



## AP 2-112 – MANAGEMENT OF STUDENT RECORDS

The pupil file is an ongoing official record of a student’s educational progress through the Kindergarten – Senior 4 Public School System in Manitoba. Access to the information found in the pupil file is defined by The Freedom of Information and Protection of Privacy Act (FIPPA) and the Personal Health Information Act (PHIA). The purpose of FIPPA is to allow individuals to request access to their own records. FIPPA includes those records that are “in the custody or under the control of” the school division, including any information received from other sources, including government agencies, individuals or organizations. This also includes any records stored in an off-site location. Under FIPPA, the collection of personal information must be “directly related to or necessary for an existing program or activity of the school division.” When collecting personal information, Western School Division schools will explain the purpose of the collection, as well as the authority under which it is collected.

The pupil file will contain all the information collected or produced to support the educational progress of a pupil. The pupil file comprises the following components and each is to be maintained in a separate location:

1. Cumulative file
2. Pupil support file
3. Young offender file as necessary

Students over the age of majority are adults and therefore are only required to provide personal and educational information that the Division determines is required to provide appropriate educational programming.

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 Young Offender 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.

The Principal is responsible for the security of school based pupil support files. The Principal will establish procedures to ensure the security of the school based pupil support files. All student support files are subject to appropriate security measures, which are the responsibility of the custodian of the file.

Access to information and protection of privacy apply to all files under the control of the school division other than the young offender file. Access to information by school division personnel is governed by “the need to know”. Authorized personnel may have access to the records. A request to access a pupil file is to be made in writing. The school Principal will respond within 3 days. When access to a pupil file is permitted, the Principal or designate will be available to interpret the information.

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.

All employees and trustees of Western School Division

1. 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;
2. Shall comply with any rules or directions made or given by Manitoba Education or Western School Division with respect to safeguarding or ensuring the confidentiality of such information, data, reports, documents, or materials; and
3. Shall be bound by these conditions of confidentiality at all times after leaving Western School Division.

#### GUIDELINES FOR MANAGING PUPIL FILES

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##### **A. Responsibility of the Principal for maintenance and security of Pupil File**

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 board. Data that is no longer relevant should be removed from the files and destroyed. The principal will ensure that the files are kept in a secure location. Cumulative files are not to be removed from the school.

##### **1. Student Cumulative File**

Exists for all students and will typically include:

- I. 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;
- II. A current Western School Division student registration form;
- III. Copy of Birth Certificate and record of vaccinations;
- IV. The Manitoba Education Number (MET#) and any other student identification number assigned to the student by a board;
- V. The names of all schools attended by the student and the dates of enrolment, if known;
- VI. 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;



- VII. An 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 the student is enrolled. This may include: report cards and transcripts, Individual Education Plans (IEPs), 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;
- VIII. Information about serious behavioral misconduct documented and communicated under Western School Division Policy "Student Code of Conduct" and Public Schools Act, e.g. expulsion letters;
- IX. Attendance record;
- X. A copy of any separation agreement or court order with respect to child custody or guardianship, where applicable;
- XI. Vision and hearing screening information; and
- XII. A cross-reference notation should be included in the cumulative file that identifies the existence of pupil support information not housed in the cumulative file component.

### **1.1. Transfer of Cumulative Files**

When a student transfers to another school within Western School Division the cumulative file shall be securely delivered to the receiving school.

When a student transfers to a school outside Western School Division, the cumulative file will be forwarded to the receiving school upon the receipt of a written request.

The contents of the cumulative 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. Materials culled from the file must be kept for a period not to exceed the end of the school year following the year of departure. Material culled from files must be destroyed in a manner that protects the privacy of the student and in accordance with Section D.

## **2. Pupil Support File**

Exists for some students and may include:

- I. Assessment results;
- II. The most recent Individualized Education Plan (IEP), Behaviour Plan and/or Health Care Plan and any amendments to these plans;



- III. Referrals and correspondence to external agencies (e.g. Mental Health and Family Services);
- IV. Applications for special funding and related information;
- V. Detailed documentation from school clinicians and resource staff about all inter-agency contacts and the provision of any other resource services from within or outside of the school division that are occurring, including any reports received from outside service providers;
- VI. Ongoing referral and counseling information, including information provided by prior schools;
- VII. School clinician reports and related correspondence, notes from meetings and discussions regarding intervention strategies, contact logs and consultation notes; and
- VIII. Reports and notes from behaviour specialists, such as psychologists, psychiatrists or other therapists, if such documentation exists.

#### **2.1. Transfer of Pupil Support Files:**

- a) When a student transfers to another school within Western School Division the school based pupil support files shall be securely delivered to the receiving school.
- b) When a student transfers to a school outside Western School Division, the pupil support file(s) shall be forwarded to the receiving school upon the receipt of a written request. Such files should be clearly identified as containing sensitive personal health information.
- c) Pupil support files being transferred should be sealed in an envelope and forwarded to the receiving school by the principal. The pupil and parent(s) or legal guardian(s) should be advised of the transfer of the file and the nature of the information transferred.
- d) The contents of the pupil support file(s) 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. Materials culled from the file must be kept for a period not to exceed the end of the school year following the year of departure. Material culled from files must be destroyed in a manner that protects the privacy of the student and in accordance with Section D.



### **3. Youth Criminal Justice File:**

A youth criminal justice file is established when the court provides information on a student enrolled in the school.

