



Student Records - Procedure

1. Components

The student record is organized and separated into

- a cumulative student information file,
- a pupil support information file, and
- a student resource file if applicable

- a Youth Criminal Justice Act file.

All students will have a cumulative student information file. Some students who are receiving additional services from school clinicians and other resource services from within or outside will have a pupil support information file. Youth Criminal Justice Act files exist for only a few students.

2. Collection of Information - General

- a. The school will collect only as much personal information and personal health information as is necessary for the purpose for which it is collected. [Subsection 36.2 of the *Freedom of Information and Protection of Privacy Act* (FIPPA) and subsection 13.2 of the *Personal Health Information Act* (PHIA)]. The school does not require the consent of the pupil or parent/guardian for the collection of student records.
- b. The information collected on students shall be related to
 - i. the provision of educational programs and services supporting the student's educational progress, and
 - ii. the requirements of *The Public Schools Act* or *The Education Administration Act* Miscellaneous Provisions Regulation or by other statutes of Manitoba or Canada.
- c. Information about a pupil involving offences and proceedings under the *Youth Criminal Justice Act* which is provided to the school division by a court, a peace officer, a youth worker, a government department, etc. and which falls under the *Youth Criminal Justice Act* shall be maintained in a separate file.
- d. Pursuant to Subsection 37(2) of FIPPA, and 15(1) of PHIA, the school is required to provide the following information to the pupil and to the pupil's parents/guardians if the information is collected directly from them:

purpose for which the information is collected;

legal authority for the collection, and

title, business address and telephone number of an employee who can answer questions about the collection.

3. Storage

- a. Any part or parts of a student record may be micro-recorded or stored on a computer file in a manner that permits the printing of a clear and legible reproduction. Provision should be made to retain original documents when it is important to keep an original signature or initial on a document. Any micro-recording or computer file or reproduction of a pupil file is subject to the same privacy and access requirements applicable to hard copy.
- b. The Director/Principal or designate shall ensure that the Pupil Support file, the *Youth Criminal Justice Act* file, and other confidential documents are kept in a separate, secure location that ensures confidentiality.

4. Maintenance of Files

- a. The Director/Principal shall be responsible for setting up appropriate procedures and designating school staff to maintain up-to-date and accurate school records including cumulative, pupil support, and *Youth Criminal Justice Act* files.
- b. The Director/Principal shall be responsible for an annual review and regular updating of all files. This includes culling of dated information and information that is no longer relevant. All files no longer required shall be shredded.
- c. The Director/Principal shall ensure that records are kept confidential and access is provided only as stipulated in this policy.

5. Student Files

a. Cumulative Student File Component Information in a cumulative file

These files exist for all students and may include the following information:

- The student's name as registered under *The Vital Statistics Act* or if the student was born in a jurisdiction outside Manitoba, the student's name as registered in that jurisdiction, and any other names/surnames by which the student is known.
- Birth date of the student.
- Student gender.
- Manitoba Education (ME) number and any other student identification number assigned to the student by the school.
- Name of the student's parent(s) and/or legal guardian(s).
- Addresses and telephone numbers of the student and of the student's parent(s) and/or legal guardians.

- The school which the student is a resident if different than the school division the student is attending. Names of all schools attended by the student and the dates of enrollment, if known.
- Citizenship of the student and, if the student is not a Canadian citizen, the type of visa or other document pursuant to which the student is lawfully admitted to Canada for permanent or temporary residence and the expiry date of that visa or other documentation.
- Any health information that the parent of the student or the age of majority student wishes to be placed on the student record (e.g. allergy alerts, asthma, etc.) and optionally the Personal Health Information Number (PHIN).
- xi. An annual summary or a summary at the end of each semester of the student's achievement or progress in the courses and programs in which the student is enrolled (e.g. report cards/transcripts).
- xii. Information about any behavioral misconduct and disciplinary measures meted out including suspension or expulsion relating to the student.
- xiii. Attendance records.
- xiv. Photographs.
- xv. Communication regarding the student between the home and school (e.g. discipline, behaviour, achievements).
- xvi. Indications of awards, prizes.
- xvii. A copy of any separation agreement or court order with respect to child custody issues, where applicable.
- xviii. Cross-reference listing that identifies the location of all information held about a pupil that includes an indication of the existence and location of pupil support information not housed in a cumulative file.
- xix. Results obtained by the student on any diagnostic test, achievement test and examination conducted by or on behalf of the Province, and standardized tests under any testing program administered by the Board to all or a large portion of the students or to a specific grade level of students.
- xx. Any other assessment or evaluation that the parent or the student wishes to be placed in the cumulative file.
- xxi. The most recent Individualized Education Plan (IEP) and/or Health Care Plan specifically devised for a student and any amendments to these plans.
- xxii. Up-to-date notations or referrals to contacts with external agencies (e.g. Child and Family Services) or caregivers.
- xxiii. Admission advisement concerning whether the student has used or is continuing to use social service, psychological/psychiatric or counselling resources of any agency or of any school previously attended.
- xxiv. General information related to special funding.

