

# **School Administration**

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## ***School Administration***

### ***Advisory Councils for School Leadership / Parent Advisory Councils***

#### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 41(1)(v), 55.2, 55.3, 58.6(f), 178(1)(a)
- Manitoba Regulation 54/96 (Advisory Councils for School Leadership Regulation)

(Note: The following does not apply to The Frontier School Division or to Division scolaire franco-manitobaine.)

A parent or legal guardian of a child enrolled in a program in any school in Manitoba is entitled to be a member of a parent advisory council, parent council, local school committee or school committee at his or her child's school.

#### **GENERAL RESPONSIBILITIES:**

The principal of a school that does not have an advisory council is required to facilitate the establishment of an ACSL, if requested by ten or more parents of the school.

An Advisory Council for School Leadership (ACSL) may be established for each school, and has certain limited authorities as follows:

- (1) it may provide advice to the principal about school policies, activities and organization;
- (2) it may advise on and participate in fund-raising activities;
- (3) it may advise the school board about the process of hiring and assigning principals;
- (4) it may advise the principal and the school board about an annual budget for the school;
- (5) it may participate in developing an annual school plan;
- (6) it may participate in reviews of the school;
- (7) it is required to communicate with parents of children attending the school and community members in order to represent their priorities and concerns; and
- (8) it is required to establish a means to regularly account to the school and community for its activities and expenditures.

An ACSL must consist of at least seven members, of which at least 2/3 of the total are parents of children attending the school. The remainder may consist of people who live, work or own property in the catchment area of the affected school. As well, a student council member must be automatically included on the ACSL, if the school encompasses grades 9 to 12. The principal and teacher member representing the school are ex officio, non-voting members of the ACSL.

A principal is also required to assist in informing parents and members of the school catchment area of advisory council's annual meetings and its formation and continuance, to make budgets available to the ACSL for costs relating to typing, printing and mailing of ACSL minutes, recommendations or other communications, to be available to attend meetings, provide information and facilitate an advisory process when requested, and to ensure that yearly school plans include initiatives in the areas of parental and community involvement. Finally, a principal is required to involve the advisory council in preparing the annual school plan, receive advisory council recommendations as they relate to school leadership, and provide feedback on actions taken.

School boards are required to consult with advisory councils in their school division/district prior to finalizing the annual division/district budget.

**FOR FURTHER INFORMATION:**

- School Partnerships: A Guide for Parents, Schools, and Communities
- Manitoba Association of Parent Councils (<http://www.mapc.mb.ca/>)
- School Programs Division, 204-945-7921
- Education Administration Services, 204-945-6899

## ***School Administration***

### ***Anaphylaxis / Life-Threatening Allergies / Administering Medication to Students***

#### **LEGISLATIVE REFERENCES:**

*The Public Schools Act, section 47.3*

*The Education Administration Act, section 4(1)(o.1)*

#### **GENERAL RESPONSIBILITIES:**

Since November 1, 2009 Manitoba schools are required to have policies to protect students with life-threatening allergies. The local policy should include information and awareness for the school community, avoidance strategies and emergency response procedures, and be aligned with the *Children with Known Risk of Anaphylaxis Policy Framework* contained in the *URIS Policy and Procedure Manual*.

**School divisions are responsible for communicating their divisional policies to individual schools, parents and students.**

Prior to Bill 232, the ministers responsible for URIS issued a provincial directive requiring school divisions and child care facilities to develop local policies regarding anaphylaxis by June 2004. In October 2008, Bill 232 (*The Public Schools Amendment Act – Anaphylaxis Policies*) was passed to formalize, in law, a school board's obligation to develop an anaphylaxis policy. The Bill also gives the Minister of Education the discretionary authority to make regulations in this area. The amendment was proclaimed effective November 1, 2009.

The Unified Referral and Intake System (URIS) is a partnership involving the provincial government departments of Family Services, Education and Health. URIS supports children who need assistance performing special health care procedures when they are apart from their families and caregivers. This initiative was implemented in 1995. The URIS Policy and Procedure Manual contain policies and procedures for community programs. It also recommends policies that community programs and schools may adopt to ensure safe, supportive environments for children with special health care needs.

The health care needs of children are identified at the time of school registration. Parents complete a URIS Group B application for support. Group B health care routines may be delegated to non health care personnel, who receive training and ongoing monitoring by a registered nurse (RN). A nurse works with schools and parents to develop a health care plan and this plan will direct the care of children attending school. In addition, the RN will train the staff designated by the school and may include teachers, educational assistants, and/or bus drivers.

Administering medication to students:

School Divisions are responsible for policies regarding the administration of medication (prescribed or not) to students according to the guidelines and procedures outlined in URIS. A school division may assign to an educational assistant the responsibility of administering medication.

**FOR FURTHER INFORMATION:**

- *Unified Referral and Intake System (URIS) Policy and Procedure Manual: A Manual for administrators of community programs that support children with special health care needs* (June 1999).
- *Anaphylaxis in Schools & Other Settings, 2<sup>nd</sup> Edition*, Canadian Society of Allergy and Clinical Immunology (CSACI).
- Program and Student Services Branch, URIS partner, 204-945-7907
- URIS Provincial Coordinator, 204-471-9570
- Manitoba Health, Seniors and Active Living - URIS – Lead for Group B Service Delivery, 204-786-7374
- Manitoba Family Services– URIS partner, 204-945-5898

# **School Administration**

## *Appropriate Educational Programming*

### **LEGISLATIVE REFERENCES:**

- *The Public Schools Act*, section 41(1)(a.1)
- Manitoba Regulation 155/2005 (Appropriate Educational Programming)
- Manitoba Regulation 468/88 (Education Administration Miscellaneous Provisions)
- Manitoba Regulation 92/2013 (Appropriate Disciplinary Consequences in Schools)

### **GENERAL RESPONSIBILITIES:**

*The Public Schools Act* supports Manitoba's philosophy of inclusion, which states: Inclusion is a way of thinking and acting that allows every individual to feel accepted, valued, and safe. An inclusive community consciously evolves to meet the changing needs of its members. Through recognition and support, an inclusive community provides meaningful involvement and equal access to the benefits of citizenship.

Students with special needs should experience school as much as possible like their peers without special needs. To make inclusion applicable in Manitoba schools, educators foster school and classroom communities where all students, including those with diverse needs and abilities, have a sense of personal belonging and achievement. School staff engage in practices that allow students with a wide range of learning needs to be taught together effectively and enhance students' abilities to deal with diversity. The appropriate educational programming that a school division must provide is the curriculum. A school division must ensure that, as far as reasonably practicable, appropriate educational programming is available to a student in a regular class of his or her peers at the school whose catchment area includes his or her residence; or another school designated by the school division if the catchment area school does not provide the program.

### **FOR FURTHER INFORMATION:**

- Local School Division Policy
- ***Appropriate Educational Programming Standards for Student Services (2006)***  
[http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- ***Working Together: A Parent's Guide to Formal Dispute Resolution***  
<http://www.edu.gov.mb.ca/k12/docs/parents/dr/index.html>
- See also: Code of Conduct
  - Discipline
  - Discrimination
  - Reasonable Accommodation
  - Dispute Resolution

# School Administration

## Archiving Pupil Files

### LEGISLATIVE REFERENCE:

- *The Public Schools Act (PSA)*, sections 42.1 and 42.2
- Manitoba Regulation 468/88 (Education Administration Miscellaneous Provisions), section 29(3)

### GENERAL RESPONSIBILITIES:

The *Public Schools Act (PSA)* defines "pupil file" to mean "a record or a collection of records respecting a pupil's attendance, academic achievement and other related matters in the possession or control of a school board". A "record" is a record of information in any form: i.e., information that is written, photographs, audio and video tapes, information that is stored in electronic form, etc. The most common form of a "record" in schools is the cumulative file.

*The Public Schools Act* requires the school board of a school division or district to establish procedures for the collection, storage, retrieval, and use of information respecting pupils. The *Manitoba Pupil File Guidelines* document can assist school boards in carrying out their duties and responsibilities respecting student information. They are written with an emphasis on the requirements of *The Public Schools Act* respecting pupil files, within the context of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

When a student has transferred and there has been no request for the file, school divisions can call Manitoba Education and Training for assistance in locating the student. When a student cannot be found, is deceased, or graduates, the pupil files should be archived consistent with the school division policy and the *Manitoba Pupil File Guidelines*.

The *Manitoba Pupil File Guidelines* can be found at:

<http://www.edu.gov.mb.ca/k12/docs/policy/mbpupil/index.html>

The *Guidelines on the Retention and Disposition of School Division/District Records* can be found at:

<http://www.edu.gov.mb.ca/k12/docs/policy/retention/index.html>

**FURTHER INFORMATION:**

- Local School Division Policy
- Education Administration Services, 204-945-6899
- Program and Student Services, 204-945-7907
- See also: Pupil File  
Records Retention & Disposition

# **School Administration**

## *Children's Advocate (The)*

### **LEGISLATIVE REFERENCE:**

- *The Child and Family Services Act, Part I.1*

The Office of the Children's Advocate exists to represent the rights, interests and viewpoints of anyone under the age of 18 who is currently receiving or entitled to receive services under *The Child and Family Services Act*. The Children's Advocate may respond to referrals or requests for involvement and assistance from any person. At the school level, this could include teachers, principals, guidance counsellors and school superintendents. Referrals are appropriate when a child in care, or someone else, believes that:

- a child's needs are not being met;
- a child's rights are not being protected;
- a case plan or decision affecting a child has been made without taking the child's viewpoint and/or interests into account or without considering all of the information relevant to the case.

Additionally, school personnel should assist any child in the care of Child and Family Services or an agency thereof who indicates a desire to communicate with the Children's Advocate. For example, depending on the age of the child, this assistance could be provided by either placing a call to the Office of the Children's Advocate on the child's behalf or, by providing a telephone for the child to use.

In keeping with the powers and responsibilities under *The Child and Family Services Act*, the Children's Advocate may have access to and examine any school records which, in the opinion of the Advocate, relate to a matter being investigated by him/her. The Children's Advocate may also enter onto school property for purposes of communicating with a child in care who may be involved in an investigation or who has requested contact with an Advocate.

In 2008, the mandate of the Children's Advocate was strengthened to include the authority to review the standards and quality of any publicly funded social service or mental health or addiction treatment service provided to a child or, in the opinion of the Children's Advocate, should have been provided. The Children's Advocate is now also responsible for investigating child deaths that occurred while a child was in care.

**FOR FURTHER INFORMATION:**

- Office of the Children's Advocate, 204-988-7440  
Toll-free 1-800-263-7146

# **School Administration**

## *Codes of Conduct*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 47.1(1), 47.1(2)
- *The Education Administration Act*, section 4(1)(p.1), (p.2), (p.3)
- Manitoba Regulation 92/2013 (Appropriate Disciplinary Consequences in Schools)
- *Manitoba Regulation 77/2005*, section 6 (Safe Schools Regulation)

### **GENERAL RESPONSIBILITIES:**

Every school must establish a committee, known as the safe school advisory committee, to advise the principal in developing a code of conduct for the school. The principal is responsible for calling meetings of the committee, and for ensuring that a record of the proceedings is kept. Once developed, the code of conduct must be reviewed at least annually.

The principal must ensure, in consultation with the school's safe school advisory committee, that the content and expectations of the school's code of conduct is communicated to all members of the school community, including students, teachers and parents.

A school's code of conduct must include a statement that students and staff must behave in a respectful manner and comply with the code of conduct. It must also include a statement that the following are unacceptable:

- bullying, including cyber bullying, or abusing physically, sexually, or psychologically – orally, in writing or otherwise — any person,
- discriminating on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*, and
- using, possessing or being under the influence of alcohol or illicit drugs at school.

In addition, it must include a statement that gang involvement and/or possessing a weapon will not be tolerated on school sites, a statement that students and staff must adhere to school policies respecting appropriate use of the Internet, social media, text messaging, instant messaging, websites and e-mail, digital cameras, cell

phones (including those equipped with digital cameras), and any other electronic or personal communication devices identified by the board; including the prohibition of accessing, uploading, downloading or distributing material that the school has determined to be objectionable.

The code of conduct must also outline the disciplinary consequences, in as much detail as is reasonably possible, of violating the code of conduct, and the process for appealing disciplinary decisions, and meet any other requirements prescribed by regulation under *The Education Administration Act*.

