

## Wyndham Community and Education Centre Inc Policy & Procedure

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| Policy Name        | <b>Requests for Information about Students (under 18)</b>  |
| Responsible Person | CEO, Privacy Officer   |
| Staff Involved     | VCAL & Youth Manager, all staff  |
| Review Dates       | 2021   |
| Related Documents  | <p><b>Legislation:</b> Family Violence Protection Act 2008 (Vic), Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, Child, Youth &amp; Families Act 2005 (Vic), Child Wellbeing and Safety Amendment Act (Child Safe Standards) Act 2015, Charter of Human Rights and Responsibilities Act 2006, Privacy &amp; Data Protection Act 2014 (Vic), Privacy Act 1988 (Cth), Social Security Administration Act 1999 (Cth), Dangerous Goods Act 1985 (Vic), Education and Training Reform Act 2006 (Vic), Family Law Act 1975 (Cth), Freedom of Information Act 1982 (Vic), Health Records Act 2001 (Vic), Transport Accident Act 1986 (Vic), Transport (Compliance and Miscellaneous) Act 1983 (Vic), The Transport (Compliance and Miscellaneous) Act 1983 (Vic), Public Health and Wellbeing Act 2008, Evidence (Miscellaneous Provisions) Act 1958 (Vic); Victorian Freedom of Information Act 1982 (Vic).</p> <p><b>Policies:</b> Mandatory Reporting &amp; Failure to Disclose Policy &amp; Procedure, Child Safe Policy &amp; Procedure, Privacy Policy &amp; Procedure (students/clients &amp; staff/volunteers), Health Policy &amp; Procedure, Information Security &amp; Asset Governance Policy &amp; Procedure, Decision Making Responsibilities for VCAL &amp; Youth (under-18) Policy &amp; Procedure, Marketing and Promotions Policy &amp; Procedure, Excursions Policy &amp; Procedure, Student Well Being and Duty of Care in VCAL &amp; Youth Programs (includes procedures for under-18s) Policy &amp; Procedure, VCAL Student Selection, Enrolment, Induction &amp; Delivery - Policy &amp; Procedure, Complaints &amp; Appeals Policy &amp; Procedure</p> <p><b>Other:</b> Child Safe Code of Conduct, Code of Conduct for Staff and volunteers, Reportable Conduct Scheme, Client Consent Form -To share information, Consent to Share Information form, VCAL &amp; Youth Programs Pre Training Assessment Results &amp; Recommendations Form, Marketing/Promotion Release Form- Individual Persons, VCAL &amp; Youth Legal Register, VCAL Legal Register, Family Violence Sharing Scheme, Child Information Sharing Scheme, MARAM.</p> |

### **Policy context**

Wyndham Community and Education Centre is a Community organisation and can receive requests for information about students or clients from different sources. This Policy assists Wyndham Community and Education Centre (Wyndham CEC) staff to determine when to disclose information about students/clients to persons or entities external to Wyndham CEC as appropriate.

This policy is consistent with Victorian privacy and information sharing law. Existing privacy laws permit sharing information in a range of circumstances such as:

- With consent of student/client

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- Circumstances to prevent or lessen serious threat to life/safety
- For primary or related secondary purpose for which it was collected

### Policy

Staff at Wyndham CEC should follow this policy when responding to requests for information about a student or client. The table below outlines commonly requested information.

Before disclosing any information, Wyndham CEC staff must be satisfied as to:

- the identity of the person seeking information (full name, position and organisation, if any)
- exactly what information is being sought
- the reason that the person or organisation is entitled to request and receive this information

If there is any uncertainty about a request for information staff should contact the Chief Executive Officer (CEO) or Wyndham CEC'S Privacy Officer for more information.

### Guidelines/Procedures

| When information is requested by  | Guideline/Action   |
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| <b>Authorised Officers – Public Transport</b>                               | The Transport (Compliance and Miscellaneous) Act 1983 (Vic) permits the disclosure of information to an “authorised officer” for the purpose of enforcing transport infringements. Wyndham CEC should comply with these requests.  |
| <b>Centrelink</b>   | Centrelink officers have broad powers under the Social Security Administration Act 1999 (Cth) to require a person to release information to help them determine whether a person qualifies for income support benefits. This may include information or documents relating to a student’s enrolment and attendance. Centrelink officers must provide a written notice of this requirement before staff release the relevant information  |
| <b>Courts or Tribunals</b>  | Courts, tribunals and other investigative bodies (for example, the Independent Broad-based Anti-corruption Commission (IBAC)) have the power to compel a person to produce documents and/or give evidence. If a Wyndham CEC staff member is served with a summons, subpoena, or court order, contact the CEO immediately. The CEO will seek legal advice.<br>Some Victorian court officials (such as Koorie Education Children’s Court Liaison Officers, Regional Education Children’s Court Liaison Officers and court officials at the Magistrates’ Court and Children’s Court) are prescribed Information Sharing Entities under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme. |
| <b>Department of Families, Fairness and Housing (DFFH) Child Protection</b> | All employees may report any information to DFFH Child Protection that will assist them to support the safety, health, development or wellbeing of a child in need of protection. In certain circumstances, DFFH Child Protection can compel “information holders” to provide information by service of a notice   |

