



Education

PRIVACY MANAGEMENT PLAN FOR DEPARTMENT OF EDUCATION

4 September 2023

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PART 1 INTRODUCTORY COMMENTS

1. Introduction

1.1 Legislative framework

The [*Privacy and Personal Information Protection Act 1998*](#) (“PPIPA”) requires public sector agencies to prepare and implement a Privacy Management Plan that explains:

- the policies and practices which ensure the agency’s compliance with requirements of both the PPIPA and the [*Health Records and Information Privacy Act 2002*](#) (“HRIPA”),
- how the agency will make its staff aware of its policies and practices,
- the agency’s procedures for dealing with privacy internal reviews under Part 5 of the PPIPA, and
- other relevant matters relating to the protection of the personal and health information that the agency holds.

1.2 Purpose

The purpose of this Privacy Management Plan (“**plan**”) is to:

- ensure the Department of Education (“**department**”) has identified how the PPIPA and the HRIPA apply to the personal and health information that it manages,
- explain the department’s functions and activities and the main types of personal and health information that the department deals with,
- explains the department’s compliance strategies for the PPIPA and the HRIPA,
- provide department staff with information about their obligations in relation to handling personal and health information and the relevant policies, procedures and other resources they can access to guide and inform them in meeting the requirements of the PPIPA and the HRIPA, and
- inform members of the community of how the department manages and protects their personal and health information, the procedures for requesting access to, or if they are concerned it is not accurate, an amendment of, this information and how to make a complaint or request an internal review if they consider that their privacy may have been breached.

1.3 Development of plan and the department’s privacy policies and procedures

To ensure that the department complies with its obligations under the PPIPA and the HRIPA, in developing this plan and its privacy policies and procedures, the department:

- gives full consideration to the requirements of the PPIPA and HRIPA, including considering amendments that are made to that legislation from time to time,
- considers the agency resources that the Information and Privacy Commission makes available,

- analyses the privacy implications of changes to its functions and activities, and
- consults with stakeholders.

1.4 Amendment

This plan replaces all previous privacy management plans of the department. It will be updated and reviewed at least every two years, to include changes in legislation and administrative or systemic procedures which impact on the management of personal or health information held by the department. The next scheduled review will occur in the first quarter of 2025.

1.5 Application

This plan applies to all department staff.

1.6 Contact us

If you have any privacy related questions please contact the department as follows:

Address: Legal Services – Privacy
 Department of Education
 GPO Box 33
 Sydney NSW 2001
Phone: (02) 7814 3896
Email: legal.privacy@det.nsw.edu.au

2. Key concepts

2.1 Personal Information

- The PPIPA provides for the protection of **personal information** held by government agencies.
- What is personal information?*

Personal Information is information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about a person whose identity is apparent or can reasonably be ascertained from the information or opinion. It is not restricted to information that clearly identifies a person but may include information which leads to the identification of an individual when considered in association with other available information. It covers information held in paper or electronic records and extends to images, body samples and biometric data such as fingerprints.

- What information is not personal information?*

There are a number of exceptions to the definition of personal information. Those most relevant to information held by the department are information about:

- an individual who has been dead for more than 30 years,
- an individual that is contained in a publicly available publication,

- (iii) an individual that is contained in a public interest disclosure or that has been collected in the course of investigation arising out of a public interest disclosure, or
- (iv) an individual's suitability for appointment or employment as a public sector official.

2.2 Health Information

- (a) The HRIPA regulates the collection and handling of **health information** by public sector agencies and private organisations.
- (b) *What is health information?*

Health information is personal information that is information or an opinion about an individual's physical or mental health or disability or the provision of a health service to an individual. It includes personal information about an individual collected in connection with the donation of body parts and genetic information collected in providing a health service that is or could be predictive of the health of that individual or a genetic relative of the individual. It includes healthcare identifiers.

- (c) *What information is not health information?*

The HRIPA defines personal information on the same terms as the PPIPA with substantially the same exceptions as that Act. Health information, therefore, does not include information about:

- (i) an individual who has been dead for more than 30 years,
- (ii) an individual that is contained in a publicly available publication,
- (iii) an individual that is contained in a public interest disclosure or that has been collected in the course of investigation arising out of a public interest disclosure, or
- (iv) an individual's suitability for appointment or employment as a public sector official.

2.3 Other defined terms

Word/Term	Meaning
<i>authorised representative</i>	is defined in section 8 of the HRIPA as: <ul style="list-style-type: none"> • an attorney for an individual under an enduring power of attorney, • a guardian or person responsible within the meaning of the Guardianship Act 1987, • a person with parental responsibility for a child, or • a person who is legally authorised to exercise functions as an agent of or in the best interests of the individual.
<i>health information</i>	is defined in Part 1, section 2.2 of this plan.

<i>health service</i>	is defined in section 4 of the HRIPA and includes a number of health services provided as a public or private service, such as medical, hospital, nursing, dental and mental health services. A full list of the services is set out in the definition of health service in section 4 of the HRIPA.
<i>health service provider</i>	is defined in section 4 of the HRIPA as an organisation that provides a health service but does not include an organisation that is prescribed by the regulations under the HRIPA as exempt or an organisation that arranges for health services to be provided to an individual by another organisation.
<i>held</i>	section 4 of PPIPA provides that personal information is held by the department if it is in possession or control of the information or the information is in the possession or control of a person employed or engaged by the department in the course of their employment or engagement or the information is contained in a State record in respect of which the department is responsible under the State Records Act 1998 .
<i>HPPs</i>	means the health privacy principles set out in Schedule 1 of the HRIPA.
<i>identifier</i>	is defined in section 4 of the HRIPA as an identifier (usually a number) but not an identifier that consists of only an individual's name, that is: <ul style="list-style-type: none"> • assigned to an individual in conjunction with or in relation to the individual's health information by an organisation for the purpose of uniquely identifying that individual, whether or not it is subsequently used otherwise than in conjunction with or in relation to health information, or • adopted, used or disclosed in conjunction with or in relation to the individual's health information by an organisation for the purpose of uniquely identifying that individual.
<i>information</i>	is personal information and health information.

<i>investigative agency</i>	is defined in section 3 of the PPIPA and section 4 of the HRIPA to mean any of the following: Ombudsman's Office, Independent Commission Against Corruption, Inspector of the Independent Commission Against Corruption, Law Enforcement Conduct Commission, Inspector of the Law Enforcement Conduct Commission and any staff of the Inspector, Community Services Commission (in the case of HRIPA only), Health Care Complaints Commission, Office of Legal Services Commissioner, Ageing and Disability Commissioner, Children's Guardian or a person or body prescribed by the regulations under the PPIPA or HRIPA, as applicable.
<i>IPPs</i>	means the information protection principles set out in sections 8 to 19 of the PPIPA.
<i>law enforcement agency</i>	is defined in section 3 of the PPIPA and section 4 of the HRIPA to mean any of the following: NSW Police Force or the police force of another State or a Territory, NSW Crime Commission, Australian Federal Police, Australian Crime Commission, Director of Public Prosecutions of NSW or of another State or a Territory or of the Commonwealth, Department of Justice (in the case of PPIPA only), Department of Corrective Services (in the case of HRIPA only), Department of Youth Justice (in the case of HRIPA only), Office of the Sheriff of New South Wales (in the case of PPIPA only) or a person or body prescribed by the regulations under the PPIPA or HRIPA, as applicable.
<i>personal information</i>	is defined in Part 1, section 2.1 of this plan.
<i>public register</i>	is described in Part 3, section 15 of this plan.
<i>staff</i>	an employee or person engaged by the department.

PART 2 DEPARTMENT'S FUNCTIONS AND ACTIVITIES

The department serves the community by leading the provision of world-class education. The department protects young children by regulating preschool and long day care providers. Once children move into school, the department provides them with a world-class primary and secondary education. The department also works to advance the wellbeing of Aboriginal people. The department is grouped into the following divisions:

1.1 School Improvement and Education Reform Group

The School Improvement and Education Reform (“**SIER**”) group coordinates the department’s enterprise-wide transformation agenda and monitors and reports on targets and strategies. It also includes corporate and delivery planning and support.

1.2 Transformation Office

The Transformation Office coordinates the department’s agenda for delivering school improvement and skills reform. It monitors and reports on achievement of the department’s system-level targets and provides a common approach for project and program delivery.

1.3 Education and Skills Reform

The Education and Skills Reform (“**ESR**”) division drives innovation, reform and policy development. It delivers critical programs to improve outcomes in early childhood education, schooling and skills.

1.4 Schools Performance (North and South)

The two School Performance groups lead and direct the operations of more than 2,200 NSW public schools. The groups are responsible for the achievement of excellence in educational leadership, as well as professional practice and school performance in preschools, infants, primary, secondary, central and community schools, specialist and comprehensive schools, schools for specific purposes, and intensive English and environmental education centres.

1.5 Learning Improvement

Learning Improvement works across the department and non-government sectors to support schools to improve outcomes for every student. It achieves this for example by monitoring, supporting and regulating the early childhood education and care sector in NSW and ensuring continuous improvement in quality and overseeing access, inclusion and wellbeing policies for students.

1.6 People Group

The People Group is responsible for ensuring educational outcomes through support and development of staff.

1.7 Operations Group

The Operations Group is responsible for providing high-quality services and support to the Education system.

1.8 School Infrastructure NSW

School Infrastructure NSW is responsible for delivering the NSW Government’s investment in education infrastructure.

1.9 Office of the Secretary

The Office of the Secretary supports the work of the Secretary as well as the department’s relationships with key external stakeholders.

