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School Division Records Management: Student Records (Pupil Files)

Pine Creek School Division shall establish written procedures respecting the collection, storage, retrieval and use of information respecting pupils. (as required by legislation)

The Pine Creek School Division establishes the accompanying student records (Pupil Files) regulation in conformity to the provisions of the *Freedom of Information and Protection of Privacy Act (FIPPA)* and the *Personal Health Information Act (PHIA)* respecting the collection, use., protection, retention and disclosure of personal student information. In addition, the rules set out in the *Young Offenders Act (YOA)* will be followed.

If a provision of the Freedom of Information and Protection of Privacy Act is inconsistent or in conflict with a provision of another enactment, the provision of FIPPA prevails, unless the other enactment expressly provides that it applies despite FIPPA. [Freedom of Information and Protection of Privacy Act, 5(2)]

The school record forms for the collection, retention and release of information about students within the School Division, shall be defined and designated as those forms presently in use, namely:

- i. Cumulative Record Folder (CRF)
- ii. Inserts to the CRF
- iii. Student Record Card (Student Academic Record Card) and those forms which may be developed and replace any or all of the above.

School Record forms and Release of Information forms for use in schools shall be approved by the Superintendent's Department.

A. DUTIES AND RESPONSIBILITIES OF PRINCIPALS

Principals are in charge of schools in respect of all matters of organization and management and are responsible for the supervision of schools and school staff. (Ed. Admin. Act 468/88 28 (1) (2)). Principals also have responsibilities for the provision of information to parents and the community. [Ed. Admin. 468/88 29 (1) (2)]. Accordingly, the following duties and responsibilities are assigned to principals.

Establish, maintain, retain, transfer and dispose of a record for each student enrolled in the school, in compliance with the criteria established by the Board.

Ensure that the materials in the pupil file reflect **The Manitoba Pupil File Guidelines** and the policies established by the School Board.

- c) Ensure the confidentiality and security of the pupil file.
- d) Respond to, or re-direct requests for access to and disclosure of pupil information, according to the policies established by the Board.
- e) Ensure that all persons specified by the School Board to perform clerical functions with respect to the establishment and maintenance of the pupil file are aware of the provisions of the *PSA*, *FIPPA*, *PHIA*, and the *YOA* protecting personal information, personal health information, and Young Offender information, and comply with the requirements of these Acts and with the policies established by the Board.
- f) Ensure that all teaching, professional (clinical/resource) and support staff are aware of the access and privacy provisions of the *PSA*, *FIPPA*, *PHIA*, and the *YOA* and comply with the requirements of these Acts and with the policies established by the Board.
- g) Transfer the pupil file of a pupil when she/he enrolls in another school, in accordance with subsection 29 (3) of the *Education Administration Miscellaneous Provisions Regulation 468/88*.

The parent(s) or legal guardian(s) of a student who is not an adult and the student himself or herself (where he or she is capable of understanding this information) should be informed of the purpose, content and accessibility of the pupil file at the time of enrollment. The title, address and telephone number of a staff member who can answer any questions about the collection should be provided.

B. DEFINITION OF THE PUPIL FILE

A "pupil file" means a record or a collection of records respecting a pupil's attendance, academic achievement, and other related matters in the possession or control of a school board. (PSA 42.2).

A "record" is a record of information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means including by graphic, electronic, or mechanical means.

Any part or parts of a pupil file 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.

C. STUDENT INFORMATION – CONTENT

Under FIPPA, the collection of personal information must be "directly related to or necessary for an existing program or activity of the local public body". [FIPPA 36 (1) (b)] This ensures that the school collects only the information related to the student's educational progress.

A student record contains all the information collected by the School Division on the student's educational progress. Within each student record, there can be up to three sections included in the student's file: (**Manitoba Pupil File Guidelines**)

1. Cumulative file (all students)
2. Pupil support data; (some students)
3. Young offenders information (if necessary)

1. Cumulative File (All students)

This section contains both personal information and personal health information. Under *FIPPA*, personal information is defined as 'any recorded' information about an identifiable individual.' Information normally included in the student's file includes:

- the student's name, gender and date of birth;
- Manitoba Education, Training & Youth number (MET#);
- any relevant health information, i.e. allergies, asthma, medications, etc., and optional PHIN (personal health identification number);
- any Individualized Health Plan or any other health care plan applicable to this student;
- name, address and phone number of the student's parent/legal guardian;
- citizenship status;
- school division/district of the student if the student is not a resident of the attending school;
- any enrollment at other schools;
- attendance records;
- a summary of the student's academic progress, including the results of the standardized examinations conducted on behalf of the Province of Manitoba;
- information on any student misconduct, including suspension or expulsion;
- notes of any referrals to social service agencies, counseling, etc.;
- copy of any separation agreement or court order regarding child custody;
- notes of any awards, prizes, etc.;
- home/school communication;
- a pupil file may also contain third party information, that is, information **about** someone other than the pupil that the file is about. Under the *PSA, FIPPA and PHIA*, access to the pupil file can be granted to a pupil, parent or legal guardian without contravening the privacy rights of the third party by severing out all information relating to the third party and providing access to the remainder of the record.
- a cross-reference listing that identifies the location of any or all other information about a student should be marked in this file.

