



Administrative Procedure 2070

Records Management – Protection of Information Under the Youth Criminal Justice Act (Canada)

Board Governance Policy Cross Reference: [1](#), [9](#), [13](#), [14](#), [15](#)

Administrative Procedures Cross Reference:

[Records Management](#)

[Records Retention and Disposition](#)

Form Cross Reference:

Legal/Regulatory Reference:

[Manitoba Education – Manitoba Pupil File Guidelines](#)

[Youth Criminal Justice Act \(Canada\)](#)

Date Adopted: August 2006

Amended: May 2019

The Brandon School Division (the “Division”) is the custodian of records relating to young persons as defined by the *Youth Criminal Justice Act (Canada)*. The Division is responsible for protecting this information from unauthorized release or access. This Administrative Procedure has been put into place to comply with the requirements of the *Youth Criminal Justice Act (Canada)* respecting the collection, use, disclosure, security, retention and destruction of records relating to young persons.

Definitions

“**record**” includes anything containing information, regardless of its physical form or characteristics, including microform, sound recording, videotape, machine-readable record, and any copy of any of those things that is created or kept for the purposes of the *Youth Criminal Justice Act (Canada)* or for the investigation of an offence that is or could be prosecuted under the *Youth Criminal Justice Act (Canada)*.

“**young person**” means a person who is or, in the absence of evidence to the contrary, appears to be twelve years old or older, but less than eighteen years old and, if the context requires, includes any person who is charged under the *Youth Criminal Justice Act (Canada)* with having committed an offence while he or she was a young person or who is found guilty of an offence under the *Youth Criminal Justice Act (Canada)*.

“youth worker” means any person appointed or designated, whether by title of youth worker or probation officer or by any other title, by or under an Act of the legislature of a province or by the Lieutenant Governor In Council of a province or his or her delegate to perform in that province, either generally or in a specific case, any of the duties or functions of a youth worker under the *Youth Criminal Justice Act (Canada)*.

School Division Records Management

- **Responsibility for Security**

The security officer for the Division will be the Secretary-Treasurer or delegate who may delegate duties as they consider to be necessary.

- **Ownership of Records**

All files are the property of the Division. Staff leaving employment shall ensure that the files and records are transferred to the records manager who shall ensure that the site's file index is updated accordingly.

- **Disclosure**

The *Youth Criminal Justice Act (Canada)* allows the provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons to disclose to any professional or other person engaged in the supervision or care of a young person – including a representative of any school division or school or any other educational or training institution (the “School Representative”) – any information contained in a youth justice court record, police record, Government Record or other records as set out in sections 114 and 116 of the *Youth Criminal Justice Act (Canada)*, if the disclosure is necessary

- to ensure compliance by the young person with an authorization for reintegration leave or an order of the youth justice court;
- to ensure the safety of staff, students or other persons; or
- to facilitate the rehabilitation of the young person.

Where information in a record is disclosed to the Division, whenever possible, it will be disclosed directly to the Assistant Superintendent - Student Achievement Support Services or designate who, in conjunction with the applicable School Leader, will be the School Representative. If the information is disclosed to a person other than the School Representative, the person to whom the information is disclosed shall forward the information to either the Assistant Superintendent - Student Achievement Support Services or designate, or the School Leader (as the case may be) in an expedient manner that preserves the confidentiality of the information. All materials should be delivered in a sealed envelope to the office of the School Representative.

The School Leader or designate must:

1. keep the record separate from any other files pertaining to the young person;
2. update the site's file index to indicate that there exists a *Youth Criminal Justice Act (Canada)* file;
3. ensure that no other person has access to the records except if authorized under the *Youth Criminal Justice Act (Canada)* or if necessary for the purposes as set out above; and
4. destroy their copy of the records when the information is no longer required for the purpose for which it was disclosed in accordance with the Division's existing Administrative Procedure 2095 – *Records Retention and Disposition* and the existing guidelines established by Manitoba Education entitled "*Guidelines on the Retention and Disposition of School Division/District Records*".

No person shall be given access to any record relating to a young person and no information contained in it may be given to any person where to do so would identify the young person to whom it relates as a young person dealt with under the *Youth Criminal Justice Act (Canada)* except in the following situations:

- to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;
 - to ensure the safety of staff, students or other persons; or
 - to facilitate the rehabilitation of the young person.
- **Time Limit**

No record may be disclosed after the end of the applicable period set out in section 119(2) of the *Youth Criminal Justice Act (Canada)*.

- **Retention and Destruction of Records**

Records will be retained only for as long as they are needed for the purpose for which they were disclosed. When the record is no longer required for the purpose for which it was disclosed records will be destroyed at school under controlled confidential conditions. The details regarding the disposition of these records relating to the young person are to be forwarded to the Division Office with a list or summary of contents to the Division's Security Officer. The Security Officer will file the summaries or lists in a disposition of records log.

Disposition is a total destruction of the record. No record shall be transferred to archives.

Files and records will be disposed of as soon as is reasonably possible after the end of the applicable period set out in section 119(2) and clause 125(7) of the *Youth Criminal Justice Act (Canada)*. The log of records destroyed should

provide the name of the young person whose information is destroyed, destruction procedure and name of person supervising the destruction.

Records relating to the *Youth Criminal Justice Act (Canada)* may not be transferred to another school division or district. However, the School Representative or records manager must inform the Provincial Director, Manitoba Justice youth worker, Crown Attorney or police officer who originally provided the information about a young person when that young person transfers to another school, graduates or leaves the school. The Provincial Director, Manitoba Justice youth worker, Crown Attorney or police officer is responsible for advising the new school division of any and all pertinent information, and no information about a young person will be disclosed to the new school division by the Brandon School Division.

Records relating to the *Youth Criminal Justice Act (Canada)* may be transferred from school to school within the Division provided that the confidentiality of the young person's records are maintained throughout the transfer process. The staff member transporting the records is responsible for ensuring an appropriate level of security and confidentiality at all times the file is in their possession. Records are not to be left unattended while being transported. No records relating to the *Youth Criminal Justice Act (Canada)* may be transferred from division to division.

- **Physical Security**

Information records relating to young persons must be maintained in a locked environment. This could mean a whole area, a room or a filing cabinet, or any combination thereof.

Records must be closed and not left open for viewing when away from desk or work area. Records must be cleared from the desktop at the end of the day and stored in a locked environment.

Records are only to be removed from the work site in order to return the record to the Security Officer. In order to ensure an appropriate level of security and confidentiality at all times, staff may not take home records relating to a young person.

Given their confidential nature, no records relating to young persons may be sent by the Division to any person by fax or by electronic mail unless a consent is obtained from the young person if they are over the age of 18, or their parent or guardian if the young person is a minor.

- **General**

Reasonable precautions are to be taken to protect records relating to young persons from fire, theft, vandalism, deterioration, accidental destruction or loss and other hazards.