PART 3 COLLECTION BY THE DEPARTMENT OF PERSONAL AND HEALTH INFORMATION (INFORMATION)

1. Information collected by the department

Legislation	Functions of department	Actions of the department
<p>IPP 1 and HPP 1 (section 8 PPIPA and clause 1 of Schedule 1 HRIPA): The department must only collect personal and health information by lawful means and for a lawful purpose directly related to its functions and activities and the information must be reasonably necessary for that purpose.</p> <p>IPP 4 and HPP 2 (section 11 PPIPA and clause 2 of Schedule 1 HRIPA): The department must take reasonable steps to ensure that information that is collected is relevant to the</p>	<p>The department collects information for carrying out its functions and performing its duties under legislation, including the following:</p> <ul style="list-style-type: none"> • Apprenticeship and Traineeship Act 2001 (NSW), • Childcare and Economic Opportunity Fund Act 2022, • Child Protection (Working with Children) Act 2012 (NSW), • Children and Young Persons (Care and Protection) Act 1998 (NSW), • Children (Education and Care Services) National Law (NSW), • Children (Education and Care Services) Supplementary Provisions Act 2011 (NSW), • Crimes Act 1900 (NSW), • Education Act 1990 (NSW), • Education (School Administrative and Support Staff) Act 1987 (NSW), • Government Information (Public Access) Act 2009 (NSW) ("GIPAA"), 	<p>The department collects a significant volume of information in the administration and provision of quality education and training. The information that is collected is directly related to its functions and activities.</p> <p>The main classes of information collected by the department are:</p> <p>(a) Recruitment and employee information including:</p> <ul style="list-style-type: none"> (i) personal details such as address, phone number, emergency contact details, tax file number, superannuation records and bank details, (ii) records of race, sex, marital status and impairment of employees for equal employment opportunity purposes, (iii) medical assessments, certificates and reports, (iv) attendance, pay and leave records, (v) recruitment, promotion, appeals and transfer records, (vi) screening and qualification records such as the outcome of Criminal Record Checks and Working with Children Checks, (vii) service and administrative records, (viii) stored electronic messages,

<p>purpose, not excessive, accurate, up to date and complete and that the collection of the information does not unreasonably intrude on the personal affairs of the individual.</p> <p>In addition the department must comply with:</p> <p><u>Workplace Surveillance Act 2005</u></p> <p><u>Surveillance Devices Act 2007</u></p> <p><u>Crimes Act 1900 (NSW)</u> and <u>Commonwealth Criminal Code</u></p>	<ul style="list-style-type: none"> • <u>Government Sector Employment Act 2013 (NSW)</u>, • <u>Government Sector Finance Act 2018 (NSW)</u>, • <u>Public Health Act 2010 (NSW)</u>, • <u>Public Works and Procurement Act 1912 (NSW)</u>, • <u>Superannuation Act 1916 (NSW)</u>, • <u>Teacher Accreditation Act 2004 (NSW)</u>, • <u>Teaching Service Act 1980 (NSW)</u>, • <u>Workers Compensation Act 1987 (NSW)</u>, • <u>Work Health and Safety Act 2011 (NSW)</u>, and • <u>Workplace Injury Management and Workers Compensation Act 1998 (NSW)</u>. 	<ul style="list-style-type: none"> (ix) performance and disciplinary records, (x) NSW Education Standards Authority (“NESA”) accreditation details, (xi) training, apprenticeship and study records, and (xii) work health and safety and workers compensation records. <p>(b) Student information including:</p> <ul style="list-style-type: none"> (i) family information such as parent, guardian and carer occupation and education, address and phone number, languages spoken in the home and emergency details, family court orders, apprehended violence orders, (ii) student details such as age, gender, residency status, ethnicity, first language, religion, Aboriginality, previous schooling and care arrangements, (iii) medical and health related information including details of disability, special needs, health care procedures, medication and counsellor records, (iv) support services accessed by students including services from outside agencies, (v) information about children and young person’s safety, welfare or wellbeing recorded in reports to Community Services and the Child Wellbeing Unit and information obtained under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW), (vi) discipline and behaviour records including records of violent behaviour,
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		<ul style="list-style-type: none"> (vii) accident/incident records and witness statements prepared by students, (viii) academic results and other achievements including awards and assessments, (ix) financial information such as Centrelink benefits and credit card details, and (x) tax file numbers of students when required for purposes such as accessing Vocational Education and Training fee help and fee help loans. <p>(c) <i>Other stakeholder information</i> including:</p> <ul style="list-style-type: none"> (i) contact details of individuals including telephone numbers, email and postal addresses and banking details (including when individuals make access applications under the GIPAA , (ii) information collected from visitors (such as volunteers and contractors) to department premises, including schools which may include the outcomes of Criminal Record Checks and Working with Children Checks, copies of identification documents, (iii) information collected through visits to the department's website (see https://education.nsw.gov.au/about-us/rights-and-accountability/privacy for more information), (iv) information included in court documents and orders, (v) information about individuals and organisations obtained during tender processes, (vi) information about individuals and organisations obtained in the course of developing and managing
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		<p>business relationships and maintaining contractual relationships, and</p> <p>(vii) information obtained in the course of complaint handling including confidential information exchanged at mediation.</p> <p>The department takes reasonable steps to ensure that information collected from individuals is not unreasonably intrusive or excessive. In addition, business units that collect information implement procedures specific to those business units to ensure the information they hold is kept up to date and relevant.</p> <p>Additional guidance is available here:</p> <ul style="list-style-type: none"> • <i>Legal Issues Bulletin No. 41</i> provides advice on the use of CCTV surveillance. • <i>Legal Issues Bulletin No. 35</i> provides advice on misuse of technology in schools, including compliance with Surveillance Devices Act 2007 and advice on compliance with laws regulating photographing and videoing individuals. • <i>Legal Issues Bulletin No. 40</i> provides advice on the collection, use and disclosure of information of students with a history of violence. • <i>Legal Issues Bulletin No. 47</i> provides advice on information requests from other government agencies. • <i>Legal Issues Bulletin No. 50</i> provides advice on the exchange of information concerning the safety, welfare and wellbeing of children and young people. • <i>Privacy and the use of third-party web and cloud-based service providers</i> sets out advice on the use of third-party online service providers in schools. • <i>Privacy Bulletin PB01</i> provides advice on the management of personal and health information.
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		<ul style="list-style-type: none"> • Privacy Bulletin PB02 provides advice on the collection of information. • Privacy Bulletin PB05 provides advice on compliance with laws regulating photographing and videoing individuals (including use of CCTV cameras). • Information Security (reference PD-2015-0465-VO1.1.1) provides advice on ensuring information is fit for purpose, is secure and similar. • Information Sharing with External Agencies Policy provides advice on how the NSW Regulatory Authority shares information with external agencies.
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2. From whom information is collected

Legislation	Actions of the department
<p>IPP 2 and HPP 3 (section 9 PPIPA and clause 2 Schedule 1 HRIPA): The Department must only collect information directly, other than in specified circumstances.</p>	<p>The department collects information directly from current and prospective students and employees, other stakeholders and members of the public by a number of means including forms (paper and electronic), email, letter, telephone or the department’s websites.</p> <p>The department collects information directly from the individual to whom it relates unless:</p> <ul style="list-style-type: none"> • the individual has consented to collection of their information from the other person, or • the information is collected from the parent or guardian of a child under 16 years of age, or • in respect of health information under the HRIPA, it is unreasonable or impracticable to do so, or • another exception, as set out below, applies. <p>Other exceptions to direct collection</p> <p>A. Collection permitted under another Act or another law (section 25 PPIPA and section 23(b) of HRIPA)</p>

The department may collect information from a third party if it is permitted under an Act. Acts that allow the department to collect information from third parties include:

- Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW) which permits exchange of information to facilitate the provision of services to children and young persons by agencies that have responsibilities relating to the safety, welfare or wellbeing of children and young persons.
- Part 5A of the Education Act 1990 allows the department to obtain information about a student to assist in assessing whether the enrolment of a particular student at a school is likely to constitute a risk to the health or safety of any person, including the student, and to develop and maintain strategies to eliminate or minimise any such risk. The [Guidelines issued under Part 5A of the Education Act 1990](#) for the management of health and safety risks posed to schools by a student's violent behaviour has been issued under that Part 5A.
- The Work Health and Safety Act 2011 imposes certain obligations on the department to secure the health and safety of workers and workplaces. The department may collect information from a third party for purposes relating to its obligations to protect workers and other persons against harm to their health, safety and welfare.
- The department may collect **health information** from an authorised representative when the individual is incapable of acting as permitted or required by HRIPA. A person lacks capacity if incapable by reason of age, injury, illness, physical or mental impairment of understanding the general nature and effect of the act, or communicating his/her intentions with respect to the HRIPA. The [Statutory Guidelines on the Collection of Health Information from a Third Party](#) provide guidance when collecting **health information** from a person other than the person to whom the information relates.
- Part 12 of the Children (Education and Care Services) National Law permits the department to collect information for certain purposes, including the regulation of education and care services and also where this is otherwise necessary and convenient for carrying out its functions under that Law.

B. Collection permitted for law enforcement, investigative and similar purposes (sections 23, 24 and 26 of PPIPA)

The department may collect **personal information** from third parties where:

- the information is collected in connection with proceedings before a court or tribunal,

- collection is for law enforcement purposes,
- collection is reasonably necessary to assist another public sector agency that is an investigative agency in exercising its investigative functions, or
- collecting the information directly would prejudice the interests of the individual to whom the information relates.

C. Collection permitted under HRIPA (section 64 of HRIPA)

The department may collect **health information** from third parties:

- when complying with the Statutory Guidelines on the Collection of Health Information from a Third Party or any other statutory guidelines that are in effect from time to time.

D. Collection permitted under the Privacy Code of Practice (section 30 of PPIPA)

The department may collect **personal information** from third parties where:

- the information is collected from the parent, guardian or caregiver of a student over 16 years of age in particular circumstances and in consideration of relevant factors such as the student's maturity, family circumstances and what is in the best interests of the student. [*Legal Issues Bulletin No.53*](#) deals with the capacity of students under 18 years of age to make their own decisions when living independently,
- collecting the information directly from the relevant individual may detrimentally affect or prevent the proper exercise of the department's complaint handling or investigative functions, or
- collecting information about a student from other students or staff where it is necessary to promote and maintain a safe and disciplined learning environment.

