



Privacy Bulletin

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School websites – Issues regarding the publication of material accessible by the general public

What issues does this bulletin address?

This Bulletin provides advice to principals on issues concerning the publication of material on school websites which is accessible by the general public.

Are there restrictions on the sort of information that can be made publicly available?

Schools must not publish information that identifies or could reasonably identify a student, community member or any other individual unless the school has permission from that person. Information that reveals a person's identity may include any one or a combination of the following; the person's name, photograph, age, class, school or position title.

In the case of students, consent can be obtained from the student's parent/caregiver depending on the age, maturity and capacity of the student. Even when consent has been given, schools should err on the side of caution when deciding what is appropriate to publish.

If attaching documents to the school website such as minutes of P&C meetings which record personal information including opinions and comments from which a person's identity can reasonably be ascertained, the school must ensure it has the permission of the person to whom the information and comments relate before publishing the material. Schools must review all information before it is published or uploaded onto the school website.

Principals must ensure that any material published is not defamatory or in breach of copyright. See [Legal Issues Bulletin No.34 - Defamation](#) and the [Smartcopying website](#) for further information on these matters. Attached as **Annexure 1** to this Bulletin is a table that summarises some important copyright issues to take into account when considering publishing material on a school website.

Do I need to get permission to publish group photographs of students?

It is always preferable to obtain written permission before publishing photographs of students. It is not mandatory to obtain permission when a photograph depicts a large number of students and no student can reasonably be identified e.g. a general action shot at a sports carnival or in the playground. Permission is required if a student can reasonably be identified from the photograph and any other information published with it.

When is a student reasonably able to be identified?

This depends on the particular circumstances of each publication. It is not necessary for the student's name or picture to be published to establish the student's identity. It may be possible to establish identity by reference to extraneous information available to individuals receiving the published information. For example, a person who knows a student attends a particular school may be able to ascertain the particular student's identity from publication of the student's initials and class on the school website.

Do I get permission from the student, the student's parent/caregiver or both?

While permission can be sought from both the student and parents/caregivers, the need to seek separate permission from the parents/caregivers depends on the nature of the material to be published, the individual circumstances of the student and his or her family and an assessment of the age, maturity and capacity of the student to make an informed decision about the issue.

What if the student is older than 18 or is living independently?

Generally, schools continue to deal with parents/caregivers about a variety of issues even when students have attained the age of 18. Unless the student indicates otherwise, the permission of parents/caregivers can still be sought in relation to publication of material, particularly if there are issues of mental capacity or other factors affecting the student's ability to make such decisions. If a student is living independently of his/her parents/caregivers, then any permission for publication can be obtained from the student directly.

What if the student does not agree with the approach taken by the parent/caregiver or the parents are separated and they do not agree about what should occur?

If there is a disagreement about the publication of material created by or relating to a student, then generally the relevant material should not be included on the school website. If principals consider there are exceptional circumstances which may warrant a departure from the general approach, they should consult with their School Education Director prior to making any final decision.

Do I need to get permission to publish old photographs?

Schools like to display and publish old photographs at school reunions, centenary celebrations and other occasions of historical significance. When doing so schools must comply with both privacy and copyright law.

The same requirements apply to old photographs as to current ones, with the exception of school photographs that were taken before 1955. These photographs may be displayed for public viewing without obtaining the consent of individuals in the picture. Students and staff depicted in these pictures should not be identified by name and schools should not reproduce any old photographs in a publication or display them on the internet unless certain this would not breach copyright or privacy law.

Do I need to get permission to publish all forms of information about students and other individuals on the website?

It doesn't matter what form the content takes, text, photograph, illustration, graphics, audio or video – if the student or individual is or can reasonably be identified permission must be obtained.

Does permission need to be in writing?

It is always preferable to obtain consent in writing but this is not absolutely necessary. Obtaining written consent reduces the risk of disputes occurring later about what was agreed to. If verbal consent is obtained, a record should be kept of the details of any permission given.

Permission notes must:

- inform of:
 - (i) the nature of the information being collected and whether the information is voluntary or required by law
 - (ii) the purpose/s for which the information will be used
 - (iii) the intended recipients of the information e.g. the school community, world at large. If information is to be published on a publicly accessible website the permission note should provide advice that the information may be linked to by third party websites and social media accounts
 - (iv) the form in which the information will be published e.g. in print in the school newsletter or on a video recording on the school website. If video clips of students are to be placed on the school's website the authority to publish must inform parents if the video will be accessible through video hosting platforms such as YouTube, Vimeo or such other platforms through which it is uploaded
 - (v) the individual's right to access and correct the information

- include a provision for the parent/caregiver and or student to sign indicating they understand and agree to the proposed publication
- be retained with school records and disposed of in accordance with usual administrative practice.

