

NEW SOUTH WALES
DEPARTMENT
OF EDUCATION
AND TRAINING



REPORTING SCHOOL ACCIDENTS

SUPPORT DOCUMENT

1. Introduction

This support document outlines the purpose of school accident reports and the responsibilities of principals and school staff in relation to their completion, storage and use. It also deals with the provision of information concerning accidents to parents, students and others.

2. Why are accident reports prepared?

School accident reports are prepared solely for the purpose of assisting the Department's legal advisors to assess and, if appropriate, defend claims made against it as a result of persons being injured on school sites or during the course of school activities. Legal professional privilege is likely to attach to school accident reports.

It is well established that persons injured on school sites or during the course of school activities may wish to claim compensation from the Department. These claims may involve litigation. Sometimes there is a considerable period of time between the date of the accident and the date of a claim being made. The Department's ability to properly consider and/or defend claims depends to a significant degree on the information contained in school accident reports.

3. What part does the Freedom of Information Act and the Privacy and Personal Information Protection Act play in respect of school accident reports?

The Freedom of Information (FOI) Act allows people to gain access to documentation held by public agencies, including the Department. The FOI Act also provides that in certain defined circumstances, access to documentation can be denied. One of the defined circumstances is when legal professional privilege applies to the documents. As a result, access to school accident reports may be denied on the basis of legal professional privilege. Applicants will however be granted access to their own statements.

The Privacy and Personal Information Protection (PIPP) Act governs the way public agencies, including the Department, collect, use, disclose, store and maintain personal information. The Department's Privacy Code of Practice allows the Department to depart from various requirements of the PIPP Act. Specific provisions allow the Department to use and disclose personal information for the purposes of any legal proceedings commenced against it.

In order to ensure compliance with other provisions of the PIPP Act dealing with the collection of information, it is necessary to ensure that students and/or parents are aware that in relation to school accidents:

- witness statements may be obtained from students, and

- that those statements are collected so that the Department can properly assess and or defend any claims made against it as a result of school accidents, and
- that copies of the statements may be provided to the Department's legal advisers or other relevant officers for that purpose, and
- students can obtain a copy of any statement made by themselves.

Pro-forma witness statement documents are included as part of this support document. A Privacy Notice is included on those documents which meets the Department's obligations under the PIPP Act.

4. When should a school accident report be completed?

A report should be prepared for any accident that occurs on school premises or during school activities that is not minor. "School activities" includes excursions and events conducted by Area and State School Sports Associations. A commonsense approach should be taken to determining whether or not an accident is minor.

As a guide, an accident is not trivial and a report *should* generally be prepared when:

- a serious incident report is prepared about an incident which resulted in death, injury or hospitalisation;
- there is an injury to the head or where a person loses consciousness;
- a person sustains an injury to the eyes or where teeth are broken or dislodged;
- a person sustains broken bones or lacerations requiring sutures;
- it is necessary to transport an injured person to hospital;
- medical attention is provided on site by an ambulance officer or health care professional or such treatment is reported by the student, visitor or parent at a later date;
- a student has to leave school early as a consequence of an accident;
- a parent, care-giver or relative is summoned to the school as a consequence of an accident;
- parents or caregivers are advised to take a student to a doctor for precautionary reasons;

- a student is injured outside of school hours but where staff may still be on duty and exercising a duty of care (eg while on excursions);
- an accident occurs during the use of a school facility by a community group; or
- when a principal or his or her delegate considers it appropriate to do so bearing in mind the apparent potential for legal proceedings to result.

The accident report should be prepared as close as possible to the time of the accident - preferably on the same day.

5. Who should prepare the documentation?

The report should be prepared by the principal or workplace supervisor or delegate. It is preferable, wherever possible that the collation of accident reports be undertaken by a senior member of staff who has not been directly involved in the incident.

Students participate in a variety of sporting and other activities endorsed by the Department which are not arranged or supervised by a particular school. In these situations, the senior Departmental officer appointed to manage or coordinate the activity should prepare the accident report and forward it to the school principal of the student concerned.

