEPARTMENT OF EDUCATION & TRAINING, DUTY OF CARE POLICY FOR STUDENTS. Please find enclosed a detailed guide to helping your parents / caregivers understand the “Duty of Care Policy for Students”. This guide is an analysis of the policy document noting the key points that are easily understood by parents.

The report will also detail two scenarios providing examples of situations that can occur at any school and an action plan response to each scenario by following the duty of care policy guidelines.

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1. 0 Introduction As parents, the “Duty of Care” policy is more than likely decidedly foreign. From here many questions, no doubt will arise? Why did the Western Australian government put this in place for their Department of Education and Training? What significance does this document have towards my children, parents may also be thinking? So many thoughts and questions have no doubt once or twice crossed a parents mind. I am sure some may not even be aware of this documents existence.

2. Background regarding the policy & Part 1 - Document Analysis To answer these imminent questions above, the significance of this report is to offer the Parents of Western Australian students attending primary and secondary schools, a further understanding.

The Western Australian Government wrote the policy so that it would be implemented within the Department of Education WA and then handed down to all teachers. The document became effective on the 26/06/2007 and updated 02/08/2012. (Department of Education and Training, Western Australia (DETWA), 2012, 1). As noted by the Department of Education and Training, Western Australia (2012, 3)” this policy was created to ensure that all teaching staff, non teaching staff and volunteers know their legal responsibilities in ensuring reasonable care occurred to maintain the safety and wellbeing of all students whilst in their care and avoid acts that may result in injury. This policy is not just limited to within the school grounds but also outside school grounds, excursions and activities that fall under the care and guidance of school teachers, regardless of where the activity or lesson may occur. 3. 0 Duty of care explanation

What is the Duty of Care? Newnham (2000, 2) describes the Duty of care as a legal concept that was put in place under the Common Law, and it is well established in education regulations. 4. 0 Reasonable Care explanation with key points to note What is Reasonable Care? The Department of Education and Training, Western Australia, (2012, 3) also describe reasonable care as a situation that will always vary according to the overall circumstances involved. Teachers are to assess the “reasonableness” of the level of care needed by noting the following probabilities that can interfere or affect the outcome of care.

These probabilities are; \* The school activity and its nature. \* The environment upon which the activity will occur in, therefore the teacher must assess the risk, if any, involved. \* Pre-existing medical

conditions, like allergies, epilepsy, diabetes. \* Ages and skills of the students.

\* Physical or Intellectual impairments & Behavioural issues

5. 0 Key points to note

There are some other key points that the Duty of Care policy would acknowledge. These include that a principal or teacher must ensure that all department employees must hold the necessary identification and qualifications required including non teaching staff.

Also, volunteers and the like must also possess a working with children check card. The details of this policy and how this check can be completed is found via the following government website, [http://www. checkwwc. wa. gov. au/checkwwc](http://www.checkwwc.wa.gov.au/checkwwc) The importance of having such a policy is to protect both student and teacher and offer the teacher clear, concise guidelines on what “ duty of care” is expected of teaching staff to reduce the chance of negligence and possible legal implications.

A highly topical direct quote included below is from abstract, Newnham, (2000, 1) is particularly pertinent to this report and extremely beneficial to take note: “ The law is increasingly affecting the practice of education. The most likely reason a teacher or school will face legal action is in negligence where a student has been injured while under the school’s protection. This may occur in a variety of settings.

To satisfy the elements of the tort of negligence the student who becomes in law the plaintiff must prove that a duty of care was owed, that the duty was breached, by not maintaining the appropriate standard and that the injury was a reasonably foreseeable consequence of that breach of duty. It would be rare for a teacher to face criminal charges but it could happen if a teacher had an intention to harm or acted recklessly. ” (Newnham 2000, 1) The

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policy document also offers guidelines for parents and caregivers and their responsibilities for their children before and after school care time slots and whilst on school grounds.

This will clearly advise the parent / caregiver the times for when their children will and will not be supervised and offer a guide as to whether the student is protected or not under the school's duty of care policy. 6. 0 Part 2 – Action Plans Below are action plans that a teacher in the following scenarios could note and introduce to ensure that the teacher is consistently adhering to the Western Australian Government and the Department of Education & Training's, Duty of Care Policy. 7. 0 Scenario 1 & Action Plan A student is consistently interrupting other students during a classroom lesson.

