



# Procedure

## Disclosing personal information to law enforcement agencies

Version effective: 21/12/2020

Version: 4.2

### Audience

Department-wide

### Purpose

This procedure outlines the protocols for disclosing to a law enforcement agency –

- student personal information:
  - in circumstances related to preventing, detecting or punishing a criminal offence under s.426 (4A) of the [Education \(General Provisions\) Act 2006 \(Qld\)](#); and
  - in circumstances related to emergencies and the public interest under ss. 426 (4)(e)(i) and (ii) of the [Education \(General Provisions\) Act 2006 \(Qld\)](#); and
- non-student personal information in circumstances related to preventing, detecting or punishing a criminal offence under Information Privacy Principle 11(1)(e)(i) of the [Information Privacy Act 2009 \(Qld\)](#).

### Overview

This procedure outlines the protocols for disclosing personal information to law enforcement agencies (LEA), either at the request of an LEA or at the delegated/authorised officer's own initiative. The circumstances for the disclosure may relate to the prevention, detection and punishment of a criminal offence under s.426 (4A) of the *Education (General Provisions) Act 2006* (Qld) (EGPA) and/or Information Privacy Principle 11 (1)(e)(i) of the *Information Privacy Act 2009* (Qld) (IP Act) OR relate to emergencies and the public interest under ss. 426 (4)(e)(i) and (ii) of the EGPA.

There are also distinct provisions for [disclosing student-related information](#) to the police under the [Child Protection Act 1999 \(Qld\)](#).

Under s.426 of the EGPA, employees who gain or have access to student personal information, must not make a record, use or disclose the information unless one of the exceptions set out in s.426 (4) of the EGPA applies.

Information Privacy Principle 11 of the IP Act provides that an agency must not disclose personal information to an entity (other than the individual the subject of the personal information) unless one of the exemptions set out in Information Privacy Principle 11 of the IP Act applies.

## Responsibilities

### Delegated officers of the Director-General

- have the power to disclose student personal information to law enforcement agencies under ss. 426 (4)(e)(i) and (ii) and (4A) of the EGPA.

### Authorised officers of the Director-General

- have the power to disclose non-student personal information to law enforcement agencies under Information Privacy Principles 11(1)(e)(i) of the IP Act.

## Process

### Delegated officer

Under ss. 426 (4)(e)(i) and (ii) of the EGPA, a delegated officer has the power to disclose student personal information if reasonably satisfied it is necessary to assist in averting a serious risk to the life, health or safety of a person, including the person to whom the information relates, OR is in the public interest. Disclosing personal information may be either:

- at the request of an LEA; or
- on the delegated officer's own initiative.

### Request by an LEA

1. Receive a written request for student personal information from an LEA via an [LEA-1 form](#).
2. Ensure section A of LEA-1 form is complete and outlines the relevant circumstances (including specific detail of dates, times, place and persons involved) and the rationale detailing why the information is necessary to assist in averting a serious risk to the life, health or safety of a person OR is in the public interest.
3. Ensure the student/s concerned is/are sufficiently identified by the requesting LEA and that the form clearly sets out what information is requested.
4. May decide to release information to the LEA if reasonably satisfied it is necessary to assist in averting a serious risk to the life, health or safety of a person OR is in the public interest.
5. Record decision by completing section B of the LEA-1 form, and return to the LEA in a timely manner. Ensure that all information disclosed is recorded on, or attached to, the form.
6. File the LEA-1 form and any attachments in a secure location.

### Delegated officer's own initiative

1. Complete the [LEA-3 form](#), and provide to the LEA officer in a timely manner if reasonably satisfied the information is necessary to assist in averting a serious risk to the life, health or safety of a person OR is in the public interest. Ensure that all information disclosed is recorded on, or attached to, the form.
2. File the LEA-3 form and any attachments in a secure location.



## Delegated/authorised officer

Under s.426 (4A) of the EGPA and Information Privacy Principle 11(1)(e)(i) of the IP Act, a delegated/authorised officer has the power to disclose personal information if reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction. Disclosing personal information may be either:

- at the request of an LEA; or
- on the delegated/authorised officer's own initiative.

### Request by an LEA

1. Receive a written request for personal information from an LEA via an [LEA-2 form](#).
2. Ensure section A of LEA-2 form is complete and outlines the relevant circumstances (including specific detail of dates, times, place and persons involved) and the rationale detailing why disclosure of the information is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction.
3. Ensure the person/s concerned is/are sufficiently identified by the requesting LEA and that the form clearly sets out what information is requested.
4. May decide to release information to the LEA if reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction.
5. Record decision by completing section B of the LEA-2 form, and return to the LEA in a timely manner. Ensure that all information disclosed is recorded on, or attached to, the form.
6. File the LEA-2 form and any attachments in a secure location.

### Delegated/authorised officer's own initiative

1. Complete the [LEA-4 form](#), and provide to the LEA officer in a timely manner if reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction. Ensure that all information disclosed is recorded on, or attached to, the form.
2. File the LEA-4 form and any attachments in a secure location.

