

RECORD KEEPING LEGISLATION

STUDENT RECORDS

References

Manitoba Pupil File Guidelines, June 2000

Guidelines on the Retention and Disposition of School Division/District Records, Revised June 2000

Pupil (student) files are an ongoing official record of student's educational progress through the kindergarten to Grade 12 public school system. It is a timeline record and a synopsis of students' education and supports. A pupil file include the entire collection of information and documentation from school staff which is stored in written photographic, electronic and any other form. It may be stored in a school, school board office or any school-board sanctioned location.

Manitoba school divisions/districts, like all public bodies, are responsible to protect the privacy of this information. To meet their obligations under such legislation, educational administrators are required to manage their records in a responsible manner.

Advances in computer technology now allow storage, manipulation and transmission of information electronically. Electronic records do not yet provide secure, long-term storage. This must be taken into account when planning for the retention of permanent records.

When school programs for students with special needs, the information required is often very private. Medical, personal and academic information is often needed to develop an educational plan for the student. It is important that all students' information be treated with the utmost care.

There are several statutes and regulations schools divisions/districts and their officers and staff must comply with when handling records and establishing policies and procedures for handling them. These include:

1. The Public Schools Act (PSA)
2. The Education Administration Miscellaneous Provisions Regulation
3. The Freedom of Information and Protection of Privacy Act (FIPPA)
4. The Personal Health Information Act (PHIA)
5. Young Offenders Act (Canada) (YOA)

THE PUBLIC SCHOOLS ACT (PSA)

References

Public Schools Act, Section 42

Manitoba Pupil File Guidelines – Appendix 1

Subsection 42.1 of the PSA requires every school board to establish written procedures for collecting, storing and retrieving student information. Subsection 42.2 to 42.6, subsection 58.1, and clause 58.6 (c) of the PSA define the term pupil file and set specific rules about access to files by pupils and their parents/legal guardians.

THE EDUCATION ADMINISTRATION MISCELLANEOUS PROVISIONS REGULATION

REFERENCES

The Education Administration Act, Regulation 468/88
Manitoba Pupil File Guidelines – Appendix 1

This regulation describes some of the pupil information and records school divisions/districts are required to keep. It also contains a list of responsibilities of principals about student information.

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)

REFERENCES

The Freedom of Information and Protection of Privacy Act, 1998
FIPPA Handbook for Local Public Bodies
FIPPA Resource Manual: Provincial Government
Legal Services Information Bulletins, The Freedom of Information and Protection of Privacy Act, Parts 1, 2, and 3
Manitoba
Pupil File Guidelines – Appendix II

This Act contains provisions on the right of access to records, including personal information. It also sets out rules about collecting, using, protecting and retaining personal information. Personal information is defined as any “recorded information about an identifiable individual.” Some examples include age, sex, marital status, religion or ethnic origin. Personal information also includes opinions of that person and any opinions expressed about that person by another individual.

As of April 3, 2000 all school divisions/districts are public bodies falling under this Act.

FIPPA requires that a school board establish and comply with a written policy concerning retention and destruction of personal information. Subsection 40(2) of this Act states that the policy “require that personal information be retained for reasonable opportunity to obtain access to it.”

For contact information see Appendix 2 of the Pupil File Guidelines.

THE PERSONAL HEALTH INFORMATION ACT (PHIA)

REFERENCES

The Personal Health Information Act, 1997
The Personal Health Information Act, A Brief Summary for Public Bodies
Manitoba Pupil File Guidelines – Appendix III

This Act contains provisions on the right of access by an individual to his or her own personal health information. It sets out rules, which must be followed by trustees, on collecting, using, protecting, retaining and disclosing personal health information. Personal health information is any recorded information about an identifiable individual about that person’s health or health care history, the provision of health care to the individual or payment for health care provided to that individual.

School divisions/districts have been trustees within the definition of a public body in the act since December 1997.

Section 17 of PHIA requires school boards to establish a written policy concerning the retention and destruction of personal health information. It must comply with the policy and any regulations under PHIA that personal health information be destroyed in a manner that protects the privacy of the individual it is about. The Personal Health Information Regulation contains requirements on the security of personal health information.

YOUNG OFFENDERS ACT (CANADA) (YOA)

REFERENCE

Manitoba Pupil File Guidelines – Appendix IV

The YOA sets out rules which govern access and disclosure, retention and destruction of records relating to young offenders where those records are held by the courts, police, Manitoba government departments, social agencies and schools. Young offenders' records must be dealt with in accordance with the YOA, even if they are part of a pupil file or some other file or record. Manitoba statutes such as *The Public Schools Act*, *The Education Administration Act*, *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* do not apply to young offender records.