



1. GENERAL

- 1.1 The purpose of this Policy is to ensure that the Winnipeg School Division (WSD) meets its obligations under The Freedom of Information and Protection of Privacy Act (FIPPA) and The Personal Health Information Act (PHIA), and other applicable legislation, including Division Policies.
- 1.2 School divisions are required to comply with FIPPA and PHIA legislation, which governs access to and protection of personal information or personal health information, and addresses the collection, use, disclosure, security and independent review process relating to personal information.
- 1.3 Schools are required to meet certain obligations in regard to the collection, use, retention and destruction of any personal information or personal health information collected under FIPPA or PHIA legislation.
- 1.4 Under the Public Schools Act every school division in Manitoba shall establish procedures to collect, store, retrieve and use information on each student registered in the Division. All such information shall be the property of the Division.
- 1.5 The purpose of collecting information on students shall relate to the provision of educational programs and services to support the student's educational progress.
- 1.6 In accordance with the Public Schools Act (PSA) (Section 42.1) and Manitoba Pupil File Guidelines each student shall have a pupil file which includes a record of a students' attendance, academic achievement and other related matters in the possession or control of a school board.
- 1.7 The collection, use, protection, retention and/or disclosure of information contained in the pupil file shall be in accordance with the provisions of the Freedom of Information and Protection of Personal Privacy Act (FIPPA), the Personal Health Information Act (PHIA), the Youth Criminal Justice Act as well as Policy EGC – Records Management and Retention.
- 1.8 The Winnipeg School Division shall preserve the confidentiality of all student records.
- 1.9 All employees are responsible to make a reasonable effort to protect personal information or personal health information in their custody or control and are required to sign the WSD Confidentiality Pledge in acknowledgement that they are bound by the policy and procedures of the Division and Provincial legislation.
- 1.10 All employees are required to immediately notify either the FIPPA Access Coordinator or Officer if a breach in privacy has occurred in order to contain the breach.
- 1.11 Should any Division Policy conflict with FIPPA or PHIA legislation, the provisions of FIPPA or PHIA shall prevail unless otherwise expressly provided for by other applicable law.

2. POLICY DEFINITIONS

- 2.1 The following terms have the following defined meanings for the purpose of this Policy:

Personal Information means Recorded Information about an identifiable individual, as identified in part 1 of FIPPA



- 2.2 Personal Health Information is Recorded Information about an identifiable individual as identified in part 1 of PHIA.
- 2.3 Record or Recorded Information means a Record of information in any form, including 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, in the custody or under the control of the WSD.
- 2.4 Access to Information means the viewing or copying of a Record held in the custody or under the control of a public body or trustee.
- 2.5 Persons Associated with the Division means an employee, or agent who is associated with the Division by appointment, employment, contract, or agreement.
- 2.6 Third Party, in relation to a request for access to a Record or for correction of Personal Information, means any person, group of persons or organization other than
- (i) the person who made the request, or
 - (ii) a public body
- 2.7 Service Providers
"Service Provider" means;
- (i) a department;
 - (ii) a child and family services agency
 - (iii) an authority under *The Child and Family Services Authorities Act*;
 - (iv) a school division or school district established under the *Public Schools Act* or a private school as defined in *The Education Administration Act*;
 - (v) a police service as defined in *The Police Services Act* or the Royal Canadian Mounted Police; or
 - (vi) any other person or organization that receives funding from the government or a government agency to provide services or benefits for supported children, except as provided in the regulations.
- 2.8 Disclosure of Personal Information and Personal Health Information means making the information known, revealing, exposing, showing, providing, selling or sharing the information with any person or entity outside of the Division. FIPPA and PHIA permit disclosures of Personal Information and Personal Health Information for authorized purposes only and within limitations.
- 2.9 Privacy Breach occurs when there is unauthorized collection, use, disclosure or destruction of personal or personal health information. Such activity is "unauthorized" if it occurs in contravention of FIPPA or PHIA. e.g. when personal health information about students or employees is stolen, lost or mistakenly disclosed.
3. **AUTHORITY**
- 3.1 In accordance with Section 80 of the Freedom of Information and Protection of Privacy Act, and By-law 1065, the Chief Financial Officer/Secretary-Treasurer has been designated as the Access and Privacy Officer and the Board & Community Liaison Officer has been designated as the Access and Privacy Coordinator for The Winnipeg School Division.



