



Government
of South Australia

SACE

Board of SA

POLICY

Data Reporting to Third Parties

1 INTRODUCTION

From 1 April 2013 the SACE Board of South Australia became subject to the *Freedom of Information Act 1991* (“the FOI Act”). The SACE Board’s full exemption under the FOI Act was replaced with a partial exemption for certain, specified items of information and data that the Board produces, manages and maintains.

The SACE Board has developed a suite of policies and guidelines which reflect the changed arrangements. These documents are:

SACE Data and Information Policy
SACE Data and Information Management Framework
Freedom of Information Operational Framework

Together, these documents provide the underpinning policy basis for the release of SACE data and information to the public in accordance with the South Australian *Freedom of Information Act 1991*.

In summary, this policy approach seeks to balance the need to preserve the integrity of the Board’s assessment, certification and quality assurance procedures with the need to respect the Objects of the FOI Act, in which members of the public have a legally enforceable right to be given access to documents held by government in the interests of promoting openness and accountability in government.

At the same time, the SACE Board has established the fundamental principles upon which any data or information that it produces, manages and maintains may be used, exchanged, manipulated or provided to others:

- The privacy and confidentiality of individuals is maintained;
- The fairness and integrity of the assessment process is maintained;
- All legislative requirements have been met.

As well, the SACE Board is committed to the educational, ethical and legal use of SACE data and information to improve educational practice and pedagogy, and to enhance understanding of the factors that contribute to student achievement. The public provision of SACE data and information is intended to contribute to this commitment.

2 MEMORANDA OF AGREEMENT FOR DATA SHARING

As part of this commitment, the SACE Board has developed Memoranda of Agreement for data exchange with its key stakeholders and partners:¹

South Australian Tertiary Admissions Centre (SATAC)
Department of Education and Child Development (DECD)
Catholic Education South Australia (CESA)
Northern Territory Department of Education (*still under development*)

Further Memoranda of Agreement may be developed with other key stakeholders, including the Department for Further Education, Employment, Science and Technology.

These Memoranda establish the respective roles and responsibilities of both parties to the Agreement with respect to the exchange, use, manipulation, and interpretation of SACE data and information.

The Memoranda also establish protocols and procedures for ensuring that the data and information is not used inappropriately, and for safeguarding the confidentiality of SACE data and information that remains exempt under the *Freedom of Information (Exempt Agency) Regulations 2008*. These include procedures for managing breaches to the Memoranda of Agreement, for example, the mis-use or abuse of SACE data and information which results in or could lead to instances in which the personal privacy of individuals is compromised or SACE data and information that is exempt under the Freedom of Information Regulations is publically disclosed.

The procedures for managing such breaches, which are specified in the Memoranda of Agreement, should be read in conjunction with this policy.

2.1 Elements of the Memoranda

The Memoranda of Agreement between the SACE Board and each entity noted above includes the following elements:

- Terms and duration of the Agreement
- Review of the Agreement
- Breach of protocols and termination of the Agreement
- Purpose of the Agreement and its legislative and strategic context
- Specifications for data exchange
- Definitions and interpretation

In addition, the Memoranda of Agreement between the SACE Board and DECD / CESA include a set of operational procedures, which include procedures for managing breaches to the Agreement and a data exchange schedule, which identifies the actual data sets to be exchanged.

¹ It is possible that further Memoranda of Agreement will be established between the SACE Board and other key stakeholders. It is also likely that the SACE Board will receive requests for SACE data from organisations with which it does not have a formal Memorandum of Agreement. In such instances, the SACE Board will release data and information to those organisations only on the basis that the same guiding principles and protocols for the provision of data to third parties, as set out in this policy, apply to those organisations. Such organisations will also be referred to the procedures for managing breaches to the Agreement contained in the Memoranda of Agreement the SACE Board has in place with its key stakeholders. Refer also to section 3.5.

These operational procedures, along with the specifications for data exchange, set out the operational protocols by which SACE data and information may be exchanged between the SACE Board and DECD / CESA. These operational procedures and the data exchange schedule are reviewed and re-negotiated annually.

The operational procedures establish how the following occurs:

- SACE data and information to be exchanged is identified
- SACE data and information is requested from the SACE Board
- SACE data and information is used, manipulated or published
- SACE data and information is stored, protected from mis-use and confidentiality is maintained.

2.2 Purpose of this policy

The Memoranda of Agreement between the SACE Board and its key stakeholders are predicated on the principles, procedures and protocols that apply to the exchange of data between the two parties to the Agreement, viz. the SACE Board and DECD/CESA/SATAC.

However, both State and Federal governments require jurisdictions to provide to them school-based and student achievement data which is then used for various purposes, including the distribution of Commonwealth funds to States and government policy making.

While the operational procedures specified in the Memoranda of Agreement include reference to the provision of SACE data and information to third parties, this reference specifically is to the provision of data that is the subject of an application made under the FOI Act, where the FOI Act has precedence for the provision of the data and/or information.