A youth criminal justice file may include:

- I. Copy of youth court order and other relevant related information obtained from the court or justice officers
- II. Any information relevant to the safety of staff and students in the division, such as the identification of at- risk individuals or groups, dangerous behaviour patterns, violence and risk reduction recommendations or strategies.

#### **3.1. Security of Youth Criminal Justice File**

- a) The youth criminal justice file has the highest level of security. Records will be kept in a locked cabinet, under the control of the principal. This file must remain separate from all other student files.
- b) The principal of the school is the custodian of the young offender information and is responsible for the receipt and release, maintenance, protection and security of young offender information.

#### **3.2. Access to Youth Criminal Justice File**

A list will be attached to the young criminal justice file listing those individuals that should have access to the information. Only those persons whose names appear on the list will have access to the file.

#### **3.3. Disclosure of Youth Criminal Justice Information**

Only staff that has been identified as having access to the file can disclose youth criminal justice information. Information may be disclosed:

- a) To ensure compliance by the pupil with an order of any court;
- b) To ensure the safety of staff, students, or other persons connected with the school; or
- c) To facilitate the rehabilitation of the young person.

#### **3.4. Transfer and Destruction of Youth Criminal Justice File**

If a student transfers to another school division or district, the youth criminal justice file must be destroyed immediately.



The principal is to inform the youth worker responsible for the student that he/she is no longer attending the school, and 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.

### **3.5. Retention and destruction of Youth Criminal Justice File**

Youth criminal justice information must be destroyed when the information is no longer required for the purpose for which it was disclosed.

#### **B. Conditions of Access**

1. Parents and guardians can access their child's pupil file; other than youth criminal justice 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. Individuals requesting access must request it in writing on the Access to Pupil File Application form (AP 2-116) to the school principal and will be responded to within 3 days.
2. Foster Parents are not authorized to access pupil files without authorization from the legal guardian.
3. A pupil who has reached the age of majority has the right to access their pupil file other than the youth criminal justice file.
4. Non-custodial parents, as defined by the Family Maintenance Act. Section 5.14.1(4), have the right of access to the pupil file unless otherwise restricted by a current court order. Custodial parents must officially notify the school as to any court order restricting access by a non-custodial parent. The school will assume that the non-custodial parent have access to pupil file information unless advised otherwise.
5. Police will have access to relevant student information as requested by a court order.
6. Third Parties will have access upon written authorization of parent/guardian or student, if the student is of the age of majority or over. Third party requests should be submitted in writing on the divisional Third Party Application form (AP 2-117) to the Access and Privacy Coordinator.
7. The Attendance Officer has access to records in accordance with the Public Schools Act.

#### **Refusal of Access**

The school division may refuse access to all or part of a pupil file under the Public Schools Act (Act 42.3 (2) – 42.4 (3), The Freedom of Information and Protection of Privacy Act, sections 17-32, The Personal Health Information Act, subsection 11(1) if they believe the information may be damaging



to the student or another individual. The Youth Criminal Justice Act does not authorize a school division to disclose youth criminal justice information.

When access is denied at a school level, an appeal can be made to the Access and Privacy Coordinator /Secretary Treasurer of Western School Division.

Access may be denied when:

1. Disclosure could reasonably be expected to constitute an unreasonable invasion of the privacy of a third party;
2. Disclosure could reasonably be expected to be detrimental to the education of the pupil;
3. Disclosure could reasonably be expected to cause serious physical or emotional harm to the pupil or another person; or
4. Disclosure could reasonably be expected to be injurious to the enforcement of an enactment or the conduct of an investigation under an enactment.

A school board's decision to refuse access to a pupil file may be appealed to the Manitoba Court of Queen's Bench by filling an application with the court within 30 days of being notified of the refusal of access.

### **C. 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.

### **D. Retention and Destruction of the Pupil File**

1. This will be done in accordance with the Manitoba Education "Guidelines on the Retention and Destruction of School Division/District Records" (January 2010).
2. Except for Grade 9 to Grade 12 student marks, the information in the pupil file should be retained for a minimum of 10 years after the student ceases to attend the school division or until the file is transferred to another school.
3. Grade 9 to Grade 12 student marks will be retained for a minimum of 30 years.
4. Retention for pupil files (cumulative file and pupil support file components) is 10 years after ceasing to attend school in the division.
5. When any part of a pupil file is no longer required, or the authorized retention period has expired, destruction of the information must be carried out in a manner that protects the



privacy of the pupil. At the end of the retention period, records will be destroyed centrally under controlled confidential conditions unless deemed archival.

6. Where Personal Health Information is involved, the school division must keep a record of:
  - a) The individual whose personal health information is destroyed and the time period to which the information related; and
  - b) The method of destruction and the person responsible for supervising the destruction

#### **E. Pupil File Annual Review Procedures**

The following guidelines and procedure 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:

1. Undated and unsigned notes;
2. Irrelevant and outdated students work;
3. Meeting notes that are not necessary to on-going educational services for the student; and
4. When in doubt, the teacher should consult the Principal.

Material culled from files must be destroyed in a manner that protects the privacy of the student. Copies, duplicates, and drafts that are destroyed do not need to be documented. Other material that is no longer relevant and is destroyed should be documented and the documentation passed on to the principal to be kept on file.

Where Personal Health Information is involved, the school division must keep a record of:

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

See AP 2-113 – Destruction of Health Information Form

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