3. How individuals are notified about the collection of their information

Legislation	Actions of the department
<p>IPP 3 and HPP 4 (section 10 PPIPA and clause 4 Schedule 1 HRIPA): The department must take reasonable steps to notify the individual of certain matters when their information is collected.</p>	<p>When collecting information, the department takes reasonable steps to make the individual aware of the following matters:</p> <ul style="list-style-type: none"> • that the information is being collected, • the purposes for which it is being collected, • the intended recipients of the information, • whether the information is required by law or is voluntary, • consequences to the individual if the information or part of it is not provided, • right of access to and correction of the information, and • name and address of agency collecting the information and the agency that is to hold it. <p>In most instances this is achieved by providing a collection notice at the time of collection. For example, the Application to enrol in a NSW Government school contains a collection notice on page 13. The form of wording will differ depending on the proposed use and disclosure of the information collected. A sample form of words for a collection notice is available to department employees on the department's privacy intranet site. When telephone conversations are monitored by recording for quality control and supervision purposes, individuals will be advised of this at the outset of the conversation.</p> <p>Other exceptions to giving notice</p> <p>A. Collection permitted for law enforcement, investigative and similar purposes (sections 23, 24 and 26 of PPIPA)</p> <p>The department provides a notice containing this information unless:</p> <ul style="list-style-type: none"> • the information is being collected for law enforcement purposes, • collection is reasonably necessary to assist another public sector agency that is an investigative agency in exercising its investigative functions, • the department is authorised or required under an Act or other law not to do so, • it would prejudice the interests of the individual whose information is being collected, or

	<ul style="list-style-type: none"> the individual has consented. <p>B. As permitted under HRIPA (section 64 of HRIPA)</p> <p>The department is exempted from providing a collection notice in relation to health information when complying with the Statutory Guidelines on the Collection of Health Information from a Third Party.</p> <p>C. As permitted under Privacy Code of Practice (section 30 of PPIPA)</p> <p>In relation to personal information, the department may not provide a collection notice when:</p> <ul style="list-style-type: none"> the department collects a student’s information from the student’s parent, guardian or carer and that person is made aware of the requirements in this section, the parent, guardian or carer of a student enrolled in a government school has consented to the department not complying with the principle in respect of the student’s information, or providing the collection notice may detrimentally affect or prevent the proper exercise of the department’s complaint handling or investigative functions, it is considered necessary to promote and maintain a safe and disciplined learning environment.
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4. How information is stored

Legislation	Actions of the department
<p>IPP 5 and HPP 5 (section 12 PPIPA and clause 5 Schedule 1 HRIPA): The department must take reasonable steps to protect information from loss, unauthorised access, modification, use and disclosure. The department must not</p>	<p>The department takes steps to protect the confidentiality, integrity and availability of its information, whether held in electronic, paper, audio or video form, whether located in schools, institutes, corporate units or other locations. The level of security is determined according to the information’s level of sensitivity, criticality and risk. For example, the department protects its information in accordance with the following policies:</p> <ul style="list-style-type: none"> NSW Government Information, Classification, Labelling and Handling Guidelines: applies to all of the department’s information assets. The Guidelines provide a framework and methodology used to help NSW Government agencies, including the department, correctly assess the sensitivity or security of information, so that it may be labelled, handled, stored and disposed of correctly. Under those Guidelines, information is classified as “sensitive information”.

retain information for longer than necessary and must then securely dispose of the information.

- **NSW Government Cyber Security Policy:** applies to all NSW Government agencies, including the department. It outlines the mandatory requirements to which all agencies must adhere to ensure cyber security risks to the agency's information and systems are appropriately managed.
- **Enterprise Data Policy:** aims to ensure that the principles applying to the governance and management of the department's information include that data is valued and governed as an asset; data is created and managed digitally; data is fit for its intended purposes and is easy to find, access and use; data is shared and released to the maximum extent possible within the department's privacy framework; and data management capability is fostered and embedded into how the department does its work.
- **Enterprise Risk Management Policy and Enterprise Risk Management Framework:** this policy and framework are intended to integrate enterprise risk management into the department's business planning, decision-making and reporting functions.
- **Information Security Policy:** this policy provides direction and guidance on ensuring information is fit for purpose, secure, available, accessible, complies with applicable laws and regulations, enables staff to make decisions and helps the department to realise its strategic objectives.
- **Digital Devices and Online Services – Staff Use Policy and Guidelines:** provide direction and guidance for staff on the use of authorised digital devices and online services, including to ensure these are used properly and securely and in a manner that protects the security of the department's information.
- **Code of Conduct Policy and Procedures:** provides for standards of professional conduct that promotes adherence to the department's and the NSW Public Sector's values and provides a framework for employees to support day to day ethical decision making. It requires, amongst other matters that employees must comply with applicable legislation such as the PPIPA and only use official information for the work-related purposes for which it was intended.
- **Business Continuity Management Policy and Planning Guidelines:** require business units that perform a critical business function to develop, maintain and test Business Continuity Plans ("BCPs") on at least an annual basis to ensure that essential services are maintained at an acceptable level during a major disruptive event and restored to full functionality within an acceptable timeframe.

The department retains and destroys information in accordance with the following:

- **Electronic Document Records Management System ("TRIM"):** used across all of the department's business units with the aim of achieving compliance with the NSW Government's M2009-11 Standard

	<p>on Digital Recordkeeping., as approved by the State Records Authority (now the State Archives and Records Authority of NSW).</p> <ul style="list-style-type: none"> • NSW State Records Act 1998: mandates the requirements to make and keep records, establish and maintain a records management program, ensure that records are stored in appropriate conditions and ensure that records held in digital or other technology dependent formats are accessible for as long as they are required. • State Archives and Records Authority of NSW rules: is an additional set of policies, standards, retention and disposal authorities and procedures to manage the department’s records. <p>Exceptions to protecting and destroying information in accordance with IPP 5 and HPP 5</p> <p>A. As permitted under any other Act or law</p> <p>The department is not required to protect and destroy health information in accordance with HPP 5 if the department is authorised or required under an Act or other law not to do so.</p> <p>B. As permitted under Privacy Code of Practice (section 30 of PPIPA)</p> <p>The department is not required to destroy personal information in accordance with IPP 5(a) if doing so may detrimentally affect or prevent the proper exercise of its complaint handling functions or investigative functions.</p>
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5. Access to information

Legislation	Actions of the department
<p>IPPs 6 and 7 and HPPs 6 and 7 (sections 13 and 14 PPIPA and clauses 6 and 7 Schedule 1 HRIPA): The department must take reasonable steps to allow an individual</p>	<p>The department will, at the request of an individual whose information it holds, provide the individual with access to their information.</p> <p>Where practicable, individuals are informed of the right to access their information by way of a notice at the time of collection.</p> <p>Individuals wishing to exercise their right to access their own information should apply in writing or direct their inquiries to the business unit with responsibility for the information or Legal Services if the</p>

<p>to ascertain whether the agency holds their information, including what information it holds and the purposes it uses such information for. The department must also provide access to that information.</p>	<p>business unit is not known. A written request form for access to information is at Annexure 1. This and other privacy forms are available online at https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms.</p> <p>Requests for access are usually handled by the relevant business unit. The procedures that are applied by business units provide that:</p> <ul style="list-style-type: none"> • A request for access to information must clearly identify the information to which it refers. • Factors to consider when deciding to require a fee to provide access to information may include: <ul style="list-style-type: none"> ○ the volume of documents requested, and ○ whether the documents have previously been provided to the individual. • Access may be granted by providing a copy of the information or allowing the individual to read the information without taking a copy of it. • If access is denied, the department will provide the individual with reasons for this decision and information about his/her right to make an application for internal review of the decision. <p>Access to information held by the department may also be available under:</p> <ul style="list-style-type: none"> • the GIPAA. Details of these procedures are available from the department's Right to Access unit. Nothing in the PPIPA or HRIPA affects the operation of the GIPAA. Provisions within the GIPAA that impose conditions or limitations on an individual's access to information under that Act are not affected by the PPIPA and apply in the same way to a request for access under the PPIPA. • the State Records Act 1998. <p>Exceptions to providing access to information</p> <p>A. As permitted under another Act or law (section 25 PPIPA)</p> <p>B. As permitted under Privacy Code of Practice (section 30 of PPIPA)</p> <p>The department is not required to allow an individual to ascertain whether the department holds their personal information under IPP 6:</p> <ul style="list-style-type: none"> • where required to preserve the confidentiality of counsellor records (i.e. where the individual has been mentioned in the course of another individual's counselling session),
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	<ul style="list-style-type: none"> • where it might detrimentally affect or prevent the proper exercise of the department’s complaint handling or investigative functions, or • where required to preserve the confidentiality of information provided by staff or students about another student in circumstances where it is considered necessary to promote and maintain a safe and disciplined learning environment. <p>The department is not required to give access to personal information under IPP 7:</p> <ul style="list-style-type: none"> • where it might detrimentally affect or prevent the proper exercise of the department’s complaint handling or investigative functions, • where the department obtains approval from the parent, guardian or caregiver of a student before releasing information to the student, or • where the information relates to a student and was provided by staff or other students in circumstances where it is considered necessary to promote and maintain a safe and disciplined learning environment.
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6. Correction of information

Legislation	Actions of the department
<p>IPP 8 and HPP 8 (section 15 PPIPA and clause 8 Schedule 1 HRIPA): At the request of the individual, the department must amend information it holds on an individual at the request of the individual to ensure it is accurate, relevant to the purpose,</p>	<p>An individual can request an amendment of their information held by the department by contacting the business unit where the information is held or Legal Services if the business unit is not known.</p> <p>The department will take reasonable steps to ensure that individuals are informed of their right to request amendment of their information by way of a notice at the time of collection.</p> <p>A request should be in writing identifying the information involved, the document or documents on which it is recorded, the changes requested and evidence in support of the need for amendment. A written request for amendment of information is at Annexure 2. This and other privacy forms are available online at https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms.</p> <p>Requests are dealt with by the business unit where the records are held. The procedures that are implemented by business units provide that:</p>

<p>complete, up to date and not misleading. If the department is not prepared to do this, it must attach a statement provided by the individual. If the department does amend the information, it must notify recipients of amendments to that information.</p>	<ul style="list-style-type: none"> • A request for amendment of information must clearly identify the information involved and the amendment sought. • Consideration will be given to whether it is appropriate and practicable to make the amendment requested. • If it is not appropriate and practicable to make the amendment requested, reasonable steps will be taken to attach a statement of the amendment sought to the information. • Consideration will be given to determining what is reasonably practicable when notify recipients of the information about any amendment. <p>Exceptions to providing access to information</p> <p>A. As permitted under another Act (section 25 PPIPA and section 23(b) of HRIPA)</p> <p>B. As permitted under Privacy Code of Practice (section 30 of PPIPA)</p> <p>The department may alter the personal information of a student at the request of their parent, guardian or caregiver.</p> <p>The department is not required to alter personal information:</p> <ul style="list-style-type: none"> • where required to preserve the confidentiality of counsellor records (i.e. where the individual has been mentioned in the course of another individual’s counselling session), • where required to preserve the confidentiality of information provided by staff or students about another student in circumstances where it is considered necessary to promote and maintain a safe and disciplined learning environment, or • where it might detrimentally affect or prevent the proper exercise of the department’s complaint handling or investigative functions.
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7. Accuracy of information

Legislation	Actions of the department
<p>IPP 9 and HPP 9 (section 16 PPIPA and clause 9 Schedule 1 HRIPA): The department must take reasonable steps to ensure that information is accurate, up to date and complete before using it.</p>	<p>The department generally relies on the person providing information to the department to confirm its accuracy and completeness. Individuals (including employees and students) are provided with opportunities to update the information that they have provided to the department.</p>

