

The Department has developed a new Schools' Privacy Policy and related documents for all Victorian government schools to implement. All schools must use the same policy on the Department's website. There is no scope to localise this so there is no template - you simply need to link to the Department site 'Schools Privacy Policy' at <http://www.education.vic.gov.au/Pages/schoolsprivacypolicy.aspx>. See the 'Resources' section on this page.

The new Schools' Privacy Policy:

- replaces any existing privacy policies used by schools
- ensures your school is compliant with updated legislation
- clarifies that all school staff (including Student Support Service Officers, other allied health practitioners and teaching staff) may share personal and health information about a student with all other staff who 'need to know' that information, to enable the school to educate or support the student or fulfil legal obligations

allows for personal and health information about students transferring between government schools to be shared with the next (Victorian government) school.

## SCHOOLS' PRIVACY POLICY

### FREQUENTLY ASKED QUESTIONS FOR STAFF

Schools' Privacy Policy notifies the school community that information about students is shared to fulfil our core function: educating and supporting our students.

The Schools' Privacy Policy also establishes a clarified 'need to know' framework. This empowers all school staff to share information about students with other staff who need to know. This is consistent with Victorian privacy law

#### WHO DOES THE POLICY APPLY TO?

The policy applies to all central, regional 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:

- **educate** the student (including to plan for individual needs or address barriers to learning)
- **support** the student's social and emotional wellbeing and health
- 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).

#### WHO DECIDES 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 student records system (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 all 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.

### 'NEED TO KNOW' EXAMPLES

The following are examples of information-sharing with school staff who 'need to know'.

These examples illustrate the critical importance of sharing student information to ensure that the school can provide optimal education and support to students, and comply with important legal obligations.

The examples do not describe all necessary steps needed to *fulfil* the legal obligation, just the appropriate level of information sharing required to ensure the school can take those steps. In some examples below the school will need to take other steps to fulfil their legal obligation, such as

communicating with a parent, guardian or carer. We have not described these steps in the examples, as they focus on information-sharing within the school.

## DUTY OF CARE

### Student displaying anti-social behaviour

A Social Worker (SW) is working with a student who is displaying anti-social behaviours and acting out. Throughout the course of several sessions the SW learns the student frequently engages in high-risk behaviours such as climbing on the school roof and jumping into the sandpit during lunch. The SW advises the principal, and then the principal briefs all school staff. This enables all staff on yard duty to monitor the student each recess and lunchtime to ensure the student's safety.

### Student with a diagnosis of Autism Spectrum Disorder (ASD) with special interest in trains

A student with a diagnosis of ASD has a special interest in trains. The student's school is close to the train lines. The student has been observed on more than one occasion to leave the school grounds to go and watch the trains. The principal advises all school staff about this so that all staff understand the risk posed if the student tries to leave the school grounds unsupervised. This ensures that all school staff have the necessary information to support the student and take reasonable steps to ensure his safety.

### Student displaying problematic sexualised behaviour

A student has engaged in age-inappropriate sexualised behaviour with younger students. The school develops a Safety Plan to ensure the safety of all students. The principal provides all staff with the Safety Plan. As all staff undertake yard duty and supervision at lunchtime and recess, all staff 'need to know' about the Safety Plan.

### Student presenting with suspected mental health issues

A Primary Welfare Officer (PWO) observes that a student is displaying a range of concerning behaviours, including presenting as particularly sad and disconnected from other students. The PWO raises her concerns with the school psychologist, who advises that the student may be experiencing mental health issues. The PWO and psychologist speak with the principal and together they fast-track a referral and seek parent consent for the student to receive Student Support Services (SSS) support. The principal advises the student's classroom

teacher, so the teacher can monitor the student's emotional wellbeing.

### Student victim of sexual assault

A student informs a Social Worker that she was sexually assaulted on the weekend by a male student. The Social Worker advises the principal. In addition to informing the relevant authorities, they develop a Safety Plan for the female student. This includes school-based counselling supports for her and strategies to prevent contact between her and the male student. The staff also prepare a management plan for the male student and offer him counselling support. The principal shares each plan with all staff who supervise the students, to ensure the students are safe and supported at school.

### Student experiencing family violence

A student tells a Visiting Teacher (VT) that there is family violence in their home. The VT advises the principal that they have formed a reasonable belief the student is at risk of physical abuse. Together they make a mandatory report to the Department of Health and Human Services, Child Protection. The VT and principal share their concerns about the possible family violence with other staff members who work with or supervise the student, to ensure they can monitor the student.

### Student who has attempted suicide

A student recently left the school grounds during school hours and took an overdose of tablets at the local shopping centre. The student was admitted to hospital and subsequently referred to mental health services for ongoing treatment. The student's mother advises the principal and specifically asked the principal not tell anyone

else at the school. The principal decides to share this information with the wellbeing staff, to ensure they can provide school-based support to the student. The principal also informs other staff who supervise the student so they can immediately act if the student becomes unexpectedly absent during the school day.

### Student who self-harms at school

A student has a history of removing kitchen knives from the food technology class, taking them into the bathroom and self-harming. The food technology teacher advises the principal and wellbeing team leader. Together with the student's other teachers, they make appropriate modifications to the student's classroom environments and arrange for appropriate counselling supports for the student.

## ANTI-DISCRIMINATION LAW

### Student with a diagnosis of Severe Language Disorder

A Speech Pathologist receives a referral from the school for a student who has been observed to have limited vocabulary in the classroom. The Speech Pathologist completes a language assessment and ascertains the student has a 'Severe Expressive Language Disorder' and 'Moderate Receptive Language Disorder'. The Speech Pathologist provides a detailed report with clear recommendations for making reasonable adjustments for the student in class. The Speech Pathologist provides the report to the student's classroom teacher and the principal.

### Student with a diagnosis of conduct disorder

A parent provides the school with an external medical report containing a diagnosis of a conduct disorder and recommendations to assist the student access her education. These recommendations include de-escalation strategies, access to a calming space or wellbeing staff when necessary and modifications to the curriculum. The student's Student Support Group discuss the report and develop an Individual Learning Plan (ILP). The principal provides the report and ILP to the student's classroom teachers and wellbeing staff. This enables the school to implement the recommended reasonable adjustments for the student at school.

## SHARING INFORMATION ABOUT STUDENTS: WHO NEEDS TO KNOW?

Do other school staff members need to know information about a student to **enable the school** to:

- provide for and support the student's education?
- support the student's social and emotional wellbeing and health?
- reduce the risk of reasonably foreseeable harm to the student, other students, staff or visitors? (duty of care)
- make a reasonable adjustment for the student's disability? (anti-discrimination law)
- provide a safe and secure workplace? (OHS law)

### Yes?

Then you can lawfully share that information those other staff members. They need to know!