Can a general permission note be used to cover all student information published by the school?

It depends on the types of publication that occur and the view of the school community.

Any general permission to publish i.e. a single permission note which purports to provide approval for all forms of publication must contain the information set out above and should identify the full range of material to be published as well as the various forms in which it will be published.

A general permission to publish student information is attached to this bulletin at **Annexure 2**. It covers a broad range of information and publications. It is the same permission parents and caregivers will be asked to sign at enrolment. A template for obtaining permission to publish student information in specific circumstances is attached at Annexure 3. This permission can be adapted to the particular event and the type of publication and information involved.

Some parents may want only to provide authority for publication of their child's information in printed documents but not on publically available websites. In such circumstances it may be necessary, in consultation with the school community, to provide a separate authority to publish to cover different forms of publication.

How often do I need to renew a general permission note?

It is good practice to seek a renewal of the general permission note every year or at a minimum, each time a student advances to the next learning stage. Principals should also undertake a review of the school website at least once every school year to ensure that any content that is no longer relevant or accurate is removed.

To what extent can I rely on a general authority to publish relating to the school website and school publications?

You cannot assume that an authority to publish in school and Department publications and websites extends to all forms of publication.

A separate authority to publish must be obtained where personal information about students will be published for purposes or in communications not covered by a general consent e.g. if a local newspaper wants to interview students or produce an article in which students can reasonably be identified. The template at Annexure 3 provides a guide to the information that should be addressed when obtaining permission to publish for purposes not covered by the general permission.

In some circumstances a formal agreement may be required when a third party is involved in the publication of student information for particular purposes e.g. a documentary film maker wants to film students participating in the school's anti-bullying program. Footage will be used in a short film to be distributed on a commercial basis to educational institutions both nationally and internationally. In these circumstances advice can be obtained from the Legal Services Directorate.

To what extent can I rely on parental/caregiver permission to take photographs at school recorded on a student's application for enrolment?

In its current form this permission relates only to the taking of a student's photograph at school. It is not an authority for the student's photograph to be used or published by the school for any purpose. It cannot be relied on as an authority to publish a student's photograph or other personal information on the school's website or in any other format. The Application for Enrolment is currently being reviewed.

What if I want to publish a student's work – who do I need to seek permission from?

Consent from the student should be sought. The need to seek separate approval from the parents depends on the nature of the material to be published and an assessment of the student's capacity to make an informed decision based on his/her age, maturity, intellectual capacity and any other relevant factors such as the student's capacity to understand the application of copyright law to his/her work.

What about publication of material that identifies staff?

Basically the same principles apply in relation to the publication of material that identifies staff members. As a general rule, any material that identifies individual members of staff should not be published without the staff member's permission. However, as an essential requirement of their role, staff can be identified for the purposes of parents knowing their identity and the roles they fill within the school. This is and has been a normal part of communication within school communities for many years.

Can permission be withdrawn by the parent, caregiver and or student?

Yes, permission can be withdrawn at any time. In the event permission is withdrawn, the principal should ensure that reasonable steps are taken to remove from the website any material that identifies the student. If removal of the material will involve significant disruption or cost to the school and the publication is consistent with the original consent provided, the requirement to comply with the request is dependent on the reason why the consent is being withdrawn. Principals should consult with their School Education Director if they believe it is not appropriate to comply with the request of the parent or student.

If I want to publish something on the school website that has been created by someone other than students or staff, do I take the same approach?

Essentially yes. Depending on the nature of the material to be published, you may need to get permission from the copyright owner of the material before you publish it. Further advice on copyright issues can be found at the [Smartcopying website](#).

About Legal Services

Legal Services provides legal support and advice to staff in schools, colleges, regions, state office directorates and specialist boards and authorities. It arranges for the Department to be represented before a range of courts and tribunals and assists with the preparation of legal documents. It is also available to provide legal advice in respect of any departmental policies or procedures that may have a legal complexion.

The Legal Services Directorate can provide legal advice to departmental staff only. It is not able to provide legal advice or assistance to parents, students or members of the public.

The Legal Services Directorate posts a large amount of information on the Department's intranet. This includes:

- all current Legal Issues Bulletins
- questions the Legal Services Directorate most frequently encounters
- information about the Government Information (Public Access) Act
- links to other related legal websites
- other information for the use of schools and TAFE

The Legal Services Directorate continues to offer its telephone advice service to DEC personnel.

