

PUPIL FILES

This regulation outlines procedures for the Pembina Trails School Division (the Division) when handling the Pupil File. The specific provisions of the relevant Acts listed in Policy JRA should also be used as a reference, as well as the following Manitoba Education documents:

1. The Manitoba Pupil File Guidelines;
2. The Youth Criminal Justice Act (YCJA); and
3. Pembina Trails School Division Policy EHB, Regulation EHB-R and Exhibits EHB-E-1 and EHB-E-2.

1.0 Management of the Pupil File

The Secretary-Treasurer or designate is responsible for the ongoing management of divisional records. Each administrative department or school administrator is responsible for implementing and maintaining a records management process in accordance with Regulation EHB-R and ensuring that records are kept in a secure location.

Any student record may be subpoenaed by a court of law.

2.0 Definition of the Pupil File

The Pupil File is a record or collection of records in the possession or control of the Division/school in respect to a pupil's attendance, academic performance and other matters. Only information that is relevant and necessary for the success of the student to support the educational progress of a pupil is to be kept in the Pupil File. These records include but are not limited to:

- Personal Information (refer to Restrictions on Use and Disclosure of Personal Information)
- Attendance and Academic Information
- Personal Health Information (refer to Personal Health Information Act – Restrictions on use of Information)
- Clinical Assessments

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- Youth Criminal Justice Information
- Third Party Information

The purpose of collecting this information must relate to the provision of educational programs and services supporting the pupil’s educational progress. Information may be collected either directly from the pupil or the parent/guardian or indirectly from another source. Both collections are allowed under *The Personal Health Information Act (PHIA)* and *the Freedom of Information and Protection of Privacy Act (FIPPA)*, although indirect collection requires parental consent, except under certain limited conditions.

The Pupil File may be organized and separated into four sub-file components:

- 2.1 Cumulative File Component;
- 2.2 Student Services File Component
(Resource/Counselling/Clinical) information; and
- 2.3 Clinical File Component
- 2.4 Youth Criminal Justice Act File Component (as needed).

2.1 Cumulative File Component

This File exists for all students. It is stored in a secure area in the school office. It contains both personal information and personal health information.

The information contained in the Cumulative File Component Sub-File includes but is not limited to:

- the student’s name, gender, and date of birth;
- name, address and phone number of the student’s parent(s)/legal guardian(s);
- Manitoba Education Number (MET#);
- Application form for Out-of-Division/District Transfer to a School of Choice or Application form for Within-Division/District Transfer to a School of Choice if the student is not a resident of the attending school;
- data on enrollment at other schools;
- attendance records;
- Child Custody or Guardianship Orders, copy of any separation agreement or court order regarding child custody, where applicable;
- citizenship status, including visa, or other documentation required for students who are not Canadian citizens;

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- all report card, records and/or transcripts summarizing the student’s academic progress, including the results of the standardized testing;
- all student specific plans when applicable (Adaptation Plan, Individual Education Plan, Individual Transition Plan (including modified course plans), English Language Acquisition Plan, E Course Plan, Behaviour Intervention Plan and Exceptional Education Plan);
- the Intervention Plan Component from Threat Assessment Reports;
- any Individualized Health Care Plan, Emergency Response Plan or any other health care plan applicable to this student;
- information on any student misconduct, including suspension or expulsion;
- notes of any awards, prizes, etc.;
- home/school communication re: behaviour, achievements, etc.;
- the Student Services File Component Insert which cross references and identifies the location of all Student Services File Component information; (i.e. resource, counseling and clinical reports).

2.2 Student Services File Component

This File exists only for some students. The Student Services File Component is the whole of all special interventions or assessments done for a specific student. It consists of all information gathered on a student by any number of specialists and/or teachers in any number of locations in the school, school division or from out-of division sources. The Student Services File Component is kept in a separate secure location from the Cumulative File and access is restricted to those in the school who are directly involved with the student. Existence and location of all the information related to the student in the Student Services File Component is cross-referenced on the Student Services File Component Insert kept in the Cumulative File Component. Regardless of where the information is stored, it is covered by the FIPPA and **The Personal Health Information Act (PHIA)** access provisions.

The information that is typically a part of the Student Services File Component includes:

- annual summaries of interventions by school-based student services staff (counsellors, resource teachers, specialists), and clinicians, doctors, etc.;
- low incidence funding applications for Manitoba Education;
- referral forms for divisional school clinicians and other divisionally based support teachers.
- reports and documentation from divisional school clinicians;
- indication of referrals, communication and reports from outside service agencies and/or individuals;

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- Level 2 and 3 Manitoba Education funding applications;
- health information, including medical reports;
- psychological or behavioural information;
- correspondence from out-of-division agencies, notes and minutes of meetings;
- results from any specialized diagnostic tests; and
- Threat Assessment Intervention Plan

2.3 Clinical File Component

This component exists only for those students who are referred to Divisional Clinical Services.

