NSW Department of Education

Legal Services liability form

The principal or workplace manager uses this form to provide information to the Legal Services directorate when there is an incident or injury that may result in a legal claim against the department.

Documenting an incident for Legal Services

The Legal Services liability form must be completed where an incident or injury occurs that may result in a legal claim against the department. The sole purpose of this form is to provide information to the department's legal advisors for them to advise on and/or defend claims made as a result of any injury, or incident on a school site or during the course of school activities.

The information provided in the form is intended to be privileged, and therefore must be kept **strictly confidential** and not sent or provided to any person other than the department's Legal Services directorate.

When should this form be used?

The form should be used when an incident involves:

- non-minor injury, loss or damage,
- on school sites or during authorised school activities off site,
- to students, visitors, volunteers, third-party property owners, contractors or other non employees.

A common-sense approach should be taken and, if in doubt, it is recommended the Legal Services liability form be completed.

The form should be completed as soon as possible after the incident, once the site is safe, necessary treatment is provided and after the Incident notification and response procedure is followed. This is preferably on the day of the incident.

Do not complete the form if the only impacted person is a department employee, but rather follow the Incident notification and response procedure.

Minor student injuries that arise from normal play incidents, such as cuts and bruises, do not need a liability form.

As a guide, an accident is non-minor when:

- 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 must leave school early due to an incident or injury.
- a parent, caregiver or relative is summoned to the school due to an incident or injury.
- 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, for example while on excursions.
- an incident or injury occurs during the use of a school facility by a community group.
- when a principal or his or her delegate considers the potential for legal proceedings is apparent.

Who completes the form?

Where possible, the principal or workplace supervisor should complete the form, with the assistance of any witnesses or staff members present during the incident.

- The relevant staff member supervising or most senior person present at the time should complete the Staff Report set out at Appendix A to the form.
- Witnesses complete Appendix B to the form.

What information should be included?

1. **Legal Services liability form**. One form for each impacted person.
2. **Appendix A – Staff Report**. One report for the incident, regardless of how many people are impacted.
3. **Appendix B – Witness statements**. One statement of each witness. Witnesses should provide the account in their own words.

   For information that may assist with collecting witness statements see https://education.nsw.gov.au/epac/bulletins/obtaining-witness-statements

   A witness may be provided a copy of their own statement. Parents/carers may be provided with a copy of any statement made by their own child only.
4. **Other supporting documentation** such as
   - photographs of the incident or site
   - attendance rolls
   - staff and supervision roster if applicable, such as a playground duty roster
   - first aid register
   - community use agreement
   - relevant policies and school procedure documents
   - supporting drawings such as a map or diagram of how the incident occurred
   - correspondence about the accident

Where is the form sent?

The form and all attachments must be sent promptly to the Legal Services directorate at LiabilityForm@det.nsw.edu.au.

The email must be titled:

LiabilityForm – [School name] – [Incident date] – [Name of person impacted].

If there are multiple people impacted, please include each name in the body of the email.

Record-keeping requirements

The Legal Services directorate will keep the form in accordance with any legal and record keeping requirements.

All requests and subpoenas for the form should be directed to Legal Services at GIPA@det.nsw.edu.au or to Manager, Right to Access, Department of Education, GPO Box 33 Sydney NSW 2001.

Further information about the right to access government information is available here: https://education.nsw.gov.au/rights-and-accountability/information-access.

Supporting resources

- LIB39: Accident reports - preparation and use in school

Need help? Make a request for legal advice at https://education.nsw.gov.au/inside-the-department/legal-services/request-legal-advice.

Legal Services liability form

One form to be completed by the principal (or delegate) for each impacted person

Name of school:

Person impacted by incident

☐ Student SRN:

Other: ☐ Contractor ☐ Community member ☐ Visitor ☐ Volunteer

Contact details

Name:	**Date of birth:**
Name/s of parent/carer (if child):	
Address:	**Phone:**
Email:	

Details of Incident or injury

Date:	**Time:**	**Day of week:**
Location of incident:		
Nature of injury / damage sustained:		

Was first aid provided by school?

