

He papa pātai Ara manaaki

Frequently Asked Questions: Duty of Care



Key messages

for CDEM Groups to discuss with early learning services and schools:

- Early learning services and school's need to develop policies and procedures that clearly outline staff' responsibilities during an emergency.
- Early learning services and schools need to discuss duty of care in an emergency with staff to ensure staff understand their responsibilities in an emergency.
- Staff should have their own emergency plan and update this prior to the first day of school each year or with any change in their personal situation.

The responses to these questions are for general guidance only and do not take into account the many variables that can impact on an early learning service or school leader's decision-making when dealing with an emergency situation. Early learning services and schools should develop their own policy and procedures for dealing with existing and potential emergency incidents.

While children or students are in the custody of the early learning service or school, staff have a duty of care. Early learning services and schools need to develop their own policies and procedures for dealing with existing and potential emergency incidents including setting out staff responsibilities in an emergency.

Staff need to understand the early learning service's or school's expectations of them. It is important that staff have a personal household emergency plan in place as this may provide some additional support to the school or early learning service by enabling staff to remain at the early learning service or school to provide care for children and students who are unable to be uplifted.

Location:

Q. Where does duty of care take place?

A. An early learning service or school is responsible for children/students whenever they are under its care and at times this extends to outside of the service/school boundary. For example, when students are engaged in an Education Outside of the Classroom (EOTC) activity or programme.

Q. Can teaching staff who have duty of care over a child or student take them off the early learning services or school site following an emergency if they are not collected by a parent/ caregiver?

A. Early learning services and schools need to take a range of considerations into account when making decisions about the safety of children, students and the staff who are caring for them. They should understand their duty of care responsibilities in these situations and know what is set out in the emergency plan.

In most cases it is expected that children and students will be picked up by the parents/caregivers or an approved person. In extreme circumstances, other arrangements may need to be made for children not able to be uplifted, taking into consideration the best interests of the children.

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Timing

Q. How long are teaching staff expected to look after children and students following an emergency?

A. It is very difficult to specify a time limit for the care of children following an emergency. This will depend on a number of factors like the number of staff/teachers available, the time of day and the facilities available to staff at the early learning service or school. Staff and teachers should always make decisions on the continued care of the child or student taking into consideration what is in the best interest of the child or student.

The National Civil Defence Emergency Management Plan and Guide says that early learning services and schools should look after children and students until they can no longer continue to care for the child or student.

If after a period of time the child or student has not been collected and the early learning services or school service can no longer continue to provide for their care there is an agreed process to be followed which requires engagement with the New Zealand Police and Oranga Tamariki, Ministry for Children (see Page 8, Section 9.4.1, Welfare Services in an Emergency Director's Guideline). During a large emergency event, it will likely be some time before these two agencies will be able to do this.

Q. Who decides when 'care can no longer be maintained' (see Figure 9 page 111 Welfare Services in an Emergency Director's Guideline [DGL 11/15])? E.g. Board of Trustees/Early learning services provider or teaching staff?

A. The principal or teacher/staff in charge will make this decision based on the situation at their early learning service or school and the availability of staff to provide the duty of care and the best interest of children or students.

Evacuation

Q. If teaching staff have a duty of care for their children/students, do they hold the power in deciding when they will evacuate their class following the natural warning signs of a tsunami? If not, who holds this power?

A. Yes. It is advised that all staff, children and students are taught to recognise the natural warning signs of a tsunami and what actions to take as per their emergency procedures.

For example, after a DROP, COVER, HOLD response following a long or strong earthquake everyone should immediately evacuate to their pre identified tsunami safe location.

Supplies

Q. Does duty of care extend to early learning services and schools having evacuation supplies for staff and children and students in an emergency? E.g. water etc.

A. The priority in local source earthquake and tsunami evacuation is to get to higher ground or inland as quickly as possible. Emergency medication and other supplies should be taken if possible. This decision should be made depending on the situation. For a local source tsunami time is critical and the evacuation should occur immediately. Though it is recommended that teachers and staff have ready access to critical supplies wherever possible.

