



## 5.06 Pupil Files

### 5. Students - Administrative Procedure Manual

The Pine Creek School Division establishes this procedure according to the *Manitoba Pupil File Guidelines* and the *Guidelines on the Retention and Disposition of School Division/District Records*.

All recorded information about a pupil that is either generated or received by school division staff is the custody, or under the control, of the Pine Creek School Division. Professional staff may maintain a working file in addition to the pupil file. The existence of any such file should be documented in both the cumulative file and a master pupil support file component. Professional staff should be aware that any record made during the course of employment with Pine Creek School Division is in the custody, or under the control, of Pine Creek School Division. It is not the author's personal property. Therefore, it is subject to the same access and privacy provision as all the other personal information or personal health information about a specific pupil. Provision should be made to retain original documents when it is important to keep an original signature or initial on a document. Any electronic file is subject to the same privacy and access requirements applicable to hard copy.

All employees of the Pine Creek School Division:

- Shall treat as confidential all information, data, reports, documents and materials acquired or to which access has been given in the course of, or incidental to, their role;
- Shall comply with any rules or directions made or given by Manitoba Education or Pine Creek
- School Division with respect to safeguarding or ensuring the confidentiality of such information, data, reports, documents or materials; and
- Shall be bound by these conditions of confidentiality at all times after leaving Pine Creek School Division. When collecting personal information, Pine Creek School Division Schools will explain the purpose of the collection, as well as the authority under which it is collected.

The principal is responsible for proper registration of students in the school. He/she will ensure that specific procedures are in place for the establishment, maintenance, retention, transfer and disposition of a record for each student enrolled in the school, in compliance with the criteria established by the Division. The Principal will ensure that the files are kept in a secure location. Cumulative files are not to be removed from the school.

A Pupil File (Subsection 42.2 of Public Schools Act) is a record or collection of records respecting a pupil's attendance, academic achievement, and other related matters in the possession or control of a school division. A "record" is a record of information in any form. 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.

It must be handled in accordance with The Public Schools Act, The Freedom of Information and Protection of Privacy Act (FIPPA), The Personal Health Information Act (PHIA), and The Youth Criminal Justice Act (YCJA).

The pupil file is an on-going official record of a student's educational process through Kindergarten to Grade 12 in the Public School System in Manitoba. The pupil file comprises the following components and each is to be maintained in a separate location:

- a) Cumulative file
- b) Pupil support file, as necessary
- c) Youth criminal justice file, as necessary

In the case of an adoption, records must be managed in a way that ensures that cross-referencing between birth and adoptive identities cannot occur. School principals will be notified by Manitoba Education regarding adoptive placements and will work in conjunction with the pupil's social worker in compiling a new pupil file.

Cumulative Files Includes:

- the student's name, gender, and date of birth
- a current Pine Creek School Division student registration form
- copy of Birth Certificate
- the Manitoba Education and Training Number (MET #)
- the names of all schools attended by the student and the dates of enrolment, if known
- Annual summary or a summary at the end of each semester of the student's attendance, achievement or progress in the courses and programs in which that student is enrolled. This may include: report cards and transcripts, including, the results obtained by the student on any diagnostic test, achievement test and examination conducted by or on behalf of the Province
- 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

May also include:

- Behavioural misconduct information
- Child custody, guardianship orders.
- Home/school communication.
- Most recent, signed IEP (could include a BIP, AEP).
- Current, signed Standard Health Care Plans or Individual Health Care Plan.
- Current notations regarding contacts with external agencies (eg. CFS).
- General information related to special funding.
- Current notation about involvement of social service, psychological/psychiatric or counseling resources of any agency or school previously attended.
- Other information pertinent to the child's education as listed in the *Manitoba Pupil File Guidelines*.
- A cross-reference listing which identifies the location of all information about a pupil that is held by the school division, including an indication of the existence and location of pupil support information not housed in the cumulative file component.

### **Pupil Support Files**

The content of a pupil support file is confidential and should be kept separately in a secured area away from the cumulative file and the youth criminal justice file. Pupil support information may be kept in more than one location, as long as all appropriate cross references are recorded in the cumulative file, at a minimum.

Exists for some students may include:

- Documentation about all inter-agency contacts and the provisions of any other resource services from within or outside of the school division
- Ongoing health/psycho-social counseling information, whether medical, psychological, or behavioral
- School clinician and related correspondence, notes from meetings, contact logs, consultation notes
- Referrals to other agencies and individuals
- Results obtained on specialized assessments
- Reports from service providers, such as agencies, hospitals, and clinics
- Reports and notes from behavior specialists such as psychologists, psychiatrists, or other therapists, if such documentation exists
- Evidence of special programming (eg. one individual education plan per year, for each year that such a plan was in place)

### **Transfer of the Pupil File**

The school principal must forward the pupil file, including the cumulative components and all files which comprise the support file component, when the pupil transfers out of the school and enrolls in another school outside the Pine Creek School Division, upon receipt of a written request by the receiving school. The Principal must provide the file within one week of the school requesting it.

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. Duplicate information and information that is not necessary for the schooling and provision of educational services may be culled and destroyed.

