

# Happy Haven OSHC Policy



## Duty of Care

### Policy Statement

Every educator has a duty of care towards every child under their supervision by virtue of the conditions of their employment, as well as by virtue of the common law principles of negligence. Educators have a duty to do what is reasonable in a given situation to ensure the safety of children, families, visitors, their colleagues and themselves.

### Strategies:

- A duty of care to protect children from foreseeable risk of injury can be manifested in many ways including but not limited to:
  - The duty to supervise the children so that they comply with rules and practices for their own safety and that of other children
  - The duty to design and implement appropriate programs and procedures to ensure the safety of children
  - The duty to ensure that school buildings, equipment and facilities are safe
  - The duty to warn children about dangerous situations or practices
- Duty of care is breached and negligence present when harms befalls an individual in instances where:
  - The risk was foreseeable (the educator ought to have known there was risk present)
  - The risk is not insignificant
  - The circumstances are such that a reasonable person in the individual's position would have taken adequate precautions. In determining whether a reasonable person would have taken precautions against the risk of harm, the following would be considered:
    - 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
- The service will make sure families have access to the service's program and they are encouraged to discuss any concerns they may have about the associated risks of those activities.

### Other Relevant Documents:

- Policy Supervision of Children
- Policy Risk Assessments
- All SOPs
- All Policies

### References:

Australian Government. Law of Negligence and Limitation of Liability Act 2008  
<https://www.legislation.gov.au/Details/C2016Q00058>