A template for preparing accident reports is attached.

In relation to accidents arising out of community use of school facilities, all relevant information should be prepared and collated by the community user in accordance with the [Community Use of School Facilities Policy](#). (Intranet access only)

6. What information should be provided in the accident report?

When completing the accident report, details identifying the person who was injured should be provided together with the date and location of the accident, a description of the injuries sustained and a brief factual account of how the accident occurred. Forms for witness statements are attached.

Witness statements should be obtained from any person, including a student, who has direct knowledge of the incident. Where there are large numbers of witnesses to an event witness statements may be obtained from a representative sample of witnesses with the names and contact details of remaining witnesses recorded.

When witness statements are being obtained please note:

- the form should be completed in pen not pencil;

- the witness should write about the incident in his or her own words and sign and date the form when finished. In no circumstances is the witness to consult with another witness before preparing his or her witness statement;
- if the witness is too young or otherwise unable to write about what he or she has seen, an adult who has not been involved in the accident can assist. In such circumstances the adult should read back to the student what has been written and seek confirmation that that is what they saw. The fact that this step has been taken should be noted on the form by the adult. Any statement from the adult should also confirm that this step has been taken;
- if the witness is from a non-English speaking background the witness should be given the option of writing his or her account in the witness' preferred language. This account is to be kept together with the subsequent translation of the witness statement into English;
- if completed by a student then the age of the student should be written on the form;
- if possible ask the witness to draw a sketch of the location where the accident occurred to accompany his or her statement. The location of the witness and the student or visitor who had the accident should be noted on the sketch;
- if a staff member is completing the form the staff member should write his or her staff serial number on the form. This is so the staff member can be more easily located if legal proceedings are initiated several years after the accident; and
- the attention of the person completing the form should be drawn to the privacy notice that appears on each form.

7. Should any other documentation be collected at the time of the accident?

In circumstances where an accident report is completed copies of the following documentation, where relevant, should be kept with the accident report:

- class rolls or excursion or sports roll of the relevant students;
- staff list and rosters (for example a playground duty roster where an accident occurs on a school playground);
- first aid register or its equivalent;

- supervision rosters;
- community use agreements;
- photographs of accident scene (if available);
- details of any previous accidents of a similar nature;
- correspondence in relation to the accident; and
- school welfare and/or discipline policies (where appropriate). In cases of accidents arising from conflict between students, a copy of welfare reports, discipline notices and/or the punishment register or any equivalent documents maintained by the school, as well as the student records of the students involved should be retained.

If as a result of an accident at school or during school activities, the school counsellor subsequently offers counselling to any student, a note that such support has been provided should be included with the relevant accident documentation.

While it is acknowledged that collecting this information may be time-consuming at the time of the accident, it is less onerous than collecting it 10 or 15 years after the accident.

8. How long should reports and other documentation be retained?

Accident reports should be retained for 7 years or until the injured person attains the age of 25 years, whichever is the longer.

9. What information can be given to parents and caregivers?

Principals must ensure that parents and caregivers are notified of any accident involving a student. The notification should be made as soon as possible after the accident occurs. Notification to parents or caregivers, either by telephone or in writing, should include the following information:

- confirmation that the student was involved in an accident together with a description of the nature of the accident;
- details of any injuries sustained by the student;
- details of any action taken following the accident e.g. first aid, calling of a doctor or ambulance.

If the notification is in writing, a copy of the letter must be kept with the accident report. If the notification is verbal, a file note of the basic details

including the date, who was notified and the key points of the discussion must be made.

Under no circumstances should liability for the accident be admitted nor any opinions as to legal responsibility for the accident be expressed.

10. Can an apology be offered in respect of any accident which occurs?

Legally, an apology does not constitute an admission of liability and cannot be used in any legal proceedings as a means of establishing liability. Often, an apology will be of significant value in maintaining an appropriately caring educational environment and for comforting aggrieved persons.