2. Pupil Support File: (some students)

This section is developed for some students and can include:

- documentation from School Clinicians and Special Education staff;
- any communication with outside service agencies;
- health information, including medical, psychological, or behavioural; and
- any correspondence, notes or meetings/discussions between/among other School Clinicians, or external agency reports, including hospitals;
- results from any specialized diagnostic tests.

This information can be stored in more than one location. The information in the Pupil Support file should be kept separate from the cumulative and Young Offender files. Sometimes, a student's information can be in a School Counsellor's office or other school staff. Regardless of where these files are stored, the information in these files is covered by *FIPPA's* and *PHIA's* access provisions. (see below)

3. Young Offender File: (some students)

This file is developed for a student on an 'as needed' basis. This information is usually transferred from the courts, or a Youth Worker, and can include:

- the offence the student undertook;
- identification of any individual or group that could be at risk from this student's previous behaviour;
- information that ensures a student who is on bail or probation complies with the conditions of his/her release, under the conditions of the court;
- recommendations of the court;
- prior record, if any.

Under *The Young Offenders Act*, a Young Offender file must be kept separate from the student's cumulative and Pupil Support files. This ensures that only certain designated individuals can access this information.

It is recommended that the School Principal or designate act as the "custodian" of a Young Offender file. A list of other authorized persons who can access this file should be noted. Usually only a Principal can access these files.

The Young Offender file must be destroyed if a student transfers to a school in another school division. The courts are charged with the responsibility to provide any information on this student to the new school and school division. The school should communicate to the authorities that the student is transferring to another school.

D. ACCESS AND PRIVACY

1. Staff Access

Access to personal information and personal health information in the pupil file by staff within the School Division who do not need to know the information to carry out their duties, is prohibited.

a) Personal information

Access to and use of personal information in a pupil file by School Division staff is authorized if:

- the information is used for the purpose for which it was collected or compiled; or
- the information is used for a purpose which is consistent with the purpose for which it was collected or compiled ; or
- the pupil or (depending on the maturity of the pupil) the pupil's parent(s) or legal guardian(s) consent to the use; or
- the information is used for a purpose for which it may be disclosed to the School Division or district under the disclosure provisions of *FIPPA*

The personal information about a pupil may be shared amongst School Division staff to the extent that such information is necessary to assist in the educational progress or schooling of the pupil.

b) Personal Health Information

Use of personal health information in a pupil file by School Division staff is authorized if:

- the information is used for the purpose for which it was collected; or
- the information is used for a purpose which is directly related to the purpose for which it was collected or received; or
- the pupil or (depending on the maturity of the pupil) the pupil's parent(s) or legal guardian(s) consent to the use; or
- one of the other circumstances in section 21 of *PHIA* applies. (e.g. prevent harm)

c) Young Offender Information

The Provincial Director appointed under the *YOA*, a Youth Worker, a Peace Officer and any other person engaged in the provision of services- to young persons may disclose information respecting an offense committed by a young person and any dispositions concerning a Young Person under that Act to the "representative of any school board or school' where the disclosure is necessary:

- to ensure compliance by the pupil with an authorization respecting temporary release or with an order of any court concerning bail, probation or conditional supervision; or
- to ensure the safety of staff, students or other persons (subsection 38 (1.14) of the *YOA*.

Young Offender information in the pupil file can only be made available to, and used by, staff of the School Division for these purposes. There should be a list of the persons to whom this information may be disclosed and that list should be attached to the file. Only those persons whose names appear on that list should have access to the Young Offender information.

2. Student Access

a) Under the Public Schools Act

Pupils are not necessarily allowed access to their pupil file until they have reached the age of majority. [PSA 42.3(1) (a), 58.9 (2) (b)]

A pupil who has reached the age of majority may be refused access to all or part of the pupil file 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 an enactment.[PSA 42.3(2)]

Where access to a pupil file by a pupil is permitted under the *PSA*, a School Division employee who is competent to interpret the information must be made available to assist the pupil. Pupils who have gained access to information in a pupil file can examine the information or obtain copies of the information. When a pupil examines a pupil file, a School Division employee should be present to maintain the integrity of the file. [PSA 42.3 (1) (b)].

b) Under the Freedom of Information and Protection of Privacy Act & PHIA

Any individual can request access to personal information in his/her file. This also refers to any personal health information about the student under *PHIA*. In both situations, if the student is under the age of 18, it will be determined if the student understands the nature and consequences of this request.

c) Under the Young Offenders Act

A school cannot disclose any information in the Young Offender component of the student's file.

3. Parental and Legal Guardian Access

Parents/guardians can request access to their child's file until that child reaches the age of majority, at which time consent of the pupil is required. Refusal of access may occur 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 an enactment. [PSA 42.3 (2)]

Where access to a pupil file by a parent or legal guardian is permitted under the *PSA*, a School Division 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 employee should be present to maintain the integrity of the file.(PSA 42.6)

A school cannot disclose any information in the Young Offenders component of the student's file.