The operational procedures also specify that data that has been exchanged between the SACE Board and its partner/s to the Agreement “cannot be provided to parties outside each organisation without the written permission of the organisation that has statutory ownership of the data”.

The operational procedures do not, however, provide protocols for the release of SACE data and information to third parties, such as Federal or State governments, beyond seeking permission for the exchange to occur.

The purpose of this policy is to define and delineate the responsibilities of the SACE Board, and those key stakeholders who exchange data with the SACE Board (DECD/CESA) for reporting to third parties including State and Federal governments.

While the Memorandum of Agreement between the SACE Board and SATAC does not include a similar set of operational procedures, it does include a set of specifications for data exchange, which establish the basis upon which data is provided to SATAC, how SATAC will use the data, the respective roles and responsibilities of the parties to the Agreement, and the circumstances in which the data is provided by SATAC to third parties and for what purpose.

The following sections delineate the specific agreements for data exchange between the SACE Board and its key stakeholders.

2.3 Data exchange schedule/s – DECD and CESA

The Memoranda of Agreement between the SACE Board and DECD/CESA include data exchange schedules which specify the data sets that are to be exchanged between the two parties to the Agreement, viz. the SACE Board and DECD, and the SACE Board and CESA.

The data exchange schedules also specify the intended use for the exchanged data and the person/s who will receive the exchanged data.

The data exchange schedules also include specifications for data to be exchanged for external reporting. This external reporting includes, for example, data required for measuring achievement against the State Strategic Plan targets, and data required for reporting against the “Smarter School” initiative of the National Partnerships program of the Commonwealth Government.

2.4 Specifications for data release – SATAC

The Memorandum of Agreement between the SACE Board and SATAC includes specifications for data exchange, which identify that data provided by the SACE Board to SATAC includes tertiary selection data and other data required for the purpose of facilitating tertiary admissions for students.

Tertiary selection data as well as other data required by SATAC is calculated by the SACE Board under the direction of SATAC. The scope, contents, structure and data definitions of the data is negotiated between the SACE Board and SATAC via the SATAC/SACE Board Operations Group, and published in the annual Results Users Guide.

The Results Users Guide is then provided to the SACE Board as a formal specification of the data set, and is also provided to other members of the Australasian Conference of Tertiary Admissions Centres (ACTAC).

The specifications for data exchange also indicate how SATAC will use the data, which includes providing it to a number of third parties, including:

- Schools (SATAC application information concerning students at individual schools)
- Universities and TAFEs (data and information that is used for equity and access programs run by the institution and for other management and planning purposes).

The Memorandum of Agreement between the SACE Board and SATAC differs from those between the SACE Board and DECD / CESA in that it does include specifications / protocols for the reporting of SACE data and information to third parties. These are included in section 3.4 of this policy.

3 PROVISION OF SACE DATA TO THIRD PARTIES

3.1 Specifications under the Memoranda of Agreement

SACE data which is provided to other entities by the SACE Board under a Memorandum of Agreement is subject to the procedures and protocols set out in the Agreement, which include specifications for data exchange and operational procedures which establish the basis upon which data is to be exchanged.

These specifications and operational procedures stipulate the following:

(Note: these specifications/operational procedures relate to the MOAs between the SACE Board and DECD / CESA.)

- Only under exceptional circumstances and with the explicit permission of the data owner (the SACE Board) will unit level data be exchanged.
- When SACE data is disaggregated by school, the SACE Board will provide DECD only the data which relates to schools under the auspices of DECD.
- When SACE data is disaggregated by school, the SACE Board will provide CESA only the data which relates to schools under the auspices of CESA.
- The data sets to be exchanged are specified in the data exchange schedule, which is negotiated between the SACE Board and DECD / CESA at the commencement of each year or when the operational procedures are reviewed, whichever comes first.
- If either the SACE Board or DECD / CESA wishes to request data that is not specified in the data exchange schedule, they should do so using the appropriate data request form developed for this purpose.
- The organisation that has statutory ownership of the data is responsible for establishing the conditions of use which must be provided with the data when it is exchanged.
- The data that is provided by the SACE Board to DECD / CESA is provided on the basis that the data will be used by internal staff of the organisation in accordance with the conditions of use set by the owner, and that there will be no manipulation of the data other than that specified in the data exchange schedule or by agreement with the owner.
- Data that has been exchanged between the SACE Board and DECD / CESA (either in its entirety or variations thereof) cannot be provided to parties outside each organisation without the written permission of the organisation that has statutory ownership of the data.

In summary, the SACE Board provides SACE data and information to DECD and to CESA on the basis of an agreed data exchange schedule which identifies the data to be provided by the SACE Board each year.

These specifications establish that the SACE data that is provided to DECD and CESA is done so on the basis of certain conditions for its use, including the stipulation that the SACE data cannot be provided to any third party without the permission of the SACE Board. (Refer also to section 3.3 below.)

In addition, the SACE data and information that is provided to DECD and CESA is done so in the context of the *Freedom of Information (Exempt Agency) Regulations*, which prevent certain types of SACE data and information from being accessible under the FOI Act.