8. Limits on use of personal information

Legislation	Actions of the department
<p>IPP 10 (section 17 PPIPA): The department must only use personal information for the purpose it was collected unless consent is obtained or the purpose relates direct to the purpose for which it was collected or to address a serious/imminent threat to health or safety.</p>	<p>In most situations, the department obtains consent to use an individual's personal information for specified purposes at the time of collection, for example, on school student enrolment forms.</p> <p>Where personal information is stored in a digital storage system, business units will ensure that appropriate descriptions are used to avoid errors or misinterpretation which may result in misuse of the information. Uniform description of information also facilitates its transfer between business units. These issues are addressed in the department's policies and procedures and the NSW Government Information, Classification, Labelling and Handling Guidelines which applies to all NSW Government agencies.</p> <p>Personal information that has not been obtained through a formal collection process but is created from collating known information about an individual (e.g. records created by schools of student results or records of employee training) should only be used for the purposes for which the department has created and holds the information.</p> <p>Exceptions to limits on use of personal information</p>

	<p>A. Uses permitted under another Act (section 25 PPIPA)</p> <p>B. Uses necessary for law enforcement purposes or for the protection of the public revenue (section 23 PPIPA)</p> <p>C. Disclosure to another public sector agency (section 28(3) PPIPA)</p> <p>The department may disclose personal information to another public sector agency administered:</p> <ul style="list-style-type: none"> • by the same Minister in relation to a matter within their administration, or • by the Premier for the purposes of informing the Premier of any matter. <p>The recipient agency is not permitted to use or disclose the personal information other than for the purpose for which it was given to it.</p> <p>D. Uses permitted under Privacy Code of Practice (section 30 of PPIPA)</p> <p>The department may use personal information for another purpose:</p> <ul style="list-style-type: none"> • where the purpose is child protection, • where it is reasonably necessary in order to enable the department to exercise its complaint handling or investigative functions, • where the department obtains the consent of a parent, guardian or caregiver of a student to do so, • where it is considered necessary to promote and maintain a safe and disciplined learning environment, or • to obtain legal advice and representation or for use in legal proceedings.
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9. Limits on disclosure of personal information

<p>Legislation IPP 11 (section 18): The department must not disclose personal information to a third party unless the disclosure is permitted, such as if disclosure is directly related to the collection purpose and there is no reason to believe the individual would object.</p>	<p>Actions of the department The department will use all reasonable endeavours to notify individuals of the anticipated recipients of their information at the time of collection.</p> <p>Business unit managers are requested to regularly update information they hold so it reflects the individual's current situation and to obtain the consents necessary to allow for the disclosure where this is anticipated. The frequency of updating information and obtaining consent, and the manner in which this is done, will depend on the circumstances and the information involved.</p> <p>Exceptions to limits on disclosure of personal information</p> <p>A. Disclosure permitted under another Act (section 25 PPIPA)</p> <p>The department may disclose personal information to a third party if it is required or permitted under an Act. The department has statutory obligations to disclose personal information. For example:</p> <ul style="list-style-type: none">• To meet its enforcement role with respect to the compulsory schooling duty of parents under the Education Act 1990; as permitted under Chapter 16A of the Children and Young Peoples (Care and Protection) Act 1998 which allows for the exchange of information between agencies that have responsibilities relating to the safety, welfare or well-being of children and young persons; and for the operation of care services under the Children (Education and Care Services) National Law (NSW).• The department may disclose information under Part 5A (Health and safety risks at schools arising from student behaviour) of the Education Act. Information about students may be provided by the department to the Minister or the Secretary of the department or exchanged between schools to assess, and manage, health or safety risks arising from a child attending particular schools and to assist the Minister in determining whether to exercise the Minister's power to issue non-attendance directions. <p>B. Disclosure necessary for law enforcement and related matters (sections 23 and 24 PPIPA)</p> <p>The department may disclose information to a third party:</p>
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- in connection with proceedings for an offence or for law enforcement purposes,
- to a law enforcement agency for the purposes of ascertaining the whereabouts of a missing person,
- where authorised or required under a subpoena, search warrant or other statutory instrument. [Legal Issues Bulletin No. 25](#) deals with return of a subpoena to produce,
- where reasonably necessary for the protection of public revenue or to investigate an offence where there are reasonable grounds to believe an offence has been committed,
- where reasonably necessary to assist an investigative agency to exercise its investigative functions.

Where the department is required to disclose **personal information** to a law enforcement agency it will first establish the purpose for which the information is required and only provide information relating directly to that purpose. The department has entered into a memorandum of understanding with the NSW Police which deals with the exchange of information with that agency. Exchange must be made in accordance with the PPIPA.

C. Disclosure with the express consent of the individual concerned (section 26 PPIPA)

D. Disclosure for research purposes (section 27B PPIPA)

The department may disclose **personal information** for the purpose of research by external bodies. Research undertaken in NSW Government schools or pre-schools when the researcher interacts with students or staff is undertaken in compliance with the [State Education Research Approvals Process and Guidelines \(SERAP\)](#). The guidelines require informed consent of the student or their parent, guardian or caregiver for participation in a research project.

Any disclosure for research purposes will be undertaken in accordance with the [Privacy Commissioner's Statutory Guidelines on Research](#) made under section 27B of the PPIPA. Those guidelines seek to minimise the administrative burden on public sector agencies making use of the section 27B exemption, while ensuring that it is not used when alternatives are readily available for example by taking steps to de-identify information.

E. Disclosure to another public sector agency (section 28(3) PPIPA)

The department may disclose **personal information** to another public sector agency administered:

- by the same Minister in relation to a matter within their administration, or
- by the Premier for the purposes of informing the Premier of any matter.

The recipient agency is not permitted to use or disclose the **personal information** other than for the purpose for which it was given to it.

F. Disclosure permitted under Privacy Code of Practice (section 30 of PPIPA)

The department may disclose **personal information** for another purpose:

- where the purpose is child protection,
- to avoid a detrimental effect on or the prevention of the proper exercise of the department's complaint handling or investigative functions,
- where the information relates to a student and it is in the best interests of the student to disclose the **personal information** (other than counsellor records) to their parent, guardian or caregiver,
- where a parent, guardian or caregiver refers their preschool or primary aged student or student with significant intellectual disability to the school counsellor for assessment and advice and it is in the best interests of the student for the school counsellor to disclose counselling records to the parent, guardian or caregiver,
- where, having regard to the sensitivity of the issue, the age and maturity of the student, if the parent, guardian or caregiver expressly consents,
- where it is necessary to promote and maintain a safe and disciplined learning environment,
- where necessary to allow for consideration of the level of awareness of, or any objection by, the parent, guardian or caregiver of a student regarding the disclosure of information about a student,
- where it is necessary to obtain legal advice and representation or for use in legal proceedings,
- to provide student application and performance information to NESAs for the purposes of the Record of School Achievement or the Higher School Certificate.

When considering whether the individual would object to a disclosure for a purpose other than the collection purpose, the department may consider whether a parent, guardian or caregiver may object to such disclosure.

	When considering whether the individual would be aware that information of that type is usually disclosed to the recipient, the department may consider whether a parent, guardian or caregiver may object to such disclosure.
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10. Special limits on disclosure of information

<p>IPP 12 (section 19 PPIPA): Unless necessary to prevent a serious and imminent threat to the life or health of an individual, the department must not disclose sensitive information.</p> <p>The department must not disclose personal information outside NSW (or to a Commonwealth agency) unless an exception applies.</p> <p>HPP 14 (clause 14 Schedule 1 HRIPA): The department must not transfer health information about an individual to any person or body outside NSW or to a Commonwealth</p>	<p>Sensitive information for the purposes of IPP 12 is information relating to an individual’s ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities.</p> <p>Business units within the department put in place the necessary policies to ensure that they are able to comply with their obligations in relation to these special limits on the disclosure of information.</p> <p>Exceptions to special limits on disclosure of information</p> <p>A. Disclosure necessary for law enforcement and related matters (sections 23 and 24 PPIPA)</p> <p>The department may disclose personal information:</p> <ul style="list-style-type: none"> • for law enforcement purposes where there are reasonable grounds to believe an offence has been committed, or • where reasonably necessary to assist an investigative agency to exercise its investigative functions. <p>B. Disclosure permitted under another Act (section 25 PPIPA)</p> <p>The department may disclose personal information to a third party if it is required or permitted under an Act. Some Acts require the department to disclose information to State and Commonwealth agencies on request. These include:</p> <ul style="list-style-type: none"> • requests related to the safety, welfare or wellbeing of a child or young person (Children and Young Persons (Care and Protection) Act 1998), • requests for information about an individual to determine his/her eligibility to receive benefits (Social Security (Administration) Act 1999 (Cth)),
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<p>agency unless an exception applies.</p>	<ul style="list-style-type: none"> • requests relating to ascertaining the identity or whereabouts of a person believed to be a non-citizen, under the Migration Act 1958 (Cth), • requests about a child's location in connection with a location order issued under the Family Law Act 1975 (Cth), and • requests relating to the disclosure of corrupt conduct or maladministration under the Public Interest Disclosures Act 1994. <p>In response to a request made under an Act the department will only provide the information requested and which falls within the scope of what can lawfully be obtained. Legal Issues Bulletin No. 47 and 50 address exchange of information with other government agencies.</p> <p>C. Disclosure with the express consent of the individual concerned (section 26 PPIPA)</p> <p>D. Disclosure for research purposes (section 27B PPIPA)</p> <p>Requests for information for the purposes of research, evaluation, data linkage and program and funding reviews often involve information about sensitive information, such as a student's ethnic origin as well as other information.</p> <p>Any disclosure for research purposes will be undertaken in accordance with the Privacy Commissioner's Statutory Guidelines on Research made under section 27B of the PPIPA. Those guidelines seek to minimise the administrative burden on public sector agencies making use of the section 27B exemption, while ensuring that it is not used when alternatives are readily available for example by taking steps to de-identify information.</p> <p>E. Disclosure to another public sector agency (section 28(3) PPIPA)</p> <p>The department may disclose personal information to another public sector agency administered:</p> <ul style="list-style-type: none"> • by the same Minister in relation to a matter within their administration, or • by the Premier for the purposes of informing the Premier of any matter. <p>The recipient agency is not permitted to use or disclose the personal information other than for the purpose for which it was given to it.</p>
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F. Disclosure permitted under Privacy Code of Practice (section 30 of PPIPA)

The department may disclose **personal information**:

- where the purpose is child protection,
- to avoid a detrimental effect on or the prevention of the proper exercise of the department's complaint handling or investigative functions,
- where the information relates to a student and it is in the best interests of the student to disclose the **personal information** (other than counsellor records) to their parent, guardian or caregiver,
- where a parent, guardian or caregiver refers their preschool or primary aged student or student with significant intellectual disability to the school counsellor for assessment and advice and it is in the best interests of the student for the school counsellor to disclose counselling records to the parent, guardian or caregiver,
- where, having regard to the sensitivity of the issue, the age and maturity of the student, if the parent, guardian or caregiver expressly consents,
- where it is necessary to promote and maintain a safe and disciplined learning environment, and
- where it is necessary to obtain legal advice and representation or for use in legal proceedings.