The service is available between **9.00am to 5.00pm** weekdays.

Telephone **9561 8538** to log your call for the legal officer on duty. Your call should be dealt with or returned within one business day.

Alternatively contact us by fax **9561 8543** or by email on legal@det.nsw.edu.au

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Content type	Don't	Do
<p>Audio (including music)</p>	<p>Use songs by well-known recording artists, as the soundtrack to your video.</p>	<p>Use music created by students or school staff (at a minimum, you need a verbal permission and you need to keep a record of that permission).</p> <p>Use audio (music, sounds and speeches) made available under a creative commons licence. Go to the Creative Commons website and find licensed works you can share, remix or reuse.</p>
<p>Images (photos, illustration and design)</p>	<p>Publish images from other websites (or from other sources) unless you get permission or the owners clearly state their work can be used.</p>	<p>Use images created by students or school staff (for which you need at a minimum, verbal permission which is recorded).</p> <p>OR</p> <p>Use images that are licensed under creative commons and free. Go to the Creative Commons website and find licensed works you can share, remix or reuse.</p> <p>NB: some—but NOT all—images on Flickr can be used. Select The Commons option in the search field to find photos that have no copyright restrictions.</p>
<p>Videos (movies, animations and footage)</p>	<p>Publish content from movies, TV programs, websites or video games (including the soundtracks) unless you get permission or the owners clearly state their work can be used.</p>	<p>Use videos created by students or school staff (for which you need at a minimum, verbal permission which is recorded).</p> <p>AND/OR</p> <p>Link to content (this includes embedding what is essentially a link to videos on YouTube, video or other services as appropriate – using the embed code from those services).</p>
<p>Text</p>	<p>Publish song lyrics, short stories, poems or news and magazine articles in full without written permission. However, you can use a portion of this material (e.g. a stanza of a poem) in the context of a review or a discussion of the work.</p>	<p>Use student or staff work (for which you need at a minimum, verbal permission which is recorded).</p>

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GENERAL PERMISSION TO PUBLISH

Dear Parent/ Caregiver,

I am seeking your permission to publish information about your child for the purposes of sharing his/her experiences with other students, informing the school and broader community about school and student activities and recording student participation in noteworthy projects or community service.

This information may include your child's name, age, class and information collected at school such as photographs, sound and visual recordings of your child, your child's work and expressions of opinion such as in interactive media.

The communications in which your child's information may be published include but are not limited to:

- Public websites of the Department of Education and Communities including the school website, the Department of Education and Communities intranet (staff only), blogs and wikis.
- Department of Education and Communities publications including the school newsletter, annual school magazine and school report, promotional material published in print and electronically including on the Department's websites.
- Official Department and school social media accounts on networks such as YouTube, Facebook and Twitter.

Parents should be aware that when information is published on public websites and social media channels, it can be discoverable online for a number of years, if not permanently. Search engines may also cache or retain copies of published information. Published information can also be linked to by third parties.

Please complete the permission slip and return to the school by ***[insert date]***.

Yours sincerely

[insert name]

Principal

[insert school name]

Permission to Publish

I have read this permission to publish and:

Tick the appropriate box

I give permission

I do not give permission

to the school/Department of Education and Communities to publish information about my child as described above, including in publicly accessible communications.

This signed permission remains effective until I advise the school otherwise.

Child's name
Parent/carer/caregiver's name
Parent/carer/caregiver signature
Date.....

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PERMISSION TO PUBLISH – SPECIFIC ACTIVITY

Explanation of the activity *eg The Ministry of Health is conducting a State wide campaign promoting healthy eating habits at school. The Ministry has asked if its media unit can visit our school on [date] to interview and film students in the playground at lunchtime.*

Description of the information that will be collected *eg The Ministry has advised that it will talk with students about the food they bring to school and purchase from the school canteen and the food growing in the school's community vegetable garden.*

Explanation of how the information will be collected *eg Students will be filmed and photographed while being interviewed. Background footage of students in the playground will also be obtained.*

Explanation of where the information will be published *eg Promotional material obtained about your child may be published in print and online publications of State, regional and local newspapers and on national television networks.*

Permission to Publish

I give permission for my child **[Description of the action/s for which you are seeking consent** *eg to be interviewed, photographed and filmed on [date] by the media unit of the Ministry of Health for its State wide campaign promoting healthy eating habits and for this material to be published in print and electronic media including national television networks].*

Child's name (please print): _____

Parent/Guardian's Signature: _____

Parent/Guardian's name (please print): _____

Date: _____