**FOR FURTHER INFORMATION:**

- Provincial Code of Conduct, Appropriate Interventions and Disciplinary Consequences, January 2014
- Education Administration Services, 204-945-6899
- See also: Appropriate Educational Programming
  - Discipline
  - Discrimination
  - Expulsion
  - Reasonable Accommodation
  - Suspension

# ***School Administration***

## ***Communicable Diseases***

### **LEGISLATIVE REFERENCES:**

- *The Public Schools Act*, sections 41(1)(m), 96(1)(e), 232(1), 232(2), 233, 234, 235, 261(2)
- *The Public Health Act*

Upon being notified that an order has been made under *The Public Health Act* that requires a student to refrain from attending school, the student must be excluded from attendance at school, and cannot resume attendance at that or any other school while the order is in effect.

### **GENERAL RESPONSIBILITIES:**

If a teacher believes that a student has been exposed to, or is suffering from, a communicable disease spread by sneezing or coughing, he/she should notify the principal. The principal, in turn, must notify local health authorities or the school board if he/she has reason to believe that a student attending the school has been exposed to or is suffering from a communicable disease.

A "communicable disease", "contagious disease" or "infectious disease", as defined by *The Public Health Act*, means illness due to a specific infectious agent or its toxic products which arises through transmission either directly or indirectly from an infected person or animal. Communicable diseases include such diseases as tuberculosis, hepatitis B, measles, mumps, meningitis, typhus, typhoid fever, scarlet fever and hantavirus. Schools are asked to remind students to wash their hands after the use of washroom facilities and to ensure that soap and a clean method of hand-drying are available for student use.

The refusal or neglect of parents or guardians to obtain proper treatment (medical or otherwise) for a child that has or is suspected to have a communicable disease is deemed to be a violation of *The Public Schools Act*. This violation is a summary conviction offence and parents/guardians could be fined.

### **FOR FURTHER INFORMATION:**

- Your Local Public Health Unit
- Education Administration Services, 204-945-6899

# ***School Administration***

## ***Copyright***

### **LEGISLATIVE REFERENCE:**

- *The Education Administration Act*, section 3.1(2)
- Manitoba Regulation 213/96 (Copyright Regulation)
- *Copyright Act* (Canada)

### **CURRENT CANADIAN COPYRIGHT LAW**

Copyright-protected materials should not be used without the permission of the copyright owners unless the use is permitted by the *Copyright Act*.

The *Copyright Act* and recent court decisions allow educators to use copyright-protected works for some educational purposes without having to ask for copyright permission or pay copyright royalties. For example, teachers and students are allowed to use materials that are publicly available on the Internet for their educational pursuits; news or news commentary programs may be recorded for later viewing by students; audiovisual works may be screened or played in the classroom; and lessons may be recorded to be made available for viewing by students at a later time.

“Education” is also considered an allowable purpose within the *Copyright Act’s* fair dealing provision. Fair dealing permits the use of copyrighted material without permission or payment of royalties as long as the material is used for an allowable purpose and is considered “fair” according to six factors set out in a Supreme Court decision in 2004: the purpose, character, and amount of the dealing; alternatives to the dealing; the nature of the work; and the effect of the dealing on the market for the work.

Schools in Manitoba are required to follow the *Fair Dealing Guidelines* established by the Council of Ministers of Education, Canada (CMEC), Copyright Consortium Steering Committee.

**FAIR DEALING GUIDELINES**

The fair dealing provision in the *Copyright Act* permits use of a copyright-protected work without permission from the copyright owner or the payment of copyright royalties. To qualify for fair dealing, two tests must be passed.

First, the “dealing” must be for a purpose stated in the *Copyright Act*: research, private study, criticism, review, news reporting, education, satire, and parody. Educational use of a copyright-protected work passes the first test.

The second test is that the dealing must be “fair.” In landmark decisions in 2004 and in 2012, the Supreme Court of Canada provided guidance as to what this test means in schools and post-secondary educational institutions.

These guidelines apply to fair dealing in non-profit Kindergarten to Grade 12 schools and post-secondary educational institutions, and provide reasonable safeguards for the owners of copyright-protected works in accordance with the *Copyright Act* and the Supreme Court decisions.

1. Teachers, instructors, professors, and staff members in non-profit educational institutions may communicate and reproduce, in paper or electronic form, short excerpts from a copyright-protected work for the purposes of research, private study, criticism, review, news reporting, education, satire, and parody.
2. Copying or communicating short excerpts from a copyright-protected work under these *Fair Dealing Guidelines* for the purpose of news reporting, criticism, or review should mention the source and, if given in the source, the name of the author or creator of the work.
3. A single copy of a short excerpt from a copyright-protected work may be provided or communicated to each student enrolled in a class or course
  - a. as a class handout
  - b. as a posting to a learning or course-management system that is password protected or otherwise restricted to students of a school or post-secondary educational institution
  - c. as part of a course pack
4. A short excerpt means:
  - a. up to 10 per cent of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work)
  - b. one chapter from a book
  - c. a single article from a periodical

- d. an entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works
  - e. an entire newspaper article or page
  - f. an entire single poem or musical score from a copyright-protected work containing other poems or musical scores
  - g. an entire entry from an encyclopedia, annotated bibliography, dictionary, or similar reference work
5. Copying or communicating multiple short excerpts from the same copyright-protected work with the intention of copying or communicating substantially the entire work is prohibited.
  6. Copying or communicating that exceeds the limits in these *Fair Dealing Guidelines* may be referred to a supervisor or other person designated by the educational institution for evaluation. An evaluation of whether the proposed copying or communication is permitted under fair dealing will be made based on all relevant circumstances.
  7. Any fee charged by the educational institution for communicating or copying a short excerpt from a copyright-protected work must be intended to cover only the costs of the institution, including overhead costs.

## **ACCESS COPYRIGHT**

Access Copyright, formerly CANCOPY, is a non-profit organization founded by Canadian writers and publishers, which acts on behalf of artists, writers, and publishers, to grant permission to copy beyond that permitted by the *Copyright Act*, and collects a tariff fee which is given back to the artist, writer, or publisher. The school tariff includes works published both in and outside of Canada.

At the present time, Manitoba Education and Training is not operating under an Access Copyright school tariff. There may be future tariffs to cover the copying of material not allowed by the *Copyright Act*, such as individual sheet music, but these have not been negotiated yet.

## **FOR FURTHER INFORMATION:**

- Copyright Representative, Learning Support and Technology Unit, 204-945-0151 or 1-800-282-8069, extension 0151
- Council of Ministers of Education, Canada (CMEC), [www.cmec.ca](http://www.cmec.ca)

# ***School Administration***

## **Custody / Legal Guardianship / Access**

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act (PSA)*
- *The Child and Family Services Act (CFSA)*,
- *Divorce Act (Canada)*, s. 16(5)
- *The Family Maintenance Act*, ss. 39(4), 39(5)

### **GENERAL RESPONSIBILITIES:**

In the case of separated/divorced parents, unless one parent can provide legal documentation proving that the other parent's parental rights have been revoked or altered, one must assume that both parents have retained their full parental rights. It is thus the responsibility of parents to provide documentation that demonstrates if only one parent has custodial rights, and/or if one parent has only access rights.

### **Definition of "Custody" and "Legal Guardian"**

A custodial parent exclusively holds all legal decision making power over a child. Conversely, a legal guardian is defined in the PSA as "a person appointed or recognized as the guardian of a child under *The Child and Family Services Act* or *The Court of Queen's Bench Surrogate Practice Act*." A legal guardian has the same powers as a custodial parent.

According to the CFSA, "guardian" means a person other than a parent of a child who has been appointed guardian of the person of the child by a court of competent jurisdiction or to whom guardianship has been surrendered under section 16 of CFSA.

The legal guardian of a child in the care of Child and Family Services is the Director of Child and Family Services (appointed under the CFSA) or a child and family services agency (as defined in the CFSA), and not the foster parent.

If the custodial parent or legal guardian is someone other than a biological parent, schools should have documents in the student's pupil file that identify who has guardianship/legal authority of a child. This documentation must be legal documentation from the courts that:

- 1) grants them custodial and decision-making responsibility for the child; and/or
- 2) set out if anyone is denied to the child.

An example of documentation that would not be acceptable is a letter signed by a biological parent granting custody of their child to another individual (even if it has been notarized/witnessed by a lawyer). Custody and guardianship must be granted by a court.

Documents such as applications for special needs funding, individual education plans, and other documents which would otherwise be signed by a biological parent, would be signed by the legal guardian where one has been appointed. When the legal guardian is agency appointed (e.g., a social worker), please have them indicate their title/role and agency along with their signature

### **Definition of “Access”**

In divorce situations, the *Divorce Act* states that:

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.

For all other instances of parental separation, *The Family Maintenance Act* states similarly 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.

39(5) The right of the non-custodial parent to receive the records described in subsection (4) is a right to be provided with information only and is not, unless a court orders otherwise, a right to be consulted about or to participate in the making of decisions by the parent granted custody.

Access parents are interested observers but have no right to be involved in making decisions about their child's education, have no right to be consulted before decisions are made, and can only review information about a child. Schools must allow access parents to view his or her child's documents as provided for in the *Divorce Act* and *The Family Maintenance Act*, but they do not have to proactively disclose them. Access parents must prove that they have access and must ask to receive the documents.

Access parents do not have an automatic right to enter school grounds by virtue of their family law right of access. A school is empowered by s. 231 of the PSA to refuse entry to people who are disruptive. Access parents do not have a legal right to be disruptive when exercising their access rights.

### **Disputes between Parents Regarding Custody and Access Rights**

Schools do not have any legal responsibilities to mediate disputes between custodial and access parents. If custodial parents object to an access parent's request to review documents, or contest the other parent's purported access rights, custodial parents have the onus to demonstrate with legal documentation their position. Until schools are shown such documentation, it may either treat both parents as custodial parents; or, follow the most recent documentation that set out the parents' respective custodial and access rights.

In all cases, the best interests of the child should guide a school's decision-making. If at any point the school reasonably believes that the child or any parent may be placed in danger by an access parent's requests, the school may have legal grounds to refuse to disclose documents to the access parents. In these cases, the school's legal counsel should be consulted because each factual circumstance is different and only a lawyer has the expertise to give clear direction after hearing all the details about the situation.

### **FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- See also: Registration of Students –Out of Province and Foreign  
Country Students  
Registration of Students in Care of Child Welfare Agencies

# ***School Administration***

## ***Discipline***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 47.1(1), 47.1(2), 48(4), 58.6, 58.10, 96(c)(f)
- Manitoba Regulation 92/2013 (Appropriate Disciplinary Consequences in Schools Regulation)
- Manitoba Regulation 468/88R, sections 28, 39 (Education Administration Miscellaneous Provisions Regulation)
- Manitoba Regulation 465/88R, section 13 (School Buses Regulation)
- Manitoba Regulation 77/2005, section 6 (Safe Schools Regulation)

### **GENERAL RESPONSIBILITIES:**

Under the provisions of *The Public Schools Act* and supporting regulations, principals and teachers are required to maintain order and discipline from the time of the student's arrival at school until the student's departure for the day. The principal also has disciplinary authority over all students of his/her school while at school and in their conduct towards one another on their way to and from school, and while participating in school-approved activities. With respect to transported students, the principal has disciplinary authority over students' conduct while they are in conveyance to and from school.

The principal of each school must, in consultation with the school's advisory committee, establish a code of conduct for students and staff. These behavioural codes of conduct must be clearly written and communicated to all members of the school community including students, teachers and parents. They must include discipline and behaviour management policies which are consistent with ministerial directives concerning appropriate disciplinary consequences for unacceptable conduct.

Other than granting authority to suspend or expel students, the Act does **not** prescribe the type of disciplinary measures teachers and principals can use. **Discipline issues rest within the authority and purview of local school division officials.** However, any interventions or actions taken as a result of unacceptable conduct must take into account the frequency and severity of the disciplinary violation, and, where applicable, a student's special needs or specific state of development. Policies regarding disciplinary measures are to be established and enforced at the local school/division

level. The types and kind of disciplinary measures should be fair, commensurate with the behavioural infraction, and, where possible, reflect due process.

Principals must ensure that educational programming is available to a pupil who has been suspended for more than five days. As well, if a student is suspended for more than five days, the school board must permit the parent(s) or legal guardian(s) and/or the pupil to make representations to the school board about the suspension.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- Provincial Code of Conduct  
[www.edu.gov.mb.ca/k12/safe\\_schools/charter.html](http://www.edu.gov.mb.ca/k12/safe_schools/charter.html)
- See also: Appropriate Educational Programming
  - Code of Conduct
  - Expulsion
  - Reporting of Unacceptable Conduct
  - Suspension
  - School Safety and Security
  - Use of Corrective Force
  - Weapons

# ***School Administration***

## ***Discrimination***

### **LEGISLATIVE REFERENCE:**

- *The Human Rights Code*
- *Canadian Charter of Rights and Freedoms*

### **GENERAL RESPONSIBILITIES:**

Under *The Manitoba Human Rights Code* (“**The Code**”), **discrimination means treating someone differently based on a protected characteristic or the failure to reasonably accommodate** a special need arising from such a characteristic.

