

<b>Policy:</b>	Student Records	Prog-310
<b>Division:</b>	Programs	
<b>Cross Reference:</b>	Prog 303 - Protection of Children and Youth. Prog-307 Police Investigations Prog-311 School Zoning, Student Registration and Transfers	
<b>Amended</b>	September 7, 2019	

## Administrative Procedures/Regulations

### 1. Collecting Information

- 1.1 A cumulative file must be generated for each student upon his/her initial registration at a school in the District.
- 1.2 Information for a cumulative file will be collected in a prescribed format, for the purpose of administering educational programming and services.
- 1.3 Personal information for a student record should normally be collected directly from the student and parent/guardian.
- 1.4 All entries, whether on paper or electronic, must clearly indicate the date and the name of the individual making the entry.
- 1.5 It is recommended that the school administrator or designate (i.e., teacher) review a student record annually and must review a record not less than every two years, to ensure that it is kept up to date and to eliminate information that no longer serves an educational purpose. Purging of the student record to remove all unnecessary or irrelevant material (e.g., writing samples, anecdotal notes, behavioural incidents) will be as determined by the school administrator or designate, and in line with Section 1.6 and 1.9 of these administrative procedures/regulations.
- 1.6 The **cumulative file** contains:
  - a) The student's name as registered under the **Vital Statistics Act 2009**, and or **Change of Name Act, 2009**, or if the student was born in a jurisdiction other than Newfoundland and Labrador, the student's name as registered in that jurisdiction, and any other surnames by which the student is known;
  - b) The names of the student's parent(s) or guardian(s);

- c) The birth date of the student;
- d) The gender of the student as registered under the **Vital Statistics Act 2009**;
- e) The contact information (e.g., mailing address, phone numbers, email address) of the student and the student's parent(s) or guardian(s);
- f) The citizenship of the student and, if the student is not a Canadian citizen, the type of visa and its expiry date held by the student or proof of Landed Immigrant status;
- g) The names of all schools attended by the student and the dates of enrollment, if known;
- h) An annual summary of the student's achievement or progress in the courses and programs in which the student is enrolled (e.g., report cards, progress notes);
- i) Copies of the student's final Individual Education Plan (IEP) and/or record of accommodations for each year;
- j) Medical information necessary to be easily accessed in an emergency situation (e.g. procedure to follow if child is anaphylactic or diabetic).
- k) Documentation of file transfers;
- l) Consent forms; and
- m) If a confidential file exists, its existence must be indicated in the cumulative file.

1.7 A student's name and date of birth must be verified, normally through presentation of a birth certificate. Except as outlined in s.1.8, the student's legal name as recorded on the birth certificate or other formal documentation will be used on all official district records, until a legal name change is presented.

1.8 As per the Department of Education and Early Childhood's Safe and Caring Schools Policy (Procedure 7), a parent of a student, or the student, may request that a preferred or chosen name and/or gender be used on school records rather than the student's legal name or gender. In the event of such a request the Administrator will make the necessary changes to records as permitted by these Regulations.

School staff should consult Procedure 7 for guidance on the processes/protocols for addressing such requests with students and/or parents.

The following records must be maintained in the name and gender as recorded on the birth certificate or a certificate issued under the **Change of Name Act, 2009** and or **Vital Statistics Act, 2009**:

- a) The name on the student record (i.e., cumulative file and confidential file)
- b) All records retained in the confidential file.
- c) The student legal name field in the school management software (e.g., PowerSchool)

These school records are required to reflect the legal name and gender, due to the nature of the information contained, and its accuracy, which is maintained over the student's entire time in school (K-12). Changes in a name or gender without confirmation of a legal name change or gender identity could result in difficulty locating the correct record for a student. A Certificate issued under the Change of Name Act, 2009 and or Vital Statistics Act, 2009 will be required to change these records; a copy will be kept on the student record confidential file. This is outlined in the Safe and Caring Schools Policy, Procedure 7.

All other school-issued documents may be maintained in the preferred name and gender, including:

- a. K - 12 Reports Cards;
- b. General demographics;
- c. Review 360 behaviour report;
- d. Principal's monthly attendance reports;
- e. Individual student attendance;
- f. Student services data extracts and custom reports; and
- g. Class lists.

Please reference Appendix 310 – E (Protocol for Use of Preferred or Chosen Name and Gender Identity) for guidance.

1.9 The **confidential file** contains:

- a) Custody and access or other family status documents, if applicable;
- b) Confidential medical reports;
- c) Diagnostic, cognitive, speech-language, social, psycho-educational, emotional or behavioural test results or evaluations of the student, the date of the test, the name of the assessor or evaluator and a written summary of the results or any action taken as a result of the test or evaluation;
- d) Correspondence and reports from outside agencies deemed to be sensitive information; and
- e) Documentation of suspensions.

