

MANAGEMENT OF STUDENT RECORDS

Refer to Policy 1-7

The pupil file information will be forwarded within one week of receipt of appropriate request from a receiving school, and in compliance with Manitoba Pupil File Guidelines.

The pupil file is an ongoing official record of a student's educational progress through the Kindergarten - Grade 12 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, Turtle Mountain schools will explain the purpose of the collection, as well as the authority under which it is collected.

A pupil file includes the entire collection or repository of information and documentation compiled or obtained to support the educational progress of a pupil which is stored in written, photographic, electronic or any other form which is stored in any location under the jurisdiction of the school board. The pupil file comprises the following components and each is to be maintained in a separate location:

1. Cumulative file (Pupil File)
2. Pupil support File (Resource & Guidance)
3. Youth Criminal Justice File

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 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.

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 youth criminal justice 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 Turtle Mountain 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 Turtle Mountain 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 Turtle Mountain School Division.

PROCEDURES FOR MANAGING PUPIL FILES

The pupil files contain the following components: the cumulative file, the pupil support file and the youth criminal justice file.

Responsibility of the Principal for maintenance and security of all files

CUMULATIVE, PUPIL SUPPORT AND YOUTH CRIMINAL JUSTICE FILES

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.

CUMULATIVE FILE

(Exists for all students and will typically include):

- 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;
- The birth date of the student;
- Student gender;
- The Manitoba Education and Training Number (MET#) and any other student identification number assigned to the student by a board;
- Current Turtle Mountain School Division registration form;
- Vision and hearing screening information;
- 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;
- The name of the student's parent(s) and/or legal guardian(s);

- The addresses and telephone numbers of the student and of the student's parent(s)' legal guardian(s);
- The school division or district of which the student is a resident student, if different than the school division or district the student is attending;
- The names of all schools attended by the student and the dates of enrollment, if known;
- 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;
- Any health information that the parent or legal guardian of the student or the student (where he or she is capable of making health care decisions) wishes to be placed on the student record (e.g. allergy alerts, asthma) and, where necessary to provide health care or protect the student's health, the Personal Health Identification Number (PHIN);
- An annual summary or a summary at the end of each semester of the student's achievement or progress in the courses and programs in which the student is enrolled, i.e. report cards and transcripts;
- Information about any behavioural misconduct and disciplinary measures given out, including suspension or expulsion relating to the student;
- Attendance records;
- Photographs;
- Communication regarding the student between the home and school, e.g. discipline, behaviour, achievements, etc.; Indications of awards, prizes;
- A copy of any separation agreement or court order with respect to child custody or guardianship, where applicable;
- A cross-reference listing which identifies the location of all information about a pupil that is held by the school division or district, including an indication of the existence and location of pupil support information not housed in the cumulative file component; The 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;
- Any other assessment or evaluation that the parent/legal guardian or the student wishes
- to place on file;
- The most recent Individualized Education Plan (IEP) and/or Health Care Plan specifically
- devised for a student, and any amendments to these plans;
- Up-to-date notations of referrals to/contacts with external agencies (e.g. Child and Family
- Services) or caregivers;
- Admission advisement concerning whether the student has used or is continuing to use
- social service, psychological/psychiatric or counseling resources of any agency or of any
- school previously attended;

- General information related to special funding;
- Notations of pullout for resource or challenge work.

PUPIL SUPPORT FILE (RESOURCE AND GUIDANCE FILES)

(Exists for some students and may include):

- Detailed documentation from school clinicians and special education/resource staff about all inter-agency contacts and the provisions of any other resource services from within or outside of the school division or district that are occurring;
- Ongoing health/psycho-social/counseling information, whether medical, psychological or behavioural. (Schools should endeavour to ascertain at point of first admission whether students have used or are continuing to use the social service, psychological, psychiatric, counseling resources of any professional, of any agency, or of any school previously attended);
- School clinician reports and related correspondence, notes from meetings and discussions concerning intervention strategies, contact logs and consultation notes;
- Referrals to other agencies and individuals;
- The results obtained on specialized diagnostic tests;
- Reports from service providers such as agencies, hospitals, and clinics.
- Reports and notes from behavioural specialists such as psychologists, psychiatrists or other therapists, if such documentation exists.

