



SCHOOLS' PRIVACY POLICY

POLICY and PROCEDURES

Cape Clear Primary School

The Department of Education and Training (which includes all Victorian government schools, central and regional offices) values the privacy of every person and is committed to protecting information that schools collect.

All staff, service providers (contractors) and agents, (whether paid or unpaid) of the Department, and this Victorian government school (**our school**), must comply with Victorian privacy law and this policy.

In Victorian government schools the management of 'personal information' and 'health information' is governed by the *Privacy and Data Protection Act 2014* (Vic) and *Health Records Act 2001* (Vic) (collectively, **Victorian privacy law**).

This policy explains how our school collects and manages personal and health information, consistent with Victorian privacy law.

Current version of this policy

This policy will be regularly reviewed and updated to take account of new laws and technology and the changing school environment when required. Please ensure you have the current version of this policy.

Definitions

Personal information is information or opinion, whether true or not, about a person whose identity is apparent, or can reasonably be ascertained, from the information or opinion – that is recorded in any form. For example, a person's name, address, phone number and date of birth (age). De-identified information about students can also be personal information.

Health information is information or opinion about a person's physical, mental or psychological health or disability, that is also personal information – whether in writing or not. This includes information or opinion about a person's health status and medical history, immunisation status and allergies, as well as counselling records.

Sensitive information is information or opinion about a set of specific characteristics, including a person's racial or ethnic origin, political opinions or affiliations, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices; or criminal record. It also includes health information.

What information do we collect?

Our school collects the following type of information:

- information about students and their family, provided by students, their family and others
- information about job applicants, staff, volunteers and visitors; provided by job applicants, staff members, volunteers, visitors and others.

How do we collect this information?

Our school collects information in a number of ways, including:

- in person and over the phone: from students and their family, staff, volunteers, visitors, job applicants and others
- from electronic and paper documentation: including job applications, emails, invoices, enrolment forms, letters to our school, consent forms (for example: enrolment, excursion, Student Support Services consent forms), our school's website or school-controlled social media
- through online tools: such as apps and other software used by our school
- through any CCTV cameras located at our school.

Collection notices

When our school collects information about you, our school takes reasonable steps to advise you of certain matters. This includes the purpose of the collection, and how to access, update and correct information held about you. For information about students and their families, a collection notice is provided to parents (or mature minor students) upon enrolment.

Unsolicited information about you

Our school may receive information about you that we have taken no active steps to collect. If permitted or required by law, our school may keep records of this information. If not, we will destroy or de-identify the information when practicable, lawful and reasonable to do so.

Why do we collect this information?

Primary purposes of collecting information about students and their families

Our school collects information about students and their families when necessary to:

- educate students
- support students' social and emotional wellbeing, and health
- fulfil legal requirements, including to:
 - take reasonable steps to reduce the risk of reasonably foreseeable harm to students, staff and visitors (duty of care)
 - make reasonable adjustments for students with disabilities (anti-discrimination law)
 - provide a safe and secure workplace (occupational health and safety law)
- enable our school to:
 - communicate with parents about students' schooling matters and celebrate the efforts and achievements of students

- maintain the good order and management of our school
- enable the Department to:
 - ensure the effective management, resourcing and administration of our school
 - fulfil statutory functions and duties
 - plan, fund, monitor, regulate and evaluate the Department's policies, services and functions
 - comply with reporting requirements
 - investigate incidents in schools and/or respond to any legal claims against the Department, including any of its schools.

Primary purposes of collecting information about others

Our school collects information about staff, volunteers and job applicants:

- to assess applicants' suitability for employment or volunteering
- to administer employment or volunteer placement
- for insurance purposes, including public liability and WorkCover
- to fulfil various legal obligations, including employment and contractual obligations, occupational health and safety law and to investigate incidents
- to respond to legal claims against our school/the Department.

When do we use or disclose information?

Our school uses or discloses information consistent with Victorian privacy law, as follows:

1. for a **primary purpose** – as defined above
2. for a related **secondary purpose** that is reasonably to be expected – for example, to enable the school council to fulfil its objectives, functions and powers
3. with **notice and/or consent** – including consent provided on enrolment and other forms
4. when **necessary to lessen or prevent a serious threat** to:
 - a person's life, health, safety or welfare
 - the public's health, safety or welfare
5. when **required or authorised by law** – including as a result of our duty of care, anti-discrimination law, occupational health and safety law, reporting obligations to agencies such as Department of Health and Human Services and complying with tribunal or court orders, subpoenas or Victoria Police warrants
6. to investigate or report **unlawful activity**, or when reasonably necessary for a specified **law enforcement** purpose, including the prevention or investigation of a criminal offence or seriously improper conduct, by or on behalf of a law enforcement agency
7. for Department **research or school statistics** purposes
8. to establish or respond to a **legal claim**.

