

Privacy POLICY

Schools' Privacy Policy

Background and rationale:

The Department has developed a new Schools' Privacy Policy and related documents for all Victorian government schools. The new Schools' Privacy Policy will be implemented over term one of 2018 and will replace any existing privacy policies used by schools. Further communication will be made with principals in January.

The Department of Education and Training (which includes all Victorian government schools, central and regional offices) values the privacy of every person and is committed to protecting information that schools collect.

All staff, service providers (contractors) and agents, (whether paid or unpaid) of the Department, and this Victorian government school (our school), must comply with Victorian privacy law and this policy.

In Victorian government schools the management of 'personal information' and 'health information' is governed by the Privacy and Data Protection Act 2014 (Vic) and Health Records Act 2001 (Vic) (collectively, Victorian privacy law).

This policy explains how our school collects and manages personal and health information, consistent with Victorian privacy law.

Definitions

Personal information is information or opinion, whether true or not, about a person whose identity is apparent, or can reasonably be ascertained, from the information or opinion – that is recorded in any form. For example, a person's name, address, phone number and date of birth (age). De-identified information about students can also be personal information.

Health information is information or opinion about a person's physical, mental or psychological health or disability, that is also personal information – whether in writing or not. This includes information or opinion about a person's health status and medical history, immunisation status and allergies, as well as counselling records.

Sensitive information is information or opinion about a set of specific characteristics, including a person's racial or ethnic origin, political opinions or affiliations, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices; or criminal record. It also includes health information.

What information do we collect?

Our school collects the following type of information:

- information about students and their family, provided by students, their family and others
- information about job applicants, staff, volunteers and visitors; provided by job applicants, staff members, volunteers, visitors and others.

How do we collect this information?

Our school collects information in a number of ways, including:

- in person and over the phone: from students and their family, staff, volunteers, visitors, job applicants and others
- from electronic and paper documentation: including job applications, emails, invoices, enrolment forms, letters to our school, consent forms (for example: enrolment, excursion, Student Support Services consent forms), our school's website or school-controlled social media
- through online tools: such as apps and other software used by our school
- through any CCTV cameras located at our school.

Collection notices

When our school collects information about you, our school takes reasonable steps to advise you of certain matters. This includes the purpose of the collection, and how to access, update and correct information held about you. For information about students and their families, a collection notice is provided to parents (or mature minor students) upon enrolment.

Unsolicited information about you

Our school may receive information about you that we have taken no active steps to collect. If permitted or required by law, our school may keep records of this information. If not, we will destroy or de-identify the information when practicable, lawful and reasonable to do so.

Why do we collect this information?

Primary purposes of collecting information about students and their families

Our school collects information about students and their families when necessary to:

- educate students
- support students' social and emotional wellbeing, and health
- fulfil legal requirements, including to:
 - take reasonable steps to reduce the risk of reasonably foreseeable harm to students, staff and visitors (duty of care)

- make reasonable adjustments for students with disabilities (anti discrimination law)
- provide a safe and secure workplace (occupational health and safety law)
- enable our school to:
 - communicate with parents about students' schooling matters and celebrate the efforts and achievements of students
 - maintain the good order and management of our school
- enable the Department to:
 - ensure the effective management, resourcing and administration of our school
 - fulfil statutory functions and duties
 - plan, fund, monitor, regulate and evaluate the Department's policies, services and functions
 - comply with reporting requirements
 - investigate incidents in schools and/or respond to any legal claims against the Department, including any of its schools.

Primary purposes of collecting information about others

Our school collects information about staff, volunteers and job applicants:

- to assess applicants' suitability for employment or volunteering
- to administer employment or volunteer placement
- for insurance purposes, including public liability and WorkCover
- to fulfil various legal obligations, including employment and contractual obligations, occupational health and safety law and to investigate incidents
- to respond to legal claims against our school/the Department.

When do we use or disclose information?

