



Sunrise School Division subscribes to the legislation that parents/legal guardians have access to all pupil files pertaining to their child or children until the pupil has reached the age of majority at which time, consent of the pupil is required to allow parents(s) or legal guardian(s) to access the pupil file.

The Public Schools Act sets out the grounds on which a school division may refuse access to all or part of a pupil file, to a parent or legal guardian where disclosure could reasonably be expected:

- (a) to constitute an unreasonable invasion of the privacy of a third party;
- (b) to be detrimental to the education of the pupil;
- (c) to cause serious physical or emotional harm to the pupil or another person; or
- (d) to be injurious to the enforcement of an enactment or the conduct of an investigation under an enactment.

Where access to a pupil file by a parent or legal guardian is permitted under the *PSA*, a school division or district employee who is competent to interpret the information must be made available to assist the parent or legal guardian. Parents and legal guardians who have gained access to information in a pupil file can examine the information or obtain copies of it. When a parent or legal guardian examines a pupil file, a school division or district employee should be present to maintain the integrity of the file.

A parent or legal guardian may appeal a school board's decision to refuse access to a pupil file to the Manitoba Court of Queen's Bench by filing an application with the court within 30 days of being notified of the refusal of access.

Rights of access of divorced or separated parents

Where the parents are divorced, the *Divorce Act (Canada)* states:

16(5) Unless the court orders otherwise, a spouse who is granted access to a child of the marriage has the right to make inquiries, and to be given information, as to the health, education



and welfare of the child. Where the parents are separated, *The Family Maintenance Act of Manitoba* provides that:

39(4) Unless a court otherwise orders, the non-custodial parent retains the same right as the parent granted custody to receive school, medical, psychological, dental and other reports affecting the child.

Access under The Freedom of Information and Protection of Privacy Act

Under *FIPPA*, a parent or legal guardian acting on his or her minor child's behalf may request access to the personal information in the child's pupil file when, in the opinion of the head of the school division or district, the parent's or legal guardian's exercise of this right of access would not constitute an unreasonable invasion of the child's privacy (see clause 79(d) of the Act). (In Manitoba, a minor child is a child under 18 years of age.) The grounds on which access may be refused, or on which access is required to be refused, are set out in the Act, particularly in sections 17 to 32. The parent or legal guardian may make a complaint to the Manitoba Ombudsman about a decision to refuse access to all or part of the pupil file. Where a complaint has been made and the Ombudsman makes a report, the parent or legal guardian may appeal the decision to refuse access to the Manitoba Court of Queen's Bench.

Access under The Personal Health Information Act

Under *PHIA*, a parent or legal guardian acting on his or her minor child's behalf may request access to the personal health information in the child's pupil file on the child's behalf if the child does not have the capacity to make health care decisions (see clause 60(e) of PHIA). The grounds on which access may be refused are set out in subsection 11(1) of the Act. The parent or legal guardian may make a complaint to the Manitoba Ombudsman about a decision to refuse access to the personal health information in the pupil file. Where a complaint has been made and the Ombudsman makes a report, the parent or legal guardian may appeal the decision to refuse access to the Manitoba Court of Queen's Bench. A decision of the Court of Queen's Bench respecting the refusal may be appealed to the Manitoba Court of Appeal with the leave of that court.



Access under the Youth Criminal Justice Act (Canada)

Access by a parent or legal guardian to youth criminal justice information in a pupil file is governed by the *YCJA*. The Act does not authorize a school division or district to disclose youth criminal justice information in a pupil file to a parent or legal guardian. However, information may be made available to a parent or legal guardian by the youth justice court, a review board or another court, by the police, by a government department or agency, or by an organization which obtained the information as a result of administering or participating in extra judicial measures or a youth sentence under the *YCJA* (section 119 of the *YCJA*).

Correction of or Objection to Information in the Pupil File

Under section 42.5 of the *PSA*, 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. A school board is required to comply with this request.

Both a pupil who has been given access to his or her personal information in a pupil record under Part 2 of *FIPPA* or to his or her personal health information under Part 2 of *PHIA*, and a parent or legal guardian who (acting on behalf of the pupil) has been given access to the pupil's personal information or personal health information under *FIPPA* or *PHIA*, have the right to ask the school division or district to correct personal information in the record if it is wrong or incomplete. If the school division or district refuses to correct the file, it must add the request for correction, or in the case of personal health information, a statement of disagreement to the file. A school division or district is also required, where practicable, to notify other public bodies or third parties who have received the information from it, of any correction to the information or of the request or statement of disagreement, so they can update their records (Section 39 of *FIPPA* and section 12 of *PHIA*).

Cross Reference:		
Date Adopted: August 1, 2017	Date Amended:	Board Motion(s):
Procedure: JRA	Guidelines:	Exhibit: JRA-E1, JRA-E2, JRA-E3, JRA-E4, JRA-E5