A unique identifier (a CASES21 code) is assigned to each student to enable the school to carry out its functions effectively.

Student transfers between Victorian government schools

When a student has been accepted at, and is transferring to, another Victorian government school, our school transfers information about the student to that school. This may include copies of the student's school records, including any health information.

This enables the next school to continue to provide for the education of the student, to support the student's social and emotional wellbeing and health, and to fulfil legal requirements.

NAPLAN results

NAPLAN is the national assessment for students in years 3, 5, 7 and 9, in reading, writing, language and numeracy.

When a student transfers to another Victorian government school, their NAPLAN results are able to be transferred to that next school.

Additionally, a student's NAPLAN results are able to be provided to the student's previous Victorian government school to enable that school to evaluate their education program.

Responding to complaints

On occasion our school, and the Department's central and regional offices, receive complaints from parents and others. Our school and/or the Department's central or regional offices will use and disclose information as considered appropriate to respond to these complaints (including responding to complaints made to external organisations or agencies).

Accessing your information

All individuals, or their authorised representative(s), have a right to access, update and correct information that our school holds about them.

Access to student information

Our school only provides school reports and ordinary school communications to parents who have a legal right to that information. Requests for access to other student information must be made by making a Freedom of Information (FOI) application through the Department's Freedom of Information Unit (see below).

In some circumstances, an authorised representative may not be entitled to information about the student. These circumstances include when granting access would not be in the student's best interests or would breach our duty of care to the student, would be contrary to a mature minor student's wishes or would unreasonably impact on the privacy of another person.

Access to staff information

School staff may first seek access to their personnel file by contacting the principal. If direct access is not granted, the staff member may request access through the Department's Freedom of Information Unit.

Storing and securing information

Our school takes reasonable steps to protect information from misuse and loss, and from unauthorised access, modification and disclosure. Our school stores all paper and electronic records securely, consistent with the Department's records management policy and information security standards. All school records are disposed of, or transferred to the Public Records Office Victoria, as required by the relevant Public Records Office Standard.

When using software and contracted service providers to manage information, our school assesses these according to the appropriate departmental processes. One example of this is that staff passwords for school systems are strong and updated on a regular basis, consistent with the Department's password policy.

Updating your information

We endeavour to ensure that information about students, their families and staff is accurate, complete and up to date. To update your information, please contact our school's general office.

FOI and Privacy

To make a FOI application contact:

Freedom of Information Unit

Department of Education and Training
2 Treasury Place, East Melbourne VIC 3002
(03) 9637 3961
foi@edumail.vic.gov.au

If you have a query or complaint about privacy, please contact:

Knowledge, Privacy and Records Branch

Department of Education and Training
2 Treasury Place, East Melbourne VIC 3002

(03) 8688 7967
privacy@edumail.vic.gov.au

Purpose of this policy

To ensure schools are informed about the Department's policy about student restraint including that it is only used when certain conditions are met and that appropriate standards and procedures are followed.

For detailed guidance including information about legal obligations, resources for training, and fact sheets for parents refer to the Department's [Restraint and Seclusion](#) webpages.

Definitions

In this policy, physical restraint means the use of physical force to prevent, restrict or subdue movement of a student's body or part of their body. Students are not free to move away when

they are being physically restrained. Physical restraint should only be used when it is immediately required to protect the safety of the student or any other person.

In some limited circumstances, it may also be necessary to restrain a student from imminent dangerous behaviours by secluding them in an area where such action is immediately required to protect the safety of the student or any other person.

Seclusion is the solitary confinement of a student in a room or area (e.g. a garden) from which their exit is prevented by a barrier or another person. When used by a staff member in immediate response to behaviours of concern, seclusion may also include situations where a student is left alone in a room or area and reasonably believes they cannot leave that room or area even if they would physically be able to, i.e. it is not locked.

Policy

Regulation 25 of the Education and Training Reform Regulations 2017 provides that:

“A member of staff of a Government school may take any reasonable action that is immediately required to restrain a student of the school from acts or behaviour that is dangerous to the member of staff, the student, or any other person.”

When physical restraint or seclusion should not be used

Physical restraint and seclusion should not be used unless immediately required to protect the safety of the student or any other person (see below).

Rooms or areas designed specifically for the purpose of seclusion or which are used solely or primarily for the purpose of seclusion are not permitted in Victorian government schools.

