



POLICY:

REGULATION: JO Student Records

EXHIBIT:

The School Principal is responsible for the security and safety of student records in his or her building.

The Pupil File

The pupil file will contain all the information collected or produced by a school division to support the educational progress of a pupil. The pupil file is comprised of the following components:

- The cumulative file
- The pupil support file
- The youth criminal justice file as necessary

The Cumulative File Components:

Exists for all students and will typically include:

- 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 and surnames by which the student is known;
- The birth date of the student;
- Student gender;
- The Manitoba Education Number (MET#) and any other student identification number assigned to the student by a board;
- The name of the student's parent(s) and/or legal guardian(s);
- The addresses and telephone numbers of the student and of the student's parent(s)/legal guardian(s);
- The school division or district of which the student is a resident student, if different than the school division or district the student is attending;
- The names of all schools attended by the student and the dates of enrollment, if known;
- The 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 document;
- Any health information that the parent or legal guardian of the student or the student (where he or she is capable of making health care decisions) wishes to be placed on the student record (e.g. allergy alerts, asthma) and, where necessary to provide health care or protect the student's health, the Personal Health Identification Number (PHIN);
- 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 i.e. report cards and transcripts;

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SOURCE: Manitoba Pupil File Guidelines (January 2012); Manitoba Public Schools Act

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- Information about any behavioural misconduct and disciplinary measures meted out, including suspension or expulsion relating to the student;
- Attendance records;
- Photographs;
- Communication regarding the student between the home and school e.g. discipline, behaviour, achievements, etc.
- Indications of awards, prizes;
- A copy of any separation agreement or court order with respect to child custody or guardianship, where applicable;
- A cross-reference listing which identifies the location of all information about a pupil that is held by the school division or district, including an indication of the existence and location of pupil support information not housed in the cumulative file component;
- The 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;
- Any other assessment or evaluation that the parent/legal guardian or the student wishes to be placed on file;
- The most recent Individualized Education Plan (IEP) and/or Health Care Plan specifically devised for a student, and any amendments to these plans;
- Up-to-date notations of referrals to/contacts with external agencies (e.g. Child and Family Services) or caregivers;
- Admission advisement concerning whether the student has used or is continuing to use social service, psychological/psychiatric or counseling resources of any agency or of any school previously attended;
- General information related to special funding;
- Notations of pullout for resource or challenge work.

The Pupil File Component:

Exists for some students and will typically include:

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- 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 or district that are occurring;
- Ongoing health/psycho-social/counseling 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, counseling resources of any professional, of any agency, or of any school previously attended);
- School clinician reports and related correspondence, notes from meetings and discussions concerning intervention strategies, contact logs and consultation notes;
- Referrals to other agencies and individuals;
- The results obtained on specialized diagnostic tests;
- Reports from service providers such as agencies, hospitals, and clinics.
- Reports and notes from behaviour specialists such as psychologists, psychiatrists or other therapists, if such documentation exists.

The Youth Criminal Justice File Component:

Exists only for a few students and will typically include:

- The type of youth justice court order with which the young person is expected to comply i.e. bail, probation, conditional supervision, temporary release;
- The expected expiry date of the court order;
- Information about the offence for which the order has been made;
- The particular terms of the order which relate to school attendance or any other education matter;
- Prior record of offences if safety of staff and students may be at risk;
- Any identifiable individual or group of persons who could be at risk from the young person;
- Patterns of behaviour which may signal the onset of activity with potential to affect the safety of staff or students;
- Any recommendations for reducing the risk of violence and increasing the level of safety of staff and students.

These files must be kept in a secure and locked place where access is restricted to staff authorized to have access to the information.

Access to the Student Pupil File:

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SOURCE: Manitoba Pupil File Guidelines (January 2012); Manitoba Public Schools Act

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EXHIBIT:

Access to the student pupil file shall be through the principal only, who must insure that information gained from these records is used according to the ethical and professional standards listed below.

- All information in the pupil file shall be considered confidential. This shall be brought to the attention of all who use this information.
- Information gained from pupil file shall be used for professional purposes only.
- Test results shall be used only by personnel who are qualified to interpret them.
- The youth criminal justice files - The school principal must keep the youth criminal justice information separate from all other records about the young person which are kept by the school representative or the school (clause 125(7)(a) of the YCJA). The school principal must ensure that no other person has access to the information 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 school representative. That is, the school principal must not disclose the information to any person (including teaching and other school staff) except where disclosure to that person is necessary:
 - to ensure compliance with a youth justice court order or authorization for reintegration leave or 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
 - (b) access or disclosure is authorized under some other provision of the YCJA.

The principal must verbally advise school staff and others who need to know the information for the authorized purposes, or allow them review but not copy the information for those purposes.

Generally, the access to information and protection of privacy provisions of *FIPPA* and *PHIA* apply to all records in the “custody” or under the “control” of the school division or district, other than youth criminal justice information falling under the *YCJA*. (Refer to sections specific to youth criminal justice information throughout these guidelines.) All internally and externally produced information in the pupil file is in the custody, or under the control, of the school division or district. It is important to note that, regardless of the source of the information, the school division or district is responsible for ensuring compliance with all access to information and protection of privacy requirements which apply to the information in pupil files. All personal information and personal health information respecting the pupil, and any third parties, in the pupil file must be protected against unauthorized use, access, disclosure or destruction.

Student access to the Pupil File

Under the *PSA*, pupils are not allowed access to their pupil file until they have reached the age of majority (the age of 18). (Clause 42.3(1)(a) and clause 58.9(2)(b)).

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Subsection 42.3(2) of the *PSA* sets out the limited grounds on which a school division or district may refuse access, under that Act, to all or part of a pupil file to a pupil who has reached the age of majority:

- 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 an enactment.

Parent and Legal Guardian Access to the Pupil File

Under the *PSA*, 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 parent(s) or legal guardian(s) to access the pupil file (clause 42.3(1)(a), subsection 42.3(3), subsection 58.1 and clause 58.6(c)).

Subsection 42.3(2) of the *PSA* sets out the limited grounds on which a school division or district may refuse access under that Act to all or part of a pupil file, to a parent or legal guardian:

- 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 an enactment.

Where access to a pupil file by a parent or legal guardian is permitted under the *PSA*, a school division or district employee who is competent to interpret the information must be made available to assist the parent or legal guardian. Parents and legal guardians who have gained access to information in a pupil file can examine the information or obtain copies of it. When a parent or legal guardian examines a pupil file, a school division or district employee should be present to maintain the integrity of the file.

Rights of access of divorced or separated parents

Where the parents are divorced, the *Divorce Act (Canada)* states:

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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.

Transfer of Pupil Files

When a student is transferred to another school within the division, the cumulative and pupil support file is sent to the receiving school. When a student transfers to a school outside of the division, the file is sent once the request is received from the receiving school. The youth criminal justice file is not transferred.

The contents of the pupil file 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. Consistent with Board policy, duplicate information and information that is not necessary for the schooling and provision of education services to the pupil may be culled and destroyed.

The pupil support file component should be transferred directly from professional to professional wherever possible to further ensure the security and confidentiality of the file contents. If it is not possible to transfer the pupil support file component from professional to professional, then the files that make up this component should still be transferred to the new school. Such files should be clearly identified as containing sensitive personal health information. It is up to the receiving school or school division to ensure that only appropriate personnel have access to these files.

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