YOUTH CRIMINAL JUSTICE FILE COMPONENT:

(Exists only for a few students and will typically include the type of youth justice court order with which the young person is expected to comply i.e. bail, probation, conditional supervision, temporary release)

- The type of youth justice court order with which the young person is expected to comply i.e. bail, probations, conditional supervision, temporary release;
- The expected expiry date of the court order;
- Information about the offence for which the order has been made;
- The particular terms of the order which relate to school attendance or any other education matter;
- Prior record of offences if safety of staff and students may be at risk;
- Any identifiable individual or group of persons who could be at risk from the young person;
- Patterns of behaviour which may signal the onset of activity with potential to affect the safety of staff or students;
- Any recommendations for reducing the risk of violence and increasing the level of safety of staff and students.

TRANSFER OF PUPIL FILES

The school principal must forward the pupil file, including the cumulative components and all the files which comprise the support file component, when the pupil transfers out of the school and enrolls in another school (subsection 29(3) of the *Education Administration Miscellaneous Provisions Regulation*).

The youth criminal justice component of the pupil file should never be transferred.

The contents of the pupil file being transferred should be reviewed to ensure that only personal information and personal health information necessary for 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.

Transfer procedures must ensure that the file contents are adequately protected from unauthorized access, disclosure, loss or destruction while being transferred.

The pupil support file component should be transferred directly from professional to professional wherever possible. If it is not possible to transfer the pupil support file component from professional to professional, then the files that make up this component should be transferred to the new school. Such files should be clearly identified as containing sensitive personal health information. It is up to the receiving school to ensure that only appropriate personnel have access to these files.

When a student transfers to another school within Turtle Mountain School Division, the transfer of the personal information and personal health information in the cumulative file component and the pupil support file component of the pupil file is authorized under clause 43(c) of FIPPA and under clause 21(a) of PHI A- as the transfer is for the purpose of supporting the schooling or educational progress of the child, f

When a student transfers to a school outside Turtle Mountain School Division, the transfer of personal information or personal health information in the cumulative file component and in the pupil support file component of the pupil file to the new school is authorized under clause 44(1)(e) of FIPPA and clause 22(2)(o) of PHIA (the transfer and disclosure of information is required by subsection 29(3) of the *Education Administration and Miscellaneous Provisions Regulation*).

The transfer of the cumulative file component and of the pupil support file components is 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 cumulative file must still take place where objections by the student, parent(s), or legal guardian(s) are raised, as it is required by subsection 29(3) of the *Education Administration and Miscellaneous Provisions Regulations*.

TRANSFER OF A PUPIL FILE IN ADOPTION CIRCUMSTANCES

Refer to **Manitoba Pupil Guidelines (revised 2012)** page 26 for the process to follow in transferring pupil files in Adoption Circumstances.

YOUTH CRIMINAL JUSTICE FILE COMPONENT

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.

The principal of the school is the custodian of the youth criminal justice information and is responsible for the receipt and release, maintenance, protection and security of youth criminal justice information.

The Youth Criminal Justice Act provides that no school board representative or school to whom youth criminal justice information is disclosed may disclose that information to any other person unless 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 persons;
- To facilitate the rehabilitation of the young person. (See subsection 125(6) of the YCJA.)

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

The principal or school board designate must inform the youth worker responsible for the student that he/she is no longer attending 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 youth criminal justice information and, if possible, should supply the name of an appropriate contact person in the new school authority.

3.0 CONDITIONS OF ACCESS

1. Parents and guardians have the right to examine the Pupil File information other than Youth Criminal Justice file. Individuals requesting access must request it in writing and will be responded to within 3 days. Students over the age of 18 must authorize parental access.
2. Foster Parents are not authorized to access pupil files without authorization from the legal guardian.
3. Students 18 years of age or over, have the right to examine the Pupil File information 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 18 years of age or over. Third party requests should be submitted in writing on the Divisional Third Party Application form 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 young offender information.

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

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.

RETENTION AND DESTRUCTION OF THE PUPIL FILE(S)

1. This will be done in accordance with the ME "Guidelines on the Retention and Destruction of School Division/District Records" (June 2012).
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. Retention period for Grade 9 to Grade 12 student marks is 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 IF the pupil file has not been transferred.
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

ANNUAL REVIEW PROCEDURES FOR PUPIL FILES

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
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:

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