1.10 It is recognized that **diagnostic test protocols** are copyrighted 'forms' on which assessors write students' responses to standardized assessment tasks. Assessors who use a standardized assessment tool are required to protect the test security (not release assessment questions), observe copyright restrictions, and prevent 'misuse' of the test data from assessment manuals, materials used in the assessment, and test protocols. Test protocols will not normally be released in response to a request for student records. **Test protocols are to be placed in a sealed envelope and clearly marked prior to being placed in the Confidential file.**

## 1.11 Other Documentation

### a) Youth Criminal Justice Act

Information prepared in accordance with the Youth Criminal Justice Act (YCJA) regarding a student, and disclosed to the District or a school, must be stored under secure conditions separate from the cumulative and Confidential files of the student. This includes, but is not limited to, pre-sentence reports; information to facilitate rehabilitation or to ensure compliance with a court order concerning bail, probation or the serving of a portion of a sentence in the community under supervision.

- i. In the event that a student for whom information has been disclosed under the YCJA transfers between District schools, the school administrator or designate will handle the transfer of relevant documents in a confidential manner, and in consultation with Justice officials where appropriate.
- ii. Information received under the YCJA must be disposed of in accordance with the YCJA and/or relevant District policy.

### b) Professional Working Files

This policy does not apply to personal or counselling notes or working files prepared by guidance counsellors or to personal notes prepared by school administrators, teachers or other specialists employed or retained by the District. These documents do not form part of the student record.

## 2. Use of Information from a Student Record

- 2.1 Student information is collected and student records are established for the general purposes of providing instruction to students; ensuring the delivery of educational programming and services and the safe, orderly functioning of the school, and documenting decisions made about the education of a student.
- 2.2 Information in a student record can only be used for the purpose as defined for the collection of that information, or for a use consistent with that purpose.
- 2.3 The District recognizes that in order for staff members to do their job, it may be necessary to transport or use personal information about students outside of the school or District office. The transport or use of student confidential information outside of the school system **must be kept to the minimum amount necessary** in order to complete the task at hand, and **must comply with all standards and security requirements** established by the District.

### 3. **Storage and Retention**

3.1 All records must be stored in a protected setting either in a locked cabinet, locked room with limited access, or by being password/security protected electronically on the District-owned network, according to standards established by the IT Division.

3.2 The information comprising a student record will be maintained in hard copy or electronically for the time set out by the District in the Retention and Disposal Schedule for Student Records, in accordance with the **Management of Information Act**, (see Appendix E).

3.2.1 25 years after graduation/school leaving

3.2.2 15 years for school attendance records (paper versions)

### 4. **Transfer of Student Records**

Student records may be transferred between schools within the District as well as between schools in the District and schools in other provinces. When a request is received to transfer a file in relation to the adoption of a child, the request should be referred to Student Services.

#### 4.1 **Transfer within the District**

Cumulative and Confidential files follow students between District schools during their K-12 school career. The student record should normally be transferred within five (5) business days, once requested from another District school. Schools requesting transfer of a student record from another school within the District must complete form **PROG 310 - A** and send to the school that has the record/the student last attended. **Parental/guardian consent is not required to transfer a student record if a student transfers between schools within the District.** When an individual student transfers from one school to another within the District, the **original student record** is to be transferred in a timely manner, upon written request from the receiving school.

#### 4.2 **Transfer from a school outside of the District to a District school**

When a student transfers to a District school from a school outside of the District, the District school can use form **PROG 310 - B** to request a copy of the student record. Parental/guardian consent is required.

#### 4.3 **Transfer from a District school to a school outside of the District**

When a student transfers from a District school to a school outside of the District, a **copy** of the student record is to be transferred upon receipt of a written request from the receiving school administrator, and the written consent of the parent/guardian or a student (19 years of age and over). **The original file must be retained as an inactive file.** Schools outside of the District requesting

transfer of a student record can complete form **PROG 310 - C** and send to the District school that has the record/the student last attended. The requesting school can also submit one of its own forms which is similar to **PROG 310 - C**.

- 4.4 All reasonable precautions must be taken to protect student records when being transferred. Each school must document when it sends a student record to another school and when it receives a record, and must ensure that records are transferred in a secure manner.
- a) At the end of each school year, the school administrator for a feeder school will transfer any hard copy student records for groups of students transferring to another school (e.g., Grade 9 students in a junior high school transferring to Grade 10 at a high school).
    - i. The list of cumulative and confidential files being transferred must be confirmed in writing, with a copy being provided to the receiving school and a copy being retained at the sending school.
    - ii. The files must be stored securely in boxes and transferred via District delivery method or by another secure method (e.g., school administrator, courier).
    - iii. The list must be double-checked against the files by the receiving school.
  - b) Relevant electronic information (e.g., PowerSchool) must be transferred between District schools, or accessed in the most appropriate format, as established by the District.
  - c) When inactive records are transferred for storage, the files must be stored securely in boxes and transferred via District delivery method or by another secure method (e.g., courier). The boxes must be labelled as required by the District.