The original reports are kept at the Divisional Administration Office. Schools retain a copy of clinical reports in the student’s SS File.

The information that is typically a part of the Clinical File includes:

- The original copy of all clinical reports generated by Divisional staff;
- Clinical reports sent by other out-of-division agencies or private practitioners; and

Stage 1 Threat/Risk Assessment Reports. The Threat/Risk Assessment Report is stored in a locked cabinet, separate from other records under the direct care of the Principal.

2.4 Youth Criminal Justice Act File Component

This File component is established for a student on an “as needed” basis. It is created when a court provides information on a youth to assist the school. The Youth Criminal Justice Act File is stored in a locked cabinet, separate from other records under the direct care of the Principal.

The Youth Criminal Justice Act File will typically include:

- The type of youth court order with which the young person is expected to comply i.e. bail, probation, 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;

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- Any identifiable individual or group of persons who could be at risk from the young offender;
- Patterns of behaviour which may signal the onset of activity with potential to affect the safety of staff or students; and
- Any recommendations for reducing the risk of violence and increasing the level of safety of staff and students.

School divisions are not authorized to disclose information in the Youth Criminal Justice File to the pupil or to the parent/guardian. The person to whom the information is disclosed (usually the Principal) shall:

- Keep the information separate from any other record of the young person to whom the information relates;
- Append a list of persons to whom the information is authorized to be disclosed;
- Ensure that no other person has access to the information except for the purposes noted above;
- Share information with appropriate staff only verbally (the information should not be copied); and
- Destroy their copy of the record when the information is no longer required for the purpose for which it was disclosed.

The Principal or designate must destroy by shredding the school’s copy of the information when it is no longer required for the purposes for which it was disclosed or when the period of access under subsection 119(2) of the Act has expired. The Principal must ensure that information is destroyed in a secure manner:

- The destruction of YCJA information is in accordance with YCJA and differs from the procedures outlined in Records Management Regulation EHB-R.

The YCJA does not allow for the Youth Criminal Justice File to be transferred to another division/district. At the time of transfer, the Principal must inform the youth worker responsible for the student of the move and the name/location of the new school. The youth worker is responsible for advising the new school of any pertinent information. The Principal or designate of the student’s home school has no authority to provide this information to the receiving school.

3.0 Management of the Pupil File at the School/Department Level

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The Principal or designate is responsible for the management and maintenance of the Pupil File at the school level. It is the responsibility of the Principal to ensure that procedures outlined in this policy are in place at their school. The Principal or designated staff person will attend to the following tasks;

- General filing of all hard copy materials;
- Accurate updating for file index for all items;
- Annual updating of the Student Services File Component Insert;
- Retaining data; and
- Archiving appropriate records in accordance with this policy and the Records Management Regulation EHB-R.

Records shall be defined as any type of recorded information or image created or received by any Division employee in schools or administrative departments or the Board, regardless of physical form or characteristics. Records include, but are not restricted to, administrative files, personnel records, and student records (which include Pupil Files) in both paper and electronic formats, whether in draft or final form.

Electronic records are information created, recorded, stored and/or manipulated in any digital storage device carrying data in any format but excluding the computer program(s) application(s) that were used to produce the electronic record(s).

Permanent records include any record which has been identified as having an enduring value. They may be of permanent significance to the Division for legal, fiscal, or administrative purposes.

Permanent records may also be of historical and/or cultural importance to a wide range of people including former students, teachers, local historians, academics and the general public.

Any record regarding a pupil, created or received, is the Division's property and not the author's personal property.

4.0 Maintaining Records

Pupil Files are to be reviewed annually before the end of the school year by each teacher, resource teacher, counsellor and clinician to ensure that all records are necessary and relevant to the student's education and instruction.

Working or convenience notes of the administrator, teacher, resource teacher or counsellor or clinician must be reviewed and summarized annually for the File. Meeting notes, irrelevant or out-dated student work samples, information about a third party and other agency information that does not pertain to schooling and are not necessary for the continued educational services are not to be included in the File and should not be retained. Staff are encouraged to use Exhibit JRA-E-7 Continuous Recording Form to summarize actions taken and interventions provided to the student.

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The Student Services File Insert must be updated annually.

5.0 Transfer and Protection of Cumulative File and Student Services File Components

When a student leaves a school and enrolls in another school, the Principal must send the student's Pupil File to the receiving school within one week of the school requesting it (M.R.156/05). Both the Cumulative File and Student Services File Components are sent to the receiving school. FIPPA and PHIA allow for the transfer of the personal and health information in the Cumulative File Component and the Student Services File Component with or without parental consent because it is a legal requirement.