- xxv. Notations of pullout for resource or challenge work.

Security Requirements

Section 41 of FIPPA requires that the school protect personal information by making reasonable security arrangements against such risks as unauthorized access, use, disclosure, or destruction. The cumulative file component will be stored in a locked filing cabinet in the school office. Where the cumulative file component contains personal health information, the more specific security requirements in sections 18 and 19 of PHIA and the Personal Health Information Regulation must be adhered to by the school Principal.

b. Pupil Support File Component Information

Pupil support files exist for some students and may include the following information:

- Detailed documentation from school clinicians and special education/resource staff about all inter-agency contacts and the provisions of any other resource services from within or outside of the school division.
- ii. Ongoing health/psycho-social/counselling information, whether medical, psychological or behavioural. Schools should endeavour to ascertain at point of first admission whether students have used or are continuing to use the social service, psychological, psychiatric, counselling resources of any professional, of any agency, or of any school previously attended.
- iii. School clinician's reports and related correspondence, notes from meetings/discussions concerning intervention strategies, contact logs, and consultation notes.
- iv. Referral to other agencies and individuals.
- v. The results obtained on specialized diagnostic tests (e.g. WISC-R).
- vi. Reports from service providers such as agencies, hospitals, and clinics.

Security Requirements

The information comprising the pupil support file component should be kept in a locked filing cabinet, separate and away from the cumulative file and *The Youth Criminal Justice Act* file. Pupil support information may be held in the school counsellor's office, and/or in the resource teacher's office, and/or in the Area/ Division office. Documentation will be recorded in the pupil's cumulative file component stating that information on the pupil is being held in these separate locations and in a locked filing cabinet adhering to section 18 and 19 of PHIA and that the Personal Health Information Regulation is met.

c. Youth Criminal Justice Act File Component

Information

These files will exist for only a few students. Information collected regarding a young person gathered under the *Youth Criminal Justice Act* shall adhere to the *Act*. Persons who are authorized to disclose information in a record kept under Section about a young person to a school representative under subsection 125 (6) of the *Act* are the Provincial Director, a Manitoba Justice Youth Worker, the Crown Attorney's office and a peace officer, such as a police officer.

Security Requirements

The *Youth Criminal Justice Act* file component will be kept in a locked filing cabinet, separate and away from the cumulative file and pupil support file, in the case of records kept at the school. The Principal is the designated custodian of the *Youth Criminal Justice Act* file component and has the responsibility for the receipt and release, maintenance, protection and security of *Youth Criminal Justice Act* information.

6. Access to and Privacy of Records

a. General Requirements

Unauthorized access to student records by a person who does not have the need to know is strictly forbidden. No unauthorized person shall have access to student records with the exception being the provision to police of such information as is required by law and in response to a subpoena. The Director/Principal will ensure that all staff are aware of the policies respecting access to student records.

Requests for access to the student records by pupils and their parents or legal guardians under *The Public Schools Act* will be handled at the school level.

Third party requests for access to information or requests for disclosure (for access to, or disclosure of, other personal information or personal health information) under FIPPA or PHIA will be directed to the Division's Access and Privacy Coordinator (Secretary-Treasurer).

b. School Personnel Access to Student Records

Access to and use of personal information in a student record by school personnel is permitted to the extent that the information is necessary to assist in the education program of the pupil. Staff members may need to have access to different pieces of information in order to carry out their duties.

c. Access under *The Public Schools Act*

- Pupils are not allowed access to their student records until they have reached the age of majority (the age of 18).
- Pupils who are eligible to access their files can examine the information or obtain copies of the information but nothing may be removed from the file.