Under *The Code*, harassment is considered a form of discrimination. Harassment means:

- being subjected to a course of abuse and unwelcome conduct or comment;
- being subjected to a series of objectionable and unwelcome sexual solicitations or advances;
- being subjected to a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; and
- being subjected to a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

*The Code* prohibits unreasonable discrimination, and harassment, in the provision of goods, services and facilities, in employment, and in housing based on the following characteristics:

- ancestry, including colour and perceived race;
- nationality or national origin;
- ethnic background or origin;
- religion or creed, or religious belief, religious association or religious activity;
- age; (subject to certain exceptions for people who are under the age of majority, where authorized by law)
- sex, including sex-determined characteristics such as pregnancy, the possibility of pregnancy or circumstances related to pregnancy;
- gender identity;
- sexual orientation;

- marital or family status;
- source of income;
- political belief, political association or political activity;
- physical or mental disability or related characteristics or circumstances including reliance on a service animal, wheelchair, or any other remedial appliance or device;
- social disadvantage.

Attending school is considered being provided a “service” within the meaning of *The Code*.

*The Code* may also in some circumstances prohibit unreasonable discrimination, and harassment, based on characteristics that are not in this list, but are associated with disadvantage or stereotyping, such as a person’s criminal record.

*The Code* prohibits unreasonable discrimination, whether or not that discrimination is intentional. Discrimination often involves treating someone differently on the basis of a protected characteristic. For example, limiting access to school programs based on sex or gender identity may be discriminatory. Failure to *reasonably accommodate* a special need based on a protected characteristic is, however, also discriminatory. An example of a failure to accommodate could include refusing to allow service animals into schools. Reasonable accommodation only has to be provided to the point of *undue hardship*.

Under *The Code*, schools have an obligation to take steps to stop harassment based on a protected characteristic from occurring. Pupils are entitled to be free from harassment both from their peers and from their teachers and administrators. Some examples of harassment could include unwelcome sexual comments experienced by one student from another, or unwelcome racial slurs experienced by one student from another.

The *Canadian Charter of Rights and Freedoms* similarly guarantees the right to equality and freedom from discrimination for individuals in their dealings with government, which includes school divisions. Discrimination can include denying equality of opportunity to a person or group on the basis of a protected characteristic. It may impose burdens or disadvantages on individuals or groups, which are not imposed upon others, or limit access to opportunities, benefits and advantages that are available to others. This right is subject to reasonable and justifiable limits, however, as is the case for all *Charter* rights.

School divisions are required to ensure that their policies and practices comply with *The Code* and the *Canadian Charter of Rights and Freedoms*.

Note that in addition to the above, *The Public Schools Act* states that codes of conduct must indicate that bullying will not be tolerated.

FOR FURTHER INFORMATION:

- Manitoba Human Rights Commission (<http://www.manitobahumanrights.ca>)
- *Standards for Student Services* (introduction, access, student discipline)  
[http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- Program and Student Services, 204-945-7907
- Education Administration Services, 204-945-6899
- See also: Codes of Conduct  
Reasonable Accommodation

# ***School Administration***

## **Dispute Resolution**

### **LEGISLATIVE REFERENCE:**

- Manitoba Regulation, 155/2005, sections 9-21 (Appropriate Educational Programming)

School divisions and parents may disagree on the education of students and it is necessary that a timely, fair and open dispute resolution process be available at the local school and school division levels.

### **GENERAL RESPONSIBILITIES:**

Manitoba school divisions must have a process that protects the rights of students and parents and addresses differences of opinion on the education of students. It is always important that the partnership between schools and parents is strong and that issues are resolved at the local level whenever possible. The education of students with special learning needs, as defined by Manitoba Regulation 155/2005, involves an even closer working relationship, as parents are integral members of the individual education planning team.

### **FORMAL DISPUTE RESOLUTION:**

If a dispute arises about the programming and placement of students with special learning needs, parties involved must first attempt to resolve the dispute at the school or division level.

If a parent, or student over the age of 18, has followed a school division's appeal process to resolve a dispute, and the parties are still in disagreement, a complaint can be made to the Manitoba Education Review Coordinator. The Review Coordinator determines whether criteria for a formal review of the school board's decision have been met. If so, a Review Committee is appointed by the Minister to investigate and make recommendations.

Not all disagreements can be investigated by a Review Committee, for example, a suspension or expulsion can only be appealed to a School Board. Complaints heard by a Review Committee must meet the following criteria:

- a) there is an individual education plan in place for the student;

- b) the complaint relates to appropriate programming or placement;
- c) reasonable attempts have been made to resolve the complaint with: the principal, the superintendent and the School Board (the School Division's appeal process must be followed);
- d) the School Board has denied a parent request within the last 30 days;
- e) the complaint is made in writing to the Review Coordinator giving name, address and reasons;
- f) alternative dispute resolution like mediation has been unsuccessful;
- g) the same complaint has not been heard by a Review Committee before;
- h) the complaint is not frivolous, vexatious or made in bad faith.

The Review Committee will:

- a) notify both parties in the dispute and inform them of the "Essential Question" to be investigated;
- b) request supporting documents and persons to interview;
- c) establish dates, locations and times for interviews;
- d) conduct interviews individually with the parents and Board representatives;
- e) decide whether to visit the school and classroom in order to obtain a "first-hand" sense of the child's learning environment;
- f) develop an interim report with recommendations after reviewing documents and interviewing those it feels are needed;
- g) send an interim report to both parties and, if either party disagrees, further information can be submitted in writing;
- h) submit a final report to both parties and to the Deputy Minister.

Either party may appeal the final report to the Deputy Minister within 30 days for a final decision. An application to the Court of Queen's Bench for judicial review is still possible.

School divisions should:

- a) develop and make accessible to parents local policy on communication and dispute resolution at the school and school division levels;
- b) make all reasonable attempts to resolve disputes informally, including using dispute resolution processes, such as mediation;
- c) advise parents of their right to make a formal appeal (within 14 days) of decisions about their children's educational programming and of their right to be accompanied by a supporting person;
- d) inform parents of the appeal procedures of the school board;
- e) advise parents of their right to request formal dispute resolution through Manitoba Education, when efforts to resolve the issues locally at the school and school division levels have failed.

FOR FURTHER INFORMATION:

- Local School Division/District Policy
- *Appropriate Educational Programming Standards for Student Services* (2006), [www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- *Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities* (Brochure), [www.edu.gov.mb.ca/k12/specedu/problem\\_solving/pdf/DR\\_Pamphlet.pdf](http://www.edu.gov.mb.ca/k12/specedu/problem_solving/pdf/DR_Pamphlet.pdf)
- Review Coordinator, School Programs Division, 204-945-7907
- See also: Appropriate Educational Programming
  - Discrimination
  - Reasonable Accommodation

# **School Administration**

## *Emergency Response Plans*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 47.1(1), 47.1(3)
- *The Education Administration Act*, section 4(1)(p.1), (p.2), (p.3)
- Manitoba Regulation 77/2005, section 6 (Safe Schools Regulation)

### **GENERAL RESPONSIBILITIES:**

Every school must establish a committee, known as the safe school advisory committee, to advise the principal in developing an emergency response plan for the school. An existing parent council or advisory council for school leadership may serve as such a committee, provided its membership includes the principal, a parent of a student attending the school, a teacher from the school, and a member of the student council (if one exists and includes grades 9-12). The principal is responsible for calling meetings of the committee, and for ensuring that a record of the proceedings is kept. Once developed, the emergency response plan must be reviewed at least annually.

The principal must ensure, in consultation with the school's safe school advisory committee, that the content and procedures of the school's emergency response plan is communicated to all school personnel responsible for acting in emergency situations and, where appropriate, to students and their parents.

A school's emergency response plan must outline the role of the principal, staff, and counselling and crisis intervention personnel in the event of an emergency; and must include procedures for controlling visitor access to the school site, communicating inside and outside the school building in an emergency, contacting students' parents or guardians in an emergency, responding to the threat posed by a person having a weapon on the school site, dealing with bomb threats, fires, chemical spills and weather-related emergencies, and evacuating school buildings and carrying out practice drills. It must also meet any other requirements prescribed by regulation under *The Education Administration Act*.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: Temporary Closing of Schools Emergency and Incidental Lockdown Procedure Information Package (RCMP, 2003)

# ***School Administration***

## ***Expulsion***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 48(4), 58.6, 58.9(2), 96(1)(f)
- Manitoba Regulation 92/2013 (Appropriate Disciplinary Consequences in Schools Regulation)

### **GENERAL RESPONSIBILITIES:**

Expulsions are authorized by school boards only, and the student may not attend any school operated by the school division/district until such time as the school board rescinds the expulsion. However, a school board that expels a resident pupil must make reasonable efforts to ensure that alternative programming is made available to the pupil if she/he is of compulsory school age. This programming may include an alternative program, a formalized home study arrangement, placement in another school or other accommodation. A parent has a right to accompany his or her child and assist him or her to make representations to the school board before a decision is made to expel the child.

School boards must also ensure that a student's special needs, if any, are taken into account when deciding to expel a student. Policies on expulsion should follow precepts of due process, procedural fairness and natural justice which are features likely to receive attention in the event of a legal challenge.

The main difference between suspension and expulsion is that when a student is suspended, there remains the expectation that he/she will be able to return to school after a certain number of days or weeks i.e. when the term of the suspension has been served.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: Codes of Conduct
  - Discipline
  - Rights and Responsibilities of Parents
  - Rights and Responsibilities of Students
  - Student Attendance
  - Suspension
  - Weapons

# ***School Administration***

## ***Fire and Lockdown Drills***

### **LEGISLATIVE REFERENCE:**

- Manitoba Regulation 77/2005, Sections 7, 8 and 9 (Safe Schools Regulation)

### **PRINCIPAL'S RESPONSIBILITIES:**

Every principal is responsible for the holding of fire drills and may make such rules as are necessary to ensure the rapid and orderly evacuation of the school. Principals may wish to develop a fire plan for their schools with the assistance of municipal fire authorities, etc.

Fire drills should be held at least 10 times in each school year and, where practicable in the opinion of the principal, at least once in each month. These drills include all students, teachers, staff and any other occupants of the school.

Schools/school boards are responsible for ensuring that all facilities are in compliance with local building codes and fire and health regulations.

At least one lockdown drill must be held during each term or semester in a school year. A school lockdown is defined as "restrict[ing] the movement of pupils and school staff and other persons authorized to be in the school or to be participating in school events due to a threat of violence within or in relation to the school." During a lockdown, all persons must move to safe and secure areas whether they are outside or inside a school and generally must comply with all procedures and directives as given by the principal.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: School Safety and Security
- Lockdown Procedure Information Package (RCMP, 2013)

# ***School Administration***

## ***The Freedom of Information and Protection of Privacy Act (FIPPA)***

### **LEGISLATIVE REFERENCE:**

- *The Freedom of Information and Protection of Privacy Act*

### **GENERAL RESPONSIBILITIES:**

Since April 3, 2000 school divisions/districts have been required to comply with *The Freedom of Information and Protection of Privacy Act*, (“FIPPA”) which governs access to and protection of personal information, and addresses the collection, use, disclosure, security and independent review process relating to personal information. Schools are required to meet certain obligations in regard to the collection, use, retention and destruction of any personal information collected under FIPPA, excluding the collection, use, retention and destruction of personal health information for which *The Personal Health Information Act* governs.

School divisions must also comply with access to information requests made under the Act.

### **FOR FURTHER INFORMATION:**

- School division’s legal counsel
- Information and Privacy Policy Secretariat, 204-945-3445 or 1-800-617-3588
- Access and Privacy Co-ordinator, Manitoba Education and Training, 204-945-5310
- Manitoba Ombudsman
- See also: *The Personal Health Information Act*  
Manitoba Pupil File Guidelines (Revised 2012)  
Guidelines on the Retention and Disposition of School Division/District Records (Revised January 2010)

## ***School Administration***

### **Guidelines for Early Childhood Transition to School for Children with Special Needs**

#### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 259.1
- Manitoba Regulation 155/2005, section 5(2) (Appropriate Educational Programming)

The *Protocol for Early Childhood Transition to School for Children with Additional Support Needs* (December 2015) is an interdepartmental protocol that facilitates the exchange of information with the school system before the child starts school. School division and preschool agency personnel use this protocol as they begin information sharing and collaborative planning for the transition of children with special needs into the school system. Key details of the Protocol are summarized below, but the document should be consulted for finer points and to access the appropriate template forms for designing a transition program.