The school must take reasonable precautions to protect the file at all times from unauthorized access, disclosure, loss or destruction. All files shall be kept in a secure area.

Only the information and personal health information necessary for the provision of educational services to that student should remain in the File. The Principal must ensure that the File is reviewed and complete before sending.

When a Pupil File is transferred out of province, the Cumulative and the Student Services files are sent from the sending school to the receiving school within one week after contact has been made with the receiving school to comply with Manitoba Regulation 156/05. A Manitoba Pupil File Transfer Request Form (Exhibit JRA-R-6) is maintained at the sending school.

If the student has a Clinical File, the Clinical File should be sent to the receiving school's divisional Student Services Department within one week after contact has been made with the sending school. The Director of Clinical and Extended Services must ensure that the Clinical File is reviewed and complete before sending. The Retention Period of the Clinical File with respect to any student is ten years beyond exit from the Division (after which it is destroyed in accordance with Division policy).

Adoption:

In the case of an adoption, the Principal will be notified by Manitoba Education as well as a Social Services Agency of the student's new identify following adoption.

The school will collect the Cumulative file and the Student Services file at the school, as well as the Clinical File from the Administrative Office and provide them to Social Services upon request.

Social Services and the Student Services Department will review the files and recommend items that should be placed in the new Pupil File with the student's new adoptive identify.

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The old Pupil file will be deemed inactive and moved to the school's inactive record storage. In the case of clinical information in a Clinical file at the Administrative Office, it will be placed in the "inactive" storage as per the "Records Retention and Disposition Schedule" (EHB-E-1).

The new file with the adoptive identify is to be housed with the active files.

6.0 Access and Privacy – Internal Use of Information

Staff members shall have access to designated Pupil Files when they have a legitimate need in order to provide services to the student.

Parents/guardians of students under the age of 18 years and students over 18 years of age shall be permitted to examine all or part of the relevant Pupil File by arrangement with, and in the presence of the Principal or designate. Reasons for not disclosing records are set out in PHIA and Section 17 of FIPPA, and Mandatory Exceptions to Disclosure:

- Disclosure would be detrimental to the education of the student,
- Disclosure could cause physical or emotional harm to the student or another person,
- Disclosure would be an unreasonable invasion of privacy of a third party (including release of personal/health information of anyone other than the client),
- Disclosure could interfere with a legal or police investigation (including that of a CFS agency),
- The information was compiled principally in anticipation of, or for use in, a civil, criminal or quasi-judicial proceeding or for review by a standards committee or peer review.
- Refer to Mandatory Exceptions to Disclosure.

The process for access to Pupil Files by parents/guardians of students under the age of 18 or by students 18 years of age and over shall be as follows:

- The process may be initiated by a letter or a telephone call to the Principal or designate for an appointment.
- A mutually agreed upon time and date for examination and interpretation of their records shall be set.
- Original records and documents are not to leave the school or Division. Copies may be made at the discretion of the Principal or designate. A record sheet indicating what copies were made and for whom must be kept by the school and signed by the Principal or designate and the person receiving the copies.

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7.0 Access and Privacy – *Disclosure of Information*

Regardless of the source of the information, the Division is responsible for ensuring compliance with all access to information and protection of privacy requirements which applies to the information in Pupil Files.

Third party requests for access to information or requests for disclosure of another person's personal information should be requested through the Division's Access and Privacy Officer.

Requests must be made in writing on the FIPPA Access Request Form, see Exhibit EHB-E-1.

8.0 Requests from Outside Agencies:

Clinic referrals and reports are not to be released to outside agencies unless specifically requested by the student over eighteen years of age or the parent/guardian of a minor student under the age of 18 and upon receipt of the signed Authorization for Exchange of Information Form (Exhibit JRA-E-1).

Information in Pupil Files shall be available for research projects authorized by the Superintendent's Department, provided that the anonymity of the student(s) is guaranteed.

Persons authorized to access the Pupil File include those employees and designated external parties who need the information in order to carry out their assigned duties or a parent/guardian or a student over the age of 18.

No information shall be released to any other person than listed above unless in response to a court subpoena or pursuant to legislation and a record shall be kept in each Pupil File of the date, time, and name of the individual to whom information was disclosed.

Disclosure of any information must exclude personal information of a third party.

9.0 Correction of or Objection to Information in the Pupil File

Under section 42.5 of *The Public Schools Act*, a pupil, parent or legal guardian may request that his or her written objection to, or explanation, or interpretation of any matter contained in the Pupil File be attached to the Pupil File.

10.0 Retention and Disposition of Pupil Files

Pupil Files shall be retained or destroyed according to the minimum retention and disposition guidelines. Refer to Records Management Regulation EHB-R.

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