☐ Yes ☐ No

Was further medical attention provided?

☐ Yes ☐ No

Details of doctor/hospital/medical professional:

If known, describe any subsequent medical treatment or impact:

Was authority given by a parent or teacher for further medical attention?

☐ Yes ☐ No

Details of authority provided:

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Attachments

☐ Appendix A – Staff Report

☐ Appendix B – Witness statement/s How many:

Other documentation

☐ attendance rolls

☐ staff and supervision roster, such as a playground duty roster

☐ first aid register

☐ permission slips

☐ policies and school procedure documents

☐ correspondence about the accident

☐ photographs of the incident or site

☐ other (please list):

Declaration/s and signature

I confirm that:

☐ parent/s or carer/s of the impacted student have been notified (if relevant).

☐ a contact person for the impacted visitor/third party has been notified (if relevant).

☐ the student has been kept under observation for a reasonable period.

☐ first aid has been provided.

☐ a medical professional has treated the impacted person.

I acknowledge and agree the information I have provided in this form and any attachment or appendices is true and correct to the best of my knowledge. I understand the sole purpose of this document is for the NSW Department of Education to obtain legal advice, including in contemplation of litigation or potential litigation.

Name: Click or tap here to enter text.

Signature:

Position: Click or tap here to enter text.

Date: Click or tap to enter a date.

Privacy: 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 NSW 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 by contacting Legal Services.

Return completed form and attachments by email to Legal Services at LiabilityForm@det.nsw.edu.au.

Appendix A - Staff report

To be completed by the staff member supervising or the most senior person present at the time

Name of school:	

Staff Details

Name:	**Date of birth:**
Position:	
Email:	**Employee number:**
Address:	**Phone:**

Staff Report of incident or injury

Date:	**Time:**	**Day of week:**
Location:		
Name of impacted person:		
What was the activity? for example, 'playing soccer' or 'running to class'		
Describe the injuries or suspected injuries:		
Describe how the injury/injuries occur? Ensure you note any article, or aspect of the environment which was involved, for example struck by baseball, or slipped on wet path.		

Describe what you saw or heard:

What treatment for the injury/injuries (if any) was provided at the time?

Who was the impacted person first referred to?

Who was present at the time of the injury?

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Name and employee number of staff members responsible for supervising the student/school area at the time of the accident

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

I acknowledge and agree the information I have provided in this form and any attachment or appendices is true and correct to the best of my knowledge. I understand the sole purpose of this document is for the NSW Department of Education to obtain legal advice, including in contemplation of litigation or potential litigation.

Name: Click or tap here to enter text.

Position: Click or tap here to enter text.

Signature:

Date: Click or tap to enter a date.

Privacy: 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 NSW 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.

Appendix B - Witness statement

Name of school:

Witness details

Name:	Date of birth:
Address:	Phone:
Email:	

☐ Student ☐ Contractor ☐ Community member ☐ Visitor ☐ Volunteer

☐ Staff Employee number:

Witness Statement

When did the incident occur:

Where did the incident occur:

Describe what you saw or heard:

You may like to include a picture or diagram in the box below, if it assists in explaining your statement:

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I acknowledge and agree the information I have provided in this form and any attachment or appendices is true and correct to the best of my knowledge. I understand the sole purpose of this document is for the NSW Department of Education to obtain legal advice, including in contemplation of litigation or potential litigation.

Name: Click or tap here to enter text.

Position: Click or tap here to enter text.

Signature:

Date: Click or tap to enter a date.

Privacy: 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 NSW 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 following litigation. This information will be stored securely. You may correct any personal information provided by contacting Legal Services.

Staff member to complete for student statement

Student SRN:	
Name/s of parent or carer:	
Parental consent for statement:	☐ Yes ☐ No
If no, reasons why not:	

Staff Name: Click or tap here to enter text.

Position: Click or tap here to enter text.

Date: Click or tap to enter a date.