Restraint and seclusion must not be included in a Behaviour Support Plan or be used as a routine behaviour management technique, to punish or discipline a student or to respond to:

- a student’s refusal to comply with a direction, unless that refusal to comply creates an imminent risk to the safety of the student or another person
- a student leaving the classroom/school without permission, unless that conduct causes an imminent risk to the safety of the student or another person
- verbal threats of harm from a student, except where there is a reasonable belief that the threat will be immediately enacted
- property destruction caused by the student unless that destruction is placing any person at immediate risk of harm.

Any restraint which covers the student’s mouth or nose, in any way restricts breathing, takes the student to the ground into the prone or supine position, involves the hyperextension of joints, or application of pressure to the neck, chest or joints, must not be used.

When physical restraint or seclusion may be used

School staff may only use physical restraint on a student when there is an imminent threat of physical harm or danger to the student or others; and where such action (ie to physically restrain or seclude) would be considered reasonable in all the circumstances and there is no less restrictive means of responding in the circumstances.

As with physical restraint, seclusion should only be used when it is immediately required to protect the safety of the student or any other person, as permitted by Regulation 25.

The decision about whether to use physical restraint or seclusion rests with the professional judgment of the staff member/s involved, who will need to take into account both their duty of care to their students, their right to protect themselves from harm and obligations under the Charter of Human Rights and Responsibilities Act 2006.

Mechanical and chemical restraint

Mechanical restraints should never be used in schools to restrict a student's freedom of movement, unless the device is for a therapeutic purpose with written evidence of the prescription / recommendation, or if required to travel safely in a vehicle.

Medication primarily used to control or subdue behaviour and which is not being used to treat an underlying physical or mental illness or a physical condition should never be used in schools.

During Restraint

If applying physical restraint in the limited circumstances set out above, staff must:

- use the minimum force required to avoid the dangerous behaviour or risk of harm
- only restrain the student for the minimum duration required and stop restraining the student once the danger has passed.

Staff should ensure the type of restraint used is consistent with a student's individual needs and circumstances, including:

- the age/size of the student
- gender of the student
- any impairment of the student e.g. physical, intellectual, neurological, behavioural, sensory (visual or hearing), or communication
- any mental or psychological conditions of the student, including any experience of trauma
- any other medical conditions of the student
- the likely response of the student
- the environment in which the restraint is taking place.

Staff should monitor the student for any indicators or distress. Staff should talk to the student throughout the incident, making it clear to the student why the physical restraint is being applied. Staff should also calmly explain that the physical restraint will stop once it is no longer necessary to protect the student and/or others.

Actions after restraint has been used

This table explains the follow up actions that must be undertaken after a student has been physically restrained or secluded.

Action	Description
Reporting of the physical restraint/ seclusion	<p>The staff member(s) involved in the incident must immediately notify the principal of the incident.</p> <p>A staff member should contact the student's parents and provide them with details of the incident as soon as possible.</p> <p>The incident may need to be reported to: the Security Services Unit (previously known as the Emergency Management Unit), see: Reporting and managing emergencies and incidents Edusafe WorkSafe, see: WorkSafe Notification.</p>

Action	Description
Providing supports for those involved	<p>Following the use of restraint on a student, appropriate supports must be offered to the following people:</p> <p>The student who has been restrained or secluded and their parents/guardians. This may include participation in decisions involving the student’s behaviour management, Student Support Group meetings, the development of a student Behaviour Support Plan, and involvement of Student Support Services. For policy advice on the prevention of endangering behaviour and promoting positive behaviours refer to: Student Engagement</p> <p>Other students and staff members who were involved in or witnessed the incident. This may include a debriefing in relation to the incident, and counselling support.</p>
Maintain records of the incident	<p>A written record of the incident and the physical restraint or seclusion used must be made by the principal as soon as practicable. This record should be added to a student’s file on CASES 21 or SOCS as appropriate. The record should detail:</p> <ul style="list-style-type: none"> the name of the student/s and staff member/s involved date, time and location of the incident names of witnesses (staff and other students) what exactly happened (a brief factual account) any action taken to de-escalate the situation why physical intervention was used (if applicable) the nature of any physical intervention used how long the physical intervention lasted names of witnesses (staff and other students) the student’s response and the outcome of the incident any injuries or damage to property immediate post incident actions, such as first aid or contact with emergency services details of contact with the student’s parent/carer details of any post-incident support provided or organised. <p>The principal should also arrange for all staff who were involved/present at the incident to prepare a statement / record of their involvement or observations of the incident.</p>
Plan for the future	<p>Post-incident, the school should consider the preventative and de-escalation strategies that might reduce the likelihood of an incident happening again. For example – reviewing and amending the student’s Behaviour Support Plan, consider the training needs of staff working closely with the student/s involved in the incident.</p>

