

## PRIVACY POLICY

### **RATIONALE:**

Schools frequently receive requests for information from a variety of sources. The first consideration is always privacy legislation; however there are a number of situations in which information sharing is lawful.

### **AIM:**

To assist schools in keeping student information confidential; as appropriate.

### **IMPLEMENTATION:**

The table below gives general guidance as to how schools should respond to some commonly made requests. In all cases, before providing information about students, principals and teachers must be satisfied:

- of the identity of the person seeking information
- that the person seeking information is entitled to access the information.

Where there is any uncertainty, advice should be sought from the Legal Services Unit.

When information is requested by	Guideline/Action
Authorised Officers - Public Transport	The Transport (Compliance and Miscellaneous) Act 1983 (Vic) permits the disclosure of information to an “authorised officer” for the purpose of enforcing transport infringements. Schools should comply with these requests.
Centrelink	Centrelink Officers have broad powers under the Social Security Administration Act 1999 (Cth) to obtain information to determine whether a person qualifies for income support benefits. This may include information or documentation relating to a child’s enrolment and attendance at school.
Courts or Tribunals	<p>If a Subpoena, Witness Summons or Court Order requires the production of documents or that staff attend court to give evidence or act as a witness, staff should comply.</p> <p>If a Location Order or Recovery Order issued by the Family Court or the Federal Magistrates’ Court is received by a school, staff should contact Legal Services Unit immediately.</p> <p style="text-align: center;"><b>CONTACT LEGAL IMMEDIATELY</b></p>
Department of Health (Victoria)	The Health (Infectious Diseases) Regulations 2009 (Vic) require schools to provide information to the Department of Health in relation to children suffering from infectious diseases.
Department of Health & Human Services (DHHS) Child Protection	An employee of DET may disclose any information to DHHS that is relevant to the protection or development of a child who has been the subject of a protective intervention report.

	<b>CONTACT LEGAL FOR ADVICE WHERE REQUIRED</b>
Employers	<p>Schools are often asked to provide references to employers and should comply if the student provides consent. The principal:</p> <ul style="list-style-type: none"> <li>• may write an official reference when the student leaves school addressed “To whom it may concern” to be handed to the student on departure</li> <li>• may, with the student’s consent, provide a confidential reference.</li> </ul>
Explosives inspectors	Schools may provide information of student whereabouts under the provisions of the Dangerous Goods Act 1958.
Lawyers	<p>Where a request is made:</p> <ul style="list-style-type: none"> <li>• in writing by a lawyer acting on behalf of a student or former student, and a written consent is provided, the information should generally be provided.</li> <li>• for school staff to provide a statement or information by a lawyer acting on behalf of one parent in a family law dispute or child protection case, the school should decline to provide any information (other than information normally provided to parents) unless subpoenaed.</li> </ul> <p><b>CONTACT LEGAL</b></p>
Officers of the Family Court (Independent Children’s Lawyer or Family Consultant)	<p>These Officers are appointed by the Family Court to assist in family law proceedings. Schools should generally assist such officers and comply with the request for information if:</p> <ul style="list-style-type: none"> <li>• authorised by Court Order/Subpoena; or</li> <li>• the parents consent to the provision of the information.</li> </ul>
Parents	<p><u>Request for details of school where a child is enrolled</u></p> <p>Subject to any Family Court Order, parents have equal ‘parental responsibility’ in respect of the child, including an entitlement to know where their child is enrolled. Parents/caregivers who have parental responsibility for “long-term care, welfare and responsibility” have the same entitlement.</p> <p>If the school is satisfied that:</p> <ul style="list-style-type: none"> <li>• either there are no Court Orders in place or there is a court order conferring long-term care, welfare and responsibility for the child on the parent</li> <li>• and there are no immediate welfare concerns</li> <li>• and the school is satisfied of the identity of the parent and his/her relationship to the child</li> </ul> <p>then the school may confirm that a child is enrolled at the school. Personal information such as the child’s address should not be released.</p>

	<p><u>Requests for school reports and ordinary school communications</u></p> <p>Parents, guardians and informal carers are generally entitled to information ordinarily provided to parents unless there is a Court Order restricting their right to access this information.</p> <p><u>Requests for other documents</u></p> <p>Requests from parents for other documents (for example, incident reports, staff diary notes, minutes of meetings etc) should be referred to the Freedom of Information (FOI) &amp; Privacy Unit, who will determine whether the person is entitled to the information.</p>
Private agents/investigators	Schools should <u>not</u> provide private agents with any information except with the written consent of the parent/guardian.
Schools	See: transfer policy
Students/Former Students	<p>If a student or former student requests information and documentation, it may be released if:</p> <ul style="list-style-type: none"> <li>• the document/information was given to the school by the student</li> <li>• the document/information was previously given to the student</li> <li>• the document is publicly available</li> </ul> <p>For other documents, the student should be invited to make a formal FOI request.</p>
Victoria Police	<p>Victoria Police have broad powers to investigate and obtain evidence. Where personal information is requested by police it may be disclosed when:</p> <ul style="list-style-type: none"> <li>• the student or parent/caregiver consents;</li> <li>• the disclosure is necessary to lessen or prevent: <ul style="list-style-type: none"> <li>○ a serious and imminent threat to an individual's life, health, safety or welfare;</li> <li>○ a serious threat to public health, public safety or public welfare</li> </ul> </li> <li>• the disclosure is necessary to assist with the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law;</li> <li>• the disclosure is necessary to assist with the prevention, detection, investigation or remedying of seriously improper conduct.</li> </ul>

**EVALUATION:** This policy will be reviewed as part of the school's three year review cycle.

**REFERENCES:**

DET A-Z Policies

<http://www.education.vic.gov.au/school/principals/spag/safety/pages/requestinfo.aspx>

Transfer Policy

Freedom of Information Act 1982

Compliance and Miscellaneous Act 1983 (Vic)

Social Security Administration Act 1999 (Cth)

Health (Infectious Diseases) Regulations 2009 (Vic)

Dangerous Goods Act 1958