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# Duty of Care

## Objective

This policy outlines how Cire Community School will manage the legal duty of care owed by the school to its students to take 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.

## Scope

Cire Community School will adhere to all of its legal duty of care requirements in relation to its students.

## Policy

1. Cire Community School notes the legal background of their duty of care:
  - 1.1. "Duty of care" is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage which arises from the negligent act or omission.
  - 1.2. In order to successfully bring a claim in negligence for compensation for an injury, a person must establish, on the balance of probabilities, that:
    - A duty of care was owed to the person harmed at the time of the injury.
    - The risk of injury was foreseeable.
    - The likelihood of the injury occurring was more than insignificant.
    - There was a breach of the duty of care or a failure to observe a reasonable standard of care.
    - This breach or failure was a cause of the injury.
  - 1.3. The fact that a duty of care exists does not of itself mean that a school will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.
  - 1.4. The important issue in all negligence cases will be what precautions the school could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:
    - The probability that the harm would occur if care were not taken.
    - The likely seriousness of the harm.
    - The burden of taking precautions to avoid the risk of harm.
    - The social utility of the activity that creates the risk of harm.
2. The school will take all reasonable steps to reduce the risk of harm to students, including:
  - Provision of suitable and safe premises.
  - Provision of an adequate system of supervision.
  - Implementation of strategies to prevent bullying and harassment, including cyberbullying.
  - Ensuring that medical assistance is provided to a sick or injured student.
  - Managing employee recruitment, conduct and performance.
3. Cire Community School recognises that its duty of care is non-delegable, meaning that it cannot be assigned to another party.
4. The school recognises that it owes a duty to take reasonable care that any student or other person on their 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 state of their premises.

5. Cire Community School recognises that its staff have a special duty of care whenever a staff-student relationship exists. This means that Cire Community School staff will take reasonable measures to protect a student in their care from risks of injury that the staff member should reasonably have foreseen.
6. The school takes account of the diversity of all children, including (but not limited to) the needs of Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, children with disabilities, and children who are vulnerable; and make reasonable efforts to accommodate the matters referred to in clause 6(a).
7. The school recognises that greater measures may need to be taken under this policy for younger students or students with disabilities.
8. Cire Community School recognises that its duty of care to all Cire students will be extended to outside school hours and premises when the relationship between the school and the student requires it in particular circumstances.
9. The school recognises that staff are frequently called upon to advise students, and when doing so Cire staff should:
  - Limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the Principal.
  - Ensure that the advice they give is correct and in line with current best practice.
  - Keep contemporaneous notes of advice given to individuals.
  - Avoid giving advice in areas unrelated to their role or where they may lack expertise.

#### Related Legislation

- Wrongs Act 1958 (Vic)
- Education and Training Reform Act 2006 (Vic)
- Australian Education Act 2013 (Cth)
- Victorian School Policy & Advisory Guide – Duty of Care (DET)
- VRQA Independent School Application Form – C.4.1.i, C.4.1.v, C.4.1.vi, C.4.1.vii

#### Organisational Area

Cire Community School

#### Approved by

The Board

Signature:



Date: May 2022

#### Operative Date

August 2021

Reviewed May 2022

#### Review Date

May 2025