- A parent or legal guardian can access their child's pupil file until the pupil has reached the age of majority at which time consent of the pupil is required to allow parents or legal guardians to access the pupil file (clause 42.3(1)(a)), subsection 42.3 (3), subsection 58.1 and clause 58.6 (c).
- A school employee who is competent to interpret the information must be made available to assist the pupil, parent, or legal guardian. Information in a pupil file can be examined or copied. Information may be denied if:

disclosure could reasonably be expected to constitute an unreasonable invasion of the privacy of a third party;

disclosure could reasonably be expected to be detrimental to the education of the pupil;

disclosure could reasonably be expected to cause serious physical or emotional harm to the pupil or another person; or

disclosure could reasonably be expected to be injurious to the enforcement of an enactment or the conduct of an investigation under the enactment.

- . Students who have reached the age of majority may appeal a school board's decision to refuse access to all or part of a pupil file to the Manitoba Court of Queen's Bench by filing an application with the court within 30 days of being notified of the refusal of access.

d. Access under *The Personal Health Information Act*

Any pupil including a pupil who is a minor, may request access to personal health information in his or her file.

A parent or legal guardian of a minor may request access to the personal health information in his or her child's pupil file if the minor does not have the capacity to make health care decisions (see clause 60(e) of the *Act*).

The grounds on which access may be refused are set out in subsection 11(1) of the *Act*.

e. Access Under the *Youth Criminal Justice Act (Canada)*

The Principal must ensure that no other person has access to the information contained in the *Youth Criminal Justice Act* file and that the information is not disclosed to any other person unless:

- access to or disclosure of the information is necessary for the purpose for which the information was provided to the Principal. That is, the Principal must not disclose the information to any person (including teaching and other staff of the school) except where disclosure to that person is necessary:

to ensure compliance with a Youth Justice Court order or authorization for reintegration leave of day release,

to ensure the safety of the staff or students of the school or other persons, or

to facilitate the rehabilitation of the young person the information is about, or

- ii. access is authorized under some other provision of the *Youth Criminal Justice Act*.
- It is recommended that the Director/Principal should verbally advise school staff and others who need to know the information for the authorized purposes, or should let them review but not copy the information for these purposes.

f. Rights of Access of Divorced or Separated Parents

- Where the parents are divorced, the *Divorce Act* (Canada) states:
 - “16(5) Unless the court orders otherwise, a spouse who is granted access to a child of the marriage has the right to make inquiries, and to be given information as to the health, education and welfare of the child.”
- Where the parents are separated, *The Family Maintenance Act* of Manitoba provides that:
 - “39(4) Unless a court otherwise orders, the non-custodial parent retains the same right as the parent granted custody to receive school, medical, psychological, dental and other reports affecting the child.”

g. Access Under the *Freedom of Information and Protection of Privacy Act*

- Any pupil may request access to the student cumulative file in his/her student record.
- Where the pupil is a minor, a decision will have to be made as to whether the pupil has the legal capacity to make the request (in the sense that he or she understands the nature of the request, the consequences of making it, etc.).
- The Chief Superintendent can deny the access of a parent or guardian to the pupil file when, in the opinion of the division or district, the parent or legal guardian’s exercise of this right of access would constitute an unreasonable invasion of the minor’s privacy (see clause 79(d) of the *Act*). The grounds of which access may be refused, or on which access is required to be refused, are set out in the *Act*, particularly in sections 17 to 32.
- The parent or legal guardian may make a complaint to the Manitoba Ombudsman about the decision to refuse access to all or part of the pupil file. Where a complaint has been made and the Ombudsman makes a report, the parent or legal guardian may appeal the decision to refuse access to the Manitoba Court of Queen’s Bench.

h. Third Party Requests for Information Authorized by the *Freedom of Information and Protection of Privacy Act*

Any disclosure of personal information to a third party must be authorized under FIPPA. School divisions and districts and their staff, are not allowed to disclose personal information about a student, including personal information in a pupil file, unless one of the circumstances set out in section 44 of FIPPA applies.

