



21 September 2009

The Law - Young People, Parents and Schools

STUDY GUIDE

Program 4: Duty of Care – Who's Responsibility?

First broadcast – 8.30pm Monday 21 September 2009. 89.7, PBA FM in Adelaide, South Australia
Producer/Presenter: Tony Ryan Education Consultant: Greg Carey
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Program summary

The focus in this program is on the school's duty of care, including responsibility for providing appropriate supervision, taking steps to prevent bullying and for developing policies in relation to children with medical conditions. In his first contribution to The Law Spot, Professor Des Butler, Faculty of Law at Queensland University of Technology notes that the school authority has a non-delegable duty of care – as a practical matter, the duty might be delegated to the principal, but the ultimate responsibility rests with the authority.

Interviewees

David Thomson, Teacher-in-Residence, Victoria Law Foundation
Professor Des Butler, Faculty of Law, Queensland University of Technology

Listen

Download this program – from www.learningworksradio.com – and listen at home or in your car, or in a group around a table at home or in the staff room. Duration approx 15 mins.

Table Talk

Use these questions as springboards to a discussion on some of the issues raised in the program. Before you end the discussion, agree on some action outcomes.



Many schools publicise that students are not permitted to be on school grounds before 8:30am. Yet it is often well known in the school community that a number of students may be present well before that time. How can the local school carry out the legally required duty of care in such situations?

To pursue a civil action, duty of care, breach of that care, resulting in damage needs to be proven. For schools this is a non-delegable duty of care by the educational authority. What are the implications of this for the duty of care policies in the local school?

In the Benjamin Cox case, his mother was told: "It won't do him any harm; it'll make a man of him". Have you heard similar statements in your local community when incidents of bullying are raised? What can be done to change this attitude?

In this same instance, the school authorities were found by the Supreme Court to be in clear breach of duty of care. Describe the finding from his mother's point of view. How might the teachers from Benjamin's school view the finding? What are the differences and similarities in these two views?

Resources

To guide your discussion,

Behaviour and well being – WA Department of Education and Training

http://bswb.det.wa.edu.au/bswb/output/student-engagement/duty_of_care

Duty of Care: DECS –SA

<http://www.decs.sa.gov.au/docs/documents/1/DutyofCare.pdf>