



Rationale

All staff of Oberon Primary School are required by law to protect the personal and health information the School collects and holds. Thus the purpose of this policy is to provide all staff, School Council Members, volunteers, parents/carers and others associated with Oberon Primary School, with a clear explanation of the regulations and procedures related to information privacy. Adherence to these regulations and procedures is crucial if information privacy is to be maintained.

Scope

This Information Privacy Policy incorporates legislation set out in several different Acts of the Victorian State Government (e.g., the Privacy and Data Protection Act, 2014 and the Health Records Act, 2001). This policy also follows guidelines and regulations set out by the Department of Education and Training (DET) <http://www.education.vic.gov.au/Pages/privacypolicy.aspx>. The privacy laws do not replace any existing obligations Oberon Primary School has under other laws. Essentially, this policy will apply when other laws do not regulate the use of personal information. This policy has been endorsed by the Oberon Primary School Council; as is the requirement of the DET. The school's privacy policy will be provided to anyone who requests a copy.

Policy Statement

All Oberon Primary School staff, members of School Council and volunteers working within the school must:

- 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.

Information privacy principles create rights and obligations about personal and health information; however these only apply when they do not contravene any other Act of Parliament. In most cases there will be no contradiction as the relevant action falls within one of the exceptions within the information privacy principles.

Objectives and principles

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.

Information privacy principles create rights and obligations about personal and health information; however these only apply when they do not contravene any other Act of Parliament. In most cases there will be no contradiction as the relevant action falls within one of the exceptions within the information privacy principles.

Definitions used in this policy

a) **Health Information**

Health information is defined as including information or opinion about a person's physical, mental or psychological health, or disability, which is also classified as personal information. This includes information or opinion about a person's health status and medical history, whether recorded or not.

b) **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.

c) **Parent**

In this policy, the term parent, includes step parent, adoptive parent, foster parent, guardian, or a person who has custody or daily care and control of the child.

d) **Personal Information**

Personal information is defined as information or opinion that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can be reasonably determined from the information or opinion. For example this includes all paper and electronic records, photographs and video recordings.

NOTE: In this policy *personal information* refers to personal information, health information and sensitive information unless otherwise specified.

e) **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 and;
- criminal record.

f) **Sensitive Information**

Sensitive information is defined as information relating to a person's racial or ethnic origin, political opinions, religion, trade union, or other professional, or trade association membership, sexual preferences, or criminal record that is also classified as personal information about an individual.

g) **Staff**

In this policy staff is defined as someone who carries out a duty on behalf of the School, paid or unpaid, or who is contracted to, or directly employed by the School or the Department of Education and Training (DET). Information provided to a School through job is also considered staff information.

POLICY CONTEXT — COLLECTION, USE AND DISCLOSURE OF INFORMATION

Collection: Personal information is collected and used by Oberon Primary School in order to:

- provide services or to carry out the school statutory functions,
- assist the school services and its staff to fulfil its duty-of-care to students,
- plan, resource, monitor and evaluate school services and functions,
- comply with DET reporting requirements,
- comply with statutory and or other legal obligations in respect of staff,
- investigate incidents or defend any legal claims against the school, its services or its staff, and
- comply with laws that impose specific obligations regarding the handling of personal information.

Uses of Information

Use related to students and parents

Oberon Primary School uses personal information about the student and parents in order to:

- keep parents informed about matters related to their child's schooling,
- look after students' educational, social and health needs,
- day-to-day administration,
- allow the school to discharge its duty-of-care (e.g. student transfers).

Use related to job applicants, staff and contractors

Oberon Primary School uses the personal information of job applicants, staff members and contractors:

- when assessing suitability for employment,
- to administer an individual's employment or contract,
- for insurance purposes, such as public liability or WorkCover,
- to satisfy the school's legal requirements, and
- to investigate incidents or defend legal claims about the school, its services or staff.

Disclosure of Personal Information

Oberon Primary School will use and disclose personal information about a student, parent or staff member when:

- it is required for general administration duties and statutory functions,
- it relates to the purposes for which it was collected,
- there is a purpose that is directly related to the reason the information was collected and the use would be reasonably expected by the individual and there is no reason to believe they would object to the disclosure.

