

# Murrayville Community College Duty of Care Policy

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## PURPOSE

The purpose of this policy is to explain to our school community the non-delegable duty of care obligations that all staff at Murrayville Community College owe to our students and members of the school community who visit and use the school premises.

## SCOPE

Whenever a student–teacher relationship exists, the teacher has a special duty of care. This is defined as: “A teacher is to take such measures as are reasonable in the circumstances to protect a student under the teacher’s charge from risks of injury that the teacher should reasonably have foreseen.” (*Richards v State of Victoria* (1969) VR 136 at p. 141) As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also protection from those that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken.

**School authorities in breach of the duty of care may be liable for injuries inflicted by one student on another, as well as for injuries sustained by a student.**

Schools normally satisfy the duty of care by allocating responsibilities to different staff. For example, the principal is responsible for making and administering such arrangements for supervision as are necessary according to the circumstances in each school, and teachers are responsible for carrying out their assigned supervisory duties in such a way that students are, as far as can be reasonably expected, protected from injury. This duty extends to intervention in single-sex areas if need be by a teacher of the other gender.

## POLICY

“Duty of care” is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. The reasonable steps that our school may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk.

Our school has developed policies and procedures to manage common risks in the school environment, including:

- Yard duty and Supervision
- Bullying Prevention
- Camps and Excursions
- First Aid
- Tree & grounds Maintenance
- Child Safe Standards
- Emergency Management
- Volunteers
- Visitors
- Working with Children and Suitability Checks
- Mandatory Reporting
- Occupational Health and Safety

# Murrayville Community College Duty of Care Policy

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Teachers at our school understand that school activities involve different levels of risk and that particular care may need to be taken to support younger students or students with additional needs. Our school also understands that it is responsible for ensuring that the school premises are kept in good repair and will take reasonable steps to reduce the risk of members of our community suffering injury or damage because of the state of the premises.

Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following common examples may be times when a teacher has failed to meet their legal duty of care responsibilities to their students:

- arriving late to class or leaving a class early
- arriving late to scheduled timetabled yard duty responsibilities
- failing to act appropriately to protect a student who claims to be bullied
- believing that a child is being abused but failing to report the matter appropriately
- leaving students unattended in the classroom
- failing to instruct a student who is not wearing a hat to play in the shade
- ignoring dangerous play
- leaving the school during time release without approval
- inadequate supervision on a school excursion

Teachers are also cautioned against giving advice on matters that they are not professionally competent to give (negligent advice). Advice is to be limited to areas within a teacher's own professional competence and given in situations arising from a role (such as careers teacher, year level coordinator or subject teacher) specified for them by the principal.

Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

The following instructions and notices [apply to all staff](#).

## Classroom Supervision

- Teachers must **not** leave the classroom unattended at any time during a lesson.
- It is **not** appropriate to leave students in the care of ancillary staff, parents or trainee teachers (At law, the Duty of care cannot be delegated).
- It is **not** appropriate to leave students in the care of external education providers for example incursions (At law, the duty of care cannot be delegated).
- In **an emergency situation** use the phone for the Principal or Leading Teacher or contact the teacher in the next room (if appropriate – send another student for assistance).
- **No student should be left unsupervised outside the classroom** as a withdrawal consequence for misbehaviour. Withdrawal is to be conducted by sending a student to a colleague's classroom, or to the Leading Teacher or Principal. This should be accompanied by documentation and appropriate follow up. The teacher, Principal or Leading Teacher **is to be contacted first** to alert them that the student is on their way.

## Movement of Students

- Care needs to be taken in allowing students to leave the room to visit the toilet or work in other areas of the school.

# Murrayville Community College Duty of Care Policy

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## Yard supervision

- Yard supervision is an essential element in teachers' duty of care. It is now clearly established that in supervising students, teacher's duty of care is one of positive action.
- Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Be aware that yard duty supervision within the school requires the teacher to fully comply with DET guidelines and brings with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and duty of care responsibilities. Teachers are also expected to follow College policy whilst on yard duty.
- Teachers rostered for duty are to attend the designated area at the time indicated on the roster.
- Teachers on duty are to remain in the designated area until the end of the break period or until replaced by the relieving teacher, whichever is applicable.
- The handing over of duty from one teacher to another must be quite definite and **must occur in the area of designated duty**. Where a relieving teacher does not arrive for duty, the teacher currently on duty should send a message to the office, **but not leave the area until replaced**.
- No changes to the yard duty roster are to be made without the approval of the Daily organiser, or Principal.
- Be alert and vigilant -intervene **immediately** if potentially dangerous behaviour is observed in the yard - enforce behaviour standards and logical consequences for breaches of safety rules.
- You should always be on the move and highly visible.

## Excursions, Incursions and Camps

- Be aware that students are usually less constrained and more prone to accident and injury than in a more closely supervised classroom.
- Be aware that an incursion with an external provider does not absolve supervision duties of the teacher, including first aid duties. A teacher must be present at all times and remain the person designated with duty of care responsibilities.
- Be aware that camps and excursions outside the school require the teacher to fully comply with DET guidelines and bring with it an increased duty of care. It is a teacher's responsibility to be aware of these guidelines and remain the person designated with duty of care.
- Be aware that excursion and camp activities require the teacher to ensure that the venue and transport adhere to DET guidelines.
- Be aware that school policy is for students to be counted on and off transport and at other times on a regular basis whilst on excursion or camp activities.
- The teacher in charge will have copies of all confidential medical forms and permission notes with contact details. A copy of this material will also be kept at school.
- The teacher in charge or designated teacher of an excursion or camp will carry a mobile phone and a first aid kit.
- If the return time from an excursion or camp is delayed, the teacher in charge will contact the school to inform the Principal of the new arrival time so that parents can be contacted.
- If crossing roads students are to use designated crossing points. Staff are to walk to the middle of the crossing to ensure visibility and orderly crossing. Other staff control the flow of students across the road.

All staff **must** follow the DET guidelines when organising an excursion, incursion or camp. All procedural steps contained in the School camping, excursions and incursions Policy and Procedure outlines must also be followed.

# Murrayville Community College Duty of Care Policy

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## Informing Staff of the legislative liability of Duty of Care

All staff will be informed of their legal requirement via:-

- A copy of this document will be provided to each member of staff at the first staff meeting at the commencement of the school year, and will be placed on the School Website.
- New staff will be informed of their Duty of Care as part of the school's Induction Program
- Duty of Care will be an agenda item at staff meetings and staff will be directed to familiarise themselves with the Student Safety section of the Victorian Government Schools Policy Advisory Guide.
- Staff will complete a risk assessment including duty of care when completing planning for camps, excursions and incursions.

Staff will be directed to the student engagement and wellbeing policy annually.

School staff, parents, carers and students are encouraged to speak to the principal to raise any concerns about risks or hazards at our school, or our duty of care obligations.

## FURTHER INFORMATION AND RESOURCES

- School Policy and Advisory Guide: [Duty of Care](#)

## REVIEW CYCLE

This policy was last updated on 20<sup>th</sup> of May 2019 and is scheduled for review in May 2020.