The wording of an apology will be dependent on the individual circumstances of the particular accident. As a guide, any apology offered should include the following elements:

- an outline of the accident for which the apology is being given;
- an acknowledgement that the person has suffered some form of injury;
- an expression of sorrow, sympathy or regret for the accident and any injuries suffered.

11. Can parents or students be provided with copies of school accident reports?

A copy of a witness statement may be provided to the person who made the statement if requested. Parents and care-givers may also be provided with a copy of any statement made by *their* child.

A lawyer who is representing a student or visitor is entitled to the same level of access as the person he or she is acting for. For example a solicitor acting for a student may be given a copy of a witness statement made by *that* student.

A request by any person, except the Department's own legal representatives or relevant departmental officers, for a copy of another person's witness statement or for the accident report must be refused. This denial of access arises because of the legal professional privilege that is likely to attach to the school accident report

The school accident report will include any material prepared and collated in accordance with section 6 of this document.

Any person seeking a copy of a school accident report must be advised that they will need to make an application to the Department under the *Freedom of Information Act*. Applications can be sent to the Manager, Freedom of Information Unit, Level 7, 35 Bridge Street Sydney 2001. A fee of \$30.00 applies.

12. What happens if the school accident report is subpoenaed?

A subpoena is a formal court order requiring the attendance of a person at court to give evidence, to produce documents or to do both. If served with a subpoena, the person to whom the subpoena is directed must comply with it unless otherwise excused by the party issuing the subpoena.

When a person is served with a subpoena to produce documents, a sum of money (conduct money) should also be tendered by the party issuing the subpoena to cover the costs of assembling the documents required and sending them to the court. If insufficient money has been provided to cover these costs, the subpoena should still be complied with.

If a school receives a subpoena relating to an accident at school and a claim for compensation has been made in respect of the accident, the following action should be taken:

- confirm that conduct money has been provided with the subpoena;
- locate and photocopy all relevant material in answer to the subpoena; and
- once all material is located and photocopied it should be sent to the solicitors who are handling the litigation on the Department's behalf together with a copy of the subpoena. Details of the solicitor who is managing the claim on behalf of the Department will have been provided to the school previously.

In circumstances where the school has not been notified of the contact details of the solicitor handling a personal injury claim for the Department, contact should be made with the Legal Services Directorate for advice.

Accident reports are likely to be subject to legal professional privilege.

Principals or any other person preparing documentation in answer to a subpoena should draw the attention of the solicitor who is representing the Department in any legal proceedings to any accident reports which constitute relevant material in answer to the subpoena.

Principals may also refer to [Legal Issues Bulletin No. 25](#) (Intranet access only) for more comprehensive information concerning subpoenas.

13. Do schools need to develop their own formal procedures in relation to the preparation of school accident reports?

There is no requirement for schools to develop their own formal procedures. If individual schools believe it is useful to so, principals will need to ensure the procedures:

- are consistent with the policy and this support document;
- include a statement indicating why the reports are prepared (refer to section of this support document) and that legal professional privilege may apply to them;
- incorporate in any pro-forma witness statements developed to meet the individual needs of the school a privacy notice similar to that contained in the pro-forma witness statements attached to this support document .

14. Appendices

Relevant school accident report forms and witness statement documents are attached for the information and assistance of staff.

15. Further information and contact

The contact officer for this support document is the Director Legal Services who can be contacted on 9561 8538.

ACCIDENT TO SCHOOL STUDENT/VISITOR

Name of school

Region

PERSONAL DETAILS OF STUDENT/VISITOR

Full Name:

Age: Date of Birth:

Name(s) of Parent(s)/Carer(s):

Address: Postcode:

Contact telephone number:

ACCIDENT DETAILS

Date of injury: Day of Week:

Time: am/pm

Location of accident:

Describe the injuries sustained by the student/visitor:

State exactly what happened

Was first aid given by school? Y/N Was further medical attention given Y/N

Name of doctor/hospital:

On whose authority teacher's/parent's?