Exceptions to restriction on transborder health information flows and disclosure to Commonwealth agencies

A. Transfer permitted under another Act (clause 14(h), Schedule 1 of HRIPA)

The department may disclose **health information** outside NSW or to a Commonwealth agency in certain circumstances, including if it is permitted under an Act. Acts that allow the department to use or disclose information include the [*Australian Bureau of Statistics Act 1975*](#).

11. Use and disclosure of health information

Legislation	Actions of the department
<p>HPPs 10 and 11 (clauses 10 and 11 Schedule 1 HRIPA): The department must not use or disclose health information for a purpose other than the collection purpose except in limited circumstances, such as with the individual's consent or where the secondary purpose is directly related to the collection purpose and the individual would reasonably expect their information to be used for that purpose.</p>	<p>The department obtains consent for the use and disclosure of an individual's health information at the point of collection. For example, the application for approval to undertake the equivalent of Year 10 of secondary education at TAFE NSW requires students to provide permission to the Principal of their school to release their information and records to be used in determining whether permission is granted for the student to enter a TAFE Year 10 equivalent program. This information may include the student's health information.</p> <p>Where the department discloses health information for research, data linkage, evaluation and review of programs and funding allocations without the consent of the person to whom the information relates, in accordance with the Statutory Guidelines on Research, made under section 36(2) of the PPIPA for the purposes of section 27B(e) of the PPIPA. Those guidelines seek to minimise the administrative burden on public sector agencies making use of the section 27B exemption, while ensuring that it is not used when alternatives are readily available for example by taking steps to de-identify information. These address the conditions upon which the department can rely when applying the research exemption for the collection, use and disclosure of health information.</p> <p>The department has entered into, and continues to enter into, a range of contractual arrangements. Where such arrangements require the department to disclose an individual's information it takes reasonable steps to ensure that the party with which it is contracting does not inappropriately use or disclose information by inserting clauses in the agreement requiring compliance with the PPIPA and HRIPA.</p> <p>Exceptions to limitations on use and disclosure of health information</p> <p>A. Use and disclosure permitted under HRIPA (clauses 10 and 11, Schedule 1 of HRIPA)</p> <p>The department may use or disclose information for a purpose that is not directly related to the collection purpose without the individual's consent:</p> <ul style="list-style-type: none"> to assist in an emergency (where reasonably necessary and where it is impracticable or unreasonable to seek the individual's consent),

- where necessary to lessen or prevent a serious and imminent threat to the life, health and safety of an individual or public health and safety (if the information is genetic information, it may be used where necessary to lessen or prevent a serious threat to the life, health or safety of a genetic relative of the individual in accordance with any applicable Privacy Commissioner's guidelines),
- where reasonably necessary for research, the management of health services, or training of employees, and the information is either de-identified or, if identification is necessary it is impracticable to seek the individual's consent and the information is not published in a generally available publication,
- where reasonably necessary to assist an investigative agency to exercise its complaint handling or investigative functions,
- to assist in finding a missing person,
- where it is reasonably necessary in order to enable the department to exercise its complaint handling or investigative functions, or
- where necessary to investigate or report a reasonable suspicion of unlawful activity, unsatisfactory professional conduct, professional conduct or conduct by a department employee that may be grounds for disciplinary action.

The department may also disclose **health information** for a secondary purpose without the individual's consent to the individual's immediate family member for compassionate reasons where the disclosure is limited to the extent reasonable for those compassionate reasons, the individual is incapable of giving consent, disclosure is not contrary to the individual's wishes (in so far as the organisation can, by taking reasonable steps, make itself aware of those wishes), and, if the family member is under 18 years old, the department reasonably believes they have sufficient maturity in the circumstances to receive the information.

B. Permitted under another Act (clauses 10 and 11, Schedule 1 of HRIPA)

The department may use or disclose **health information** if it is permitted under an Act. Acts that allow the department to use or disclose information include:

- Workplace Injury Management and Workers Compensation Act 1998, in the management of employees' health in the workplace,

- Workplace Injury Management and Workers Compensation Act 1998, Children and Young Persons (Care and Protection) Act, in respect of matters concerning children and young persons' safety, welfare or wellbeing, and
- Teaching Service Act 1980, when managing employee conduct and performance issues.

C. Disclosure to another public sector agency (clauses 10 and 11, Schedule 1 of HRIPA)

The department may disclose **health information** to another public sector agency administered:

- by the same Minister in relation to a matter within their administration, or
- by the Premier for the purposes of informing the Premier of any matter.

The recipient agency is not permitted to use or disclose the **health information** other than for the purpose for which it was given to it.

D. As permitted under HRIPA (section 64 of HRIPA)

The department may use or disclose **health information** when complying with the Privacy Commissioner's Statutory Guidelines on the Management of Health Services. The Guidelines address use and disclosure for funding, management, planning and evaluation of health services, what are reasonable steps to de-identify **health information**, the practicality of obtaining consent and what to consider when using and disclosing de-identified **health information**.

12. Identifiers in relation to health information

Legislation	Actions of the department
<p>HPP 12 (clause 12 Schedule 1 HRIPA): The department may only assign identifiers to individuals and use and disclose them, if reasonably necessary to enable it to carry out its functions efficiently.</p>	<p>The department is not required to take any positive steps to comply with HPP 12 and therefore does not have any policies or procedures to address compliance with HPP 12.</p> <p>Identifier is defined for the purposes of HRIPA to mean some form of identifier, other than a person’s name, which is:</p> <ul style="list-style-type: none"> • assigned to an individual in conjunction with or in relation to the individual’s health information by an organisation for the purpose of uniquely identifying that individual, whether or not it is subsequently used otherwise than in conjunction with or in relation to health information, or • adopted, used or disclosed in conjunction with or in relation to the individual’s health information by an organisation for the purpose of uniquely identifying that individual. <p>While student ID numbers are assigned to students, these would not fall within the definition, as those IDs are not created in connection with the storage of health information and are not “adopted, used or disclosed” for the purposes of uniquely identifying students in relation to their health information. Similarly, while employee ID numbers are used by the department these are also not identifiers for the purposes of HPP 12.</p>

13. Anonymity and health information

Legislation	Actions of the department
HPP 13 (clause 13 Schedule 1 HRIPA): Where it is lawful and practicable, the department must give individuals the opportunity to not identify themselves when receiving health services from the department.	While the department may provide health services, it is not lawful or practicable to provide individuals the opportunity to not identify themselves when receiving these services, as these are only provided to students or employees or other individuals engaged by the department. Therefore no processes or policies have been implemented for compliance with HPP 13.

14. Linkage of health information

Legislation	Actions of the department
HPP 15 (clause 15 Schedule 1 HRIPA): The department must not include health information about an individual in a health records linkage system or disclose an individual's identifier (where the purpose of disclosure is for inclusion of health information in a health records linkage system) except with the individual's consent.	The department does not use any health records linkage systems and therefore has not implemented any processes or policies for compliance with HPP 15.

15. Public registers

- 15.1** A public register is defined by the PPIPA as a register containing personal information that is made publicly available or open to public inspection, whether or not on payment of a fee. Health information is included as personal information for the purposes of the PPIPA provisions regulating public registers. If a register only contains information that is excluded from the definition of “personal information” under the PPIPA it is not a public register.
- 15.2** A register which has, and is authorised to have, its entire contents published in a publicly available publication would not be a public register within the meaning of the PPIPA. In addition, if access to a register is given only to specific categories of people rather than to the public at large, then it may not be a public register within the meaning of the PPIPA because it is not “publicly available or open to public inspection”.
- 15.3** The department:
- (a) records in the register of government contracts all contracts it enters into with the private sector which are valued at over \$150,000. This register is published on the [NSW eTendering website](#),
 - (b) maintains a Schools asbestos register, which contains information about the existence and location of any known or presumed asbestos-containing materials on school sites, and
 - (c) maintains a disclosure log in accordance with the requirements of the GIPAA, which is a record of information that the Department has released in response to formal access applications under the GIPAA.
- 15.4** None of the registers listed above contains personal information. If in future the department maintains any public register or registers, each business unit of the department (if any) that administered a public register would need to analyse the public register provisions of the PPIPA and, to the extent to which they apply to that register, adopt strategies for compliance with PPIPA’s requirements. In summary, those requirements are that:
- (a) before disclosing any personal information from a public register, the department must be satisfied that the information is to be used for a purpose relating to the purpose of the register or of the legislation under which the register is kept,
 - (b) the department may require any person who applies to inspect personal information in a public register to give particulars in the form of a statutory declaration as to the intended use of the information obtained from the inspection, and
 - (c) where the department suppresses, on request, a person’s information from a public register the department must be satisfied that the safety or well-being of the person will be adversely affected by not suppressing the information and that the suppression is not against the public interest.
- 15.5** Registers maintained by the department which are not public registers for the purposes of the PPIPA, such as the department’s Pecuniary and Private Interest

Register and Register of Gifts and Benefits, are still subject to the privacy information principles in the PPIPA.

PART 4 DEALING WITH COMPLAINTS AND DATA BREACHES

1. Complaints - Internal and External Reviews

Informal complaints process

- 1.1 The department makes available an informal complaints process to address privacy complaints, if that process is acceptable to the complainant. This does not replace the internal and external review processes, as set out below. If a complainant wishes to use an informal process, they may contact Legal Services. Alternatively, a complaint may be made to another Department officer, who will contact Legal Services in the event that the complainant wishes to use an informal process. Legal Services may be contacted via email: legal.privacy@det.nsw.edu.au or by mail to:

Legal Services
NSW Department of Education Level 5, 105 Phillip Street
PARRAMATTA NSW 2150

What are internal and external reviews?