Our school uses or discloses information consistent with Victorian privacy law, as follows:

1. for a primary purpose – as defined above
2. for a related secondary purpose that is reasonably to be expected – for example, to enable the school council to fulfil its objectives, functions and powers
3. with notice and/or consent – including consent provided on enrolment and other forms
4. when necessary to lessen or prevent a serious threat to:
 - a person's life, health, safety or welfare
 - the public's health, safety or welfare

5. when required or authorised by law – including as a result of our duty of care, anti-discrimination law, occupational health and safety law, reporting obligations to agencies such as Department of Health and Human Services and complying with tribunal or court orders, subpoenas or Victoria Police warrants
6. to investigate or report unlawful activity, or when reasonably necessary for a specified law enforcement purpose, including the prevention or investigation of a criminal offence or seriously improper conduct, by or on behalf of a law enforcement agency
7. for Departmental research or school statistics purposes
8. to establish or respond to a legal claim.

A unique identifier (a CASES21 code) is assigned to each student to enable the school to carry out its functions effectively.

Student transfers between Victorian government schools

When a student has been accepted at, and is transferring to, another Victorian government school, our school transfers information about the student to that school. This may include copies of the student's school records, including any health information.

This enables the next school to continue to provide for the education of the student, to support the student's social and emotional wellbeing and health, and to fulfil legal requirements.

NAPLAN results

NAPLAN is the national assessment for students in years 3, 5, 7 and 9, in reading, writing, language and numeracy.

When a student transfers to another Victorian government school, their NAPLAN results are able to be transferred to that next school.

Additionally, a student's NAPLAN results are able to be provided to the student's previous Victorian government school to enable that school to evaluate their education program.

Responding to complaints

On occasion our school, and the Department's central and regional offices, receive complaints from parents and others. Our school and/or the Department's central or regional offices will use and disclose information as considered appropriate to respond to these complaints (including responding to complaints made to external organisations or agencies).

Accessing your information

All individuals, or their authorised representative(s), have a right to access, update and correct information that our school holds about them.

Access to student information

Our school only provides school reports and ordinary school communications to parents who have a legal right to that information. Requests for access to other student information must be made by making a Freedom of Information (FOI) application through the Department's Freedom of Information Unit (see below).

In some circumstances, an authorised representative may not be entitled to information about the student. These circumstances include when granting access would not be in the student's best interests or would breach our duty of care to the student, would be contrary to a mature minor student's wishes or would unreasonably impact on the privacy of another person.

Access to staff information

School staff may first seek access to their personnel file by contacting the principal. If direct access is not granted, the staff member may request access through the Department's Freedom of Information Unit.

Storing and securing information

Our school takes reasonable steps to protect information from misuse and loss, and from unauthorised access, modification and disclosure. Our school stores all paper and electronic records securely, consistent with the Department's records management policy and information security standards. All school records are disposed of, or transferred to the Public Records Office Victoria, as required by the relevant Public Records Office Standard.

When using software and contracted service providers to manage information, our school assesses these according to the appropriate departmental processes. One example of this is that staff passwords for school systems are strong and updated on a regular basis, consistent with the Department's password policy.

Updating your information

We endeavour to ensure that information about students, their families and staff is accurate, complete and up to date. To update your information, please contact our school's general office.

Information for Parents—Schools' Privacy Policy

The Schools' Privacy Policy informs the school community that information about students can be shared to fulfil the schools' core functions of educating and supporting our students.

The Schools' Privacy Policy establishes a clarified 'need to know' framework, where school staff share information about students with other staff who need to know as part of their role. This is consistent with Victorian privacy law.

Who this policy applies to

The policy applies to all central, region and school staff including principals, teachers, visiting teachers, social workers, wellbeing staff, youth workers, nurses, Student Support Service officers (SSSOs) and all other allied health practitioners. This means the 'need to know' framework below also applies to all school staff, whether employees, service providers (contractors) and agents (whether paid or unpaid) of the Department.

