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<b>Policy Title:</b>	<b>ACCESS TO STUDENT RECORDS</b>
<b>Published:</b>	<b>2012</b>
<b>Identifier:</b>	<b>ASR201201</b>
<b>Legislation:</b>	<i>Children and Young People Act 2008 (ACT)</i> <i>Freedom of Information Act 1989 (ACT)</i> <i>Health Records (Privacy and Access) Act 1997 (ACT)</i> <i>Privacy Act 1988 (Cwlth)</i> <i>Public Sector Management Act 1994 (ACT)</i> <i>Territory Records Act 2002 (ACT)</i>
<b>Procedures:</b>	<i>Accessing Student Records</i>

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## **1. POLICY STATEMENT**

- 1.1. The Education and Training Directorate (the Directorate) is committed to the appropriate, legislatively compliant and sensitive management of academic, personal and other records relating to current and past students of public schools and of those who access Directorate programs and services including home education and Australian Apprenticeships.
- 1.2. This commitment acknowledges the right of individuals to seek access to their own personal information and personal health information, our responsibility to safeguard this information from unauthorised access, to use and to disclose personal information within the requirements of privacy and other relevant legislation.

## **2. RATIONALE**

- 2.1. Information is provided in this policy and associated procedures about student records, the nature of student records, the circumstances in which student information may be accessed and how the Directorate responds to requests to access student records.
- 2.2. Internal guidelines for staff in handling requests for student information support this policy.
- 2.3. Privacy legislation requires the Directorate to publish an annual, updated record advising the types of personal information kept by the Directorate, the purposes and use of this information, retention periods and access arrangements. This is located at [http://www.det.act.gov.au/about\\_us/personal\\_information\\_digest](http://www.det.act.gov.au/about_us/personal_information_digest).

## **3. DEFINITIONS**

- 3.1. **Personal information** is information or an opinion (including information forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. A record may include a document, a database (however kept), a photograph or other pictorial representation of a person (refer *Privacy Act 1988* (Cwlth)).

- 3.2. **Personal health information** means any personal information in relation to the health, an illness or a disability of a person (a consumer under the *Health Records (Privacy and Access) Act 1997*). This includes any information, recorded or otherwise, where the identity of the person is apparent, whether the information is fact or opinion or true or false. A health record means any record (or part of a record) that is held by a health service provider and contains personal information or any record that contains personal health information. (*Health Records (Privacy and Access) Act 1997*).
- 3.3. A **record keeper** is any entity that has the possession or control of personal information or a personal health record (*Privacy Act 1988* (Cwlth) and *Health Records (Privacy and Access) Act 1997*).
- 3.4. **Parent** is a person having parental responsibility for a child or young person under the *Children and Young People Act 2008* (ACT), including a carer under that Act.
- 3.5. **Parental responsibility**, in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to children. Parental responsibility for child protection matters may be granted to the Director General of the Community Services Directorate or other persons.
- 3.6. **Subpoenas** are court documents used by parties in a proceeding to gather information to support their case. **Notices for non-party production** are court documents used by parties in a case to gather documents from a person who is not a party to the case (a non-party) to support their case.

#### 4. LEGISLATION

- 4.1. Access to student records is governed by legislation including that relating to personal information and personal health information:
- the *Privacy Act 1988* and the *Health Records (Privacy and Access) Act 1997* contain principles governing the collection, safeguarding, access to, use and disclosure of personal information and personal health information
  - the *Children and Young People Act 2008* (s846) prohibits the release of information contained in a child protection report, a child concern report, and a child protection appraisal
  - the *Public Sector Management Act 1994* sets out a number of obligations for public employees including that of confidentiality of information.
  - the *Freedom of Information Act 1989* provides a right to seek access to government documents and sets out a number of exemptions allowing for non-release of documents including that of unreasonable disclosure of personal information
  - the *Territory Records Act 2002* sets out requirements for record keeping and authorises disposal schedules detailing the periods for which records must be retained by the Directorate.
- 4.2. Other legislation that requires or allows disclosure of personal information includes that relating to:
- child protection
  - law enforcement
  - court orders such as subpoenas and notices for non-party production
  - Centrelink legislation.

4.3. Legislation that may restrict access to student information includes Family Court orders, personal protection orders and legislation relating to child protection.

## **5. PROCEDURES**

5.1. For detailed information regarding the collection of, and access to student and student related information refer to the [Accessing Student Records](#) procedures.

## **6. Collection**

### *6.1. Collection of student and student related information*

6.1.1. Schools and the Central Office collect and generate a range of information to support the education of individual students and effective management of the public school system and programs such as home education and Australian Apprenticeships.

## **7. Access**

### *7.1. Student and parent access to records*

7.1.1. Parents and students can request access to records held by a school or by the Directorate and can request amendments where they believe the record is incorrect, out of date, incomplete or misleading. In general a student's parents are able to obtain access to their child's records, at least until the child turns 18. This will always depend on the particular circumstances surrounding the request for access.

### *7.2. Access by interstate schools*

7.2.1. All education and training authorities have agreed to implement a national system for the transfer of student information between schools when children or young people move from one state to another. This includes Australian Apprenticeships information for trainees and apprentices.

### *7.3. Access by external agencies*

7.3.1. In addition to student information being disclosed with the consent of the individual or parent, access may be provided to student records in other circumstances. Most commonly this occurs if information is required or authorised by law such as through subpoenas or notices for non-party production, by agencies such as Centrelink, the Australian Federal Police or the Fair Work Ombudsman.

7.3.2. The *Children and Young People Act 2008* requires mandatory reporting by teaching and counselling staff in schools and other defined public servants of suspected child sexual abuse or non-accidental injury.

### *7.4. Access and Use by Directorate staff*

7.4.1. Student records are used by staff for purposes such as administration, providing appropriate education opportunities and support for individual students and meeting duty of care responsibilities towards students. Information is also used for the purpose of effectively

managing the public education system including contacting parents and individuals as part of surveys.

7.5. *Research*

- 7.5.1. Anyone seeking to undertake research projects in ACT public schools and the Australian Apprenticeships System should refer to information located at [http://www.det.act.gov.au/publications\\_and\\_policies/publications\\_a-z/research\\_and\\_reviews](http://www.det.act.gov.au/publications_and_policies/publications_a-z/research_and_reviews).

**8. POLICY OWNER**

Director Information, Communications and Governance

**9. RELATED POLICIES**

The following policies are located on the Education and Training Directorate website at [http://www.det.act.gov.au/publications\\_and\\_policies/policy\\_a-z](http://www.det.act.gov.au/publications_and_policies/policy_a-z)

*Approved Educational Courses: Government Schools*

*Attendance at ACT Public Schools*

*Complaints Resolution*

*Education Participation Requirements*

*Education Options other than School*

*Enrolment in ACT Public Schools (Preschool-year 12)*

*Exemption Certificates*

*Family Law and the School*

*Student Immunisation Record Keeping*

*Student Record Keeping*

*Manual for Registration of Home Education in the ACT* is located at

[http://www.det.act.gov.au/school\\_education/alternative\\_education/home\\_education](http://www.det.act.gov.au/school_education/alternative_education/home_education)

Policies relating to Australian Apprenticeships are located on the Education and Training Directorate website at

[http://www.det.act.gov.au/vhe/australian\\_apprenticeships/aac/australian\\_apprenticeships\\_resources](http://www.det.act.gov.au/vhe/australian_apprenticeships/aac/australian_apprenticeships_resources)

The following are internal Directorate policies:

*Information Technology Security Policy*

*Sensitive Information Handling*