- 1.2 The PPIPA and the HRIPA provide for both internal review and external review processes. If you have a privacy complaint and you would like the department itself to investigate and resolve that complaint, that would be done by an internal review. In other words, an internal review is a review of a privacy complaint by the department itself. As set out below, an internal review would be undertaken by the department in accordance with [Part 5 of the PPIPA](#). An external review of a privacy complaint is a review that is undertaken by the Privacy Commissioner.

Who can apply for an internal review or a review by the Privacy Commissioner?

- 1.3 If an individual believes the way in which the department has handled their information breaches the PPIPA or the HRIPA that individual may:
- (a) make a complaint to the Privacy Commissioner, or
 - (b) apply to the department for an internal review of that conduct.
- 1.4 Complaints to the Privacy Commissioner are dealt with under [Part 4 Division 3 of the PPIPA](#) and internal reviews by public sector agencies are required to comply with [Part 5 of the PPIPA](#).
- 1.5 The contact details for the Privacy Commissioner are:
- Email:** ipcinfo@ipc.nsw.gov.au
Phone: 1800 472 679
Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000
Postal: GPO Box 7011, Sydney NSW 2001
- 1.6 Generally, a person may only seek an internal review in relation to a breach of their own privacy.
- 1.7 Where a person lacks capacity, by reason of age, injury, illness physical or mental impairment, to understand the general nature and effect of the PPIPA or HRIPA or

is unable to communicate their intentions in relation to a complaint, an authorised representative may act on the individual's behalf to seek an internal review.

- 1.8** If a person wishes to seek an internal review on behalf of an applicant who does not lack capacity, the reasons must be set out in the application for the internal review for consideration by the department. Those reasons may include decision making disabilities, immaturity or other matters. The department will determine on a case by case basis if it is appropriate for such a person to act on behalf of the applicant. The department will consider the Privacy Commissioner's Guide on Privacy and People with Decision Making Disabilities in determining whether to grant an application. Consistently with that Guide, the department seeks to implement procedures to ensure that the department acts fairly in handling information.

How to make an application for internal review (Privacy Complaint)

- 1.9** An application for internal review should identify the conduct of the department which an individual believes amounts to:

- (a) a breach of an IPP or HPP, or
- (b) a breach of the department's Code of Practice or any other privacy (including health privacy) code of practice that applies to the department, or
- (c) a breach of the public register provisions of the PPIPA.

- 1.10** An application for internal review must also:

- (a) be in writing (including by email),
- (b) be addressed to the department,
- (c) specify an address in Australia to which the department can send notification of the outcome of the internal review or notification that the application does not meet the criteria for an internal review and therefore an internal review will not be conducted, and
- (d) be lodged with the department within 6 months from the time the applicant first became aware of the conduct the subject of the application or such later date, being not later than 12 months from the time the applicant first became aware of the conduct, as the department may agree.

- 1.11** The department will only exercise its discretion under 1.10(d) immediately above to agree a later date of lodgement where:

- (a) the department determines that the application is not frivolous, vexatious, misconceived or lacking in substance or not made in good faith
- (b) the applicant demonstrates to the department's satisfaction that any one of the following apply:
 - (i) the delay has arisen because the applicant (either alone or with others) made an application to the department under another process to resolve the complaint within the 6 month period and that process was not completed within the 6 month period
 - (ii) ill-health or other incapacity prevented the applicant lodging the application within the 6 month period, or

- (iii) the applicant believed, on reasonable grounds, that they would suffer repercussions as a result of making the application at an earlier time, and
- (c) the department determines that the delay in lodging the application will not adversely affect the ability of the department to determine the application, for example, to ascertain all relevant facts or interview relevant department officers.

1.12 The department strongly recommends that a person wishing to make a privacy complaint uses the department's own [Privacy Internal Review Application Form](#) which is also set out in [Annexure 3](#) however this is not mandatory.

How are internal reviews conducted?

1.13 Applications for internal review are handled by Legal Services with reference to [guidance material](#) issued by the Information and Privacy Commission.

1.14 When an application is received it is allocated to a reviewing officer with the delegation to determine whether the department has breached an IPP or HPP, the department's Code of Practice, any other privacy code of practice that applies to the department or the public register provisions of the PPIPA. The reviewing officer must be a person who was not substantially involved in any matter relating to the conduct the subject of the application. If the initially allocated officer determines, either initially or as the officer progresses in the review, that they were involved in a matter relating to the application, that reviewing officer may refer the matter to another reviewing officer within Legal Services. Support will be obtained from other Legal Services officers to assist in assessing each application and, where appropriate, to undertake fact finding investigations.

1.15 An initial assessment is undertaken. If an application is assessed at this preliminary stage as meeting the requirements identified at 1.8 and 1.9 above, the legal officer will within 10 working days of receipt of the application:

- notify the Privacy Commissioner of the application (normally providing a copy), and
- inform the applicant in writing of:
 - (a) the department's decision to conduct an internal review under the PPIPA or HRIPA, as appropriate,
 - (b) the name, position and contact details of the officer or officers undertaking the internal review,
 - (c) the department's understanding of the conduct complained about and whether that conduct potentially breaches an IPP or HPP (and, if so, which IPP or HPP), the department's Code of Practice, any other privacy code of practice that applies to the department or the public register provisions of the PPIPA,
 - (d) the applicant's right to apply for external review by the NSW Civil and Administrative Tribunal if the review is not completed within 60 days from receipt by the department (which application must be made within 28 days of the expiry of that 60 day period),
 - (e) that the applicant and Privacy Commissioner will be kept informed of the progress and findings of the review.

- 1.16** If an application is assessed as not meeting the requirements identified at 1.8 and 1.9 above, the legal officer will inform the applicant in writing of its decision not to undertake an internal review within 10 working days of receipt of the application.
- 1.17** If an application is assessed as meeting the requirements identified in 1.8 and 1.9, the legal officer conducting the investigation for the purposes of the internal review will:
- (a) assist the applicant to clearly explain their complaint and to provide to the department all relevant documents in support of the complaint, including the particulars and evidence of the alleged breach and the harm, if any, caused by the alleged breach. The applicant should clearly explain their complaint, and provide supporting documentation, as this will allow the legal officer conducting the investigation to take all appropriate steps as part of that investigation,
 - (b) interview relevant staff (if applicable) and examine records and obtain any other pertinent information on the circumstances of the alleged breach,
 - (c) prepare a report setting out the steps taken in the investigation, the conclusions reached and recommendation for action to be taken to resolve the complaint (the fact finding report),
 - (d) refer the fact finding report to the Privacy Commissioner, for the Privacy Commissioner to determine whether to make any submissions and to the determining officer for consideration when making the determination, and
 - (e) contact the applicant during the course of the internal review if any further information or clarifications are required.
- 1.18** The determining officer will:
- (a) consider the fact finding report and any submissions from the Privacy Commissioner when determining whether or not a breach has occurred,
 - (b) contact the applicant about the complaint if further information is required and provide the applicant with the estimated time of completion of the internal review,
 - (c) write to the applicant and Privacy Commissioner as soon as practicable after the completion of the review and in any event within 14 days of that completion informing them of:
 - (i) that the review has been completed,
 - (ii) the findings of the review and reasons for the findings as well as an explanation of the law behind those findings,
 - (iii) the action proposed to be taken by the department and reasons for that action, and
 - (iv) the applicant's right to have the conduct that was the subject of the internal review administratively reviewed by the NSW Civil and Administrative Tribunal (which application must be made within 28 days) and the contact details for the Tribunal.

Reviews by the NSW Civil and Administrative Tribunal

1.19 Where an internal review is not completed within 60 days or if an applicant is unhappy with the outcome of an internal review, the applicant has 28 calendar days to seek an external review by the NSW Civil and Administrative Tribunal. An application for an external review must be made directly to the NSW Civil and Administrative Tribunal.

1.20 The contact details for the NSW Civil and Administrative Tribunal are:

Website: <http://www.ncat.nsw.gov.au/>

Phone: 1300 006 228

Address: Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney
NSW 2000

Postal Address: PO Box K1026, Haymarket, NSW 1240

1.21 On reviewing the conduct of the department, the NSW Civil and Administrative Tribunal may decide not to take any action on the matter or it may make orders requiring the department to:

- (a) refrain from any conduct or action which breaches an IPP or HPP or the public register provisions of the PPIPA or breaches the department's Code of Practice or any other privacy code of practice that applies to the department,
- (b) perform in compliance with an IPP or HPP or the public register provisions of the PPIPA or in compliance with the department's Code of Practice or any other privacy code of practice that applies to the department,
- (c) correct information disclosed by the department,
- (d) take specified steps to remedy loss or damage suffered by the applicant,
- (e) refrain from disclosing information in a public register,
- (f) in certain circumstances, pay compensation to the applicant of up to \$40,000 where the applicant has suffered financial loss or psychological or physical harm as a result of the conduct, and
- (g) any other ancillary orders that the Tribunal thinks appropriate.

2. Data Breaches

2.1 Data breaches can cause emotional, psychological, financial and physical harm to individuals and reputational damage to the department. Good data breach management can assist in minimising those harms and reducing the likelihood of future breaches. Harm minimisation is the department's overarching objective in responding to data breaches.

What is a data breach ?

2.2 A data breach occurs when:

- (a) there is unauthorised access to, or unauthorised disclosure of, personal information held by the department; or
- (b) personal information held by the department is lost in circumstances where unauthorised access to, or unauthorised disclosure of, the personal information is likely to occur.

Data breach management principles

2.3 The department observes the following 5 principles in managing a data breach:

1. Report the breach;
2. Contain the breach and mitigate harm to individuals;
3. Allocate the breach for investigation and assessment;
4. Notify relevant authorities and affected individuals as required or as advisable; and
5. Review for lesson learned.

Additionally, where there is a likelihood of serious harm to any affected individual, the department must comply with

- the requirements of the (NSW) Mandatory Notification of Data Breaches scheme in Part 6A of the PPIPA and/or,
- in the case of data breaches involving early childhood education or tax file numbers, the requirements of the (Commonwealth) Notifiable Data Breaches scheme

Preparedness

2.4 The department:

- provides resources to staff to assist them understand privacy obligations;
- provides training and resources to help staff identify and report a suspected data breach;
- maintains a Data Breach Response Plan setting out roles and responsibilities and guidance for appropriately responding to data breaches;
- seeks to negotiate terms in contracts with its service providers that requires the service provider to:
 1. carry out the contracted services in a way that complies with the Information Protection Principles and Health Protection Principles (or equivalent Australian Privacy Principles);

2. promptly report to the department any data breaches affecting the department; and
3. cooperate with the department in containing, mitigating, investigating and assessing data breaches.