In dealing with this student's interruptions, the teacher sends the student out of the classroom for 'timeout'. The teacher tells the student to wait outside the classroom door until asked to return to the room. This reprimanded student is no longer in the teacher's view. The scenario above notes that the teacher involved has not exercised her duty of care and could be seen to be negligent as the student was no longer in the teachers view. As per notes from Newnham, (2000, 46) the teacher has a duty of care to ensure that they are providing adequate supervision and no longer being in view is detrimental to this.

The teacher was no doubt disappointed in the student and his associated behaviour but asking the student to leave for timeout could have been handled in a more appropriate way. As per the teachers duty of care policy (Department of Education and Training, Western Australia, 2012, 3) the teacher needed to provide a suitable disciplinary action that ensured the

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student remained in full view. Otherwise by no longer being in view, the student could have harmed or injured, himself and the teacher would possibly be held responsible for not following the act of reasonable care and therefore classed as being negligent.

The teacher could have opted for a variety of disciplinary actions from as painless as giving the timeout punishment and asking the student to remain in the far corner of the classroom until notified or the teacher could have phoned the principal's office and asked that the principal come and escort the student to the office to remain in timeout whilst in a supervised environment. 8. 0 Scenario 2 & Action Plan A first year student teacher accompanies a supervising teacher out on duty at lunch time.

While on playground duty, an incident occurs that requires the supervising teacher to accompany a student to the administration block, which is not within the supervision area. The supervising teacher asks the student teacher to remain on duty for her as she tends to the dilemma. This would mean the student teacher would be the only teacher supervising the designated play area at this time. Firstly Newhman, (2000, 49) notes that if the incident was indeed severe enough, ensure that the nature of the incident was documented.

Other details that would need to be included in the incident report would be with who was present at the time in the events leading up to and when taking place. This will ensure that if further issue is raised, the teacher can be at ease that they have completed the right steps to ensure that negligence did not take place. Secondly, under the Duty of Care policy (Department of Education and Training, Western Australia, 2012, 3) the <https://assignbuster.com/wa-student-duty-of-care-policy/>

teacher should have clarified with the student teacher if they were comfortable to be left to undertake the primary care of the remaining students and be given the right to refuse.

If refused, the student teacher would have been best to escort the student to the administration block or even more so the student teacher could have quickly alerted another teacher to come and assist the situation at hand and escort the student or takeover the supervisory role.

### 9. Conclusion & Personal Reflection

Whilst reading through the DETWA Duty of Care Policy for Students, I was certainly not aware of the importance of one component of the policy document.

The component I was not aware of was that as a teacher, I should be ensuring that any student teacher, non teaching staff or volunteer who may assist in my classroom, has the right to refuse the role of undertaking primary care of the students. If I had to leave the classroom or area where the class was being conducted, I must first ask this pertinent question of “Are you comfortable if I leave the room for said period of time?” This question was simply was not something that I gave much thought to.

When I thought about this more, I realised it actually is common courtesy, to simply, ask first and then I will ensure the level of comfort of the other person helping is ascertained. I know that this element of the Duty of Care policy will be something I personally will take on board and remember to use within my classroom. In summary, the Western Australian Government's, Duty of Care policy is undoubtedly a particularly crucial document. It's a crucial document that all Western Australian Teacher's who are employed within the Department of Education & Training, need to follow. As I become a

teacher, this policy is simply another tool that I as a teacher, must concur with and abide by at all times, whilst the students are under my care. A Student's safety is one of the most respected trusts that a caregiver / parent will ask of me as their child's teacher. To ensure that I do not lose that vital trust placed in me, it will be essential that I follow these set guidelines from this document. I should also consistently using common sense, adhere to school policy and I then should never have to be concerned with the legalities of negligence and that my students should always be cared for well. Word count 1744) 10. 0 References The Government of Western Australia, (2012) Department of Education & Training: Duty of Care for Students. Western Australia: Retrieved from <http://det.wa.edu.au/policies/detcms/policy-planning-and-accountability/policies-framework/policies/duty-of-care-for-students> Department of child protection, (2008) Working with children check: Retrieved from <http://www.checkwwc.wa.gov.au/checkwwc> Newnham, Helen (2000) " When is a teacher or school liable in negligence? " Australian Journal of Teacher Education: Vol. 25: Iss. 1, Article 5. Available at: <http://ro.ecu.edu.au/ajte/vol25/iss1/5>