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|   | <p>under section 196 of the Children, Youth and Families Act 2005 (Vic). Principals and registered teachers are “information holders” for the purposes of this Act. Failure to disclose information in these circumstances is an offence. Promoting the wellbeing and safety of children is critical.</p> <p>In other circumstances, there may be a legal obligation on staff to report to DFFH Child Protection, if they are mandatory reporters under the Children, Youth and Families Act 2005 (Vic).</p> <p>In addition to sharing information with DFFH Child Protection for the above purposes, DFFH Child Protection are a prescribed Information Sharing Entity under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.</p>  |
| <p><b>Family law disputes -<br/>Family consultants and<br/>Report writers</b></p>                 | <p>In family law disputes, a court may order that a Family Report be prepared to assist the court to decide appropriate parenting arrangements for a child or young person. “Family consultants” are employed by the court to prepare these reports. “Report writers” are private practitioners also engaged by the court to do this task. Staff are permitted but not compelled to disclose information to a Family consultant or Report writer.</p> <p>If a staff member does wish to speak to a Family consultant or Report writer, they should:</p> <ul style="list-style-type: none"> <li>• advise the CEO</li> <li>• obtain written consent of both parents</li> <li>• limit input to facts only, and</li> <li>• not express opinion or make subjective statements.</li> </ul> <p>Importantly, any information staff provide to Family consultants or Report writers is not confidential and may be incorporated into a report and provided to parents and the court.</p>                           |
| <p><b>Family law disputes -<br/>Independent Children’s<br/>Lawyer of the Family<br/>Court</b></p> | <p>Independent Children’s Lawyers (ICLs) are appointed by the Family Court in family law disputes. ICLs assist the judge to determine which arrangements are in the best interests of the child or young person.</p> <p>Schools may comply with a request for information from an ICL only as described in this section, and only if the ICL provides:</p> <ul style="list-style-type: none"> <li>• proof of appointment by the court; and</li> <li>• written consent of both parents.</li> </ul> <p>Wyndham CEC staff should only provide information to an ICL that has already been provided to the parents or that the parents would be entitled to receive. Wyndham CEC should not prepare a written report at the request of the ICL.</p> <p>If the ICL requires other information, the ICL must issue a subpoena for that information. ICLs may subpoena a staff member to legally compel other documents to be provided, such as counselling records, incident reports emails or staff notes.</p> |
| <p><b>Health professionals -<br/>including emergency<br/>services staff</b></p>                   | <p>Information can be provided if the disclosure is necessary to lessen or prevent:</p>   |

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| <p><b>such as paramedics or fire officers</b></p>                                | <ul style="list-style-type: none"> <li>• a serious and imminent threat to an individual’s life, health, safety or welfare; or</li> <li>• a serious threat to the public’s health, public safety or public welfare.</li> </ul> <p>In addition to sharing information with health professionals for the above purposes, some health professionals are prescribed Information Sharing Entities under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.</p>  |
| <p><b>Information Sharing Entities under the Information Sharing Schemes</b></p> | <p>The Child Information Sharing Scheme enables prescribed Information Sharing Entities to share confidential information about any person, at any time to promote the wellbeing or safety of a child or a group of children, where requirements for sharing are met.</p> <p>The Family Violence Information Sharing Scheme enables prescribed Information Sharing Entities to share confidential information to assess or manage a family violence risk to a child or adult, where requirements for sharing are met.</p> <p>A list of all organisations that are Information Sharing Entities can be accessed at the ISE online list.</p>  |
| <p><b>Lawyers and non-legal advocates</b></p>                                    | <p>When Wyndham CEC or individual staff members receive a request:</p> <ul style="list-style-type: none"> <li>• in writing by a lawyer or non-legal advocate acting on behalf of a student or former student, and written consent is provided, the information should generally be provided, to the extent that the student or their parents would be permitted the information under this policy.</li> <li>• for staff to provide a statement or information by a lawyer acting on behalf of one parent in a family law dispute or child protection case, staff should decline to provide any information (other than information normally provided to parents) unless subpoenaed.</li> </ul>  |
| <p><b>Parents/Guardians/Carers</b></p>   | <p><b>Request for details of where a child is enrolled</b></p> <p>In the absence of specific court orders to the contrary, each parent is entitled to know where their child is enrolled. However, there may be circumstances where it would not be in the best interests of the child for such information to be released. A request for information from a child or family member may be refused if the disclosure could put the child at risk.</p> <p>Before disclosing enrolment information to a parent, staff must be satisfied:</p> <ul style="list-style-type: none"> <li>• that there are no current court orders in place that remove parental responsibility from the parent or otherwise remove an entitlement to know where the child is enrolled; and,</li> <li>• there are no safety or welfare concerns raised if the information is released. Examples of when staff should consider safety or welfare concerns include but are not limited to:</li> </ul> |

