LAERSKOOL VRYBURG



POLICY ON THE PROTECTION OF PERSONAL INFORMATION

Popia

Formatted: Font: 24 pt

Formatted: Centered

Formatted: Font: 24 pt

"The leader in school governance and management"

Copyright FEDSAS



~~VRYBURG PREPARATORY SCHOOL~~

POLICY ON THE PROTECTION OF PERSONAL INFORMATION

1. Introduction

This document is the policy on the protection of personal information of Laerskool Vryburg ~~Preparatory School~~ as approved by the school governing body on _____. The policy has been drafted in accordance with the Constitution of the Republic of South Africa, 1996; the Protection of Personal Information Act 4 of 2013 (POPIA), the Promotion of Access to Information Act 2 of 2000, the South African Schools Act 84 of 1996, and other applicable legislation on school education.

As public bodies, schools have to comply with POPIA. The act requires public bodies to inform data subjects of the manner in which their personal information is used, disclosed and destroyed.

Laerskool Vryburg ~~Preparatory School~~ is committed to protecting the privacy of all data subjects, and ensuring that their personal information is used appropriately, transparently, securely and in accordance with applicable laws.

This policy sets out the manner in which Laerskool Vryburg ~~Preparatory School~~ deals with personal information and stipulates the purpose for which said information is used.

2. Definitions

For purposes of this policy, the following terms are assigned the meanings as indicated:

"Biometric information" means information obtained through a technique of personal identification that is based on physical, physiological or behavioural characterisation, including blood-typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.

Copyright FEDSAS

"Competent person" means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child.

"Data subject" means the person to whom personal information relates.

"Deputy information officer" is the vice-principal.[1]

"Employee" refers to a staff member appointed at the school in terms of sections 20(4) and (5) of the South African Schools Act 84 of 1996.

"Employer" refers to Laerskool Vryburg~~burg Preparatory School~~

"Information officer" is the school principal.

"Personal information" means information relating to an identifiable, living, natural person and, where applicable, an identifiable, existing juristic person, including but not limited to —

(a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
(b) information relating to the education or the medical, financial, criminal or employment history of the person;
(c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
(d) the biometric information of the person;
(e) the personal opinions, views or preferences of the person;
(f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence;

[1] Section 56 of POPIA provides that deputy information officers may be "designated" to perform the duties of the information officer. FEDSAS recommends that the vice-principal be designated as such.

Copyright FEDSAS

(g) the views or opinions of another individual about the person; and
(h) the name of the person if it appears with other personal information relating to the person, or if the disclosure of the name itself would reveal information about the person.

''Processing'' means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including —

(a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use thereof;
(b) dissemination by means of transmission, distribution or making available in any other form; or
(c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

''Record'' means any recorded information —

(a) regardless its form or medium, including any of the following:

(i) Writing on any material
(ii) Information produced, recorded or stored by means of any tape recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored
(iii) A label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means
(iv) A book, map, plan, graph or drawing
(v) A photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced

(b) in the possession or under the control of a responsible party;

(c) whether or not it was created by a responsible party; and

Copyright FEDSAS

(d) regardless of when it came into existence.

''Responsible party'' means the governing body of Laerskool Vryburg ~~Preparatory School~~ who determines the purpose of and means for processing personal information.

3. Application of the policy

This policy applies to all personal information collected from all data subjects with whom the school interacts, including but not limited to parents, learners, educators, other staff members, contractors and other third parties who conclude any type of agreement or contract with the school.

4. The collection of personal information

4.1 Personal information may be processed only if, given the purpose for which it is processed, such processing is adequate, relevant, not excessive, and in accordance with the relevant provisions of POPIA. The purpose must relate to a function or an activity of the school.

4.2 Vryburg Preparatory School collects and processes personal information pertaining to the proper functioning, management and governance of the school, as prescribed in the South African Schools Act and other relevant education legislation and policies.

4.3 The type of information collected and processed will depend on the purpose for which it is collected, and any such information will be processed for that purpose alone. The school will inform the data subject of the information required, whether or not the supply of the information by that data subject is voluntary or mandatory, the purpose for which the information is to be processed, and the consequences of not providing the information.

Copyright FEDSAS

4.4 The school will see to it that agreements are in place with all product suppliers, insurers and third-party service providers to ensure a mutual understanding of the protection of a data subject's personal information.

4.5 For purposes of this policy, any references to data subjects include both potential and existing data subjects.

5. The processing and use of personal information

5.1 Personal information will be processed (a) lawfully, and (b) in a reasonable manner that does not infringe the privacy of the data subject.

5.2 A data subject's personal information will be used only for the purpose for which it was collected. The overall purpose of data collection, processing and use by the school is to ensure that the school is governed and managed in accordance with the principles and prescripts stipulated in the South African Schools Act and other applicable education legislation and policies.

