



Record Storage & Retention Policy (Archiving)

Policy Classification		
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Policy Audience: Oaklife	Policy Status: New	Policy Review Date: 2020
Policy Approval: This policy was approved by the Senior Leadership Team and Board February 2018.		
This policy supersedes all previous policies relating to matters contained herein.		

1.0 Rationale

- 1.1 Oakhill College is responsible to a number of governing entities including the Brothers of the Christian Schools (De La Salle Brothers), Catholic Schools NSW, New South Wales Education Standards Authority (NESA), and the Commonwealth Government of Australia. All records that relate to the College students, personnel and finances will be preserved in such a manner as to allow the obligations of Oakhill College to be fulfilled, with due regard for the principles that sit within statutory law, in particular the Australian Privacy Principles (APP).

2.0 Guiding Principles

- 2.1 The integrity of personnel and financial records is the responsibility of the Bursar and Operations Manager, in accordance with due requirements of law. The integrity of student records is the responsibility of the Deputy Principal. The following principles underpin the storage, retention and retrieval of student, personnel, and financial records:
- That all school records will be managed in accord with the prescribed requirements in law
 - That adequate storage and resourcing will be required to ensure the proper management of school records
 - That confidentiality and privacy are maintained at all times in relation to school records
 - That, where possible, electronic storage and retrieval of school records be undertaken to ensure the integrity of files
- 2.2 Australian Privacy Principles (APP 11.1) places an obligation on organisations to protect personal information from "misuse, interference, and loss, and unauthorised access, modification or disclosure".
- 2.3 APP 11.2 sets out specific requirements if:
- a) *an APP entity holds personal information about an individual; and*
 - b) *the entity no longer needs the information for any purpose for which the information may be used or disclosed by the entity under this Schedule; and*
 - c) *the information is not contained in a Commonwealth record; and*
 - d) *the entity is not required by or under an Australian law, or a court/tribunal order, to retain the information;*
 - e) *the entity must take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.*

In summary, the College *may only keep personal information if:*

- *it needs the information*
- *for a permitted use or disclosure under the APPs (as expanded by section 16 A of the Act)*

The relevant permitted uses or disclosures are:

- a) for the primary purpose for which the information was collected, or
- b) for a secondary purpose related to the primary purpose (or "directly related" in the case of sensitive information such as health information) which would be reasonably expected by the person, or
- c) where the person has consented,
- d) where reasonably necessary for the defence of or a legal or equitable claim, or
- e) where required by law or a court order.

- 2.4 The person giving consent to retain personal information needs to be aware of that which they are consenting. "Bundled consents" are not regarded as good practice.

3.0 Policy

3.1 Financial Business Records

- Will be kept for a minimum of 7 years, and if space permits, for a period of 10 years
- Historically significant documents will be archived
- Any sensitive or contentious documentation which could possibly be subject to legal proceedings, will be kept indefinitely

3.2 Staff Records

- Will be kept for at least 7 years after a staff member leaves school
- Provide a statement of service when an employee resigns or transfers to another school which includes:
 - Commencing and concluding dates
 - Fractions of time
 - Leave with and without pay taken Sick leave credit at time of leaving Salary incremental step
 - Staff files are not to be passed onto the next school or copied without employee permission
 - Information regarding misconduct will be kept indefinitely in a confidential file
- Staff have access to their file:
 - In accordance with privacy guidelines regarding access
 - With someone else present at all times
 - No material is to be removed from the file
 - Reasonable photocopying will be allowed
 - Some documentation should not be stored in the personnel file such as:
 - Letters by the Principal to persons other than the staff member
 - Letters from parents or other staff members to the Principal about the staff member, etc.