4. Third Party Access

a) Under the Public Schools Act

For the purposes of this policy, a 3rd party is "a person, group of persons or an organization other than the person that the information is about and other than the school division or district maintaining the record.' (Manitoba Pupil File Guidelines, 2000.) Under The Education Administration Act, school staff may receive requests for access to a pupil file for current or former students from post-secondary institutions or potential employers. This information could include a student's attendance or academic achievement report. A verbal or written authorization would be required from the student or parent/guardian of a minor. For verbal approval, a note should be detailed and attached to the pupil file. This applies to all requests regarding the release of information to a third party. [(Ed. Admin 468/88) (15)]

Under The Public Schools Act, can also be gained from 'every school attendance officer appointed under the authority of this Act; (he/she) has the right of access to the records of every school board, every private school and every municipal council for the purpose of procuring the names, ages and addresses of all children and all such other information as may be required for the carrying out of the provisions of this Act." [PSA 69]

b) Under the Freedom of Information and Protection of Privacy Act &PHIA

All other third party requests require approval by the School Division Access and Privacy Coordinator. These requests could also be from a variety of sources, including law enforcement, justice officials, or government agencies. FIPPA requires the third party to verify their request by a legal authority, i.e. court order, government request, etc.

c) Under the Young Offenders Act

Young Offender information in a pupil file can only be disclosed by school staff.

- to ensure compliance by the pupil with an authorization respecting temporary release, or with an order of any court concerning bail, probation or conditional supervision; or
- to ensure the safety of staff, students, or other persons connected with the school.

E. APPLICATION TO CHANGE OR CORRECT PERSONAL INFORMATION IN THE PUPIL FILE

Under the PSA, FIPPA and PHIA, adult students or parents/guardians have the right to request changes of any information in a file. Such requests require supporting documentation. Under FIPPA, the School Division has thirty days to respond to the request. If the change is not endorsed, the request should be attached to the pupil file for future reference - (PSA 42.5)

F. TRANSFER OF THE PUPIL FILE

The School Principal must forward the pupil file when the pupil transfers out of the school and enrolls in another school. [Ed. Admin. 468/88, 29 (3)]

This transfer of personal information and health information should conform to the standards regarding the release of information supporting the student's educational progress. The transfer of the pupil file must also be conducted in the best means available to ensure both security and confidentiality. (See section G)

The YOA provides that no school board representative or school to whom Young Offender information is disclosed may disclose that information to any other person unless the disclosure is necessary:

- to ensure compliance by the pupil with an authorization respecting temporary release, or with an order of any court concerning bail, probation, or conditional supervision; or
- to ensure the safety of staff, students, or other persons connected with the school [YOA 38 (1.14)].

If the student transfers to another school division or district, the Young Offender file component must be destroyed immediately. However, the Principal or School Board designate must inform the Youth Worker responsible for the student that he/she is no longer attending the school, and of the name and location of the new school where the student is attending. The Youth Worker is responsible for advising the new school of any pertinent information. School officials may recommend to the Youth Worker that the new school be provided with the Young Offender information and, if possible, should supply the name of an appropriate contact person in the new authority.

G) PUPIL FILE ANNUAL REVIEW PROCEDURES

The following guidelines and procedures apply to an annual review and culling of pupil files:

Pupil files and working files are to be reviewed annually before the end of the school year by each Classroom Teacher, Resource Teacher, Counselor, or Clinician.

The files should be culled, to remove:

- undated and unsigned notes or documents;
- irrelevant and outdated student work;
- meeting notes that are not necessary to ongoing educational services for the student;
- when in doubt, the Teacher should consult the Principal.

Files that are culled from the pupil file must be listed for content and sent to the Records Manager for destruction. A copy of the records content should be sent with the records to be destroyed. The summary will be kept on file as part of the disposition system.

H) RETENTION AND DESTRUCTION OF THE PUPIL FILE

Except for Senior 1 to Senior 4 student marks, the information in the pupil file will be kept for a minimum of 10 years. The retention period for Senior 1 to Senior 4 student marks is 30 years.

The Young Offender file component must be destroyed as soon as it is no longer required for the purpose for which it was established.

When destruction of the information in a pupil file occurs, it will be done as per Policy. School Division Records Management and the Guidelines on the Retention and Disposition of School Division Records issued by Manitoba Education and Training.

The Freedom of Information and Protection of Privacy Act.

The Personal Health Information Act

The Young Offenders Act

The Public Schools Act

The Education Administration Act

Manitoba Pupil Files Guidelines

Guidelines for the Retention/Disposition of School Division/District Records.

The Division has the responsibility for providing students with records for Grade 1 through Senior 4.

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Addition to Guidelines for RETENTION AND DESTRUCTION OF THE PUPIL FILE

Any IEP or other formal plan that describes modification, individualization, or significant adaptation of curriculum content or delivery for a particular student shall be considered a record of programming for that student and shall be retained as part of the pupil file for a minimum of ten years following graduation or school leaving. A minimum of one updated copy of any such plan per year that the plan is in use shall be kept in the pupil file.

An updated copy each IEP will be provided to the Student services Coordinator at Division Office a minimum of once each school year.