#### **GENERAL RESPONSIBILITIES:**

Planning for the child's transition should begin at least one year prior to school entry. Planning should be "family-centred," which means that parents, guardians, and child and family services workers or agencies, collectively defined as "family," work together as a team to make decisions about a child's transition into school.

Family-centred practice places the caregivers' and children's' needs at the centre of the decision making process, which ensures that each child and its family's unique, needs, language and culture is respected in planning. A diverse group of service providers will also include stakeholders like school division personnel, public health nurses, day-care coordinators, and other service providers such as professionals from Manitoba Education and Training, Manitoba Family Services and Regional Health Authorities, who may contribute expertise to help families ensure children thrive and make a positive transition in a school setting.

Educational programming not to be unduly delayed: School divisions must ensure that a student is not denied educational programming pending the conduct of any assessment or the preparation of an individual education plan.

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A collaborative core unit known as the “Transition Team” works together to facilitate the transition process. The Transition Team usually consists of a Transition Team Leader, Service Providers, the Receiving School, a School Division Representative/Student Services Administrator and Informal/Natural Community Supports.

Families (defined as parents, guardians or a child and family services worker or agency) are encouraged to be the **Transition Team Leader** given their central role into the process. After being chosen, the **Transition Team Leader** will:

1. one year before a child’s entry into school, collaborate with other family members and identify and collaborate with other stakeholders (e.g. service providers) who may help facilitate the transition process;
2. collaborate with the Transition Team, as required, to complete and implement the *Transition Planning Form* (in Appendix B of the Protocol);
3. serve as a liaison between the family and the receiving program and attend planning meetings;
4. create a *Transition Social Story* (in Appendix A of the Protocol); and
5. implement the plan for transition into Kindergarten by collaborating with stakeholders.

**Service Providers** will:

1. Work and share information with the family to facilitate the child’s transition into school using the Transition Planning Form, as appropriate.
2. Participate in transition and planning meetings and support school transition by doing things like conducting visits with the child to school.
3. Implement the plan for the child’s transition to Kindergarten by collaborating as necessary with other stakeholders.

The **Receiving School** will:

1. Work with the Transition Team Leader and establish a team to attend transition meetings;
2. provide information about the receiving school and/or program to the family;
3. receive and review relevant information and make it available to team members;
4. Along with other stakeholders, participate in planning for the child’s transition to school based on his/her unique needs; and
5. Consider the need for staff development to ensure the child’s needs will be met.
6. After the child’s entry into school, work with stakeholders to ensure the child’s future educational needs will be met

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The **School Division Representative/Student Services Administrator** will:

1. review the Transition Planning form and work with the family and other stakeholders to facilitate the child's transition to school (e.g. meetings, visits)
2. arrange for professional staff development to ensure the child's needs will be met.
3. provide assistance to the school team to plan for the student's transition to school
4. maintain regular contact with the family to share updates and information regarding the child's transition,

**Informal/Natural Supports** are informal service providers like extended family members or community leaders (e.g. religious leaders, coaches) that can be relied on by the family for support. The **Informal/Natural Supports** will:

1. Share knowledge about the child's interests, strengths and needs with the Transition Team Leader.
2. Support and encourage the family in the transition process.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- *Protocol for Early Childhood Transition to School for Children with Additional Support Needs* (<http://www.gov.mb.ca/healthychild/publications/index.html>)
- *Appropriate Educational Programming Standards for Student Services* (2006) [www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- Education and Child and Family Services Protocol for Children and Youth in Care [http://www.gov.mb.ca/healthychild/publications/protocol\\_youthcare.pdf](http://www.gov.mb.ca/healthychild/publications/protocol_youthcare.pdf)
- Program and Student Services Branch, 204-945-7907
- See also: Discrimination  
Reasonable Accommodation

# ***School Administration***

## ***High School Diplomas***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 259(2)
- Manitoba Regulation 167/99 (High School Graduation Requirements)

### **GENERAL RESPONSIBILITIES:**

Credits for the successful completion of a course may be granted by public schools, funded independent schools and by Manitoba Education and Training through the Independent Study Option (ISO). These institutions may also issue provincial high school diplomas. To obtain Grade 12 standing and receive a provincial high school diploma, a student must complete a minimum of 30 credits and meet the graduation requirements in one of the four recognized programs – English, French Immersion, Français and Senior Years Technology Education (English, French Immersion and Français).

All students who meet the credit and program requirements set by Manitoba Education and Training must be issued a provincial high school diploma. A school may also award a local high school diploma to a student who meets the requirements for a provincial high school diploma as well as any additional local program and credit requirements that the school board or funded independent school may set. Local high school diplomas are issued in addition to, not in place of, a provincial high school diploma. Per Ministerial directive, students who have successfully met provincial graduation requirements are entitled to participate in their local high school graduation ceremonies. Schools with additional requirements may not deny students who are eligible to receive a provincial high school diploma, but who have not met the additional requirements for a local diploma, the opportunity to participate in the local graduation ceremony.

A provincial mature student high school graduation diploma is also available to students who complete 8 credits and meet the program and other requirements for mature students set by Manitoba Education and Training.

Six categories of provincial high school diplomas are available:

- High School Diploma (English Program)
- High School Diploma (Senior Years Technology Education Program)
- diplôme d'études secondaires (programme français)

- High School Diploma/diplôme d'études secondaires (French Immersion Program/programme d'immersion française)
- Mature Student High School Diploma
- diplôme d'études secondaires pour étudiant adulte

Public schools and funded independent schools may order provincial high school diplomas from the Manitoba Learning Resource Centre. Diploma orders should be placed with sufficient lead-time prior to school graduation(s).

For students who were registered in Individualized Senior Years Program Designation, a Certificate of Completion is available. See Topic I2 for more information.

**FOR MORE INFORMATION:**

- Instruction, Curriculum and Assessment Branch, Toll Free 1-800-282-8069, ext. 6156 or 204-945-6156,
- Education Administration Services, 204-945-6899
- Adult Learning and Literacy, 204-945-8247, Toll Free 1-800-282-8069 ext. 8247
- Manitoba Learning Resource Centre, 1-866-771-6822 Toll Free (Manitoba and Saskatchewan) or 1-204-483-5040 outside (Manitoba and Saskatchewan)

# ***School Administration***

## *Home Schooling*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 260.1, 262(b)
- Manitoba Regulation 468/88R, sections 13 & 16 (Education Administration Miscellaneous Provisions Regulation)
- Manitoba Regulation 259/2006 – section 2(b) (Funding of School Program Regulation)
- Manitoba Regulation 61/2012 – section 2(2) (Private Schools Grants Regulation)

### **GENERAL RESPONSIBILITIES:**

Schooling children at home is an option parents and/or legal guardians have in Manitoba as an alternative to compulsory attendance at a public or independent school, providing certain policy requirements are met. *The Public Schools Act* requires parents/guardians to notify the Minister of their intention to home school their child(ren). This is done through the Home Schooling Office. Parent(s)/legal guardian(s) must also provide the Home Schooling Office with a comprehensive education plan and submit two annual progress reports. The Home Schooling Office asks that the parent(s)/legal guardian(s) notify the school division in which they reside that their children will be home schooled.

#### Testing

School divisions/districts are required to accommodate resident home school students who wish to write provincial examinations or standards tests. Provincial examinations or standards tests form only a percentage of a student's final mark. Therefore, a student otherwise home schooled in a subject, who writes a provincial examination or standards test, remains ineligible to receive Manitoba Senior Years credits for that course.

School divisions/districts are responsible for setting tests to determine secondary school standing for resident home school students wishing to enter the school system.

#### Funding

School divisions/districts may, in their eligible enrolment, include home school pupils who attend approved courses taught by certified teachers according to the percentage of time attending.

**FOR FURTHER INFORMATION:**

- Home School Office, 1-866-550-4818 or 1-204-328-5408, or 204-945-6853
- Schools' Finance Branch, 204-945-6910
- See also: Student Attendance

# School Administration

## Identifying and Reporting a Child in Need of Protection

### LEGISLATIVE REFERENCE:

- *The Child and Family Services Act*, sections 17, 18

### GENERAL RESPONSIBILITIES:

In Manitoba it is everyone's legal obligation to protect children. This responsibility involves identifying and reporting a child whose life, health or emotional well being is endangered by an act or omission of a person. Subsection 17(2) of *The Child and Family Services Act (CFSA)* lists examples of situations where a child ought to be considered in need of protection. The list provides criteria to assist in identifying such children. The *CFSA* states a child is in need of protection where a child

- (a) *is without adequate care, supervision or control;*
- (b) *is in the care, custody, control or charge of a person*
  - (i) *who is unable or unwilling to provide adequate care, supervision or control of the child, or*
  - (ii) *whose conduct endangers or might endanger the life, health or emotional well-being of the child, or*
  - (iii) *who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;*
- (c) *is abused or is in danger of being abused;*
- (d) *is beyond the control of a person who has the care, custody, control or charge of the child;*
- (e) *is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;*
- (f) *is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;*
- (g) *being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or*

- (h) *is the subject, or is about to become the subject, of an unlawful adoption under The Adoptions Act or of a sale under section 84.*

The *CFSA* requires a person who has information that leads him/her to reasonably believe that a child is or might be in need of protection to report to a child and family services agency (agency) or a parent or guardian depending upon the circumstances. The duty to report applies even where the person has acquired the information through the discharge of professional duties or within a confidential relationship. The *CFSA* excludes information shared between a lawyer and client. The obligation to report is based on a person's reasonable suspicion with respect to a given situation.

Providing that there is deemed to be no potential increase in risk to the child, often notifying a parent will ensure the protection of a child and no further action will be necessary. However, a person must notify an agency if that person has information that leads the person reasonably to believe that the parent/guardian is either responsible for causing the child to be in need of protection or is unable or unwilling to provide adequate protection to the child in the circumstances. The *CFSA* also requires that a person must report a child in need of protection to an **agency in all cases** where the person has information that leads him/her to reasonably believe that a child is or might be suffering **abuse** whether by a parent or a guardian or by a person who has the care, custody, control or charge of the child.

Failure to report a child who is or might be in need of protection is an offence punishable on summary conviction. No action lies against a person who, in good faith, reports a child in need of protection.

Where a person's employment involves the care and supervision of children, and that person may have caused a child to be in need of protection or failed to report a child in need of protection, an agency shall report the name of the person to the Director of Child and Family Services (director). This may occur prior to the completion of an investigation. Under subsection 18.2(1) of the *CFSA*, the director may report the matter to the body or person that governs the professional status of the person or certifies, licenses, or otherwise authorizes or permits the person to carry on his or her work or occupation. A body or person, on receiving a report from the director, is required under subsection 18.2(2) of the *CFSA* to investigate the matter for the purpose of determining whether the professional status of the person ought to be reviewed or disciplinary proceedings commenced against the person.

In the case of teachers and school clinicians, the director would report to the Department of Education and Training as agent for the Minister. An investigation would ensue. Thereafter, the Minister at his/her discretion may refer the case to the Certificate Review Committee for a review of, and recommendation on, the professional status of the person.

Where a person's employment involves the care of, or unsupervised access to, children and that person is charged with an offence under the *Criminal Code* or the *CFSA*, the police are required under subsection 18.4(4) of the *CFSA* to immediately advise the person's employer that the accused person has been charged. No information is shared other than the fact of the charge. The employer is responsible for discussing the matter with the accused person and for taking action to ensure that children are not in need of protection.

In turn, school boards, under subsection 41(1)(t) of *The Public Schools Act*, are required to report to the Minister of Education and Training any teacher or school clinician employed in a school within the jurisdiction of the school board who has been charged or convicted of an offence under the *Criminal Code* relating to the physical or sexual abuse of children. The Minister of Education and Training will investigate the matter to determine whether the Certificate Review Committee should review the person's professional status.

Funded independent schools are also required to report to the Minister of Education and Training any teacher or school clinician in their employ who has been charged or convicted of an offence under the *Criminal Code* relating to the physical or sexual abuse of children. The Minister of Education and Training will investigate the matter to determine whether the Certificate Review Committee should review the person's professional status.

Policies and procedures, at either the school or school board level, cannot interfere with, or limit, the obligation that all persons have to report a child in need.

**FOR FURTHER INFORMATION:**

- Program and Student Services Branch, 204-945-7912
- Your Local Child & Family Services Agency

# ***School Administration***

## **Individualized Senior Years Program Certificate**

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act* (PSA), section 259
- Manitoba Regulation 167/99 (High School Graduation Requirements)

### **GENERAL RESPONSIBILITIES:**

This certificate recognizes the achievement of students with significant cognitive disabilities who did not follow the provincial curriculum and who would not acquire the credits required to graduate with a provincial diploma. Students who receive a certificate of completion for an Individualized Senior Years Program have their educational programming identified through individualized outcomes that are recorded in their Individual Education Plan (IEP) and have received an Individualized (I) programming designation reported on their transcript.