3.3 Student Records

3.3.1 The following records are to be retained:

- Application for Enrolment Form and Enrolment Contract
- Admission Register
- Roll Books/attendance records
- Student Records including marks, grades and comments Continuous Assessment: enough examples to demonstrate achievement and progress (with corresponding documentation)
- Accident or Injury Reports
- Records of suspensions and other serious disciplinary records
- Any guidance test results, consultants or psychologist's reports
- Any correspondence relating to the above
- Documentation is to be kept until at least the student is 25 years old
- Electronic records are valid providing the back-ups are made, recognising that documentation requiring signature cannot be easily stored electronically (unless scanned in PDF)
- Records that are the property of the school

3.3.2 Access to Retained Records (Please also refer to the Oakhill College Privacy Policy)

- Reasonable parent requests for access to their son's file should be granted, but care needs to be taken that:
 - Access is provided in accordance with privacy guidelines
 - No confidential information is revealed (e.g. names of other students and staff)
- Under no circumstances should working documents or records of deliberations of staff on students be released.
- Under no circumstances should anecdotal or diary entry type of notes made by staff on students be released
- Some records, e.g. student information given in confidence to a school counsellor should not be released except by Court Order. Freedom of Information Act does not apply to the

- private sector and even in the government sector it does not apply to "private" documentation (e.g. working documents, diary entries, records of deliberations, etc.)
- Privacy legislation applies to student files.
- Student information will not be passed to other schools without parental permission and then only copies will be sent.

4.0 Supporting Documents, Procedures and Guidelines

The following is a list of the documents to be retained and for how long.

4.1 Students

Full name, date of birth, date of entry and date of departure	Indefinite retention
Documents relating to possible child	Indefinite retention
Special achievements (e.g. positions of responsibilities, prizes and awards membership of teams)	Indefinite retention - archives
Records relating to possible injuries (physical or mental) where breach of duties of care or other causation by school may be claimed, including claims under insurance policies. This includes complaints about bullying.	12 years from when an act or omission causing injury occurred
Attendance Register	7 years after last entry made
Enrolment Register	5 years after last entry made
Counselling records	3 years after student leaves, unless potential ongoing issue or concerns indicated or contain allegations of abuse or bullying
Contact details	1 year retention after student leaves, unless consent to retain for ex-student association
All other personal information including reports, disciplinary records, academic results, next of kin, information about disabilities, religion and communications with parents unless relevant to information required to be kept	1 year after the student leaves

Note: If there is an issue or potential issue about a student giving rise to a possible cause of action at the time the student leaves the College ALL records concerning that student are to be retained until such time as the issue is resolved.

4.2 Parents

Donations	Indefinite retention - archives
Names and contact details and details of financial dealings with the school	7 years after the student leaves
Contract of enrolment	7 years after the student leaves
Complaints and details of disputes including relevant correspondence	6 years after possible cause of action arises
Court orders	12 months after the student leaves school

4.3 Staff

Complaints involving interactions with students of a serious nature including child abuse	Indefinite
Accident/incident reports with potentially serious consequences	12 years after incident occurs
Personal records	7 years after termination
Employment interviews with unsuccessful applicants	1 year after interview unless refusal to employ may result in a claim in which case retain for 6 years

4.4 Responsible Person's and Board Records

Names, details of experience	Indefinite retention - archives
Minutes of meetings	Indefinite retention - archives
Responsible person declaration, related party transaction register and induction register	7 years after ceasing to be a responsible person

5.0 Policy Review

The College, via the Principal is to ensure that this Policy is monitored and is reviewed in 2020.

6.0 Explanatory Notes and Definitions

The following are notes on the types of documents a school is required to retain under Australian law.

6.1 Financial Records (Corporations Act, 5.286)

A company "must keep written financial records that:

- a) Correctly record and explain its transactions and financial position and performance, and
- b) would enable true and fair financial statements to be prepared and audited."

The records "must be retained for 7 years after the transactions covered by the records are completed."

6.2 Minutes of Meetings (Corporations Act, 5.251A and 5.1101C)

Minutes of Meetings must be kept indefinitely.

6.3 Register of Members (Corporations Act, 5.169)

A register of members must be kept indefinitely. The register must include the details of current members and former members "who stopped being a member within the last seven years" and the date on which they ceased to be a member. Former members' details can be kept separate from the rest of the register and be updated regularly so that names of former members are not kept beyond the seven-year period.

6.4 Employee Records (Fair Work Act 5.535 and Reg 3.31-3.40)

Employee records required to be kept under the Fair Work Act and Regulations must be kept for 7 years after the employment ceases.