4. ACCESS TO INFORMATION

- 4.1 The Manitoba Pupil File Guidelines outlines provisions whereby a request to access information has been requested by a pupil, parent or legal guardian or service provider.
- 4.2 Access to General Information and Personal Information (Excluding Personal Health Information)
- (a) FIPPA allows any individual a right of Access to Information held in the custody or under the control of public bodies, subject to specific exceptions. This includes access to general information held by the Division, as well as Personal Information about the individual requesting the Record(s). Request forms may be found at www.gov.mb.ca/chc/fippa/appforms.html [Exhibit 1]
 - (b) A formal Access to Information request is required if the information concerns:
 - (i) Confidential Information,
 - (ii) Personal Information concerning an individual employee/student, or
 - (iii) Third Party business information.
 - (c) A formal Access to Information request must be submitted to the Access and Privacy Coordinator, as described by Sections 8(2) and 8(3) of FIPPA. If the formal request is received by another department or school, it will be immediately forwarded to the Access and Privacy Coordinator. All formal requests will be reviewed by the Access and Privacy Coordinator.
- 4.3 Access to Personal Health Information: The Division will assist individuals in exercising their rights under Section 5(1) of PHIA to request to examine and receive a copy of his or her Personal Health Information maintained by the Division.
- (a) All requests for access to Personal Health Information shall be forwarded to the Access and Privacy Coordinator.
 - (b) A written request must contain the name of the individual requesting the Record(s), address, phone number, signature and date of request. Request forms may be found at www.gov.mb.ca/chc/fippa/appforms.html [Exhibit 1]
 - (c) Prior to permitting an individual to examine or receive a copy of his or her Personal Health Information, the Access and Privacy Coordinator shall confirm the identity of the requester through photo or other appropriate identification.
- 4.4 The right of access does not extend to information that may be considered exempt from Disclosure under Sections 17 to 32 of FIPPA and Section 11 of PHIA. If such information can reasonably be severed from a Record, the applicant has the right of access to the remainder of the Record. The right of access to a Record may be subject to the payment of a fee as required under Sections 4 to 9 and 82 of the Access and Privacy Regulation under FIPPA, and Section 10 of PHIA.

5. RESPONDING TO ACCESS REQUESTS

- (a) The Access and Privacy Coordinator will respond to a request as promptly as possible, but no later than the time frames established under FIPPA and PHIA.
- (b) Fees may be charged to the applicant and will be assessed by the Access and Privacy Coordinator in accordance with FIPPA or PHIA regulations.



6. COLLECTION

Collection of Personal Information and Personal Health Information, may only take place under the FIPPA or PHIA, for an authorized purpose and with proper notification. Specific measures are put in place to ensure that student information is secure and protected from unauthorized access, use, disclosure and destruction

- 6.1 The Division will only collect Personal Information and Personal Health Information as provided for under Sections 36 and 37 of FIPPA and Sections 13 to 15 of PHIA. The collection of Personal Information and Personal Health Information will be limited to the minimum amount of information required for an authorized purpose under The Public Schools Act or other federal or provincial act or regulation.
- 6.2 The Division will make every reasonable effort to ensure that the Personal Information and Personal Health Information it uses and maintains is accurate and complete. Upon request by an individual to whom the information relates, the Division may correct or annotate the information when documented evidence, satisfactory to the Division, is provided to substantiate the correction or annotation. In the case of a dispute, the Division will include evidence of the dispute on the Record.
- 6.3 The Division will protect the Personal Information and Personal Health Information it collects and maintains by making reasonable security arrangements to prevent the risk of unauthorized collection, access, use, disclosure or disposal of Personal Information and Personal Health Information.
- 6.4 The Division will use Personal Information and Personal Health Information only for the purpose for which that information was obtained, for a use consistent with that purpose, or with the consent of the individual. The Division will not disclose Personal Information and Personal Health Information to any Third Party, unless it is otherwise provided for under Sections 44 to 48 of FIPPA and Section 22 of PHIA or other federal or provincial act or regulation.
- 6.5 The retention and disposal of Division Records will be managed through Division Policy EGC Records Management and Retention, which is in accordance with the Manitoba Guidelines on the Retention and Disposition of School Division/District Records.

