



STUDENT RECORDS (PUPIL FILES)

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.

- a) 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.
- b) 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 *YCJA* protecting personal 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 *YCJA* 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.



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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 a 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, 2000)**

1. Cumulative pupil file (all students)
2. Pupil support data (some students)
3. Young Persons dealt with under the YCJA information (if necessary)

1. Cumulative Pupil 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 number (MET#);
- any relevant health information, i.e. allergies, asthma, medications, etc., and optional PHIN (personal health identification number); (See GBO)
- any Individual Education 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.;
- Individual Education Plan (I.E.P.);



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- 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 services agencies;
- health information, including medical, psychological, or behavioural;
- any correspondence, notes, or meetings/discussions between/among other School Clinicians, or external agency reports, including hospitals;
- results from any specialized diagnostic tests;
- Pupil Support File Guidelines document.

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 Person 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 Person dealt with under YCJA File (some students)

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

- the offense 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 their release, under the conditions of the court;
- recommendations of the court;
- prior record, if any.

Under *The Youth Criminal Justice Act*, a Young Person 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.



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It is recommended that the School Principal or designate act as the “custodian” of a Young Person 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 person file must be destroyed if a student transfers to another school. The courts are charged with the responsibility to provide any information on this student to the new school. 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)



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c) Young Person dealt with under the YCJA Information

The Provincial Director appointed under the *YCJA*, 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 young person with an authorization under section 91 (for reintegration leave or day release) or an order of the youth justice court;
- to ensure the safety of staff, students, or other person; or
- to facilitate the rehabilitation of the young person. [(YCJA, subsection 125 (6))]

Young Person 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 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 Person 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 [PA 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)]



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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 Youth Criminal Justice Act

A school cannot disclose any information in the Young Person 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 part;
- 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)



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Rights of access of divorce or separated parents

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

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.

A school cannot disclose any information in the Young Person component of the student's file. (YCJA)

4. Third Party Access

a) Under the Public Schools Act

For the purpose of this policy, 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 or district maintaining the record." **(Manitoba Pupil File Guidelines, 2004)** 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*, access can also be gained from "every school attendance officer appointed under the authority of this Act; (he/she) has the right to access 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 269]

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 Officer. 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.



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c) Under the *Youth Criminal Justice Act*

Young Person information in a pupil file can only be disclosed by school staff:

- if it is necessary to ensure that the Young Person complies with an authorization under section 91 of the Act or an order of the Youth Justice Court.
- if it is necessary to ensure the safety of staff, students, or other persons.
- to facilitate rehabilitation of the Young Person.

**A. 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)

B. TRANSFER OF THE PUPIL FILE

The following guidelines should be followed if a transferring student has a pupil support file:

- Pupil support files are to be prepared for forwarding by resource teachers, guidance counselors, or school administration;
- The pupil support file is placed in an envelope and the envelope is sealed;
- The envelope is addressed with the name of the professional that the pupil support file is being forwarded to and marked "Confidential". If the name of the professional is unknown, the envelope is address to the professional's position (e.g. resource teacher, guidance counselor, psychologist);
- If there is a Youth Criminal Justice component it must be destroyed;
- Funding applications are to be put in the pupil support file, not the pupil file.

A reasonable attempt should be made to obtain consent before transferring the pupil support file. If the parent refuses to give consent, or if consent cannot be obtained, the transfer must still take place. No permission is required if the file is being transferred within the Division.

Following preparation by school staff, ensure that the pupil file is forwarded within one week of the file being requested by the receiving school.

The pupil file and pupil support file are forwarded at the same time with the pupil support file in a separate envelope as described above. This is to occur within one week of the file being requested by the receiving school.



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C. 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, Counsellor, 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.

See EJB - Retention and Destruction of Records

D. RETENTION AND DESTRUCTION OF THE PUPIL FILE

Except for grade 9 -12 student marks, the information in the pupil file will be kept for a minimum of ten years. The retention period for grade 9 - 12 student marks is 30 years.

The Young Person 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 EJB **School Division Records Management** and the **Guidelines on the Retention and Disposition of School Division Records** issued by Manitoba Education and Training in June, 2000.

The Freedom of Information and Protection of Privacy Act

The Personal Health Information Act

The Youth Criminal Justice Act

The Public Schools Act

The Education Administration Act

Manitoba Pupil Files Guidelines - June 2000 (Revised 2002, 2004)

Guidelines for the Retention/Disposition of School Division/District Records - June 2000

Information Sharing Protocol Under the Youth Criminal Justice Act