When a student transfers to a school outside the Pine Creek School Division, resource teachers, student services coordinator, and clinicians will be notified of the request using the Request for Pupil Support Files form and will forward their files to the sending school administrative assistant within three days of the request.

Clinical pupil support files should be transferred directly from clinician to clinician wherever possible to further ensure the security and confidentiality of the file contents. These files should be transferred in a sealed envelope marked "Confidential" and addressed to the appropriate clinician in the receiving school division. If this is not possible, then the file should still be transferred to the new school, 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.

When a student transfers to another school within the Pine Creek School Division, the pupil file will be securely transferred to the receiving school.

Transfer of the cumulative file component and of the pupil support file components are mandatory. The pupil and parent(s) or legal guardian(s) should be advised of the transfer of the file and of the nature of the information transferred. The transfer of the file must still take place where objections by the student, parent(s), or legal guardian(s) are raised, as required by the Education Administration Act (subsection 29(3)).

### Security Requirements

As some pupil support files contain clinical and personal health information, all pupil support files will be stored securely to the standards set under PHIA. See procedure Records Management.

School clinicians may maintain a discipline-specific clinical pupil support file. The existence of such files, including the location of where these files are stored, is referenced in the cumulative file. A database is maintained at the division office that includes the date the clinical pupil support file was opened, the status of the file, as well as the date the file was closed. Files that are closed are stored at the division office, in compliance with the standards set under PHIA.

### Access and Privacy

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.

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.

#### 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*

In most instances, 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)

## 2. Student Access

Pupils are not necessarily allowed access to their pupil file until they have reached the age of majority.

### a) Under the Public Schools Act:

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.

## 3. Parent 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)

## Third Party Requests for Personal Information and Personal Health Information

A third 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 maintaining the record. School staff may receive requests for personal information or personal health information about a student or

former student, such as information regarding behavior, attendance, and academic achievement.

The school division Access and Privacy Coordinator should handle all third party requests for access to another's personal information, personal health information, or youth criminal justice information, and ensure that:

- disclosure is authorized under FIPPA, PHIA or the YCJA, as the case may be
- disclosure of personal information and personal health information is limited to the amount necessary to accomplish the authorized purpose
- Staff may disclose personal information about a pupil (which is not personal information and which is not youth criminal justice information) if:
  - The pupil (or parent, depending on pupil's maturity) consents to the disclosure. When possible, consent should be in writing. If verbal, a detailed note documenting the consent should be set out in the file.
  - The disclosure is for the purpose for which it was collected or compiled.
  - Another Act or regulation of Manitoba or Canada authorizes or requires the disclosure.
- Disclosure is necessary to protect the physical or mental health or safety of any individual or group of individuals.
- Disclosure is for law enforcement purposes or crime prevention (ie, 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.

Any disclosure of personal health information must be authorized under PHIA. Staff may disclose personal health information about a pupil if:

- The pupil (or parent, depending on pupil's maturity) consents to the disclosure. When possible, consent should be in writing. If verbal, a detailed note documenting the consent should be set out in the file.
- Disclosure is to a person who is providing or who has provided health care to the pupil.
- The school division reasonably believes that the disclosure is necessary to prevent or lessen a serious and immediate threat to the mental or physical health or safety of the pupil or another individual.
- Disclosure is for the purpose of contacting a relative where the pupil is injured, incapacitated, or ill.
- Another Act or regulation of Manitoba or Canada authorizes or requires the disclosure.

Note that disclosure of personal health information for general law enforcement purposes is not authorized under PHIA.

Any other parties may request access under FIPPA. Requests should be submitted in writing to the Access and Privacy Coordinator.

### **Retention, Review and Destruction of Pupil Files**

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, 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 who may in turn consult with the Student Services Coordinator and/or the Records Manager

Files that are culled from the pupil file must be listed for content prior to being destroyed in a manner that protects the privacy of the pupil the information is about (i.e. shredded). The summary of the records content should be sent to the Records Manager for retention as part of the disposition system. Copies, duplicates, and drafts that are destroyed do not need to be documented.

### **RETENTION AND DESTRUCTION OF THE PUPIL FILE**

The information in the pupil file will be kept for a minimum of 10 years after the student ceases to attend a school operated by the board or until the file is transferred to another school. When destruction of the information in a pupil file occurs, it will be done as per regulation EHB-R. Grades 9 to 12 student marks will be kept for a minimum of 30 years.

When any part of a pupil file is no longer required, or the authorized retention period has expired, destruction of the information in a pupil file must be carried out in a manner that protects the privacy of the pupil that the information is about.

Where personal health information is involved, the school division must keep a record of:

- The individual whose personal health information is destroyed and the time period to which the information relates;
- The method of destruction and the person responsible for supervising the destruction.

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 support file.

### **Correction/Clarification or Objection to Information in the Pupil File**

The pupil, parent or legal guardian who has been granted access to the pupil file may request correction or clarification of specific information. The school division may agree or refuse to modify the information as requested.

Where the school division refuses to modify the information the request must be attached to the pupil file.

Where changes have been made, other public bodies or third parties who have received information from the file will be notified so they can update their records.