3.2 Definitions under the Memoranda of Agreement

The Memoranda of Agreement between the SACE Board and DECD, CESA and SATAC define the roles and responsibilities of the parties to the Agreement.

The SACE Board, as the data owner, has statutory ownership of the data it provides to DECD, CESA and SATAC, and as such has ultimate responsibility and authority for the data.

However, when it provides data to DECD, CESA or SATAC, the SACE Board confers this responsibility for the subsequent use of the data to DECD, CESA or SATAC, who are designated data custodians for the SACE data that has been provided by the SACE Board.

The Memoranda of Agreement for DECD and CESA also stipulate that the Chief Executives of each party to the Agreement should designate an individual officer within the organisation as the data custodian for the organisation, who has the designated authority to approve the provision, access and usage conditions of the data within their own organisation. This also includes approving the provision of SACE data to third parties, where the third party has been identified in the data exchange schedule, which forms part of the Memorandum of Agreement. For example, the data exchange schedule between the SACE Board and DECD includes “external data reporting” to the State and Commonwealth governments.

3.3 Protocols for data reporting to third parties – DECD and CESA

- As the designated data custodian for any data or information it receives from the SACE Board, DECD is responsible for the management and use of, and access to the data by others, including third parties.
- As the designated data custodian for any data or information it receives from the SACE Board, CESA is responsible for the management and use of, and access to the data by others, including third parties.
- As the designated data custodian for the data and information it receives from the SACE Board, DECD has the authority to provide SACE data and information to third parties, if the requested data/information has been specified in the data exchange schedule which forms part of the formal Memorandum of Agreement.
- As the designated data custodian for the data and information it receives from the SACE Board, CESA has the authority to provide SACE data and information to third parties, if the requested data/information has been specified in the data exchange schedule which forms part of the formal Memorandum of Agreement.
- If a third party requests SACE data/information that is not specified in the data exchange schedule, DECD should request the data from the SACE Board using the appropriate data request form.
- If a third party requests SACE data/information that is not specified in the data exchange schedule, CESA should request the data from the SACE Board using the appropriate data request form.
- Before either DECD or CESA provides any data to a third party (including data that is specified in the Data Exchange Schedule or data that is not on the Schedule and is subsequently requested by DECD or CESA) they must first advise the SACE Board of the following:
 - who the data will be provided to;
 - the intended use of the data by the third party;

- if the data will be manipulated or changed in any way from its original format.
- The data cannot be provided to the third party until the SACE Board has approved its release, in writing.
- Any analysis or interpretation of the data that accompanies the provision of the data to the third party that has not been provided or approved by the SACE Board must not be attributed to the SACE Board, not presented in such a way that it appears to be attributed to the SACE Board.
- The SACE Board's designated data custodian will provide to DECD / CESA the requested data, having sought approval for the provision of the requested data from the SACE Board Chief Executive.
- DECD will provide to the third party only data that relates to DECD.
- CESA will provide to the third party only data that relates to CESA.

3.4 Data reporting to third parties – SATAC

- The Chief Executive, SATAC, is the designated data custodian of all data and information provided to SATAC by the SACE Board.
- SATAC will use SACE data provided by the SACE Board in the following ways:
 - Provision of SATAC application information concerning their own students to individual schools;
 - Provision of school code information as part of the applicant profile SATAC's participating institutions to enable them to operate their equity and access programs;
 - Provision of school code information as part of the applicant profile to SATAC's participating institutions for planning and management purposes on the understanding that this information is for each organisation's internal use only.
- SACE data and information provided by the SACE Board to SATAC can only be provided to third parties if the following conditions are met:
 - The privacy and confidentiality of individuals, schools and school sectors is maintained;
 - The fairness and integrity of the assessment process is maintained;
 - All legislative requirements have been met.
- If data and information provided by the SACE Board to SATAC are requested by third parties for analytical or research purposes, the Chief Executive, SATAC, will consider each request on a case by case basis taking into account the nature of the request, the intended use of the data and the intended dissemination of any research outcomes, and will confer with the SACE Board before releasing the requested data.
- The Chief Executive, SATAC, as the data custodian of SACE data and information, and the owner of tertiary selection data:

- Will not release these publically or to any third parties in a form that allows the comparison of schools or school sectors in rank order.
- Will not release these publically or to third parties not participating in bona fide tertiary selection activities in a form that allows the comparison of individual students in rank order.
- May release to third parties participating in bona fide tertiary selection activities (e.g. ACTAC members) SATAC selection rank information that allows the comparison of individual students in rank order.

3.5 Data reporting to third parties – other entities and organisations

- Organisations and entities that do not have a formal Memorandum of Agreement for data exchange in place with the SACE Board may receive requests from third parties for SACE data. Such organisations and entities include the Association of Independent Schools SA (AISSA), the Department of Further Education, Employment, Science and Technology (DFEEST), or individual schools/school personnel.
- If such entities or organisations receive such requests, they should request the data from the SACE Board using the appropriate data request form.
- The SACE Board's designated data custodian will seek the approval of the SACE Board Chief Executive before providing the requested data to the entity, individual or organisation.