

# School excursions

Many schools offer students the opportunity to travel for sport, music, history, languages or other education-related purposes. In the past few years, several students have died while on excursions. In recent years a British teacher was even jailed for manslaughter after he ignored safety rules and a child round.

What legal liability faces Australian schools, teachers and support staff from incidents occurring while students are on arranged excursions?

While the law recognises that excursions are valuable educational activities, the Australian courts have held that education must give way to safety at all times. Schools must strike a balance between meticulous supervision of children every moment of the time they are under their care, and the desirable object of encouraging the sturdy independence of children in a range of activities.

Schools and their staff continue to have a duty of care towards students whether on excursion or in the playground. In terms of excursions. This duty of care means that teachers must ask:

What risks to students might occur on the activity?

Is there more than an insignificant chance of these risks materialising?

What precautions should they, as reasonable adults, take to prevent the risks?

In determining whether there should take precautions against the risk of harm, school staff must consider among other relevant things the following:

- 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 age of the students is also a very important factor. Foreseeable risks and their probability will vary greatly between a primary school trip to the zoo and a secondary school trip to New Zealand. Similarly taking boys away may involve different risks to those involved when taking girls or a co-educational group.

It is important to let students and parents know in some detail about the excursion: where students will stay, how they will travel, the nature of the activities and so on. Schools should provide sufficient information to allow parents to make an informed decision as to whether or not to allow their child to participate in the activity. It is accepted practice to have parents sign something to acknowledge having been given all of this information. Providing warnings beforehand may allow schools to avoid liability when a risk materialises.

Often schools make use of external parties to conduct programs or provide resources for excursions. Using these third-party suppliers can be both cost-effective and sensible risk management. While the use of external providers does not remove the duty of care or the potential liability, it does limit the matters which a school must consider and therefore also reduces the risk of legal litigation. If a school or its staff are sued and an external provider has been used, any liability for damages may end up being shared across all parties.

What then does a school have to do to fulfil its duty to its students when it uses the services of an external provider?

The school must:

- check that the site, destination or service being provided is apparently safe;

- check that the staff employed are competent and careful people;
- see that the equipment and resources to be used are apparently safe and under the control of competent and careful people who supervise its use.

What expectation is there, if any, that students will behave reasonably while on excursions?

Courts have been reluctant to find that school students have contributed to their own injury by their own negligence or misbehaviour. While often acknowledging that students have acted foolishly or have misbehaved, judges rarely accept that such foolishness or misbehaviour justifies partial responsibility for injury. A finding of contributory negligence will only be justified if there is evidence that students have failed to take reasonable care for their safety and that failure can properly be regarded as a contributory cause of the injury; though this is only considered relevant when students are of older ages. The issue, of course, is always appropriate supervision.

In conclusion, there are several points to consider when considering excursions within a school setting:

- plan in obsessive detail;
- check supervision requirements and then have these checked again by another person;
- where activities are occurring ensure expert advice is provided;
- train the students and teachers before the excursion as to the requirements and behaviour expectations;
- ensure that the qualification of all accompanying staff and activity staff have been checked and are current;
- check out the site beforehand;
- choose an area safe for the age of the students;
- compile equipment lists;
- ensure equipment is in good condition;
- ensure the equipment includes complete first aid kits and a means of contacting medical assistance;
- arrange proper transport;
- develop emergency procedures;
- be prepared to cancel the activity if conditions change, e.g. weather, staff availability;
- always take into account the age, physical development and experience of the students;
- be aware of and investigate potential dangers;
- have adequate briefings prior to the activity for both teachers and students;
- ensure that an adequate supervision ratio of teacher to students is maintained at all times;
- actively supervise students throughout the activity;
- obtain parental consent to students being involved and to emergency medical treatment;
- obtain students medical history and ensure teachers have access to this information during the activity; and,
- know the health and fitness of each of the students

After reading the above article, complete the following:

1. What information should be given to parents about school excursions and why is this important?
2. Is a school absolved of its duty of care when they use an external provider?
3. What does a school have to do to fulfil its duty of care to its students when it makes use of an external provider?