## 5. **Access to, and Release of, Information from Student Records**

The school administrator is responsible for managing access to information held about students. All access to information is provided in the best interests of the child and in accordance with relevant legislation.

- 5.1 Student records are considered confidential and students and parents/guardians have a fundamental right to privacy. However, that right must be balanced with the educator's right to know relevant information about a student.
- a) Teaching staff and other District personnel may have access to the cumulative file of a student where necessary for their work and relevant to a matter being dealt with by an employee.
  - b) With respect to the Confidential file the school administrator will consider the 'need to know' for the specific employee, and provide access to some or all of the file as appropriate.
  - c) Parental consent is not required for authorized staff, acting in accordance with their duties, to access student records.

- 5.2 **The Schools Act, 1997**, provides for the right of access to a student record for parents/guardians up to the age of 19. The following consent provisions apply for students and parents/guardians:
- a) Parent/guardian of student under 19 years of age, no consent required if in the care of that parent.
  - b) Student under 19 years of age who has demonstrated the intent to live independently to the satisfaction of the school administrator and the District, no consent required.
  - c) Parent/guardian of student over 19 years of age, consent of student required.
  - d) Parents/guardians who do not live together will normally be provided access to student records in accordance with an agreement or court order which deals with custody and access. Where parents/guardians do not live together and there is no agreement or court order in place, they will have equitable access to information from a student record until such time as access is determined via agreement or court order.

- 5.3 Officers of a court will be provided copies of documents from a student record upon provision of a court order or a search warrant. For further details on police investigations, see **Prog-307 Police Investigations**.

The provision of a subpoena for student records is not sufficient to allow for disclosure of such records. In the event a subpoena is provided requesting student records, such subpoena should be forwarded to District legal counsel.

- 5.4 The Department of Child, Youth and Family Services will be provided copies of documents from a student record upon provision of a subpoena or court order. For further details, see **Prog-303 Protection of Children and Youth**.
- 5.5 The Child and Youth Advocate will be provided copies of documents from a student record upon written request from the Advocate. For further details, see **Prog-303 Protection of Children and Youth**.
- 5.6 All other requests by third parties for access to a student record/copies of documents will be handled on a case by case basis, in accordance with the **Schools Act, 1997** and **ATIPPA**.
- 5.7 Students who have left high school will be directed to the Department of Education, High School Transcripts Division, for an official transcript of high school marks. Please visit the website of the Department of Education and Early Childhood Development.
- 5.8 All requests for access to a student record must be submitted in writing and any person claiming a right of access to a student record must provide supporting documentation which is satisfactory to the District.

- 5.9 The parent/guardian of a **current** student under the age of 19 years, or a current student 19 years of age or older, wishing to obtain information from a student record should complete and submit a form **Prog-310 C: Student Records Request Form** to the appropriate school.
- 5.10 Former students 19 years of age or older who wish to obtain information from their student records should complete form **Prog-310 C** and send to **the school last attended** or follow further directions as outlined on the form.
- 5.11 Before access is granted to a student record, the record should be reviewed by the school administrator or designate to ensure that the documents are in order.
- 5.12 Reports, correspondence or other documents from an outside agency that are in a student record may be provided to a requester in response to a record request. These documents are considered to be in the custody and control of the District and are used to make decisions about a student's education.
- 5.13 Access is defined as the viewing of a student record in the presence of designated school or District personnel or as the provision of copies of information from a student record.
- 5.14 A request for information from an active student record will normally be responded to within 7 business (school) days **during the school year**.
- 5.15 A request for information from an inactive or archived student record will normally be responded to within 15 business (school) days during the school year.

## 6. **Disposal of Student Records**

Electronic and hard copy files comprising the student record must be disposed of or deleted in such a way that personal information cannot be reconstructed or retrieved, in accordance with policies and records retention and disposal schedules developed by the District.

## 7. **Challenges Regarding Content of Student Records**

Students 19 years of age or older or parents/guardians may request to have the contents of a student record changed. When the contents of a student record are challenged, the following steps shall be taken:

- 7.1 The student or parent/guardian must submit the request in writing;
- 7.2 The school administrator will review the part of the file being challenged, in consultation with the Director of Education or designate;

- 7.3 The school administrator will respond within thirty (30) days of receiving the challenge;
- 7.4 The school administrator may agree to delete, destroy, correct or add to the information in the student record; and
- 7.5 If the school administrator does not approve the request to change the file, the student or parent/guardian will be notified in writing and advised that they have the right to appeal that decision.

**8. Appeals Regarding Student Records**

A parent/guardian or student (19 years of age or older) may appeal a decision regarding access or contents of a student record by following the School Board Student Appeals Policy (GOV- 101).