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<b>SCHOOL POLICY:</b>	<b>ACCESS TO STUDENT RECORDS: POLICY AND IMPLEMENTATION GUIDELINES</b>
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<b>CONTACT:</b>	Workplace & Legal Support
<b>RELATED DOCUMENTS:</b>	<i>Student Record Keeping</i> <i>Circular Minute 40/99: Parents' Access to Personal Information of Students</i> <i>Circular Minute 27/01: Need for Continuing Awareness of Privacy – Recent Issues</i> <i>Circular Minute 23/01: Court Subpoenas and Notices for 'Non Party Production'</i>

## **POLICY**

Schools often collect sensitive information about their students. This information should not be collected unnecessarily. In order to achieve a balance between a school's need to know and a student's right to privacy, it is necessary that parents/guardians and students have a right of access and challenge to records held by a school concerning the student. The student, or his/her representative, should be able to have the record altered where it is irrelevant, incorrect or unnecessarily intrusive. Students and parents/guardians are entitled to reply to any comment contained in a record.

## **IMPLEMENTATION GUIDELINES**

### **1 FREEDOM OF INFORMATION ACT 1989**

- 1.1 Under the Freedom of Information Act 1989 (the Act), any student has the right of access to his/her own records, except where exemption provisions apply. Public access to educational records under the Act is limited (ie access to persons other than the subject of the document). Most administrative records would be exempt from public disclosure under Section 41(1) of the Act, on the grounds of 'unreasonable' disclosure of personal information. Academic performance records and special records such as counsellors' records and medical information are generally both personal and confidential and would be exempt from public disclosure under both Section 41 (unreasonable disclosure of personal information) and Section 45 (breach of confidence).
- 1.2 Further information on the operation and interpretation of the Freedom of Information Act can be obtained from Workplace & Legal Support.

### **2 STUDENT AND PARENT ACCESS TO RECORDS**

- 2.1 Normally, students have a right of access to records held about them. Exceptions and limitations to this right would be made in accordance with the Act.
- 2.2 In general, a student's parents would be able to obtain access to their child's records, at least until the child turns 18. An exception to this would be in the case of a request from a parent who does not have parental responsibility for access where the granting of access contravenes a court order.

### **3 INFORMATION PRIVACY PRINCIPLES**

3.1 In collecting, maintaining and providing access to student records, the relevant privacy principles from the Privacy Act 1988 should be adhered to. The Privacy Act 1988 establishes rules of conduct called Information Privacy Principles for the collection, retention, access, correction, use and disclosure of personal information about individuals.

### **4 ACCESS TO CLASSES OF SCHOOL RECORDS**

#### **4.1 Evaluative Records**

In responding to requests from a student or his/her parents for access to evaluative records such as behavioural, counselling, psychological and medical records, a school may provide that access be given through, or in the presence of, an appropriately qualified person.

#### **4.2 Requests from Outside Organisations:**

- Information about students is often sought by government agencies, tertiary institutions or other organisations and individuals for research, statistical and other purposes.
- In deciding whether access should be granted or denied schools should take into account the privacy principles, including non disclosure of names, student/parent consent, benefit to the student/school and public interest grounds. Schools may also seek further advice from Workplace & Legal Support.
- Anyone planning to undertake research projects in ACT government schools should complete the Research Proposal form available on the department's website at <http://www.det.act.gov.au/applic/applic.htm> for permission to approach schools. Individual schools may then decide whether the research can be undertaken.

#### **4.3 Requests from Solicitors**

Requests from solicitors for access to student records should be forwarded, along with originals of the records sought, to Workplace & Legal Support

#### **4.4 Subpoenas/Notices for Non Party Production**

Despite the confidential nature of much educational information there is no rule of law which protects it from disclosure in a Court. If student records are requested by a Court, as in the case of a subpoena or a notice for non party production, then the requested documents must be made available. Staff in schools served with subpoenas or notices should forward the subpoena/notice and all relevant records to Workplace & Legal Support for appropriate action.

#### **4.5 Parents with Parental Responsibility**

Unless there is a current court order to the contrary, parents are entitled to information concerning a child's education. Further advice about the rights of parents is contained in School Policy: Family Law and the School – Policy & Guidelines available on the department's website at <http://www.det.act.gov.au/policies/policies.htm>.

#### **4.6 Student Administration System Data**

Refer to School Policy: Student Record Keeping