

PRIVACY REGULATIONS OF THE MONASH GRADUATE ASSOCIATION INC.

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PRIVACY REGULATIONS OF THE MONASH GRADUATE ASSOCIATION INC.

1. Short Title

These Regulations may be cited as the Privacy Regulations of the MGA.

2. Authorising Provision

These regulations are made pursuant to the Associations Incorporation Reform Act 2012 (Vic) and the MGA Constitution. MGAEC may only amend these regulations in accordance with the provisions of the MGA Constitution.

3. Objective

The objective of these regulations is to provide guidelines and to promote responsible Personal, Sensitive or Health Information handling practices, including how Information is to be collected, handled, stored and used by the MGA.

4. MGA Commitment

The MGA is a Victorian incorporated not-for-profit association. The MGA respects the privacy of every Constituent and is committed to observing the Australian Privacy Principles and as embodied in the Privacy Act 1988 (Commonwealth), the Privacy and Data Protection Act 2014 (Vic), the Health Records Act 2001 (Vic) and the Spam Act 2003 (Commonwealth) notwithstanding the legislation may not always apply to the MGA.

5. Meanings

Anonymity includes under a pseudonym.

Appropriate Authority means Monash University Safer Community Unit, Monash University Security, Victoria Police, Federal Police, CATT (crisis assessment and treatment team), Monash University Counselling Service or any other person or body entrusted with keeping any Constituent or the community safe.

Constituent has the same meaning as in the MGA Constitution.

Graduate student means a graduate student currently enrolled at any Australian campus of Monash University who is also a Constituent of MGA.

Health Information means information about physical or mental health, disability, health preferences, use of health services and genetics information and includes any medical treatment consents.

Internal Notes and Memoranda means any file note or comment on a student file which is created for internal MGA purposes.

Impracticable means any action or conduct deemed by the MGA President or Executive Officer or Senior Advocate to be contrary to MGA's best interests.

Information means Private, Sensitive or Health information whether solicited or not.

Monash Graduate Association Inc. shall be referred to as the MGA.

MGA Advocate means a staff member employed by the MGA who participates in the delivery of MGA advocacy services.

MGA Privacy Officer means the MGA Senior Advocate.

MGA Senior Advocate means the MGA Senior Advocate or delegate.

MGAEC means the Monash Graduate Association Executive Committee.

Owner of Personal Information means a Constituent who is a natural person currently enrolled and studying a graduate course at Monash University.

Non-Personal Information means anonymous information, aggregated information such as analysed data, de-identified information or general information about Monash University faculties, schools or departments or external entities which does not identify Constituents.

Personal Information includes information or an opinion (including information or an opinion forming part of a database), or is a name, signature, contact details and photographs, including unsolicited Information, that is recorded or unrecorded in any form and whether true or not, about a Constituent whose identity is apparent, or is reasonably identifiable, from the information or opinion, but does not include information of a kind to which the Health Records Act 2001 applies.

Sensitive Information means information about race, ethnicity, sexual orientation, religious or political belief, criminal record, tax information human resources information, electoral roll information, credit history and includes Health Information.

SSAF means Student Services and Amenities Fee, imposed by Monash University pursuant to the Higher Education Legislation Amendment (Student Services and Amenities) Act 2011.

6. Privacy Principles

The privacy obligations in these regulations apply to all Information which MGA receives in relation to a Constituent, directly or indirectly, whether from Monash University or otherwise, for any reason.

6.1. Management of Information

6.1.1. MGA will endeavour to manage Information disclosed to it in an open and transparent manner. These regulations contain the MGA's privacy principles which are accessible on the MGA website and if not due to technical difficulties, then upon request. MGA privacy principles will also be contained in various modes including information sheets, disclosure statements, agreements, terms and conditions, relevant policies and

procedures.

6.1.2. MGA will endeavour to ensure all Information collected, used and disclosed is accurate, up-to-date, complete and relevant to the purpose for which it was collected, used and/or disclosed.

6.1.3. The Senior Advocate or delegate will be responsible for educating all personnel within the MGA about the vital importance of the privacy laws and the duty of confidentiality that is owed to Constituents.

6.2. Anonymity

6.2.1. Constituents may identify themselves when entering into transactions with the MGA. The MGA will endeavour to provide each Constituent with an opportunity to remain anonymous.

6.2.2. Anonymity may make it difficult for the MGA to provide comprehensive information, advice and support. In the event a Constituent declines to provide the MGA with requested Information, the MGA will explain the consequences of the non-disclosure.