Subsequent treatment of student (if known)

Name of person completing this report

Serial number (if appropriate)

Privacy Notice The information provided on this form is being obtained for the purpose of ascertaining the details of the accident. It will be used by the Department of Education and Training for the purpose of obtaining legal advice as to any liability it may have arising out of the accident, and for use in the course of any litigation that may eventuate. This information will be stored securely. You may correct any personal information provided at this time by contacting the school.

CERTIFICATION



Parent(s)/Carer(s) of injured student/Suitable contact for Visitor have been notified if practicable	Yes/No
The student has been kept under observation for a reasonable period	Yes/No
First aid provided	Yes/No
Medical attention has been obtained	Yes/No
Name (in print): Signed: Date: Principal/Delegate	

For use of the Department's legal advisers in anticipation of legal proceedings

WITNESS TO SCHOOL STUDENT/VISITOR ACCIDENT – STAFF MEMBER



Name of school

Region

WITNESS DETAILS

Full Name: Serial No:

Contact telephone number

Address:

..... Postcode:

1. When did the accident occur?

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2. Where did the accident occur?

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3. What activity was the student or visitor engaged in? (e.g., Playing basketball, running to class)

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4. How did the injury/injuries occur? (Be sure to mention any article, or aspect of the environment which was involved, e.g. struck by baseball, slipped on wet path)

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5. What were the injuries/suspected injuries?

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6. What treatment for the injury/injuries (if any) was provided at the place where the accident occurred?

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7. Who was the student or visitor first referred to?

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8. Who was present when the incident occurred?

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9. Name and serial number of staff member(s) responsible for supervising the student/school area at the time of the accident

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10. If you witnessed the accident please sketch the accident scene (marking your location, the location of the student or visitor injured, any buildings or other students present, any other landmarks) in the box below

Signature:

Date:

Privacy Notice

The information provided on this form is being obtained for the purpose of ascertaining the details of the accident. It will be used by the Department of Education for the purpose of obtaining legal advice as to any liability it may have arising out of the accident, and for use in the course of any litigation that may eventuate. This information will be stored securely. You may correct any personal information provided at this time by contacting the school.

This may be a sketch of the classroom, playground or other location where the accident occurred. Your location should be marked with an X and the location of the person who had the accident should be marked with a Y



Signature:

Date:

Privacy Notice

The information provided on this form is being obtained for the purpose of ascertaining the details of the accident. It will be used by the Department of Education and Training for the purpose of obtaining legal advice as to any liability it may have arising out of the accident, and for use in the course of any litigation that may eventuate. This information will be stored securely. You may correct any personal information provided at this time by contacting the school.

Signature:

Date:

Privacy Notice

The information provided on this form is being obtained for the purpose of ascertaining the details of the accident. It will be used by the Department of Education and Training for the purpose of obtaining legal advice as to any liability it may have arising out of the accident, and for use in the course of any litigation that may eventuate. This information will be stored securely. Information about the accident may also be obtained from other witnesses. You may correct any personal information provided at this time by contacting the school.

CHECKLIST¹



Please check off the box when completed

1. Were parents/carers/suitable contact for visitor notified of the accident?
2. Has an accident report been completed?
3. Was a serious incident report completed and attached (if appropriate)?
4. Has a report been obtained from any student witnesses?
5. Has a report been obtained from any adult witnesses?
6. Have contact details been obtained from all witnesses?
7. Have the following documents been photocopied and retained on file if relevant to the accident?

Please check off the box to the right to ensure all steps have been taken

- Class Roll
- Staff List
- Supervision Roster
- Correspondence in Relation to Accident
- Student Welfare Policy
- School Discipline Policy
- Community Use Agreement
- Permission Slip for Excursion/Sport

I certify that the appropriate steps have been taken to follow the Department's Accident Policy support document.

.....
Signed

.....
Position

.....
Date

For use of the Department's legal advisers in anticipation of legal proceedings

¹ **A copy of this check list is to be retained with the relevant accident report documentation.**