PART 5 TRAINING

1. Privacy information provided to staff

1.1 The department maintains a privacy home page on its intranet site which is accessed through Legal Services homepage. On this page are links to (amongst other documents):

- (a) privacy bulletins and key legal issues bulletins addressing procedures and protocols in relation to the application of privacy principles to the department's functions,
- (b) the department's Privacy Code of Practice,
- (c) this plan,
- (d) extracts of privacy legislation that are applicable to the department,
- (e) links to relevant parts of the website for the Information and Privacy Commission, and
- (f) the department's internal review application form.

1.2 Legal Services provides telephone advice to staff via the Legal Services' advisory service which operates from 9:00am – 5:00pm Monday to Friday (excluding public holidays).

1.3 Legal Services provides targeted training to schools and corporate staff on their legal obligations and rights in various areas including privacy. For example, staff are required to undertake mandatory training for data breach preparedness.

1.4 Updates and new initiatives in the application of privacy policies and procedures are published on the department's intranet news page – Staff Noticeboard.

2. Responsibilities

2.1 Legal Services is responsible for disseminating information about privacy to department staff and conducts investigations as part of a privacy internal review.

2.2 A senior legal officer has oversight of privacy matters, is responsible for recording statistical information about privacy complaints for inclusion in the department's annual reports and for provision, where required, to the Privacy Commissioner, coordinating responses to requests for legal advice on privacy matters, overseeing privacy information on the internet and intranet sites, and liaising about privacy matters with the Information and Privacy Commission NSW and the [Office of the Australian Information Commissioner](#) as the case may be.

- 2.3** Specific senior legal officers in Legal Services have delegation to determine privacy complaints pursuant to internal reviews.
- 2.4** All staff are responsible for complying with the privacy legislation that is applicable to the department. Staff should be aware that Part 8 of both the PPIPA and HRIPA contain criminal offences for corrupt disclosure of information, and for offering to supply such information.

Appendix A: Legislation, regulations and policies affecting the department's collection and management of information

1. NSW's privacy laws

This section lists the primary privacy and other laws that impact on how the department must manage information:

- (a) [Privacy and Personal Information Protection Act 1998](#), identifies principles for the handling of personal information
- (b) [Health Records and Information Privacy Act 2002](#) identifies principles for the handling of health information.
- (c) [State Records Act 1998](#) provides for the creation, management and protection of the records of public offices of the State and for public access to those records.
- (d) [Government Information \(Public Access\) Act 2009](#) promotes open accountable, fair and effective government and ensures members of the public have the right to access government information.
- (e) [Public Interest Disclosures Act 1994](#) encourages and facilitates the disclosure in the public interest of corrupt conduct, maladministration, serious and substantial waste and government information contravention in the public sector.
- (f) [Education Act 1990](#) allows the department to obtain information about students from relevant agencies.
- (g) [Children and Young Persons \(Care and Protection\) Act 1998](#), provides for the exchange of information for child protection purposes between prescribed bodies.
- (h) [Crimes Act 1900](#), which prohibits interference with, and access to, data in computers or other electronic devices by the department.

2. General summary of key privacy laws

Information Protection Principles (IPPs)

2.1 Overview of the IPPs

The PPIPA applies 12 IPPs to the way in which personal information is handled. The IPPs regulate the:

- (a) collection of,
- (b) storage of,
- (c) access to,
- (d) alteration of,
- (e) accuracy of,
- (f) use of, and

(g) disclosure of,

in each case, personal information. They can be found at [sections 8 to 19](#) of the [PPIPA](#)

2.2 Exceptions to the IPPs

There are a number of exceptions to the IPPs, for instance a public sector agency does not have to comply with some IPPs when non-compliance is authorised or permitted under another Act.

The Privacy Commissioner has published two [statutory guidelines](#) which provide guidance on the application of exemptions. They are:-

- (a) [Statutory Guidelines on Research](#): provide guidance on using and disclosing information for research purposes, and
- (b) [Guidance on Transborder Disclosure](#): provides guidance on disclosing information outside NSW and to Commonwealth agencies.

2.3 Modification of the IPPs

The PPIPA allows for the operation of privacy codes of practice that may modify the application of IPPs to a public sector agency. The privacy codes of practice that impact on the operation of the department are:

- (a) The department's [Privacy Code of Practice](#) which modifies the application IPPs as they relate to the department's functions.
- (b) The [Privacy Code of Practice \(General\) 2003](#) which applies to agencies that provide education, welfare, health, mental health, disability, drug and alcohol, housing and support services. It modifies the application of the collection, use and disclosure IPPs when authorised by a senior officer of an agency. In most instances these modifications are covered by Chapter 16A of the Children and Young Peoples (Care and Protection) Act 1998 which allows for the exchange of information between agencies that have responsibilities relating to the safety, welfare or well-being of children and young persons.
- (c) The [Privacy Code of Practice for the exchange of information by participating agencies in the Youth on Track scheme 2018](#) which modifies the IPPs for agencies participating in the Youth on Track program which is designed to reduce juvenile re-offending through early intervention.

2.4 The PPIPA allows the Privacy Commissioner to make [Public Interest Directions](#) to waive or modify the requirement of a public sector agency to comply with an IPP. The current direction which impacts on the functions of the department is:

- (a) [Direction relating to the Human Services Dataset](#): modifies IPPs for the purposes of interventions that will improve the long-term outcomes for vulnerable children and young persons and their families. Information on the Human Services Dataset ('HSDS') is available at <https://www.facs.nsw.gov.au/resources/research/human-services-dataset-hsds> and the department is one of the Participating Agencies in the HSDS project.

Health Privacy Principles (HPPs)

2.5 The HRIPA applies 15 HPPs to the handling of health information by public sector agencies and private organisations. The HPPs regulate the:

- (a) collection of,
- (b) storage of,
- (c) access to,
- (d) alteration of,
- (e) accuracy of,
- (f) use of,
- (g) disclosure of,
- (h) identifiers and anonymity of, and
- (i) transfers and linkage of,

in each case, health information. These are at [Schedule 1 of the HRIPA](#) and are dealt with in more detail at points 10-14 and 18-23.

2.6 Exceptions to the HPPs

There are a number of exceptions to the HPPs which are noted within Schedule 1 of the HRIPA.

2.7 The Privacy Commissioner has published five [statutory guidelines](#) which provide guidance on the application of exemptions. They are:-

- (a) [Statutory Guidelines on the Management of Health Services](#) provide guidance on using and disclosing health information for the management of health services,
- (b) [Statutory Guidelines on Training](#) provide guidance on using and disclosing health information for training purposes,
- (c) [Statutory Guidelines on Research](#) provide guidance on using and disclosing health information for research purposes,
- (d) [Statutory Guidelines on the Collection of Health Information from a Third Party](#): provide guidance on collecting health information about a person from a third party and on notifying a person when their health information has been collected from a third party, and
- (e) [Statutory Guidelines on use and disclosure of genetic information to a patient's genetic relatives](#): provides guidance on using and disclosing genetic information under HPPs 10 and 11.

2.8 Modification of the HPPs

The HRIPA allows for the operation of privacy codes of practice that may modify the application of HPPs to a public sector agency. The following privacy codes of practice impact on the operation of the department:

- (a) [Health Records and Information Privacy Code of Practice 2005](#), and

- (b) [Health Privacy Code of Practice for exchange of information by participating agencies in the Youth on Track Scheme 2018](#) which modifies the HPPs for agencies participating in the Youth on Track program which is designed to reduce juvenile re-offending through early intervention.

- 2.9 The HRIPA allows the Privacy Commissioner to make Public Interest Directions to waive or modify the requirement of a public sector agency to comply with a HPP. The current direction which impacts on the functions of the department is [Direction relating to Human Services Dataset](#), which modifies HPPs for the purposes of interventions that will improve the long-term outcomes for vulnerable children and young persons and their families.

Information on the Human Services Dataset (HSDS) is available at <https://www.facs.nsw.gov.au/resources/research/human-services-dataset-hsds-and-the-department-is-one-of-the-participating-agencies-in-the-hsds-project>.

Reasonable steps

- 2.10 Compliance with some of the IPPs and HPPs may be satisfied if the department can show that it has taken reasonable steps, having regard to the circumstances, to comply with a requirement. Factors which will determine whether reasonable steps have been taken in the circumstances may include:

- (a) the sensitivity of the information,
- (b) the possible use of the information,
- (c) the context in which the information was obtained,
- (d) the need to maintain the integrity of the information,
- (e) the number of people who will have access to the information,
- (f) financial and practical effects of strategies for compliance on the continued ability of the agency to perform its legitimate functions,
- (g) the potential effects on the individual if the department does not comply with the principle,
- (h) the risk to department if it does not comply with the relevant IPP or HPP.

3. Policies affecting the department's processing of information include (noting that these are updated from time to time):

- [Business Continuity Management Policy](#)
- [Child Protection: Allegations Against Employees](#)
- [Child Protection: Responding to and reporting students at risk of harm](#)
- [Code of Conduct](#)
- [Digital Devices and Online Services – Staff Use](#)
- [Enrolment of Students in NSW Government Schools](#)
- [Enterprise Data](#)
- [Enterprise Governance](#)
- [Enterprise Risk Management](#)
- [Fraud and Corruption Control](#)
- [Incident Notification and Response](#)
- [Information Security](#)

- [Management of Conduct and Performance](#)
- [Media Relations](#)
- [NSW Cyber Security Policy](#)
- [NSW Government Information Classification, Labelling and Handling Guidelines](#)
- [Public Interest Disclosures Internal Reporting](#)
- [Records Management Program](#)
- [Reporting School Accidents](#)
- [School Attendance](#)
- [School Counselling Service Professional Practice Framework](#)
- [Social Media Policy](#)
- [Student Counselling Records and Psychological Tests](#)
- [Student use of digital devices and online services](#)
- [Work Health and Safety \(WHS\)](#)
- [Workforce Diversity](#)
- [Working with Children Check](#)

ANNEXURES

Annexure 1



APPLICATION FOR ACCESS

Application under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* for access to the applicant's personal and/or health information.

APPLICANTS DETAILS

Family name: Given name Title: Mr / Ms / other

..... Phone number Postal address:

.....

State: Post Code:

Email (*optional*):

If application relates to another person

Your family name: Your given name:

Title: Mr / Ms / other Phone number

Postal address:

State: Post Code:

Email (*optional*):

Your relationship to the applicant¹:

1. Access and cost

As the applicant, you have a right under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* to access your personal or health information held by the NSW Department of Education. You are entitled to have access without excessive delay or cost.