5.3 Personal information may be processed only if these conditions are met:

(a) If the data subject consented to the processing of the personal information beforehand. Consent is obtained from parents/guardians through the signing of the applicable consent form at the beginning of the academic year. Where the data subject is a child, the consent must be given by a competent person.
(b) If processing is necessary to carry out actions in order to conclude or perform a contract to which the data subject is a party.
(c) If processing complies with a legal obligation imposed on the school.
(d) If processing protects a legitimate interest of the data subject.
(e) If processing is necessary for the school's proper exercising of a public law duty.
(f) If processing is necessary for pursuing the legitimate interests of the school or a third party to whom the information is supplied.

Copyright FEDSAS

5.4 Unless legislation provides for the processing of personal information, a data subject may object to such processing in terms of subparagraphs (d) to (f) above, in the prescribed manner and on reasonable grounds relating to the particular situation, in which case the school may no longer process the information.[2]

5.5 The school will not process personal information concerning the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a data subject, unless processing is carried out with the data subject's consent or is necessary for the establishment, exercise or defence of a right or obligation in law, or the information has deliberately been made public by the data subject. The school may however process personal information concerning a learner's health or sex life if such processing is necessary to provide special support to learners or to make special arrangements in connection with their health or sex life.

[2] The prescribed objection forms are included in the Protection of Personal Information Act: Regulations relating to the Protection of Personal Information GN 42110 14 December 2018.

Copyright FEDSAS

6. Disclosure of personal information

6.1 The information officer will refuse a third party's request for access to a record held by the school if its disclosure would involve the unreasonable disclosure of personal information about a data subject.

6.2 A data subject, having provided adequate proof of identity, has the right to request the school —

(a) to confirm whether or not it holds personal information about the data subject; and

(b) to supply the record or a description of the personal information so held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information. This request must be made within a reasonable time; at a prescribed fee, if any; in a reasonable manner and format, and in a form that is generally understandable.

6.3 A data subject may request the school to —

(a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
(b) destroy or delete a record of personal information about the data subject that the school is no longer authorised to retain.[3]

6.4 On receipt of a request, the school will, as soon as reasonably practicable —

(a) correct the information;
(b) destroy or delete the information; or

[3] The applicable forms are included in the Protection of Personal Information Act: Regulations relating to the Protection of Personal Information GN 42110 14 December 2018.

Copyright FEDSAS

(c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information.

6.5 The school will notify the data subject of the action taken as a result of the request.

7. Safeguarding personal information

7.1 The school is legally required to adequately protect personal information. Therefore, the school will continually review its security controls and processes to ensure that personal information is secure.

7.2 The following procedures are in place to protect personal information:

- Each new employee is required to sign an employment contract containing relevant consent clauses for the use and storage of employee information or any other action so required in terms of legislation, as well as an undertaking and agreement that (s)he will not, during or after the period of service to the school, convey any personal information of any data subject collected by the school to any third party.

- Every employee currently employed at the school is required to sign an addendum to their employment contracts containing relevant consent clauses for the use and storage of employee information or any other action so required in terms of legislation, as well as an undertaking and agreement that (s)he will not, during or after the period of service to the school, convey any personal information of any data subject collected by the school to any third party.

- Where feasible, all servers hosting personal information shall be located in a physically secure environment, where access is strictly controlled. All server rooms shall be regarded as high-risk security areas with strict access control.

Copyright FEDSAS

- All servers shall be equipped and protected with approved antivirus software. The designated information technology (IT) service provider or the school's IT specialist shall regularly install patch updates and upgrades.

- Only an authorised administrator shall be granted administrative rights to the servers. Administrative passwords shall be kept secret and changed on a regular basis, and only personnel nominated at the discretion of the executive committee of the governing body shall have access to the passwords.

- Third-party service providers will be required to sign a service provider agreement guaranteeing their commitment to the protection of personal information.

- All electronic files or data are backed up by Sarah Scholtz, Marile Du Toit, Anri Vorster, Tlotlo Modisapudi, Via Steyn and Esmar Rediker on SASAMS/D6 ~~*(insert option)*~~,[4] ~~–~~ which is also responsible for system security to protect against third-party access and physical threats. (*Sarah Scholtz*~~_____~~)[5] ~~—~~ is responsible for electronic information security.

- If the school has reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person, the school will notify the data subject of such breach in accordance with sections 22(4) and (5) of POPIA.

8. Retention and restriction of records

[4] ~~See the FEDSAS information letter on the options available.~~
[5] ~~This is the responsibility of either an external service provider contracted by the school for this purpose, or an employee to whom this function has been delegated. This delegation must be in writing, and must set out the precise scope of duties.~~

Copyright FEDSAS

8.1 Records of personal information will not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless —

(a) retention of the record is required or authorised by law;
(b) the responsible party reasonably requires the record for lawful purposes relating to its functions or activities;
(c) retention of the record is required by a contract between the parties thereto; or
(d) the data subject or, where the data subject is a child, a competent person has consented to the retention of the record.