6.3. Exceptions to Anonymity

Constituents or members of the public will not be given an opportunity to remain anonymous if the sought Anonymity is deemed by the MGA to be for an improper purpose or which is vexatious as against the Monash University, the MGA, its staff, MGAEC members, MGA Council members, other Constituents, the general public or if it would be harmful, unlawful or impracticable.

6.4. Collection of Information

6.4.1. Information may only be collected by lawful and fair means and not in an unreasonably intrusive way. MGA will endeavour to collect Personal Information about a Constituent only from that Constituent. Higher standards apply to collection of Health, Personal and Sensitive Information.

6.4.2. Information may be collected from Constituents via on-line forms or hard-copy forms completed by the Constituent, or from referrals by Monash University staff or related entities.

6.5. Purpose of Information Collection

- 6.5.1. Personal, Health or Sensitive Information may only be collected if it necessary for the MGA to fulfil its functions or is legally required for purposes, such as occupational health and safety, or in the interests of safety of its Constituents or any Monash University student or staff, or the wider community.
- 6.5.2. Collection of Information may be for the provision of advice, advocacy, membership on any central or faculty Monash University committee or any external committee for MGA representative purposes, including the MGAEC, participation in any MGA event, activity or trip and includes participation in MGA volunteering or mentoring events and programs.
- 6.5.3. Collection of Information may be necessary for research, or the compilation or analysis of statistics, relevant to the representative functions of the MGA targeted to provide welfare or academic or social support for all Constituents.
- 6.5.4. Information may be collected for a secondary purpose which is reasonably connected to any primary purpose outlined in clause 6.5.2 or a purpose required or authorised by law.

6.6. Notification of Collection of Information

- 6.6.1. Subject to applicable legislation, common law rights, and the MGA Constitution, owners of Information must be notified of the principles contained in these regulations prior to the Information being collected by MGA.
- 6.6.2. If MGA collects Information about a Constituent from that Constituent or from someone else, MGA will take reasonable steps to ensure that the Constituent is or has been made aware of the collection of the Information except to the extent that making the Constituent aware of the matters would pose a serious threat to the life or health of any Constituent and in circumstances to which clause 6.3 applies.
- 6.6.3. Notice of MGA's privacy principles is deemed to be provided in person or via the MGA website, any agreement, social media, flyer, notice board, terms and conditions or email.
- 6.6.4. Notification of MGA's privacy principles may be verbal in the case of advocacy, volunteering, mentoring or written in any other case.

6.7. Dealing with solicited and unsolicited Information

- 6.7.1. The MGA must provide its identity and contact details to every Constituent who discloses any Information.
- 6.7.2. Constituents must be told what Information they are required to provide to the MGA, for what purpose, to whom it will be disclosed, how long it will be retained, and the mode of storage.
- 6.7.3. Constituents whose Information is collected must be advised that the collection of Information is reasonably necessary in order to fulfil the objectives and purposes contained in the MGA Constitution, or is necessary for the purposes of providing advocacy or for volunteering, mentoring functions, with the Constituent's consent, which may be verbal, written or implied.
- 6.7.4. In the event MGA comes into possession of unsolicited Information whether from a Constituent or any third party, pertaining to that Constituent or any other Constituent the privacy principles contained in these regulations will apply as though the Information was solicited.

7. Use and Disclosure of Information

- 7.1. MGA may collect Information if it is necessary for one or more of its functions, including but not limited to, advocacy, volunteering, mentoring, participation in any MGA trips or activities.
- 7.2. MGA may use and disclose de-identified Information for research, or the compilation or analysis of statistics, in the interest of its Constituents and in observance of its purposes, so long as it is not in a format which identifies any particular Constituent.
- 7.3. MGA may disclose Information if so directed by the Constituent to whom the Information pertains so long as the direction to disclose is in writing.
- 7.4. MGA may disclose Information to its legal advisers for the purposes of fulfilling its objects under the MGA Constitution, which may include preparing for legal proceedings.
- 7.5. No Information will be disclosed for the purpose of direct marketing by any third party unless specific consent has been obtained from the Constituent to whom the Information belongs.

- 7.6. In the event MGA is obliged at law to disclose Information to an Appropriate Authority, it will so disclose without prior notice and without consent of the Constituent.
- 7.7. The MGA may use and disclose information without prior notice and consent in other situations including if the MGA reasonably believes the use or disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare or has reason to suspect that unlawful activity has been engaged in. MGA may use or disclose the Information to investigate the matter or to report the matter to Appropriate Authorities.
- 7.8. Where information is to be disclosed pursuant to clause 7.7, the MGA will only disclose such Information as necessary to fulfil the purpose of the disclosure.
- 7.9. The MGA will not disclose Information to third parties for any other purpose under any other circumstances not listed in 7.1.1 to 7.1.7 of these regulations.