Access may be granted but limited to allowing you to view the documents only.

The department may require you to pay a fee if the application request involves a considerable

diversion of its resources.

The department may refuse to process your application in part, or in whole, if there is an exemption under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* that restricts the provision of access to the information sought.

If you are dissatisfied with the department’s decision in respect of your access application, then you may complete a **Privacy Internal Review Application Form** to complain about the decision and seek a review. The **Privacy Internal Review Application Form** is available at <https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms>

2. Proof of Identity

When seeking access to your personal or health information or access to another person’s personal or health information on their behalf (including your child’s), you may be required to provide proof of identity (eg, Australian driver photo licence, current Australian passport, etc).

You will be advised by the person processing your application if proof of identity is required.

3. Information requested

- I am seeking my own personal and/or health information.
- I am seeking personal and/or health information about my child or person for whom I have legal guardianship.²
- I am seeking personal and/or health information on behalf of another person other than my child.³

I am seeking information on behalf of another person other than my child for the following reason/s:

.....
.....

I am seeking access to the following information held by the department: *[complete information on a separate page if necessary]*

.....
.....

I am seeking the above information for the period from to

4. Where to send your application

Your application can be submitted to the business centre holding the information or Legal Services via email: legal.privacy@det.nsw.edu.au or by mail to:

Legal Services
NSW Department of Education Level

5, 105 Phillip Street
PARRAMATTA NSW 2150

Further information about your application can also be obtained from these locations.

5. Signature and declaration

I declare that the information I have provided on this form is true and correct.

SignedDate/...../.....

¹ If you are the parent/legal guardian, please advise if there is a current parenting order and attach a copy of the parenting order to the application.

² Please provide evidence of your relationship which the person whose personal information you are requesting if the department does not already hold that information.

³ If you are applying on behalf of another person other than your child or a person for whom you have legal guardianship please provide written authority and ID from that person.

Privacy Forms: This and other privacy forms are available online at <https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms>

Privacy Notice: The information provided on this application form is being obtained for the purpose of processing your application for access to information. Provision of this information is voluntary but we may not be able to consider your application without it. Your personal information will be securely stored by Department of Education.

Annexure 2



APPLICATION FOR AMENDMENT

Application under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* for amendment to the applicant's personal and/or health information.

APPLICANT'S DETAILS

Family name: Given name Title: Mr / Ms / other

..... Phone number Postal address:

State: Post Code:

Email (*optional*):

If application relates to another person

Your family name: Your given name: Title: Mr / Ms / other

..... Phone number Postal address:

State: Post Code: Email (*optional*):

..... Your relationship to the applicant¹:

1. Access and cost

As an applicant you have a right under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* to request amendment of your personal and/or health information that is held by the NSW Department of Education to ensure it is accurate and, having regard to the purpose for which it was collected, relevant, up to date, complete and not misleading.

If the department is not prepared to amend the information, you may request that it attach to the information a statement of the amendment sought.

The department may refuse to process your application in part, or in whole, if there is an exemption under the *Privacy and Personal Information Protection Act 1998* and/or *Health Records and Information Privacy Act 2002* that restricts the amendment sought.

If you are dissatisfied with the department’s decision in respect of your amendment application, then you may complete a **Privacy Internal Review Application Form** to complain about the decision and seek a review. The **Privacy Internal Review Application Form** is available at <https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms>.

2. Proof of Identity

When seeking amendment of your personal and/or health information, or another person’s on whose behalf you act (including your child’s) personal and/or health information, you may be required to provide proof of identity (eg, Australian driver photo licence, current Australian passport, etc).

You will be advised by the person processing your application if proof of identity is required.

3. Amendment requested

- I am seeking amendment of my own personal and/or health information.
- I am seeking amendment of personal and/or health information about my child or person for whom I have legal guardianship.²
- I am seeking amendment of personal and/or health information on behalf of another person other than my child.³

I am seeking information on behalf of another person other than my child for the following reason/s: [complete information on a separate page if necessary]

.....
.....

I am seeking the following amendments to information held by the department: [complete information on a separate page if necessary]

.....
.....

- I have attached documents to this application which I would like the department to consider in deciding whether to make my requested amendment.

4. Where to send your application

Your application can be submitted to the business centre holding the information or Legal Services via email: legal.privacy@det.nsw.edu.au or by mail to:

Legal Services
NSW Department of Education Level
5, 105 Phillip Street
PARRAMATTA NSW 2150

Your application can be lodged at the business centre that holds the personal or health information you wish to have amended or, if not known, to the address or email listed above.

5. Signature and declaration

I declare that the information I have provided on this form is true and correct.

Signed Date/...../.....

¹ If you are the parent/legal guardian, please advise if there is a current parenting order and attach a copy of the parenting order to the application.

² Please provide evidence of your relationship with the person whose personal information you are requesting if the department does not already hold that information.

³ If you are applying on behalf of another person other than your child or a person for whom you have legal guardianship please provide written authority and ID from that person.

Privacy Forms: This and other privacy forms are available online at <https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms>

Privacy Notice: The information provided on this application form is being obtained for the purpose of processing your application for amendment of information. Provision of this information is voluntary but we may not be able to consider your application without it. Your personal information will be securely stored by Department of Education.

Annexure 3



Privacy Internal Review Application Form

This is an application¹ for a review of conduct under (please tick the box):

s53 the *Privacy and Personal Information Protection Act 1998*²

s21 of the *Health Records and Information Privacy Act 2002*³

Details of the applicant (the person whose privacy has been breached).	
1.	Family name: Given name:
2.	Postal Address: Email Address:
3.	Phone number: (work) (mobile)
4.	Is the applicant a: (please tick the box) <input type="checkbox"/> student <input type="checkbox"/> staff member <input type="checkbox"/> parent or caregiver <input type="checkbox"/> community member
If you have been authorised to lodge the application on behalf of someone else then please complete Qs 5-8 (otherwise please proceed to Q9)	
5.	Your family name: Your given name:
6.	Your address:
7.	Your relationship to the applicant:
8.	The reason why you are lodging the application on behalf of the applicant (ie the reason why the applicant is not able to lodge this application themselves). ⁴
9.	What is the “conduct” ⁵ of which you are seeking an internal review? How do you think the applicant’s privacy has been breached? <i>(attach additional pages if required)</i>

10.	<p>Please tick which of the following describes the conduct the subject of this application <i>(you can tick more than one)</i></p> <p><input type="checkbox"/> collection of your personal/health information</p> <p><input type="checkbox"/> security or storage of your personal/health information</p> <p><input type="checkbox"/> refusal to let you access or find out about your personal/health information</p> <p><input type="checkbox"/> accuracy of my personal/health information</p> <p><input type="checkbox"/> use of my personal/health information</p> <p><input type="checkbox"/> disclosure of my personal/health information</p> <p><input type="checkbox"/> other</p>
11.	<p>When did the conduct occur? <i>(please be as specific as you can)</i></p> <p>.....</p> <p>.....</p>
12.	<p>When did you first become aware of this conduct? <i>(please include the date)</i></p> <p>.....</p> <p>.....</p> <p>.....</p>
13.	<p>You need to lodge this application within 6 months of the date you first became aware of the conduct, that is, within 6 months of the date you have written at Q12. If more than 6 months has passed please explain why you have taken more than 6 months to lodge your application. The Department will consider your reasons for delay when deciding whether to accept your application. For more information on when the Department will accept an application lodged more than 6 months after the date you first became aware of the conduct, please see the Department's Privacy Management Plan. The Department will not accept an application where more than 12 months has passed since you first became aware of the conduct.</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
14.	<p>What effect did the conduct have?</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

15.	<p>What further effect might the conduct have in the future?</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
16.	<p>What would you like to see the Department do about the conduct? <i>(for example: an apology, a change in policies or practices, training for staff etc)</i></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
17.	<p>I understand that the information on this form will be used by the Department to process the application and any subsequent action in connection with the internal review or other action undertaken in response to the application.</p>
18	<p>I understand that the NSW Privacy Commissioner will be notified of the application in accordance with Section 54(1) of the <i>Privacy and Personal Information Protection Act 1998</i> and/or Section 21 of the <i>Health Records and Information Privacy Act 2002</i> and that the NSW Privacy Commissioner will be kept informed of the progress and outcome of the internal review.</p>

Signature:.....Date:

(Signature of applicant or person lodging the application on behalf of the applicant.⁶)

Please send the completed form to: legal.privacy@det.nsw.edu.au⁷

¹ While your application must be in **writing**, it is not a requirement under the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002* that you complete an application form. This form is designed for your convenience only.

² Tick this box if your application involves your “personal information”. “Personal information” is information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the material form) about an individual whose identity is apparent or can be reasonably be ascertained from the information or opinion.

³ Tick this box if your application involves your “health information”. “Health information” is “personal information” (see point 2 above) that is information or an opinion about an individual’s physical or mental health or disability or information relating to the provision of a health service to an individual.

⁴ The reason may include decision making disabilities, immaturity or others you consider relevant. Information and Privacy Commission New South Wales has published a Guide on Privacy and People with Decision Making Disabilities. https://www.ipc.nsw.gov.au/sites/default/files/file_manager/Guide-privacy-decision-making-disabilities-ACC.pdf

⁵ "Conduct" can include an action, a decision, or inaction by the Department. For example the "conduct" might be a decision to refuse you access to your personal information, the disclosure of your personal information to another person or the failure to protect your personal information from being inappropriately accessed by someone else.

⁶ If the applicant is incapable of signing the form, the person who is lodging the application on his/her behalf should sign.

⁷ If you do not have internet access you can post your application to: Legal Services, NSW Department of Education, Level 5, 105 Phillip Street, PARRAMATTA NSW 2150.

Privacy Forms: This and other privacy forms, as well as the Department's Privacy Management Plan, are available online at <https://education.nsw.gov.au/about-us/rights-and-accountability/privacy/privacy-information-and-forms>

Privacy Notice The information provided on this form is being obtained for the purpose of handling your application for internal review under Part 5 of the *Privacy and Personal Information Protection Act 1998*. Provision of this information is voluntary but we may not be able to consider your application without it. In order to assess your complaint we may disclose your personal information to anyone else involved in the conduct you complain of or for verification purposes. We may also share your personal information with the Privacy Commissioner in order to report your complaint. Your personal information will be securely stored by the Department of Education and you may contact us to access or correct it by contacting the Legal Services Unit on 9561 8538 or legal.privacy@det.nsw.edu.au