8.2 The school will destroy, delete or de-identify a record of personal information as soon as is reasonably practicable after the school is no longer authorised to retain the record. This will be done in a manner that prevents reconstruction of the information in an intelligible form.

8.3 See Annexure A for a list of prescribed retention periods.

8.4 The school will restrict the processing of personal information in accordance with section 14(6) of POPIA.

9. Details of information officer

INFORMATION OFFICER DETAILS

Name: A.P. Schutte

Telephone number: 083 98205220

Fax number: N/A

E-mail address: ouboutschutte@yahoo.com

Copyright FEDSAS

DEPUTY INFORMATION OFFICER DETAILS

Name: M.N. Steyn

Telephone number: 083 441 7823

Fax number: N/A

E-mail address: tinus.steyn@yahoo.co.za

SCHOOL OFFICE DETAILS

Telephone number: 053 927 5631

Fax number: N/A

Postal address: PO Box 131

Physical address: c/o Mckenzie and De Kock

E-mail address: stellaland131@gmail.com

Website: N/A

10. Access to documents held by the school

Any request for access to a document held by the school must be dealt with in accordance with the school's manual in terms of the POPIA, which contains the prescribed forms as well as details of prescribed fees. This manual is available from the school principal

Copyright FEDSAS

11. Policy amendments

The school governing body may amend, supplement, modify or alter this policy from time to time.

~~SIGNED AT _____ ON THIS _____ DAY OF~~

~~_____~~

~~Governing body chair~~

~~F. Fortuin~~

Copyright FEDSAS

Annexure A

Prescribed retention periods for personal information

Compensation for Occupational Injuries and Diseases Act (COIDA) 130 of 1993

Sections 81(1) and (2) of COIDA require a retention period of four years from the last date of entry for the following documents:

- A register, record or reproduction of the earnings and other prescribed particulars of all employees

Occupational Health and Safety Act (OHSA) 85 of 1993

Where health and safety committees have been established in terms of section 20(2) of OHSA, these committees' recommendations to the school on issues affecting employee health and any report submitted to an inspector in terms of such recommendations must be kept for three years.

Moreover, records of incidents reported at work must be kept for three years, as determined by regulation 9 of the General Administrative Regulations, 2003, promulgated under OHSA.

Basic Conditions of Employment Act (BCEA) 75 of 1997

The BCEA requires a retention period of three years from the last date of entry for the following documents:

- Written particulars of an employee after termination of employment (section 29(4))
- Employee's name and position
- Time worked by each employee
- Remuneration paid to each employee (section 31)

Copyright FEDSAS

Employment Equity Act (EEA) 55 of 1998 (if applicable)[6]

Section 26 of the EEA and regulation 3(2) of the General Administrative Regulations, 2009, promulgated under the EEA require a retention period of two years for the following documents:

- Records in respect of the school's workforce, employment equity plan and other records relevant to compliance with the EEA

In addition, regulation 4(11) requires a retention period of two years for the report that is sent to the Director-General, as prescribed in section 21 of the EEA.

Labour Relations Act (LRA) 66 of 1995

In terms of section 205(1) of the LRA, the school must retain the following records, in their original form or a reproduced form, for a period of three years from the date of the event or the end of the period to which they relate:

- Records that an employer is required to keep in compliance with any applicable collective agreement or arbitration award

In terms of section 205(3) of the LRA and section 5 of schedule 8 to the LRA, the following documents must be retained for an indefinite period:

- Prescribed details of any strike, lock-out or protest action involving the school's employees

- Records of each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer, and the reasons for the actions

Unemployment Insurance Act 63 of 2002

[6] See the FEDSAS legal opinion "Employment equity and public schools" to establish whether or not these prescripts apply.

Copyright FEDSAS

Section 56(2)(c) of the act requires that the following documents be retained for a period of five years from the date of submission:

- Personal records of each current employee, including names, identification numbers, monthly remuneration, and work address

Income Tax Act 58 of 1962

In terms of paragraph 14(1)(a) to (d) of schedule 4 to the Income Tax Act, the school must retain records showing the following, for a period of five years from the date of submission in respect of each employee:

- The amount of remuneration paid or due to the employee
- The amount of employees' tax deducted or withheld from the remuneration paid or due
- The income tax reference number of that employee
- Any further prescribed information
- The employer's reconciliation return

Department of Basic Education: National Protocol for Assessment Grades R–12

According to paragraph 28(11) of the national protocol, the school must retain a learner's profile for a period of three years after the learner has passed Grade 12 or exited the schooling system for any reason whatsoever, after which it should be destroyed.

Copyright FEDSAS