### **GUIDELINES FOR AWARDING A CERTIFICATE OF COMPLETION FOR AN INDIVIDUALIZED SENIOR YEARS PROGRAM**

- The eligibility for the certificate of completion for an Individualized Senior Years Program must be approved by the principal of the senior years program in which the student is enrolled.
- Students who receive the certificate are only those who did not follow the provincial curriculum because of their cognitive disability and who would not acquire the credits required to graduate.
- The student must have been eligible to receive and been identified as having an Individualized Programming designation. Refer to the document, *Towards Inclusion; A Handbook for Individualized Programming Designation, Senior Years (1995)*.
- The parents, and students when appropriate, will have participated in transition planning process as outlined in the interdepartmental protocol *Bridging to Adulthood: A Protocol for Transitioning Students with Exceptional Needs from School to Community*.
- The student must have completed at least 4 years in the senior years program or have reached the maximum eligibility of age 21 during the current calendar year. *The Public Schools Act*, Section 259 states that "a person ... has the right to attend school from the beginning of the fall term of that year until the last school day of June in the year in which the person becomes 21 years of age."

- This certificate is not to be provided to students who do not have a cognitive disability, or to those students who receive credits with a Modified (M) course designation. It is not intended for students who are leaving school without having acquired the necessary credits to receive a Manitoba diploma.
- Blank certificates are available from the Manitoba Learning Resource Centre.

**FOR FURTHER INFORMATION:**

- Individualized Senior Years Program Certificate (Ministerial Letter)  
[http://www.edu.gov.mb.ca/k12/policy/gradreq/indiv\\_sy\\_letter.pdf](http://www.edu.gov.mb.ca/k12/policy/gradreq/indiv_sy_letter.pdf)
- Guidelines  
[http://www.edu.gov.mb.ca/k12/policy/grad\\_require.html](http://www.edu.gov.mb.ca/k12/policy/grad_require.html)
- Program and Student Services Branch , 204-945-7907
- The Manitoba Learning Resource Centre, 1-866-771-6822

## ***School Administration***

### ***Information Sharing Between School Officials and Youth Corrections***

#### **LEGISLATIVE REFERENCE:**

*Youth Criminal Justice Act* (Canada), sections 110 to 129

The *Youth Criminal Justice Act* (“Act”) protects the privacy of young persons by placing strict limits on the publication of the identity of a young offender and on the disclosure of records which serve to reveal a youth’s young offender status. Publishing has been interpreted broadly by the courts to include “any act of communication from one person to another”. The intent of these confidentiality provisions is to provide a balance between the rights of the young person and the protection of the community.

Part 6 of the Act (sections 110 to 129) deal with records and information about young persons who have been dealt with under the Act. Sections 114 to 116 describe the records which may be kept about a young person dealt with under the Act by a youth justice court, review board or any other court, by a police force or by a department or agency of a government in Canada, such as Manitoba Justice. Sections 117 to 124 set out who may have access to these court, police and government records, and under what conditions. Sections 125 to 127 permit disclosure of information in records kept under the Act by the Attorney General of Manitoba, the provincial director, youth workers, peace officers, and other persons engaged in providing services to young persons to certain persons in specified circumstances. In particular, Subsection 125(6) permits disclosure of such information for specific purposes to “a representative of any school board or school or any other educational or training institution”, as well as to any professional or other person engaged in the supervision or care of the young person for certain specified purposes. Subsection 125(7) and section 128 deals with how information provided under the Act is to be protected, shared, stored and destroyed by persons, such as school representatives, who have received the information. Section 129 restricts further disclosure of records and information by persons, such as school representatives, who have been given access to information, or to whom information has been disclosed, under the Act.

In February 2004, Manitoba Education and Manitoba Justice jointly released the *Information Sharing Protocol Under The Youth Criminal Justice Act (Canada) for the Sharing of Youth Criminal Justice Information with Manitoba Schools by Manitoba Justice and Police Officers*. This protocol provides guidelines for the disclosure of information about young persons who have been dealt with under the Act to schools, and outlines how schools must protect and deal with this information.

The protocol recommends that school boards, schools and educational and training institutions formally designate, in writing, the principal of each school or institution as the school representative for the purpose of receiving information about young persons under the Act. It also identifies those persons who are authorized to disclose information in a record about a young person to a school representative, including the Provincial Director, a Manitoba Justice youth worker, the Crown attorney's office; and a peace officer.

The protocol also identifies what records may be disclosed to a designated "school representative" to the extent necessary to accomplish the purposes set out in the Act. Records that may be disclosed include Youth Justice Court records and the records of other courts, police records, and government records, such as the records of Manitoba Justice, containing information obtained for the purpose of an investigation, for use in proceedings, to administer a youth sentence or order, to determine whether to use extrajudicial measures, or as a result of the use of extrajudicial measures.

Disclosure of information from these records should be limited to the amount of information necessary to ensure that the young person complies with an authorization under section 91 of the Act 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. Youth criminal justice information must be kept separate from the cumulative and pupil support components of a pupil's file and from any other record that may be accessible to unauthorized individuals.

**FOR FURTHER INFORMATION:**

- Division legal counsel
- Community Corrections, Manitoba Justice, 204-945-7890
- Education Administration Services, 204-945-6899
- Manitoba Pupil File Guidelines (revised 2012)
- See also: Pupil File

*Information Sharing Protocol Under The Youth Criminal Justice Act (Canada) for The Sharing of Youth Criminal Justice Information with Manitoba Schools by Manitoba Justice and Police Officers*  
([https://www.gov.mb.ca/healthychild/publications/protocol\\_ycja.pdf](https://www.gov.mb.ca/healthychild/publications/protocol_ycja.pdf))

# ***School Administration***

## ***Inspection of Property***

### **LEGISLATIVE REFERENCE:**

- Manitoba Regulation 468/88R, sections 28(2), 37 (Education Administration Miscellaneous Provisions Regulation)

### **PRINCIPAL RESPONSIBILITIES:**

The school principal is responsible for the supervision of buildings and grounds during school hours.

The principal must regularly inspect school premises and report any necessary repairs promptly to the Secretary-Treasurer or other designated agent of the school board and endeavour by all means in his/her power to secure proper care of the premises by the students.

The principal must ensure, where continuous cloth towels are in use on school premises, that dispenser cabinets have safety shields with no more than 22.5 centimetres (nine inches) of towel loop, and that they are mounted at a height appropriate to the age and stature of the students using the washroom facilities.

Coat hooks or other similar objects should also be mounted at a height appropriate to student age and stature.

The principal must ensure that school grounds, including all playground areas and equipment, are maintained in a clean and safe condition.

Additionally, the school board may have certain requirements respecting buildings and grounds and equipment vis-à-vis occupier liability outside of regular school hours.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Manitoba School Boards Association, Insurance & Risk Manager, 204-233-1595
- See also: Fire and Lockdown Drills  
School Safety and Security

# ***School Administration***

## ***Negligence and Liability***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 86-90
- Manitoba Regulation 468/88, section 43 (Education Administration Miscellaneous Provisions Regulation)

### **GENERAL RESPONSIBILITIES:**

Probably one of the areas of civil law that is of greatest interest to school personnel is liability for negligence. It is generally assumed, in law, that teachers and others placed in charge of students have a duty to be responsible for the safety and welfare of those students during school hours and also after school hours during any school sponsored activities on or off school premises. Failure to act reasonably under the circumstances, if this failure causes injury or death to a student, can result in a possible action in negligence.

It is generally recognized that four conditions must exist for a negligence suit to be successful:

1. The person alleged to be negligent must have a legal duty to maintain a standard of conduct that will protect others against hazards.
2. This person must fail to conform to a reasonable standard of conduct in connection with this duty. (The accepted standard is that of a prudent parent of a large family. However at least one recent court decision made a clear departure from that standard, and adopted a higher "professional" standard of care where a teacher needs specialized knowledge, training and/or experience in order to carry out his/her duties, such as gymnastics instruction in a high school setting.)
3. The person or persons to whom this obligation is owed must suffer a genuine loss or injury (which could be property loss or damage, or physical or psychological injury, or death).
4. There must be a definite causal connection between the first person's failure to maintain a proper standard of conduct and the loss or injury suffered by the second person.

Where teachers and other school officials are concerned, there is little difficulty in proving that a duty of care is owed to students. In any school activity, school personnel are generally assumed to be responsible, within reasonable limits, for the welfare of students.

The fact that a mishap takes place does not automatically mean that there has been negligence. Genuine accidents do take place, and while they are unfortunate, no one can be blamed for them. Only if a court decides that a reasonably prudent person in the teacher's situation would have anticipated the mishap and would have acted to prevent it might the teacher be found negligent.

If students are to be placed in situations where the potential for injury exists, appropriate skill training and safety briefing must take place, and safety regulations conscientiously enforced. In addition, school officials are legally obligated to see that any facilities and equipment used are in safe condition. Particular caution should be exercised with regard to physical education equipment, playground equipment, vocational/industrial shops, etc.

It is difficult to define specifically what is meant by "reasonable" supervision; the circumstances of a particular case must be carefully considered. Generally speaking, educators have in the past been expected to provide supervision for students that is appropriate for the student's age, level of maturity and for the task being undertaken; they were expected to act as "careful and prudent parents" would act in the particular situation. Local board policy, particularly as it relates to student supervision for out of classroom activities, may be a helpful reference.

However, in several recent lawsuits resulting from students being injured during physical education classes, Canadian courts have demonstrated a clear departure from "the careful and prudent parent" standard of care when assessing teacher negligence, adopting instead a "professional" standard of care.

What this means is that trial courts have concluded that the standard of care to be exercised in the context of instruction in a physical education class can frequently exceed the "careful parent of a large family test", since many physical education activities require of the teacher specialized knowledge, training and experience. For example, where students are engaging in gymnastics activities, the teacher and school authorities will be required to act as a careful and prudent person having the specialized expertise demanded of a gymnastics instructor.

The Supreme Court of Canada has established four criteria to determine the necessary and appropriate standard of care within the context of physical education:

1. Is the activity suitable to the age, mental and physical condition of participating students?

2. Have the students been progressively taught and coached to perform the activity properly and to avoid the dangers inherent in the activity?
3. Is the equipment adequate and suitably arranged?
4. Is the activity being supervised properly in light of the inherent danger involved?

Because school boards and teachers stand in an "employer-employee" legal relationship, boards are generally considered jointly responsible with teachers for the acts of teachers done with the authority of the school board. In addition, where a teacher acts without the authority of the school board, the school board and teacher will be jointly liable for the teacher's actions if the teacher's actions are so connected with actions authorized by the school board that they may be regarded as a mode of doing an authorized act. This means, for example, that teachers and school boards may be jointly liable where the teacher fails to meet the professional standards of care in looking after the students or where a teacher breaks the law by having a blood alcohol reading greater than the legal limit while driving students to an approved event. However, where a teacher acts outside the authority of the school board so that his or her actions are independent of the school board, the teacher may be solely liable.

School boards in Manitoba carry insurance, as does the Manitoba Teachers' Society (MTS). Principals and teachers should familiarize themselves with any liability coverage available through their employer school board or MTS. Additionally, as applicable, principals and teachers will want to ensure that they have a complete understanding of the liability coverage provided by their personal automobile insurance. As well, principals and teachers should familiarize themselves with provisions in their collective agreements relating to conditions affecting liability coverage.

In some instances, school boards may be liable for injuries sustained outside of school activities, away from school property, where the negligence of school personnel is the originating or main cause of the student's injury. An example could be if a student gets injured at an unsupervised intersection where school patrols normally are situated, a school board might be found liable for those injuries if they occurred during a time when school patrols would usually be on duty.

Schools should also be aware that there is a tort of invasion of privacy emerging in Canadian law, which could be applicable to situations involving, for example, searches of a student's cell phone. Schools that unreasonably violate a student's privacy rights could be held civilly liable under this standard.

**FOR FURTHER INFORMATION:**

- Division's legal counsel
- Insurance and Risk Management, Manitoba School Boards Association,  
1-800-262-8836
- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- See also: Parental Notification  
Supervision  
Students' Legal Rights Under Federal Law

# **School Administration**

## *Non-Credit Specialized Alternative Learning (NCSAL)*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 1.1(b), 41(1)(k), 262(a.1), 262(a.1)(i), 262.1, 262.2, 266
- Manitoba Regulation 139/2011 (Activities and Programs – Learning to Age 18 Regulation)

### **GENERAL RESPONSIBILITIES:**

*The Public Schools Act (PSA)* states that a child is of compulsory school age until she reaches the age of 18 years or older.