## Definitions

<b>Non-student personal information</b>	<p>Common non-student personal information that an authorised officer under the IPA may disclose includes:</p> <ul style="list-style-type: none"> <li>• parent's/carer's name, date of birth, aliases and contact details</li> <li>• parent's/carer's behaviour</li> <li>• parent's/carer's involvement with child/school/staff</li> <li>• staff member's name, date of birth, employment history and personal contact details.</li> </ul>
---	--

<b>Student personal information</b>	<p>Common student personal information that a delegated officer under the EGPA may disclose includes:</p> <ul style="list-style-type: none"> <li>• student’s name, date of birth, aliases, family and contact details</li> <li>• previous school/s attended</li> <li>• student attendance records/patterns of attendance</li> <li>• social and emotional development</li> <li>• behaviour (including suspensions and/or exclusions)</li> <li>• peer relationships</li> <li>• parental/carer involvement with child/school/staff</li> <li>• observations, disclosures and details of suspected abuse or neglect</li> <li>• individual support plans</li> <li>• student photographs</li> <li>• actions implemented by principal/guidance officer/teacher to monitor ongoing wellbeing, participation and education status of student.</li> </ul>
<b>Criminal offence</b>	<p>In Queensland, criminal offences are defined in the <i>Criminal Code Act 1899</i> (Qld). Section 3 states that offences are of two kinds, regulatory and criminal, with criminal offences being made up of three different kinds: crimes, misdemeanours, and simple offences. If an offence is not designated as a crime or a misdemeanour then it is a simple offence.</p> <p>Many of the offences in legislation other than the <i>Criminal Code Act 1899</i> (Qld), such as the <i>Education (General Provisions) Act 2006</i> (Qld), are simple offences, and as such are criminal offences. If there is uncertainty, staff should request details about the offence to enable a discussion with Legal and Administrative Law Branch as to whether or not it is a criminal offence.</p>
<b>Law enforcement agency</b>	<p>For the purpose of this procedure this includes the members of the Queensland Police Service, Australian Federal Police and the police forces of the States and Territories. Legal and Administrative Law Branch should be consulted in respect to requests for information from any other parties.</p>
<b>Law imposing a penalty</b>	<p>If the offence is not a criminal offence but it still imposes a penalty (including forfeiture or punishment) – often by way of specifying a number of penalty units as the maximum payable – then it is a law imposing a penalty.</p>
<b>Law imposing a sanction</b>	<p>A law imposes a sanction if it takes away a right or privilege or allows some disadvantaging action other than the imposition of a pecuniary penalty.</p>
<b>Personal information</b>	<p>Information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.</p> <p>This definition is broad and could include the following:</p> <ul style="list-style-type: none"> <li>• written records about a person</li> <li>• a photograph or image of a person</li> <li>• information or an opinion about a person that is not written down.</li> </ul>

	<p>The information does not have to clearly identify a person; it only needs to provide sufficient information to lead to the identification of a person (e.g. disclosing a report about a female student who is 7 years old in a small community where there is only one student at the school who is female and 7 years old).</p> <p>Personal information could be student or non-student personal information (refer to definitions).</p>
<b>Student</b>	In this procedure, 'student' refers to any person, regardless of age, who is enrolled at, has been enrolled at, or has applied to be enrolled at a state educational institution established under ss. 13, 14 or 15 of the <i>Education (General Provisions) Act 2006</i> (Qld).
<b>Delegated officer</b>	Only nominated DET staff are delegates of the Director-General. A list of the Director-General's delegations under the <i>Education (General Provisions) Act 2006</i> (Qld) is available on the department's website.
<b>Authorised officer</b>	Only nominated DET staff are authorised officers of the Director-General. A list of the Director-General's authorisations under <i>the Information Privacy Act 2009</i> (Qld) is available on the department's website.

## Legislation

- [Education \(General Provisions\) Act 2006 \(Qld\)](#) s.426 (4)(e)(i) and (ii) and (4A)
- [Information Privacy Act 2009 \(Qld\)](#) Information Privacy Principle 11(1)(e)(i)

## Delegations/Authorisations

- [Director-General's delegations under the Education \(General Provisions\) Act 2006 \(Qld\)](#)
- [Director-General's authorisations under the Information Privacy Act 2009 \(Qld\)](#)

## Related policies

- Nil

## Related procedures

- [Information sharing under the Child Protection Act 1999 \(Qld\)](#)
- [Student protection](#)
- [Disclosing student personal information to operators of school bus services](#)
- [Information privacy and right to information](#)

## Guidelines

- Nil

## Supporting information/websites

- [LEA-1](#): Request from a law enforcement agency (LEA) to release student personal information to assist in averting a serious risk to the life, health or safety of a person OR where the disclosure is in the public interest
- [LEA-2](#): Request from a law enforcement agency (LEA) to release personal information when reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction
- [LEA-3](#): Release of student personal information to a law enforcement agency (LEA), on a DET delegated officer's own initiative, to assist in averting a serious risk to the life, health or safety of a person OR where the disclosure is in the public interest
- [LEA-4](#): Release of personal information to a law enforcement agency (LEA), on a DET delegated officer's own initiative, when reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction
- [Provisions for disclosing student-related information to police officers under the \*Child Protection Act 1999\* \(Qld\)](#)
- [Police and Child Safety Officer interviews and searches with students](#) (DoE employees only)

## Contact

For information about disclosing personal information to law enforcement agencies, please contact your nearest [regional office](#) or Legal Services on (07) 3513 5870.

## Review date

1/11/2019

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

- 3.0 Disclosing Student Personal Information to the Queensland Police Service
- 4.0 Disclosing personal information to law enforcement agencies

## Creative Commons License