7. RELEASE OF INFORMATION

- 7.1 No information shall be released to unauthorized persons nor shall any unauthorized person have access to the student records in response to a court subpoena.
- 7.2 Parents/guardians may have access to the personal health information on their own child/children only if the child is incapable of making their own health care decisions. In the event of a specific request for personal health information by a parent/guardian the Access and Privacy Coordinator will determine if PHIA or FIPPA grants access to some or all of the information requested.
- 7.3 Requests for any personal health information concerning specific students including the student's health or health care history, the provision of health care, the PHIN and any other identifying number other than by the parent/guardian or student shall be referred to the Access and Privacy Coordinator.



7.4 Release of information on individual or groups of students to other outside organizations or agencies must be in accordance with FIPPA, PHIA or the Youth Criminal Justice Act.

8. BREACH OF PRIVACY

8.1 A Breach of Privacy occurs when Personal Information, including Personal Health Information, is collected, accessed, used, disclosed, transported, transmitted, transferred or destroyed other than as authorized, or when the accuracy, confidentiality or integrity of the information is compromised and therefore is in violation of PHIA. Breaches may include, but are not limited to, the viewing of Confidential Information by unauthorized individuals, the access, theft or loss of Division Records and the unauthorized destruction of such information by deliberate means or by human or natural accident.

8.2 All breaches are required to be reported immediately to the Access and Privacy Coordinator.

- (a) Any Person Associated with the Division who becomes aware of a possible or actual Breach of Privacy, shall immediately report the possible or actual Breach of Privacy to the Access and Privacy Officer and/or Coordinator, who shall take immediate steps to contain the Breach.
- (b) All Breaches of Privacy will be investigated by the Access and Privacy Officer and Coordinator.
- (c) The Access and Privacy Officer and Coordinator will make recommendations for immediate and long-term corrective measures as necessary to protect the confidentiality, integrity and security of all Personal Information and Personal Health Information.
- (d) If it is determined that a Breach of Privacy has occurred, appropriate remedial action shall be taken by the Division. Such action may include disciplinary action, which will be implemented pursuant to and in accordance with the relevant collective agreement, Division policies or by-laws.
- (e) The Access and Privacy Officer and Coordinator will act as a resource for all persons associated to the Division regarding appropriate action to be taken following a Breach of Privacy.

9. APPEAL PROCESS

9.1 If a parent/guardian, or a student over the age of 18, wishes to appeal the relevance or accuracy of any information contained in the pupil file, the following appeal process shall be followed:

- (a) A written request, outlining the specifics of the appeal, shall be submitted to the Access and Privacy Coordinator;
- (b) The Access and Privacy Officer and Coordinator shall review the information and render a decision, in writing, within two weeks of receipt of the requested appeal;
- (c) The Access and Privacy Officer and Coordinator's decision may be appealed to the Board of Trustees by written request.



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10. REFERENCES

- 10.1 This Policy should be referenced to the following legislation and/or Division Policies:
- i. The Freedom of Information and Protection of Privacy Act;
 - ii. The Personal Health Information Act;
 - iii. The Public Schools Act;
 - iv. Youth Criminal Justice Act;
 - v. The Protecting Children Information Sharing Act;
 - vi. Personal Information Protection and Electronic Documents Act;
 - vii. Manitoba Pupil File Guidelines;
 - viii. Manitoba Guidelines on the Retention and Disposition of School Division/District Records;
 - ix. Policy JO Student Records;
 - x. Policy EGC Records Management and Retention;
 - xi. The Family Maintenance Act;
 - xii. The Child and Family Services Act;
 - xiii. The Adoptions Act;
 - xiv. The Protecting Children (Information Sharing) Act.

LEGISLATIVE REQUIREMENTS

The Family Maintenance Act - Section 39 (4); The Public Schools Act Sections 29(1), 29(1), 29(3), 42.1, 42.2, 42.3, 259, 269; The Freedom of Information and Protection of Personal Privacy Act, The Protection of Health Information Act, The Youth Criminal Justice Act (Canada); The Child and Family Services Act (Manitoba); The Adoptions Act