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|   | <ul style="list-style-type: none"> <li>• the enquiring parent is the respondent to a family violence intervention order protecting the children or the other parent</li> <li>• the enquiring parent has been charged with, or convicted of family violence or child abuse offences</li> <li>• the transferring or receiving organisation, enrolling parent or child raises safety or welfare concerns</li> </ul> <p>Staff should make reasonable enquiries to satisfy themselves of the above. Reasonable enquiries might include:</p> <ul style="list-style-type: none"> <li>• asking the requesting parent for proof of identification and relationship with child</li> <li>• seeking further information on decision-making responsibilities or safety issues from the transferring school</li> <li>• seeking further information from the parent who has enrolled the child as to whether or not there are any relevant court orders or safety concerns (without necessarily informing the enrolling parent of the other parent's enquiry)</li> <li>• seeking further information from the student if they are a mature minor or adult and would not be adversely impacted by knowing that these enquiries have been made.</li> </ul> <p>Personal information such as a child's address should not be released.</p> <p>For further advice on managing parent requests for information staff should contact the CEO or Privacy Officer.</p> <p><b>Requests for VCAL student reports and other VCAL communications</b></p> <p>Parents, guardians and informal carers are generally entitled to written VCAL reports and other communications ordinarily provided to parents, unless a court order restricts this right</p> <p>For requests by parents of students deemed a mature minor as per Wyndham CEC's Decision Making Responsibilities for VCAL &amp; Youth (under-18) Policy and Procedure, the CEO or VCAL &amp; Youth Manager (VYM) can determine whether the student is mature enough to make their own decision about releasing the information.</p> <p><b>Requests for other documents</b></p> <p>Parents, guardians, and informal carers requesting other documents (for example staff diary notes, incident reports, counselling notes) should be advised to make a Freedom of Information request to the CEO.</p> |
| <p><b>Transfers of Students (VCAL program only)</b></p> | <p>In the case of students under the age of 18 Wyndham CEC will follow its VCAL Student Selection, Enrolment, Induction &amp; Delivery - Policy &amp; Procedure and/or home school protocols for students in Community VCAL (CVCAL).</p>  |

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| <p><b>Students/Former Students Information and Documents</b></p> | <p>If a student or former student requests information and documents, Wyndham CEC may provide if:</p> <ul style="list-style-type: none"> <li>• the document/information was given to Wyndham CEC by the student</li> <li>• the document/information was previously given to the student or their parent</li> <li>• the document/information is considered information ordinarily provided to students or their parents (such as VCAL report)</li> <li>• the document is publicly available.</li> </ul> <p>For other documents, the student should be invited to make a formal FOI request.</p>  |
| <p><b>Students/Former Students Personal references</b></p>       | <p>Where a student has asked the CEO or VYM for a written reference or for the CEO or VYM to act as a referee for the student, it is up to the individual to decide whether or not to agree to this request.</p> <p>Staff should not provide a reference without the consent of the student, or the parent if the student is not an adult or a mature minor for the purposes of giving consent in these circumstances.</p>  |
| <p><b>Victoria Police</b></p>                                    | <p>Victoria Police has broad powers to investigate and obtain evidence. If Victoria Police request personal information about a student Wyndham CEC may disclose that information if they are satisfied that the use or disclosure is reasonably necessary for one or more of the following:</p> <ul style="list-style-type: none"> <li>• the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction</li> <li>• the prevention, detection, investigation or remedying of seriously improper conduct</li> <li>• the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.</li> </ul> <p>Staff may also disclose information to Victoria Police with parent/carer consent or student consent if they are an adult or mature minor.</p> <p>In addition to sharing information with Victorian Police for the above purposes, Victoria Police are a prescribed Information Sharing Entity under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.</p> |