School boards are required to establish policies and procedures to identify students who are disengaged from school or who are at risk of becoming disengaged to support them becoming re-engaged in school programming or engaged in activities or programs that will result in the student receiving education and training for a specific job, occupation or other form of employment; or the development of the student's preparation for employment and general employment skills; or development of the student's life skills. School divisions must develop activities and programs that they consider suitable for students to participate in instead of attending school. These activities and programs must be submitted to the Deputy Minister of Education and Training for approval.

### **FOR FURTHER INFORMATION:**

- School Programs Division, 204-945-1400
- Education Administration Services, 204-945-6899

# ***School Administration***

## ***Parental Notification***

### **GENERAL RESPONSIBILITIES:**

Notification of parents is a broadly encompassing subject. In general, parents should be notified of their child's whereabouts in all instances where the child is not at school during the school day. A list of events which could warrant notification include:

- Sending a child home unexpectedly during the school day due to illness or for other reasons
- field trips
- school closures for a variety of unexpected reasons i.e. snow storms, power failures, etc.
- planned school closures i.e. administration day, etc.
- student suspended/expelled from school
- accidents

The list is far from being all-inclusive. Where possible, notification should be in writing and occur sufficiently prior to the event taking place.

The important element for an administrator to remember is that the parent(s) need to be informed. There are many ways to ensure that this occurs. School divisions/districts will normally set policy as to the procedures to be followed in notifying parents in the case of field trips. These procedures are usually developed in conjunction with school personnel, and often with input from local Advisory Councils for School Leadership and/or parent councils. The procedures can vary from division to division; but, essentially, if the field trip is a minor outing by a teacher with his/her class, the parent will simply be informed. If the activity involves larger groups of students, perhaps a sports activity, an activity requiring extensive travel or taking place outside the province, then the parent(s) will usually have to sign a form which will indicate that he/she understands and approves of his/her child's participation in said activity and does not hold the school liable for any accidents, etc. (Note though, that waivers are not full protection against liability.)

Some school officials place a great deal of importance on permission slips or waiver of responsibility forms signed by parents or guardians before students participate in field trips or outdoor education activities. It is always a good practice, for public relations reasons, to inform parents if their children are participating in any kind of field trip.

When trips go beyond regular school hours, written permission should always be obtained from parents; this at least guarantees that parents know that their child may not be home at the regular time. When lengthy trips are involved, detailed outlines of plans and activities should be supplied to parents through meetings, in writing, or both. Parents should be asked to indicate, in writing, any health problems, allergies, recent illnesses, or other special circumstances concerning their child. This information plus telephone numbers of parents and/or relatives (at home and at work) should be in the possession of the supervisors on the trip, in case of an emergency. Conversely, if feasible, parents should know how they can reach their child in case of an emergency at home. It is also useful to have a Health Services Commission Registration Certificate Number.

There is little value in having parents sign waiver of responsibility forms that indicate that school officials will be held blameless if the student who is under 18 years of age is injured or killed. A parent cannot waive a child's legal right to sue for his or her injuries or losses. **NO MATTER WHAT A PARENT HAS SIGNED, THE TEACHER, SCHOOL BOARD, OR BOTH, MAY BE LIABLE FOR THE INJURY OR DEATH OF A STUDENT THAT RESULTS FROM THE NEGLIGENT ACTIONS OF THE TEACHER.**

However, an appropriately worded waiver of responsibility form, signed by a student who is an adult on his own behalf, may protect the teacher or school board or both from responsibility for injury or death, even if caused by negligence.

With respect to planned school closures or early dismissals, parental notification will usually be done by sending a note to the parents with the student prior to the closure. If the school closure is unexpected, local radio and TV stations are contacted so that they can pass the information on the airwaves. In smaller communities some schools will attempt to reach parents by phone. This is also the method used when a parent(s) is notified that his/her child has been injured, suspended, etc.

When the principal is dealing with an individual student, the notification can either be done face to face or by phone to the parent. If notification is not in writing, a note to the pupil file documenting the notice given should be made. Common sense should prevail in these situations.

Therefore, three elements are important when it comes to parental notification. It is important that the parent(s) receive as much information as possible, and that the information is provided at an appropriate time. The other important element is that procedures set forth in the divisional policy manual be circulated in schools as well as to parents so that everyone is fully informed as to local procedures on such matters.

**COMMONLY ASKED QUESTIONS:**

Do parents have a role in facilitating parental notification?

Yes, parents should let the school know when they change home or work phone numbers, when the family moves, when normal routine known to school is temporarily changed, etc.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- Youth Safe Manitoba: School Field Trip Resource Document (2004)
- See also: Negligence and Liability  
Temporary Closing of Schools: Emergency and Incidental

# ***School Administration***

## ***Patriotic Observances***

### **LEGISLATIVE REFERENCES:**

- *The Public Schools Act*, sections 41(1)(b), 85, 229
- *The Education Administration Act*, section 16(1)(b)
- Manitoba Regulation 472/88R (Schools Patriotic Observances Regulation)

### **GENERAL RESPONSIBILITIES:**

#### Opening and closing of school

At the opening of each regularly scheduled school day, pupils shall sing the first verse and the chorus of "O' Canada". At the close of the school day or the close of any opening exercises, pupils shall sing the first verse of "God Save the Queen". The singing in all cases shall be done by the pupils, assisted by any means approved by the principal. Pupils are required to stand erect in an attitude of attentiveness, excepting those pupils who are excused by the school board on medical or other grounds satisfactory to the school board.

#### Remembrance Day exercises

November 5 – 11 in each year is Remembrance Day Awareness Week.

Each school shall hold Remembrance Day exercises on the day prior to November 11. If November 11 falls on a Saturday, Sunday or Monday, the exercises are to be held on the preceding Friday. The exercises may consist of readings, recitations, songs, addresses, and pageants of a patriotic character as approved by the principal, and must include two minutes of silence.

#### Citizenship exercises

Each school shall hold citizenship exercises on a day set aside by proclamation of the Lieutenant Governor or Governor General for special emphasis on citizenship. The exercises may consist of readings, recitations, songs, addresses, and pageants of a patriotic character as approved by the principal.

Flag

Each school shall erect and maintain upon the school building or on the school grounds a flagstaff. The Canadian Flag is to be flown on each day that the school is open, weather conditions permitting. If weather conditions do not permit the flag to be flown outdoors, it is to be prominently displayed in the school.

No grant shall be paid to any school division or school district that fails to comply with the requirements of this Act and the regulations with respect to the providing and setting up of a flagpole.

Rules and guidelines for displaying the Canadian Flag can be found at the Canadian Heritage website, under “Flag Etiquette in Canada”, at:

<http://canada.pch.gc.ca/eng/1444133232522>

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Canadian Heritage (Regional Office), 204-983-3601 or 1-866-811-0055, PCH.rpn-pnr.PCH@canada.ca

# ***School Administration***

## ***The Personal Health Information Act (PHIA)***

### **LEGISLATIVE REFERENCE:**

- *The Personal Health Information Act*

### **GENERAL RESPONSIBILITIES:**

School divisions/districts are required to comply with *The Personal Health Information Act* (PHIA) which focuses on access to and protection of one's personal health information and addresses the collection, use, disclosure, security and independent review process relating to personal health information. Schools are required to meet certain obligations in regard to the collection, retention and disposition of any personal health information collected as per *The Personal Health Information Act*.

### **FOR FURTHER INFORMATION:**

- School Division's legal counsel
- Access and Privacy Co-ordinator, Manitoba Education and Training, 204-945-5310
- Manitoba Ombudsman
- See also: *The Freedom of Information and Protection of Privacy Act*  
Manitoba Pupil File Guidelines (Revised 2012)  
Guidelines on the Retention and Disposition of School Division/District Records (Revised January 2010)

# ***School Administration***

## *Program Not Offered Locally*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 41(5)
- Manitoba Regulation 259/2006, section 11(1) (Funding of Schools Program Regulation)
- Manitoba Regulation 468/88 R, section 42 (Education Administration Miscellaneous Provisions Regulation)

### **GENERAL RESPONSIBILITIES:**

School boards are required to make provision for resident pupils (having the right to attend) to go to school in another school division/district for the purpose of attending a recognized school program (English, Français, French Immersion, Senior Years Technology) not offered by the school division/district that the student is a resident of. The school board has the authority to designate the out-of-division/district school to be attended and is responsible for paying the residual costs. Where transportation eligibility exists for the student, the school board is required to provide transportation or financial support in lieu of transportation.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: Rights and Responsibilities of Parents  
Rights and Responsibilities of Students  
Schools of Choice  
Transportation Eligibility

# **School Administration**

## *Pupil File*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 42.1 – 42.6, 58.6, 58.9(2)
- Manitoba Regulation 468/88 R – Sections 10, 29(3) and (4) (Education Administration Miscellaneous Provisions)
- *The Freedom of Information and Protection of Privacy Act*
- *The Personal Health Information Act*
- *Youth Criminal Justice Act* (Canada)

### **GENERAL RESPONSIBILITIES:**

Under *The Public Schools Act*, school boards are responsible for establishing procedures for the collection, storage, retrieval, and use of information respecting students. The pupil file is an ongoing official record of a student's educational progress through the Kindergarten – Grade 12 school system in Manitoba and includes the entire collection or repository of information/documentation compiled or obtained by the staff of a school or school division/district relating to the education of the student.

Information about a student may be in written, photographic, electronic or any other form, and can be held in a school, school board office or other office under the jurisdiction of the school board. Practically speaking, a pupil file can potentially consist of one or more of three components comprising

- 1) cumulative student information,
- 2) pupil support information and
- 3) youth criminal justice information.

Access to pupil files and protection of student information is governed by *The Public Schools Act*, Manitoba Regulation 468/88 under *The Education Administration Act*, *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act*, and the *Youth Criminal Justice Act*. For a comprehensive understanding of these acts, you should review the actual legislation and its regulations.

You should also review the *Information Sharing Protocol Under the Youth Criminal Justice Act (Canada) for the Sharing of Youth Criminal Justice Information with Manitoba Schools by Manitoba Justice and Police Officers*. The protocol recommends that school boards, schools and educational and training institutions formally designate, in writing, a representative for the purpose of receiving information about young persons under *the Youth Criminal Justice Act*. This individual is frequently the principal.

The school principal must forward the pupil file, including the cumulative components and all files which comprise the support file component, when the student transfers out of the school and enrolls in another school (subsection 29(3) of M.R. 468/88, *Education Administration Miscellaneous Provisions Regulation*). The contents of the pupil file being transferred should be reviewed to ensure that only personal information and personal health information necessary for the schooling and provision of educational services to the student is forwarded to the new school.

Consistent with Board policy, duplicate information and information that is not necessary for the schooling and provision of education services to the student may be culled and destroyed. The youth criminal justice component of the pupil file may be transferred from one school to another within a school division, but must never be transferred to a school within a different school division. In that case, the youth criminal justice component of a pupil file must be destroyed.

Transfer procedures should ensure that the file contents, as they are of a sensitive and personal nature, are adequately protected from unauthorized access, disclosure, loss or destruction while being transferred.

The pupil support file component should be transferred directly from professional to professional wherever possible to further ensure the security and confidentiality of the file contents. If it is not possible to transfer the pupil support file component from professional to professional, then the files that make up this component should still be transferred to the new school. Such files should be clearly identified as containing sensitive personal health information. It is up to the receiving school or school division to ensure that only appropriate personnel have access to these files. Unclaimed pupil files may be reported to Program and Student Services, Manitoba Education.

Detailed information regarding contents, access and privacy, security provisions and transfer of the pupil file may be found in The Manitoba Pupil File Guidelines, available online at [www.edu.gov.mb.ca/k12/docs/policy/mbpupil/](http://www.edu.gov.mb.ca/k12/docs/policy/mbpupil/).

Records management policies and procedures may be located in the Guidelines on the Retention and Disposition of School Division and District Records, available online at [www.edu.gov.mb.ca/k12/docs/policy/retention/](http://www.edu.gov.mb.ca/k12/docs/policy/retention/).

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Program and Student Services, 204-945-7907
- See also: Archiving Pupil Files
  - Information Sharing Between School Officials and Youth Corrections
  - Records Retention & Disposition
  - Rights and Responsibilities of Parents
  - Rights and Responsibilities of Students

# ***School Administration***

## **Reasonable Accommodation**

### **LEGISLATIVE REFERENCE:**

- *The Manitoba Human Rights Code*

### **GENERAL RESPONSIBILITIES:**

*The Human Rights Code* of Manitoba places a responsibility on schools and school divisions, in their capacity as service providers, facility owners/operators and employers, to provide **reasonable accommodation** for the special needs of employees, volunteers, students, parents and visitors that relate to protected characteristics. The protected characteristics that most commonly require accommodation are sex (pregnancy), family status, disability, gender identity and religion. For a complete list of protected characteristics, please see “Discrimination” (Topic D2). Providing accommodation involves removing barriers to full participation in the activity in question. It often requires a simple and inexpensive change to how something is typically done. An example is an employer allowing an employee to take a day’s leave to observe a religious holiday. In a school setting it may involve excusing the non-attendance of a student for a similar purpose.

