

Ratified: May 2018

Purpose of this policy

To determine when to disclose information about students to persons or entities external to the school and the Department; as appropriate.

Policy

Schools frequently receive requests for information about students from a variety of sources.

Le Page PS must follow this policy when responding to such requests, including the table below which describes commonly requested information. This policy is consistent with Victorian privacy and information sharing law.

Before disclosing any information, the school must be satisfied as to:

- the identity of the person seeking information (full name, position and organisation, if any)
- exactly what information is being sought
- the reason that the person or organisation is entitled to request and receive this information is entitled to access the information.

If there is any uncertainty about a request for information schools should contact the Legal Division by telephone on 9637 3146 or email

legal.services@edumail.vic.gov.au

Information requests

When information is requested by

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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 require a person to release information to help them determine whether a person qualifies for income support benefits. This may include information or documents relating to a student's enrolment and attendance.

Centrelink officers must provide a written notice of this requirement before staff release the relevant information.

Courts or Tribunals

Courts, tribunals and other investigative bodies (for example, IBAC) have the power to compel a person to produce documents and/or give evidence.

If a school or staff member is served with a summons, subpoena, or court order, contact the Legal Division immediately for advice. See: [Responding to Legal Claims, Writs and Subpoenas](#)

When information is requested by

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Department of Health and Human Services (Victoria) (DHHS)

The Health (Infectious Diseases) Regulations 2009 (Vic) require schools to provide information to DHHS in relation to children suffering from infectious diseases.

Department of Health and Human Services (DHHS) Child Protection

All Department employees, including school staff, may report any information to DHHS Child Protection that will assist them to support the safety, health, development or wellbeing of a child in need of protection.

In certain circumstances, DHHS Child Protection can compel "information holders" to provide information by service of a notice under section 196 of the *Children, Youth and Families Act 2005*. Principals and registered teachers are "information holders" for the purposes of this Act. Failure to disclose information in these circumstances is an offence.

In other circumstances, there may be a legal obligation on school staff to report to DHHS Child Protection, if they are mandatory reporters under the *Children, Youth and Families Act 2005 (Vic)*.

See:

- [Child Protection – Mandatory Reporting](#)
- [Police and DHS interviews](#)

Family law disputes - Family consultants and Report writers

In family law disputes, a court may order that a Family Report be prepared to assist the court to decide appropriate parenting arrangements for a child or young person. "Family consultants" are employed by the court to prepare these reports. "Report writers" are private practitioners also engaged by the court to do this task.

School staff are permitted but not compelled to disclose information to a Family consultant or Report writer.

If a staff member does wish to speak to a Family consultant or Report writer, they should:

- obtain written consent of both parents
- limit input to facts only, and
- not express opinion or make subjective statements.

Importantly, any information school staff provide to Family consultants or Report writers is not confidential and may be incorporated into a report and provided to parents and the court.

Family law disputes - Independent Children's Lawyer of the Family Court

Independent Children's Lawyers (ICLs) are appointed by the Family Court in family law disputes. ICLs assist the judge to determine which arrangements are in the best interests of the child or young person.

Schools may comply with a request for information from an ICL only as described in this section, and only if the ICL provides:

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- proof of appointment by the court; and
 - written consent of both parents.
- Schools should only provide information to an ICL that has already been provided to the parents or that the parents would be entitled to receive. See below section on “Parent” for guidance on what information parents are entitled to receive from the school. Schools should not prepare a written report at the request of the ICL. If the ICL requires other information, the ICL must issue a subpoena for that information. ICLs may subpoena a school to legally compel other documents to be provided, such as counselling records, incident reports emails or staff notes.

Health professionals - including emergency services staff such as paramedics or fire officers

Information can be provided if the disclosure is necessary to lessen or prevent:

- a serious and imminent threat to an individual’s life, health, safety or welfare; or
- a serious threat to the public’s health, public safety or public welfare.

Lawyers and non-legal advocates

When schools or individual staff members receive a request:

- in writing by a lawyer or non-legal advocate acting on behalf of a student or former student, and written consent is provided, the information should generally be provided, to the extent that the student or their parents would be permitted the information under this policy
- 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.

See:

- [Decision Making Responsibilities for Students](#)
- [Responding to Legal Claims, Writs and Subpoenas](#)

Parents

Request for details of school where a child is enrolled. In the absence of specific court orders to the contrary, each parent is entitled to know where their child is enrolled. However, there may be circumstances where it would not be in the best interests of the child for such information to be released. Before disclosing enrolment information to a parent, staff must be satisfied:

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- that there are no current court orders in place that remove parental responsibility from the parent or otherwise remove an entitlement to know where the child is enrolled; and
- there are no safety or welfare concerns raised if the information is released. Examples of when a school should consider safety or welfare concerns include but are not limited to:
 - the enquiring parent is the respondent to a family violence intervention order protecting the children or the other parent
 - the enquiring parent has been charged with, or convicted of family violence or child abuse offences
 - the transferring or receiving school, enrolling parent or child raises safety or welfare concerns.

School staff should make reasonable enquiries to satisfy themselves of the above. Reasonable enquiries might include:

- asking the requesting parent for proof of identification and relationship with child
- seeking further information on decision-making responsibilities or safety issues from the transferring or receiving Victorian government school
- seeking further information from the parent who has enrolled the child as to whether or not there are any relevant court orders or safety concerns (without necessarily informing the enrolling parent of the other parent's enquiry)
- seeking further information from the student if they are a mature minor or adult and would not be adversely impacted by knowing that these enquiries have been made.

Personal information such as the child's address should not be released.

For further advice on managing these parent requests for information schools may contact the Legal Division by email legal.services@edumail.vic.gov.au or telephone (03) 9637-2750.

Requests for school reports and ordinary school communications

Parents, guardians and informal carers are generally entitled to school reports and other school communications ordinarily provided to parents, unless a court order restricts this right.

For requests by parents of students deemed a mature minor by the principal (or nominee), see [Decision Making by Mature Minors](#) webpage to determine whether the student is mature enough to make their own decision about releasing the information.

Requests for other documents

Parents, guardians, and informal carers requesting other documents (for example staff diary notes,

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incident reports, counselling notes) should be advised to make a Freedom of Information request to the Department's Information Management Unit. See: [FAQ FOI Requests](#)

Schools

See: [Transfers](#)

If a student or former student requests information and documents, the school may provide if:

- the document/information was given to the school by the student
- the document/information was previously given to the student or their parent
- the document/information is considered school information ordinarily provided to students or their parents (such as school reports)
- the document is publicly available.

For other documents, the student should be invited to make a formal FOI request.

See: [FAQ FOI Requests](#)

Students/Former Students Information and Documents

Where a student has asked a Principal or teacher for a written reference or for the Principal or teacher to act as a referee for the student, it is up to the individual principal or teacher to decide whether or not to agree to this request.

School staff should not provide a reference without the consent of the student, or the parent if the student is not an adult or a mature minor for the purposes of giving consent in these circumstances.

See: [Decision Making by Mature Minors](#)

Students/Former Students Personal references

Victoria Police have broad powers to investigate and obtain evidence. If Victoria Police request personal information about a student schools may disclose that information if they are satisfied that the use or disclosure is reasonably necessary for one or more of the following:

- the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction
- the prevention, detection, investigation or remedying of seriously improper conduct
- the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.

Staff may also disclose information to Victoria Police with parent/carer consent

Victoria Police