Need to know

All school staff can, and must, share information about a student with other staff who 'need to know' that information to enable the school to:

1. **educate** the student (including to plan for individual needs or address barriers to learning)
2. **support** the student's social and emotional wellbeing and health
3. fulfil **legal** obligations, including to:
 - take reasonable steps to reduce the risk of reasonably foreseeable harm to the student, other students, staff or visitors (duty of care)
 - make reasonable adjustments for a student's disability (anti discrimination law)
 - provide a safe and secure workplace (occupational health and safety law).

Deciding who 'needs to know'

Subject to the principal's direction, each staff member decides who needs to know specific, relevant information about a student, based on the 'need to know' framework.

Sharing relevant information with other staff who 'need to know' is very different from idle conversation or gossip.

School staff are entrusted with a large amount of important information about students. Staff must treat all such personal and health information sensitively and respectfully, and not share it other than on this 'need to know' basis.

What information and records can be transferred to a student's next Victorian government school?

When a student has been accepted at another Victorian government school, the current school can provide personal and health information about the student to that next school.

This can occur in any, and all, of the following ways:

- verbally: principal to principal (or authorised representatives)
- on paper: by providing copies of the student's records (including any health reports) to that next school

- electronically: including through the CASES21 transfer function; the Student Online Case System (SOCS) and/or via email.

Principals (or authorised representatives) determine what information to provide to that next Victorian government school based on the ‘need to know’ framework:

What information does the next school ‘need to know’ to properly educate or support the student, and fulfil the school’s legal obligations?

‘NEED TO KNOW’ framework

Duty of care

A school’s duty of care to students means that a principal or other member of the leadership team needs to know about any **reasonably foreseeable risk of harm** to **anyone** because of the student’s behaviour, disability, family circumstances or any other relevant circumstances related to the student.

So, for example, if there is a reasonably foreseeable risk to anyone because the student:

- displays violent behaviours
- is a victim or perpetrator of bullying, assault or age-inappropriate sexualised behaviours
- has emotional, wellbeing or self-harm issues

then staff must tell the principal (or other member of the school leadership team).

The principal will then share relevant information with any other staff member that needs to know because they work with, or supervise, the student. Staff must provide the principal with enough relevant information required to adequately fulfil their own duty of care – so that the principal can fulfil their duty of care too.

Importantly, when there is a reasonably foreseeable risk of harm, staff should act on that information and share the information with other staff who ‘need to know’, even if the student or parent asks that information not be shared.

Anti-discrimination law

A school’s obligation to provide **reasonable adjustments** for students with disabilities (regardless of whether they are eligible under the Program for Students with Disabilities) means that relevant information about a student’s disability and their needs must be shared with all staff who work with or supervise that student.

This is required to enable the school to make properly informed decisions about what adjustments are reasonable, and then to implement those adjustments.

This may also be required to meet the duty of care to that student (for example, a student with a medical condition who may require treatment).

This means that relevant information must be shared with staff who work with or supervise that student, to enable them to:

- understand the student's disability and how it affects their learning and social or emotional wellbeing
- implement reasonable adjustments at school, including understanding all recommendations made by the student's treating practitioners.

The relevant school policies are followed by school staff when engaging with parents, such as wellbeing and behavior policies. Go to your school's website for relevant policies.

School staff are available to provide further information about school policies and handling of personal information or contact the DET Privacy Officer at privacy@edumail.vic.gov.au

FOI and privacy

To make a FOI application contact:

Freedom of Information Unit

Department of Education and Training
2 Treasury Place, East Melbourne VIC 3002
(03) 9637 3961
foi@edumail.vic.gov.au

For queries or complaints about privacy, please contact:

Knowledge, Privacy and Records Branch

Department of Education and Training
2 Treasury Place, East Melbourne VIC 3002
(03) 8688 7967
privacy@edumail.vic.gov.au

This policy was last ratified by School Council in....

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Cavendish Primary School is committed to Child Safety – We have a zero tolerance for child abuse.