6.5 Australian Charities and Not-for-profits Commission Act (555.5)

Financial records that correctly record and explain transactions and the financial position and performance of the school, and written records that record its operations, must be retained for 7 years after the "transactions, operations and acts covered by the records are completed".

6.6 Defence of a Legal or Equitable Claim

6.6.1 Possible Claims for Personal Injuries

- a) Under the NSW Limitation Act an action cannot be brought after the first to expire of:
 - (i) 3 years from the date when the cause of action is discoverable (with no extension permitted)
 - or
 - (ii) 12 years from the time when the act or omission causing injury or death occurred.

- b) An action is "discoverable" when a person ought to know that the death or injury occurred, that it was caused by the school and that it was sufficiently serious to justify bringing the action. Therefore if a person suffered an injury for which the school was responsible but the effect of the injury only became apparent 7 years after it occurred, the person could issue proceedings within 10 years of it occurring (i.e. 7 years+ 3 years).
- c) The period of limitation will not be suspended for the period the student is under the age of 18 years provided the student had a capable parent or guardian. Therefore for students of non- government schools it can usually be assumed that the period of limitation will run for no longer than a period of 12 years after the injury occurred.
- d) Schools should consult with their insurers to confirm when they should destroy records relating to personal injuries to staff or students (in some cases a period less than 12 years may be acceptable).
- e) Some other causes of action, such as for breach of contract, must be commenced within 6 years after the cause of action accrues.
- f) The limitation period for different types of claims vary. A schedule of relevant limitation periods for civil matters in NSW is available through [LawCover](http://lawcover.com.au/wp-content/uploads/2016/12/4235_Schedule-of-Limitations-2016_V18.pdf) http://lawcover.com.au/wp-content/uploads/2016/12/4235_Schedule-of-Limitations-2016_V18.pdf
- g) There is no limitation period for victims of child abuse which includes sexual or physical or any other connected abuse perpetrated against a person who is under the age of 18 [see 6.6.3 below].

6.6.2 Purpose of Collection

- a) In order to satisfy one of the 'purpose' tests (see paragraph 2.3 above) it is necessary to identify the purpose of collection of each type of personal information collected and then make a judgement call as to why it should be retained. Usually it would be defensible to keep all information gathered about a student and their parents/carer while the student is enrolled at school. If the retention is not for the primary purpose of collection it will be for the secondary purpose of providing appropriate school services to the student and exercising the school's duty of care.
- b) After the student leaves the school however the information permitted to be retained without consent is much more restricted. A simple example is details of orders of the Family Court relating to the parents and the student. Once the student has left the school these would not be able to be used for any purpose although they may need to be kept for a short transitional period in case, for example, a complaint is made in relation to a decision a school has made that involved a consideration by the school of the orders of the Family Court. On the other hand, details of a serious injury suffered by the student may need to be kept for considerably longer in case a claim arises.

6.6.3 Child Protection Records

Schools should maintain all records of, and related to: complaints (regardless of whether the complaint met the threshold for a statutory referral); investigations; communication/s with statutory agencies; employee (paid and unpaid worker) records; and accounts of disciplinary action relevant to the alleged abuse and/or neglect of any student, any child (under 18 years) and/or any person otherwise involved in a child protection matter (e.g. historical allegations by those who are now adults). These records should be kept in a secure area with access usually limited to the most senior staff in the school. They should be kept indefinitely.

6.6.4 Other Matters

6.6.4.1 Material for Schools Historical Archive

Most, if not all schools maintain an archive of matters of historical interest. This would include records of achievements and activities of students and staff, including photographs, and records of important milestones in the school's history. The purpose of retaining these records for the historical archive is a purpose that is likely to be related to the primary purpose for which the records were collected, which would be reasonably expected by the individual, and therefore the retention of the records for this purpose would be permitted.

6.6.4.2 Associations of Alumni

It should not be assumed that students will agree that their records may be kept for the purpose of making them members of the alumni association or that they would agree that their information be passed to the alumni association. Students leaving the school should consent to their records being collected or retained and given a collection notice by the association should they agree to becoming members of the alumni association