The focus is on the ‘needs’ of the affected individual, not mere wishes or wants. The person seeking the accommodation may be required to substantiate the ‘need’: e.g. in some contexts supporting medical evidence may be required.

To be “reasonable”, the accommodation provider must follow an adequate process to assess the individual’s needs and the options for addressing them and then meet the needs as fully as possible to the point of “undue hardship”. Anyone who believes that an educational institution, employer, landlord, service provider or other responsible party hasn’t taken reasonable steps to accommodate a special need could complain to the Manitoba Human Rights Commission. In deciding whether reasonable accommodation has been made, the Commission will look at both the process used to accommodate a special need as well as any resulting accommodation. (For that reason, it is important to document the steps taken to explore the accommodation issue).

Although the ultimate onus is on the service provider to reasonably accommodate, the accommodation seeker must also participate in the accommodation process in a reasonable fashion. Generally, the accommodation seeker must make the service

provider aware of the need; and then must participate reasonably in the search for solutions.

### What is Undue Hardship?

Only reasonable accommodations are required. *The Human Rights Code* will not require an accommodation that gives rise to an “undue hardship” for a school or school division.

Factors that may give rise to “undue hardship” include excessive financial costs (in the context), unreasonable risks to health or safety of other employees and service or facility users, and unreasonable interference with the rights of others.

#### FOR FURTHER INFORMATION:

- [www.manitobahumanrights.ca/reasonableaccommodation.html](http://www.manitobahumanrights.ca/reasonableaccommodation.html)
- [www.manitobahumanrights.ca/publications/guidelines/reasonable\\_accommodation.html](http://www.manitobahumanrights.ca/publications/guidelines/reasonable_accommodation.html)
- *Standards for Student Services* (introduction, access, student discipline)  
[www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- See also: Discrimination

# **School Administration**

## *Records Retention and Disposition*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, Sections 42.1 – 42.6, 58.6, 58.9(2)
- Manitoba Regulation 468/88 – Sections 10, 29 (3) (*Education Administration Miscellaneous Provisions Regulation*)
- *The Freedom of Information and Protection of Privacy Act*
- *The Personal Health Information Act*
- *Youth Criminal Justice Act* (Canada)

### **GENERAL RESPONSIBILITIES:**

Manitoba school divisions/districts have important obligations in records management and information access and privacy. *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* makes it imperative that school division/districts have formal records management policies and procedures for all categories of records which they maintain.

The [Guidelines on the Retention and Disposition of School Division/District Records](http://www.edu.gov.mb.ca/k12/docs/policy/retention/), which are available online at [www.edu.gov.mb.ca/k12/docs/policy/retention/](http://www.edu.gov.mb.ca/k12/docs/policy/retention/), should be consulted for further information on records management policies and procedures. The Guidelines provide a broad overview of the responsibilities school divisions/districts have with respect to records management, access and privacy. Detailed information regarding contents, access and privacy, security provisions and transfer of the pupil file may be found in [The Manitoba Pupil File Guidelines \(http://www.edu.gov.mb.ca/k12/docs/policy/mbpupil/\)](http://www.edu.gov.mb.ca/k12/docs/policy/mbpupil/).

Those acts with direct records management, access and privacy obligations and responsibilities applicable to school divisions/districts are: *The Public Schools Act*, Manitoba Regulation 468/88 under *The Education Administration Act*, *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act*, and the *Youth Criminal Justice Act*. For a comprehensive understanding of these acts, you should review the actual legislation and its regulations.

**FOR FURTHER INFORMATION:**

- Division's legal counsel
- Education Administration Services, 204-945-6899
- Program and Student Services, 204-945-7922
- See also: Archiving Pupil Files
  - Information Sharing Between School Officials and Youth Corrections Pupil File
  - Rights and Responsibilities of Parents
  - Rights and Responsibilities of Students

## ***School Administration***

### **Registration of Students - Out of Province and Foreign Country Students**

#### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 1, 1.1, 41(1) (a), 58.9(1), 259 (1)

#### **GENERAL RESPONSIBILITIES:**

Under *The Public Schools Act* (“the Act”), Resident Pupils have the right to register at public schools through provincial funding. Out of province students or students from a foreign country may not have the same right unless they meet certain criteria.

#### Out of Province Pupils

Out of Province Pupils residing in Manitoba for a temporary period of time are permitted to register at public schools free of charge if they meet the definition of Resident Pupil under the Act. Namely, they must either live with their parents or legal guardian(s) in the division in which they wish to attend school; they must be 18 years of age or older; they become a resident in a division because of how they are being dealt with under *The Child and Family Services Act* or the *Youth Criminal Justice Act*; or, finally, the Minister may designate them a resident pupil. If they do not meet any of these criteria, they will not qualify for provincial funding to attend school in Manitoba and may be charged tuition fees by the school they wish to attend. Tuition fees are set by the school division.

#### Foreign Country Pupils

Under the *Funding and Temporary Residents Policy*, only some temporary foreign resident pupils may qualify for provincial funding to attend school. All others may be charged tuition fees by the division in which they wish to attend school. Schools should verify a pupil’s immigration status by reviewing the immigration documents of both him and his parents, if applicable.

The following minor pupils qualify for provincial funding as long as their parents or legal guardian(s) reside with them:

- Those whose parents are in Canada on a Work or Study Permit;

- Those whose parents are in Canada possessing a Temporary Resident Permit with an accompanying Work or Study permit;
- Those whose parents are in Canada under authority of the *Visiting Forces Act* (Canada); and
- Those whose parents are in Canada and undergoing the Refugee Determination process under the *Immigration and Refugee Protection Act* (Canada).

The following minor pupils qualify for provincial funding even if they are not residing with their parents or a legal guardian in the school division in which they wish to attend:

- Child refugee claimants under the *Immigration and Refugee Protection Act*, even if they are unaccompanied by parents.

Age of majority dependents whose parents are:

- in Canada on a Work or Study Permit;
- are in Canada possessing a Temporary Resident Permit with an accompanying Work or Study permit; or,
- are in Canada under authority of the *Visiting Forces Act*

and who have been attending school in Manitoba and have been eligible for provincial funding before becoming 18 years of age, qualify for provincial funding.

The following pupils do not qualify for provincial funding to attend school and may be charged tuition fees by schools:

- Children of parents in Canada as visitors or have Temporary Resident Permits as visitors;
- Children unaccompanied by parents and without a legal guardian (except for child refugee claimants);
- Pupils aged 18 years of age or older if they are attending a Manitoba school for the first time, or had previously attended school in Manitoba but were not eligible for provincial funding; and
- Pupils attending school in Manitoba under a foreign exchange arrangement.

An application for permanent resident status does not confer residency status and does not have any bearing on determining whether a pupil qualifies for funding. Schools must determine a pupil's and/or his parents' immigration status category, i.e. student, worker, visitor or Temporary Resident Permit and refugee, by examining their immigration documents (passport, visa and/or other immigration documents).

Finally, in order to be eligible for funding, all applications must be made and approved before September 30 of each school year.

**FOR FURTHER INFORMATION:**

- Funding for Temporary Residents Policy:  
<http://www.edu.gov.mb.ca/k12/finance/temprespolicy.html>
- Immigration, Refugees and Citizenship Canada  
(<http://www.cic.gc.ca/english/department/>)
- Schools' Finance Branch, 204-945-6910
- Education Administration Services, 204-945-6899
- See also: Right to Attend School  
Custody / Legal Guardianship / Access

## ***School Administration***

### Registration of Students in Care of Child Welfare Agencies

#### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 1, 1.1
- Manitoba Regulation 155/2005, section 7(1) (Appropriate Educational Programming)

Education and Child and Family Services Protocol for Children and Youth in Care (*May 2013*) is an interdepartmental protocol that facilitates the exchange of information for children in care with the school system before the child starts school. School division and local child and family service personnel use these guidelines to assist them as they begin the information sharing and collaborative planning for children in care. The previous interdepartmental protocol was updated to further improve child information sharing, promote effective communication and strengthen joint planning among educators, school-based teams, Child and Family Services workers, family members and students.

#### **GENERAL RESPONSIBILITIES:**

*The Public Schools Act* states that every parent or legal guardian must ensure that a child of compulsory school age attends school.

Resident students: include students who, by reason of being dealt with under any provision of *The Child and Family Services Act*, become residents of the school division.

Educational programming not to be unduly delayed: School divisions must ensure that a student is not denied educational programming: a) for more than 14 days after seeking to be enrolled, regardless of whether that school has received the student's file or b) pending the conduct of any assessment or the preparation of an individual education plan.

The **Placing Agency** is responsible for:

- Registration of students
- Informing school principal or relevant school staff as to the significant changes in the child/youth's circumstances, including a change in child and family services worker
- Reviewing the child/youth's strengths and needs with school staff
- Sharing relevant information and strategies from the child's Care Plan developed to address those needs
- Attending collaborative planning meetings, including school-based team and IEP meetings
- Discussing with Principal and relevant school staff the individualized support and education planning needed for ongoing student progress and improved outcomes
- Providing Principal with a list of current services received by the child/youth in care
- Signing necessary release forms for schools to share information needed to enhance planning for the child or youth
- Consulting with school staff to determine needs and provide the child or youth with the necessary materials, clothes and supplies to participate fully in the school program
- Encouraging youth to participate in all planning and decision-making processes to the level they are capable
- Contacting the sending and receiving schools and helping facilitate a smooth transition when a school move is necessary

The **School** is responsible for:

- Facilitating programming within 14 days of pupil seeking enrollment
- Developing and implementing programming with the child and family services worker/agency/region, caregiver(s) and/or parent(s) as appropriate, in order to support the child or youth in:
  - fostering a personal sense of belonging, security and acceptance (e.g. connection to Aboriginal support staff and programs, or other cultural opportunities)
  - meeting the expectations of the educational program, and
  - achieving his or her learning outcomes
- Introducing the child or youth to the culture of the school, recognizing the impact on him or her of having to adjust to new circumstances and respecting their cultural and linguistic heritage
- Arranging for timely transfer of school records, files and information; conducting a file review and establishing an ongoing communication plan with the parent(s), caregiver(s) and child and family services worker, as appropriate

The **Placing Agency** and the **School** are *jointly* responsible for:

- Collaborating to provide the supports and/or resources necessary for smooth transitions
- Developing and implementing a plan to support the child/youth's needs in the home, school and community, and monitoring and revising the plan as needed
- Integrating the child/youth's views in planning and decision-making, according to his or her abilities
- Consulting each other regarding the use of positive approaches, policies or strategies, such as positive behaviour support, in response to such concerns as:
  - school attendance
  - behaviour
  - compliance with the school code of conduct
- Ensuring that all parties receive copies of report cards, secondary school transcripts, and other relevant documents that may be useful in planning and monitoring the child/youth's progress and planning for his or her future success
- Discussing strategies for building relationships and focusing on the child/youth's development of skills, knowledge and a positive attitude with a strong belief in self and others
- Reviewing the child/youth's plan and progress on a regular basis (such as during established school reporting periods) to monitor the child/youth's progress and amend the plan as needed
- Documenting all ongoing communications

If the placing agency and school personnel agree that the student's needs can be met in the local school, registration should occur immediately.

A student should be registered in their local school unless it is determined that the school division can provide more appropriate programming to meet the student's unique individual needs in another school.

If the child requires supports or placement beyond the local school, the principal should request assistance from the Student Services Administrator.

- If a student in the care of a child welfare agency also has special needs which require additional programming supports or services, a student-specific planning process will be initiated. Responsibilities can be referenced in the document "Education and Child and Family Services Protocol for Children and Youth in Care".

**FOR FURTHER INFORMATION:**

- Your local School Division/District Office
- *Appropriate Educational Programming Standards for Student Services* (2006)  
[http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards\\_for\\_Student\\_Services.pdf](http://www.edu.gov.mb.ca/k12/specedu/aep/pdf/Standards_for_Student_Services.pdf)
- Education and Child and Family Services Protocol for Children and Youth in Care  
[http://www.gov.mb.ca/healthychild/publications/protocol\\_youthcare.pdf](http://www.gov.mb.ca/healthychild/publications/protocol_youthcare.pdf)
- *Bridging to Adulthood: A Protocol for Transitioning Students with Exceptional Needs from School to Community*  
[http://www.gov.mb.ca/healthychild/publications/protocol\\_swsn.pdf](http://www.gov.mb.ca/healthychild/publications/protocol_swsn.pdf)
- Program and Student Services Branch, 204-945-7907
- See also: Custody / Legal Guardianship / Access

# ***School Administration***

## ***Religious Exercises***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 84(1), (8)
- Manitoba Regulation 554/88, sections 1, 3, 4(2), 4(3)

In 1992, the Court of Queen's Bench of Manitoba ruled that mandatory religious exercises in public schools infringe sections 2 and 15 of the *Canadian Charter of Rights and Freedoms* and ordered an end to the practice.

