



Compensation if your child is injured at school

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If your child has had an accident at school that resulted in an injury, you may be able to pursue compensation against the school or any other party who was involved. There may be an entitlement to bring a common law claim in negligence against the school or any other relevant party for the injury(s) your child suffered.

Three key elements for a common law claim due to negligence

There are three key elements to this type of claim:

1. That the school owed the student a duty of care;
2. That the school breached their duty of care; and
3. That the student suffered a 'significant injury'.

What the law says about duty of care to students in public and private schools

Teachers and schools have a duty to take reasonable care for the safety of students who are under their supervision and control. The duty of care extends only to the protection of students from "foreseeable risks".

This means that if your child was injured as a result of a danger that a reasonable person should have anticipated, they will be able to bring a claim. For example, if a known electrical fault was not fixed and a student injures themselves or if equipment is not fixed, resulting in injury, then a claim can be brought.

If, however, the risk was not foreseeable, then a claim will not be successful. An example of this would be if a child tripped over their own feet and broke their arm. Any claim under these circumstances would be unsuccessful as the risk was not foreseeable.

Generally speaking, the duty of care applies to a child who is on school premises during school hours.

There have, however, been some cases in Australia where students have been awarded compensation when their injuries have occurred:

- out of school hours but on school property; or
- not on school property but with a proximate connection to the school, for example, at a bus stop close to the school.

While these sorts of claims can be more difficult to navigate, it is definitely worthwhile seeking advice from a Public Liability Lawyer who has expertise in this area and can advise you on the viability of any potential claim.

What if my child is injured on a school excursion?

If your child is injured on a school excursion, they may be able to bring a claim either against the school or the person responsible for the injury site. In these circumstances, we always need to examine who held the duty of care.

For example, if your child was injured when participating in a high ropes course that was being run by an external provider, the external provider would potentially be the responsible entity.

If, however, your child was injured as a result of unruly behaviour by other students, and the school knew about this behaviour and failed to stop it, then the school would be the responsible entity.

Determining who the responsible entity is can sometimes be difficult. It is important to seek legal advice early on to ensure your child's rights and entitlements are protected.

School accidents involving physical injury

Common accidents resulting in physical injury at school include:

- slips and falls;
- injuries sustained on faulty or unsafe play equipment;
- injuries sustained due to something another student has done, for example, throwing an object that hits another child; or
- injuries whilst playing sports.

While children coming home with a graze or bruise from playtime is not uncommon, to bring a claim in negligence (common law claim) against a school, the student must have suffered 'a significant injury'. We explain the term 'significant injury' in [more detail here](#).

Examples of some of the types of “significant injuries” that might arise in a personal injury common law claim against a school are:

- spinal injuries;
- broken bones;
- head and brain injuries;
- significant cuts; and

This is not an exhaustive list. If you are not sure whether your child has suffered a “significant injury”, you should seek legal advice.

[Contact us for free advice: 1300 700 761](#)

To be successful in this sort of claim, you must be able to establish that the school or teacher could have taken reasonable precautions to avoid the risk of harm to the student. This could be things such as maintenance of play equipment or adequate teacher supervision.

School injuries as a result of bullying

If your child has been the victim of bullying at school, there may be options available to pursue compensation from the school and any other relevant parties for the injuries your child has suffered as a result.

Similar to a physical injury claim, the student must have sustained a “significant injury”. For most bullying claims, the injury is a psychological injury.

A number of factors are considered in this type of claim, including whether the school was aware of the bullying and what steps the school had taken to ensure the child was protected against bullying and harm.

Sexual abuse in a school setting

If you or your child were sexually abused in a school setting in Victoria, this may also give rise to a claim in negligence against the school and any other relevant parties. It does not matter if the school was public or private. There is also no time limit on pursuing a compensation claim due to sexual abuse in a Victorian school.

We discuss this sort of claim in detail in our other blog, [“Abuse compensation claims against schools”](#).

Some practical steps to take if your child has been injured or bullied at school

If the matter has not already been reported to the school, you should notify them straight away. In some circumstances, it may be appropriate that the matter is also reported to the police.

It is a good idea to write down a comprehensive account of what happened as soon after the incident as possible. It is also wise to write down any witness names as this may assist in the future. Taking photographs of the injuries your child has sustained can also assist.

Make sure your child is getting the medical treatment they need for their injuries. Having contemporaneous medical evidence which documents your child's injuries is very important for any compensation claim against the school.

Don't delay getting legal advice. Strict time limits apply for most claims. The earlier you engage an experienced [public liability lawyer](#), the better.

How a public liability lawyer can help your claim?

Because school accidents and injuries can be so varied, it is crucial to seek legal advice as soon as possible to know where you stand.

At Guardian Injury Law, we will advise you about the circumstances of the injury and help you make a decision that is in your child's best interest.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.