

[Policy Home](#)[Section J Index](#)[Policy JRA](#)[Exhibit JRA-E3](#)**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 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. Consistent with regulation JRA-R5, 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 Pine Creek School Division, resource teachers, student services co-ordinator, and clinicians will be notified of the request using the "Request for Pupil Support Files" form (Exhibit JRA-E1), 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 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)).

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.

Access to Pupil Files

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. [PSA 42.3(1) (a), 58.9 (2) (b)]

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

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)

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; and
- 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 Co-ordinator.

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