The Director/Principal may approve disclosure of personal information about a pupil (which is not personal health information and which is not young offender information) if:

- The pupil or, depending on the pupil's maturity, the pupil's parent or legal guardian consents to the disclosure (clause 44(1)(b)). Where possible, consent should be in writing. If consent is verbal, a detailed note documenting the consent should be set out in the file;
- The disclosure is for the purpose for which the information was collected or compiled or for a use consistent with the purpose (clause 44(1)(a));
- Another act or regulation of Manitoba or Canada authorizes or requires the disclosure (clause 44(1)(e)), for example, disclosure of information that a child is or may be in need of protection to a child caring agency as required by section 18 of the *Child and Family Services Act* of Manitoba, or disclosure of names, addresses, etc., to a school attendance office under section 269 of *The Public Schools Act*;
- Disclosure is necessary to protect the mental or physical health or the safety of any individual or group of individuals (clause 44(1)(l));
- Disclosure is for law enforcement purposes or crime prevention (clause 44(1)(r)), for example, disclosure of personal information to the police where the information is necessary for a specific investigation into criminal activity;
- Disclosure is for the purpose of supervising an individual in the custody or under the supervision, of a correctional authority (clause 44(1)(t)), for example, disclosure to a pupil's probation or youth court worker.

i. Third Party Requests under *The Personal Health Information Act*

Third-party requests for personal and personal health information may only be granted where authorized under FIPPA, Section 44(1), or PHIA section 22(2) or with consent of the pupil and/or parent/guardian.

Pupil and pupil support files may be transferred to another division as provided under subsection 29(3) of *The Education Administration Act*.

j. Youth Criminal Justice Act File

Information may only be shared on a need to know basis under limited conditions such as to ensure compliance by the pupil with a court order or to ensure the safety of staff, students and others.

7. Transfer, Retention and Destruction of Student Records

a. Transfer of Records to Another School

Upon receipt of a request for records or information from a school, the Director/Principal shall forward cumulative files and pupil support files in accordance with legislation.

The contents of the student records being transferred should be reviewed to ensure that only personal information and personal health information necessary for the schooling and provision of educational services to the pupil is forwarded to the new school.

The *Youth Criminal Justice Act* component of the student records shall not be transferred and shall be destroyed when the court order is satisfied, or when the student leaves the school, whichever comes first.

b. Retention of Student Records

Student records will be kept for a period of ten (10) years beyond school departure or until the record is transferred to another school. Senior 1 to Senior 4 student marks will be retained for thirty (30) years. Schools are required to provide transcripts of marks free of charge to persons who are no longer enrolled.

c. Destruction of Student Records

- When any part of a student record is no longer required, or the authorized retention period has expired, destruction of the information in a student record must be carried out in a manner that protects privacy. The records must be shredded.
- Where personal health information is involved, subsections 17(3) and 17(4) of PHIA provide:

The individual whose personal health information is destroyed and the time period to which the information relates; and,

The method of destruction and the person responsible for supervising the destruction.

- iii. Where personal health information is kept in electronic form, the Division must ensure the security of the information when the computer hardware or removable electronic storage media on which it has been recorded is being disposed of or used for another purpose. (Clause 2(a)(ii) of the Personal Health Information Regulation).
- iv. At the expiration of the retention period, records will be destroyed at the school under controlled confidential conditions. The records manager will file the summaries or lists in a disposition of records log. For purposes of this regulation, the records manager is defined as “Student Services”.
- v. The *Youth Criminal Justice Act* file information must be destroyed when it is no longer required for the purpose for which it was established (where the court order is satisfied).

8. Appeal Process Regarding Records

If a parent or guardian or age of majority pupil disputes the accuracy or relevance of contents and information in a file, a written request for review should be submitted to the Director/Principal according to the following procedure:

- a. A written request for appeal, outlining the specifics of the dispute, shall be submitted to the Director/Principal.
- b. The Director/Principal shall render a decision, in writing, within two weeks of receipt of the requested appeal.
- c. The Director/Principal decision can be appealed to the Board.
- d. The Board shall respond in writing within two weeks of the receipt of the appeal. Where a request for a correction is received but not acted upon by the school is required to append the request for the correction to the file in question.

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