8. Individual Access to Personal Information

- 8.1. Constituents may request a copy of their MGA file. This does not include MGA Internal Notes or Memoranda.
- 8.2. Constituents retain a right to amend or correct their Information if necessary. This does not include Internal MGA Notes or Memoranda. Requests for amendments or corrections must be directed by email to the Senior Advocate.
- 8.3. Constituents will not under any circumstance be given access to computers, mobile telephones or any other electronic devices on which Information is stored by the MGA, and over which MGA has control, regardless of belonging to the MGA, Constituents, MGA committee members or MGA staff.

9. Storing Information

- 9.1. MGA will endeavour to take all reasonable steps to protect a Constituent's Information.
- 9.2. Hard copy information will be stored securely in accordance with MGA Information Handling Procedures.
- 9.3. Digital access restrictions will apply to all collected Information and in accordance with MGA Information Handling Procedures. The MGA utilises a third-party electronic database for managing and storing entire student case

files requires a password and encrypted protected access, stored on a secure server.

9.4. Emails received from and sent to Constituents are via an encrypted Monash University server. Monash University does not have permission to access MGA emails. Monash University in its agreement with MGA acknowledges the MGA's independent legal status. Monash University has an agreement with Google Australia which sets out the terms of where data is housed and what data if any can be mined. MGA uses this system. Data cannot be mined and is housed in Sydney.

9.5. Information is retained by the MGA for a minimum of 7 years. The MGA has a discretion to retain Information longer if it needs to do so for the purposes of complying with its Constitution or any law. In all other circumstances the MGA will de-identify and/or destroy all Information once it is no longer needed to fulfil any of MGA's purposes.

10. Storing Health and Sensitive Information

Constituents are entitled to receive an explanation from the MGA about why their Health and Sensitive Information is required and stored. Additional care will be exercised by MGA to ensure Health and Sensitive Information is private and secure and treated as absolutely confidential.

11. Publicly-available Information

Where the requested Information is in the public domain or on public record howsoever stored, the MGA will not be obliged to provide access to it or disclose it.

12. Implied Consent

It may be impracticable for the MGA to seek consent from a Constituent or a Constituent or entity before the use or disclosure of de-identified, solicited or unsolicited Information. In this event, consent will be deemed to have been provided for the use of such Information by the MGA at the point in time when it was collected. The consent will extend to the use of Information for the purpose for which it was obtained and if for a secondary purpose this must be closely linked to the first.

13. Complaints

13.1. MGA takes complaints about privacy seriously.

- 13.2. The MGA is committed to transparent processes when assessing, notifying, investigating and reporting Constituents' complaints.
- 13.3. Constituents have a right to complain if they feel their privacy has been unnecessarily interfered with.
- 13.4. Privacy complaints should be directed to the Senior Advocate.
- 13.5. The MGA Senior Advocate will respond to all privacy complaints and attend to all requests seeking access to and correction of personal information within 30 days of receipt of complaint.
- 13.6. The MGA Senior Advocate will investigate and assess complaints. A determination will be communicated to the complainant.

14. Privacy or Data Breach

- 14.1. The MGA acknowledges key risks as system errors, human errors and malicious attacks.
- 14.2. In the event there is an unforeseeable and/or accidental or malicious privacy or data breach, the MGA will implement best practice principles.
- 14.3. A privacy breach must be notified to the Senior Advocate and as soon as practicable be contained, assessed, and if of a reportable and serious nature, reported to relevant person or entity. All processes must be reviewed. A report of all actions taken shall be prepared by the Senior Advocate and presented to the MGA Executive Officer.

15. Refusal to Grant Access

- 15.1. MGA may refuse to grant access to any Information to anyone whatsoever if providing access would:
 - a) pose a serious threat to the life or health of any Constituent; or
 - b) pose an unreasonable burden on the MGA operations; or
 - c) pose a risk to the privacy of other Constituents, members of staff; or
 - d) in the event the request for access is frivolous or vexatious.
- 15.2. MGA may refuse to grant access to any Information if:
 - a) the Information relates to existing legal proceedings between the MGA and the Constituent; or
 - b) providing access would reveal the intentions of the MGA in relation to negotiations with the Constituent or with Monash University in such a way as to prejudice those negotiations; or
 - c) providing access would be unlawful; or
 - d) providing access would harm or unfairly prejudice another Constituent who may have received Information of another Constituent by honest mistake or error; or

- e) providing access would be likely to prejudice an investigation of possible unlawful activity.
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