Oberon can disclose personal information for another purpose when:

- the person consents, or
- it is necessary to lessen or prevent a serious or imminent threat to life, health or safety or
- is required by law or for law enforcement purposes.

CONSENT

Where consent for the use and disclosure of personal information is required, the school will seek consent from the appropriate person. In the case of a student's personal information, the school will seek the consent from the student and/or parent depending on the circumstances and the student's mental ability and maturity to understand the consequences of the proposed use and disclosure.

Oberon Primary School will generally seek the consent of the student's parents and will treat consent given by the parent as consent given on behalf of the student.

ACCESSING PERSONAL INFORMATION

A parent, student or staff member may seek access to their personal information, provided by them, that is held by the School.

Access to other information may be restricted according to the requirements of laws that cover the management of school records. These include the *Public Records Act* and the *Freedom of Information Act*.

UPDATING PERSONAL INFORMATION

Oberon Primary School aims to keep the personal information it holds accurate, complete and up-to-date. A person may update their personal information by contacting staff in the school office.

SECURITY

School staff and students have use of information communication technologies (ICT) provided by the School. This use is directed by:

- *DET's Acceptable Use policy for Internet, email, and other electronic communications.*
- *DET's IT Security Policy*
- The all Oberon Primary School ICT policies

WEB SITES

Information Collected

The Oberon Primary School web page and web server makes a record of a visit and logs the following information for statistical purposes:

- *the Internet Protocol (IP) address of the machine from connecting to the website*
- *the top level domain name (for example .com, .gov, .au, .uk etc)*

COMPLAINTS UNDER PRIVACY

Should the school receive a complaint about personal information privacy this will be investigated in accordance with *DET's Privacy Complaints Handling Policy*.

SCHOOL COMPLIANCE STRATEGIES

Oberon Primary School implements the following strategies to ensure compliance with Government Acts and DET regulations.

- The business manager, or other staff member nominated by the Principal, is responsible for managing and reviewing the school's information privacy
- Regular privacy audits are conducted to determine what information the school collects, how information is used and with whom information is shared.
- Development of a School Privacy Policy, which is endorsed by the School Council.
- Regular examination of data security arrangements.
- Ensure all staff, including volunteers, are aware and compliant with the school privacy policy
- Establishment of a complaints process in liaison with the regional office
- Treatment of all privacy complaints in the strictest confidence.

PRIVACY EXEMPTIONS

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.

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.

a) *Providing information to parents/guardians*

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.

b) *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.

c) *Enrolment information*

In accordance with DET guidelines Oberon Primary 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. 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.

d) Health Information

In accordance with DET policy 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: 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.

e) Transfers

Transferring student information between Victorian government schools is allowed when:

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

ACCESS

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*.

The *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* encourage 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.

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 the regional privacy coordinator can provide the principal with assistance. However schools and regions that receive privacy complaints should contact the Department's Privacy Officer on (03) 9637-3141 or privacy@edumail.vic.gov.au for advice.
- to the Victorian Health Services Commissioner about 'an interference with health privacy' by a school, this will be sent to the Department's Privacy Officer who will inform the region and school
- about a school to the Commissioner for Privacy and Data Protection and the complainant has already approached the school, this will most likely be referred to the Department's Secretary
- because the complainant is not satisfied with the Department's investigation and response, the complaint can then be taken to the Commissioner for Privacy and Data Protection. In most circumstances the regional director or regional privacy coordinator will be informed about the investigation.

Related OPS Policies

- Admission
- Child Safe
- Duty of Care

Related legislation

This information outlines the legislation that covers student records, staff files and information held by Victorian Government schools and the Department of Education and Training.

- *Health Records Act 2001*
- *Privacy and Data Protection Act 2014*

Evaluation

This policy will be reviewed as part of Oberon Primary Schools three-yearly review process.

This policy was ratified by the School Council on: 25/10/2016

NEXT REVIEW DATE: October 2019