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Release of Care

Q. In the event of an emergency situation at what age are students old enough to be allowed to leave school and make their own way home?

What are the triggers for teachers to determine that students should not be allowed to make their own way home?

A. Age is not the only consideration when determining if a student can be sent home alone by themselves. Maturity and the student's response to the event should be considered to assist with the decision making process. Consider the following relevant factors in the decision making process:

- Are there any obvious dangers that could affect the students' ability to get home?
- Is there any damage to roads, bridges, structures in the area, or is this likely?
- Is there any likelihood of ongoing events that could impact on the student or the environment i.e. aftershocks, continuing rain causing flooding?
- Have the parents or caregiver given permission for the student to make their own way home in an emergency event? Consider the specific event you are facing.
- Is the student 14 years or older and confident and competent in the circumstances?
- Is there any reason to believe the students' parents or caregivers may not be able to get home?
- Does the student usually walk home?
- Does the student live within easy walking distance of the school?
- Does the student have other family, neighbours etc. that can support the student once at home?

If the staff at the school have any concerns about student's safety and wellbeing they should err on the side of caution and keep the student at school, or the safe location until they can be re-united with a pre-approved emergency contact.

Q. Can the school release children or a student to other family members or family friends the teaching staff knows, even if they are not an approved emergency contact?

A. Early learning services and schools should encourage parents and caregivers to provide multiple approved emergency caregivers as children should only be released into the care of an approved person.

Q. Can a parent/caregiver sign a form at the beginning of the year to say their child or student can be released to a non-approved adult the child or student knows, as long as the early learning services and school keeps a record of who they went with, what time they went, and where they are going?

A. Children and students must only be released into the care of an approved person. Early learning services and schools should encourage parents and caregivers to provide multiple approved emergency caregivers.

A parent/caregiver should sign a form at the beginning of the year identifying the names of those people who are allowed to pick up the child or student from the early learning service or school. This should be updated whenever the situation of the family changes or when the list needs changes.

Q. Can the parents/caregiver put the teacher as an approved emergency contact so the teacher has more options on what to do?

A. If the parents/caregiver agree, the teacher can be an approved emergency caregiver. This would mean the teacher is an approved person and could take the child/student home.

Q. If children or students evacuate separately from the school does duty of care still stand?

A. If this occurs the school should record that child or student is unaccounted for until they are able to verify the location and safety of that child/student. Children and students should remain in the care of the teacher/staff until they can be released into the care of an approved person, or until an informed decision is made that they are allowed to leave the school grounds unaccompanied.

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Release of Care (cont)

Q. Can parents say their child can evacuate immediately on recognising the natural warning signs of a tsunami?

A. This is not recommended as each situation needs to be assessed before any decision to evacuate is made. Children and students should be guided and assisted in any such decision by the teachers or staff.

Q. Can children be released into the care of a student that regularly collects said child from the early learning service or school?

A. As good practice a school may ask parents to provide names and contact details of multiple people approved to collect their child, and this may include an older sibling. However, consideration should be given to the environment the child and other student may be encountering.

Q. Can a teaching staff sighting a text message from a parent be enough for a child to have permission to leave the school?

A. Any decision to release a child or student to leave the school needs to be based on the situation and should once again be made considering the environment that the child or student may encounter when leaving the school or arriving home.

Q. What are the minimum details that early learning services and schools need to record when releasing children or students to approved emergency contacts?

A. This will depend on the situation, however the minimum details might be; Date, time, who uplifted the child, where they intended to go, and if relevant the status/health of the child or student.

Health & safety

Q. Do early learning services and schools need to meet a teacher to student ratios following an emergency to maintain duty of care?

A. There are no legislated ratios for schools. There are however for early learning services and it is therefore very important the staff/child ratio is maintained. If this is not possible in extreme circumstances, early learning services will have to respond with the staff that are available and in the best interest of the child. Both schools and early learning services need to take all appropriate steps to keep children and students safe.