



## INFORMATION PRIVACY POLICY

Latest DET Update: 29/01/2018

First Developed in This Format: August 2016

Updated: August 2017 & February 2018

### Rationale

- Schools must:
  - adopt the Department's [Schools' Privacy Policy](#) (this can be achieved by creating a link to the policy on the school's website)
  - abide by legislative privacy requirements in relation to how personal and health information is collected, used, disclosed and stored
  - be reasonable and fair in how this information is treated, not only for the benefit of staff and students, but also to protect the school's reputation
  - abide by freedom of information requirements - for details, see: [Freedom of Information](#)

**Note:** The school's privacy policy must be provided to anyone who requests a copy.

- Victorian privacy law applies to all staff, service providers (contractors) and agents, (whether paid or unpaid) of the Department, and covers student records, staff files and information held by the Department and all government schools.
- The Privacy and Data Protection Act 2014 applies to all forms of recorded information or opinion about an individual who can be identified, including photographs and emails. It establishes standards for the collection, handling and disposal of personal information and places special restrictions on 'sensitive information' such as:
  - racial or ethnic origin
  - political views
  - religious beliefs
  - sexual preference
  - membership of groups
  - criminal record.
- *The Health Records Act 2001* establishes standards for the collection, handling and disposal of health information including a person's physical, mental or psychological health disability.
- Health information can also include access to health services and the nature of these services; however this type of information does not have to be recorded to be classified as health information.
- The objectives of privacy laws are to:
  - balance the public interest in the free flow of information while protecting personal and health information
  - empower individuals to manage, as far as practicable, how personal and health information is used and disclosed
  - promote responsible, open and accountable information handling practices
  - regulate personal information handling by applying a set of information privacy principles.
- Personal and health information can be disclosed for a purpose other than for which it was collected and without the person's consent when the disclosure is:
  - necessary to lessen or prevent a threat to life, health or safety
  - required, authorised or permitted by law or for law enforcement purposes
  - used for research or compilation of statistics in the public interest, in certain limited circumstances. Any research in schools must be first approved by the Office for Policy, Research and Innovation.

See: [Conducting Research](#)

### **Privacy and Duty of Care**

Privacy laws recognise and permit schools collecting, using and disclosing information so that they can comply with their duty of care to students. A key element of duty of care is that the processes and procedures used are documented and records kept.

See: [Duty of Care](#)

### **Privacy and Parents/Carers**

To assist decision making about a student's needs, schools inform parents/guardians of the student's academic progress, behaviour, educational options or special educational requirements. Privacy laws do not restrict this use of the information, as this is the purpose for which it is collected.

### **Court Orders**

Unless a court order is made under the Family Law Act, both parents of a student have the same rights to access information about the student. See: [Decision Making Responsibilities for Students](#)

- The privacy laws do not change the individual's right to access their information that is held by a government school. The individual's right to access remains via a request made under the *Freedom of Information Act 1982*.
- Privacy legislation encourages organisations to be open and transparent about what personal and health information they hold about individuals. When it is appropriate schools can provide individuals with informal access to their own personal or health information. However, the person seeking access should make a request under the *Freedom of Information Act 1982* if records hold information:
  - provided by a third party
  - that identifies a third party or
  - that may cause harm to the individual or others.

See: [Freedom of Information](#)

### **Transfers**

Transferring student information between Victorian government schools is allowed when:

- parents/carers are informed of the process
- schools meet the Department's standards in transferring files

### **Complaints**

- When a complaint is made:
  - that a member of staff has breached privacy, then the Principal should attempt to resolve the matter. If required regional complaints staff can provide the Principal with assistance. However schools and regions that receive privacy complaints can also contact the Department's Privacy team on (03) 8688 7967 or [privacy@edumail.vic.gov.au](mailto:privacy@edumail.vic.gov.au) when needed for advice.
  - to the Victorian Health Complaints Commissioner about 'an interference with health privacy' by a school, this will be sent to the Department's Privacy team who will inform the region and school
  - about a school to the Office of the Victorian Information Commissioner; this will most likely be referred to the Department's Secretary
  - and the complainant is not satisfied with the Department's investigation and response, the complaint can then be taken to the Office of the Victorian Information Commissioner. In most circumstances the regional director and school will be informed about the investigation.

### **Purpose**

- To ensure Bouchier Street Primary School maintains privacy of information.
- To ensure the school complies with the legislative requirements of the *Information Privacy Act 2014* and the *Health Records Act 2001* and DET policy and guidelines.

## **Implementation**

- The school will have a privacy policy that is endorsed by the School Council.
- The school will abide by legislative privacy requirements in relation to how personal and health information is collected, used, disclosed and stored and will be reasonable and fair in how this information is treated, not only for the benefit of staff and students, but also to protect the school's reputation.
- The school will:
  - provide a privacy notice with the enrolment form explaining to the parents and student why this information is being collected, what it is used for, where it might be disclosed and how they can access information held about them
  - only use the information collected during enrolment for the purposes that it was collected for.
- The school also will provide a copy of the policy to anyone who requests a copy.
- The school will only use the information collected during enrolment for the purposes for which it was collected. Disclosure for an unrelated purpose requires parental consent or in the case of a secondary student the consent of the parent and student, unless the circumstances fall within one of the above privacy exemptions.
- Depending on the situation, health related information can be kept confidential by the Principal, or shared with:
  - selected staff to the extent they need to know to care for the student, or
  - all staff when they need to know in case of emergencies.

**Note 1:** Counselling services are health services and records are confidential health records. Confidentiality of information disclosed during a counselling session must be maintained unless the student provides consent or the situation falls into a privacy exemption category.

**Note 2:** Career counselling is not a health service.

- The school may consider nominating one member of staff to manage and review the school's information privacy procedures and controls.
- As part of the regular policy review, a privacy audit will be conducted to determine what information the school collects, how information is used and with whom information is shared and how effective are the data security arrangements.
- All staff, including volunteers, will be briefed annually so they are aware and compliant with the school privacy policy.
- The school will establish a complaints process and will treat all privacy complaints in the strictest confidence. Please refer to the school's *Complaints, Parent Policy*.
- For further information, the school will refer to the website below.
- Please refer also to the *Freedom of Information Policy, Admission Policy, Archives & Records Management Policy, Duty of Care Policy, Enrolment Policy, Parental Responsibilities (Decisions about Children) Policy, Conducting Research Policy* and the *Transfers Policy*.

## **Evaluation**

- This policy will be reviewed as part of the school's three-year review cycle or if guidelines change (latest DET update late January 2018).

This update was ratified by School Council on February 2018

Reference:

[www.education.vic.gov.au/school/principals/spag/governance/Pages/privacy.aspx](http://www.education.vic.gov.au/school/principals/spag/governance/Pages/privacy.aspx)