Most of the relevant provisions of *The Public Schools Act* (section 84) were struck down. The surviving provisions of *The Public Schools Act* state that public schools shall be non-sectarian. Religious exercises may only be conducted where a petition asking for such exercises (signed by the parents/guardians of 75% of the students in the case of a school having fewer than 80 students or by the parents/guardians of at least 60 students in schools having an enrolment of 80 or more students) is presented to the school board.

It is important to note that there is a distinction between religious exercises and religious instruction.

### **GENERAL RESPONSIBILITIES:**

It is the expectation of Manitoba Education and Training that school divisions/districts will follow these guidelines:

1. Religious exercises are to be conducted in a particular school only after the requirements of subsection 84(8) of *The Public Schools Act* have been met, a petition has been directed to the local school board, and the school board instructs that school to make the necessary arrangements.
2. School boards may, for the purpose of communicating information, advise parents/guardians prior to the start of the school year of the provisions of subsection 84(8) of *The Public Schools Act*. The guidelines may be shared with parents/guardians to facilitate their understanding of the law, and to explain the process necessary for implementation of religious exercises.

School boards should not, however, take any action that would be seen as initiating or prompting implementation of religious exercises. The process must be grass roots driven, with parents/guardians taking the initiative to have religious exercises implemented. Schools should play no role in the petition process, and act on a petition only when so advised by the school board.

3. Once religious exercises are instituted by petition in a school, only those children whose parents/guardians have signed the petition may participate. It is reasonable for schools to advise parents, through school newsletters or other means, that religious exercises are in place in the school and that those parents wishing to have their children participate can do so by notifying the principal. (This might mean having the parents come to the school to sign the petition, or indicate consent by sending a signed letter to the principal as an attachment to the petition). It must not be assumed that those parents/guardians who did not sign the petition want their children to participate in religious exercises and can remove their children if they do not want them to participate. It must be an **opt-in** process.

Similarly, though it may be administratively convenient, schools should not send out “Yes/No” ballots to parents/guardians to record whether or not they wish their children to participate in religious exercises.

4. Petitions respecting religious exercises must be received by the school board each school year, and be on a school by school basis.
5. The content of any religious exercise must be defined by those petitioning for it. It is important that those persons being approached to sign the petition know exactly what they are being asked to sign, and that the school board clearly understands what is being requested.

Assuming the numerical requirements of subsection 84(8) are met, it is conceivable that parents of a variety of faith groups could petition for their own religious exercises. In other words, provided the requirements of subsection 84(8) are met, parents could petition for Buddhist religious exercises, Jewish religious exercises, Christian religious exercises, or other. Parents or guardians signatory to a petition would be entitled to have their children access such religious exercises, and the school board and school will be required to make the necessary arrangements to implement the exercises. However, the parents/guardians making the petition will be responsible for providing whatever prayer book, literature, etc., are essential to the conducting of the religious exercises.

6. Teachers and other staff are not compelled to conduct or supervise religious exercises. Participation by staff must be voluntary. If teachers and other staff are unwilling to conduct or supervise such exercises, alternate arrangements

must be made. This may involve requesting members of the parents' group petitioning for the exercises to conduct the activity themselves. The principal will be responsible for determining the appropriate supervisory arrangements.

School boards shall not, as part of the hiring or promotion process, inquire of applicants/candidates as to their willingness to participate in, conduct, or supervise religious exercises.

7. Where petitioned, religious exercises are to be held each teaching day, and shall be no longer than ten minutes in duration. The exercises are not to be held during regular instructional time. Instructional time is to be preserved and religious exercises held either prior to the start of the school day or during noon recess.
8. By holding religious exercises before the beginning of regular classes in the morning, or during the noon hour, the separation of participating and non-participating students can be minimized. It is recommended that those participating in religious exercises congregate in a common area (gymnasium, multi-purpose room, empty classroom, etc.) proceed with the exercises, and then rejoin their classmates prior to the class which they are scheduled to attend.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- See also: Religious Instruction

# **School Administration**

## *Religious Instruction*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 80 – 83

Instruction in religion may be conducted in any school in Manitoba if authorized by a by-law passed by the school board. It is important to note that there is a distinction between religious instruction and religious exercises.

### **GENERAL RESPONSIBILITIES:**

School boards are required to pass a by-law authorizing religious instruction if a petition is presented to the school board. The parents or guardians of at least 10 children attending a school having one or two classrooms must sign the petition. For a school having three or more classrooms the parents or guardians of at least 25 children attending the school must sign the petition.

Authorized religious instruction, may take place during school hours and on such days as approved by the school board by-law, but shall not exceed 2 ½ hours per week. The instruction shall be conducted by a clergyman, priest, rabbi or other spiritual leader or by a representative of parents recognized by the school board as constituting a religious group or by any person including a teacher, duly authorized by such clergyman, priest, rabbi or other spiritual leader.

Where the parent or guardian of a pupil who is under the age of majority does not want the child to participate in the religious instruction or where an age of majority student does not want to participate in the religious instruction, they must be excused from participating therein.

### **FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- See also: Religious Exercises

# **School Administration**

## *Reporting of Unacceptable Conduct*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 47.1.1(1) to 47.1.1(7), 47.1.2(1)
- Manitoba Regulation 37/2012 (Reporting Bullying)

### **GENERAL RESPONSIBILITIES:**

An employee of a school board, school division or school district, or any person having care and charge of one or more students during a prescribed school-approved activity, is required, if they become aware that a student may have engaged in unacceptable conduct, or if they become aware of a pupil who has either engaged in cyberbullying, or been negatively affected by cyberbullying, to report the matter to the principal of the school as soon as is reasonably possible.

(A school-approved activity would be any activity where a pupil is required to provide parental consent in order to attend or participate in that activity.)

If the principal believes that a student has been harmed as a result of the unacceptable conduct, the principal must, as soon as reasonably possible, notify the student's parent or guardian. When notifying the parent or guardian, the principal must advise them of the nature of the unacceptable conduct that resulted in harm to the student, the nature of the harm to the student, and the steps taken to protect the student's safety, including the nature of any disciplinary measures taken in response to the unacceptable conduct. The principal must not disclose the name of or any other identifying or personal information about the student who engaged in the unacceptable conduct, except for what is necessary to comply with reporting requirements.

Unacceptable conduct includes abusing another student physically, sexually or psychologically, verbally, in writing or otherwise; or repeated or deliberate bullying of another student that is of a serious nature, including cyber-bullying.

To support the efforts of schools to properly report incidences of inappropriate student conduct, the Manitoba government passed additional amendments requiring all school board employees (teachers, educational assistants, and bus drivers, among others) or persons in charge of students (volunteers) who become aware that a student may have

engaged in unacceptable conduct at school or at school-approved activities to report the matter to the principal as soon as reasonably possible. Where the principal believes that a student of the school has been harmed as a result of the unacceptable conduct, the principal must, as soon as reasonably possible, notify the student's parent.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: Codes of Conduct

# **School Administration**

## *Right to Attend School*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 1, 1.1, 41(1) (a), 58.9(1), 259 (1)

### **GENERAL RESPONSIBILITIES:**

School boards must provide or make provision for education in Grades 1 to 12 inclusive and provide adequate school accommodation for all resident persons who have the right to attend school.

#### Resident Pupil

Under *The Public Schools Act* (PSA) a resident pupil is defined as a pupil:

- (a) whose parent or legal guardian, with whom he resides, is a resident therein, or
- (b) who has attained the age of 18 years and is a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada) resident therein, or
- (c) who, by reason of being dealt with under any provision of *The Child and Family Services Act* or the *Youth Criminal Justice Act* (Canada), becomes a resident therein, or
- (d) who is designated in writing by the minister as a resident therein.

#### Right to Attend

A person who is six years of age or older on December 31 in a calendar year has the right to attend school from the beginning of the fall term of that calendar year until the last day of June in the calendar year in which the person becomes 21 years of age; or the day the person receives a graduation diploma, whichever comes first.

By way of example, a person who turns 21 years of age in February and has not yet received a graduation diploma has the right to access a public school education until June that year. A person who turns 21 years of age in August and has not yet received a graduation diploma would, as of July 1 of that year, no longer have a right to attend school.

School boards may choose to admit students who do not have the right to attend and may charge such students tuition. In certain limited circumstances, provincial funding may be provided.

#### Program Not Offered Locally

School boards are also required to make provision for resident pupils (having the right to attend) to go to school in another school division/district for the purpose of attending a recognized school program (English, Français, French Immersion, Senior Years Technology) not offered by the school division/district that the student is a resident of. The school board has the authority to designate the out-of-division/district school to be attended and is responsible for paying the residual costs. Where transportation eligibility exists for the student, the school board is required to provide transportation or support in lieu of transportation.

#### Right to Enrol under Schools of Choice

Within the provisions of the Schools of Choice initiative, students have the right to seek admission to any public school in the province. School boards are required to consider applications from non-resident persons who have the right to attend school. Generally, there is no cost to pupils/parents for exercising choice if application deadlines have been met.

#### Funding and Costs-Further Information

The Funding of Schools booklet, issued annually by the Schools' Finance Branch of Manitoba Education, should be consulted for information specific to funding and tuition policies.

It can be found on-line at <http://www.edu.gov.mb.ca/k12/finance/schfund/index.html>

#### **FOR FURTHER INFORMATION:**

- Schools' Finance Branch, 204-945-6910
- Education Administration Services, 204-945-6899
- See also: Rights and Responsibilities of Parents  
Rights and Responsibilities of Students  
Schools of Choice  
Transportation Eligibility  
Program Not Offered Locally  
Vacations and Holidays

## The Public Schools Act – Sections relevant to Enrolment in and Right to Attend School

"legal guardian" means a person appointed or recognized as the guardian of a child under *The Child and Family Services Act* or *The Court of Queen's Bench Surrogate Practice Act*;

"resident", as used to refer to or describe a person living in a particular school division or school district, means a person who has his chief place of abode or dwelling in that school division or school district;

"resident pupil" as used to refer to or describe a pupil in a particular school division or school district, means a pupil

- (a) whose parent or legal guardian, with whom he resides, is a resident therein, or
- (b) who has attained the age of 18 years and is a Canadian citizen or permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada) resident therein, or
- (c) who, by reason of being dealt with under any provision of *The Child and Family Services Act* or the *Youth Criminal Justice Act* (Canada), becomes a resident therein, or
- (d) who is designated in writing by the minister as a resident therein;

### **Interpretation: "compulsory school age"**

[1.1](#) For the purpose of this Act, an individual is a child of compulsory school age if he or she

- (a) is, at the beginning of the fall term in a year,
  - (i) seven years of age or older, or
  - (ii) six years of age, but will turn seven on or before December 31 of that year; and
- (b) is younger than 18 years of age.

### **Pupil enrolment**

[58.3](#) A resident pupil may be enrolled in

- (a) a program offered at any school within the school division or school district; or
- (b) subject to section 58.4, a program offered at a school in another school division or school district; in accordance with the procedures established in the regulations.

**Enrolment by school**

[58.4\(1\)](#) A school shall enrol a non-resident pupil in the program for which he or she applies unless, in the opinion of the principal or other person designated by the school board,

- (a) there is insufficient space in the program the pupil wishes to attend having regard to the priorities established in subsection (2);
- (b) enrolling the pupil in the program would require significant expenditure to extend or otherwise alter a program or the school building or school property;
- (c) enrolling the pupil in the program likely would be seriously detrimental to the continuity of the pupil's education;
- (d) the program is not suited to the age, ability or aptitude of the pupil;
- (e) enrolling the pupil in the program likely would be seriously detrimental to order and discipline in the school or the educational well-being of pupils there;
- (f) enrolling the pupil in the program is inadvisable for any other reason or for any circumstance that may be specified in the regulations.

**Priorities**

[58.4\(2\)](#) Where the number of pupils who apply to enrol in a program in a school exceeds the number of places available in the program, the school shall enrol pupils in the following order of priority:

- (a) first, pupils who reside in the school's catchment area;
- (b) second, pupils who reside in the school division;
- (c) third, other pupils.

**Responsibilities of parents**

[58.7](#) A parent of a child of compulsory school age or who is attending school shall

- (a) cooperate fully with the child's teachers and other employees of the school division or school district to ensure the child complies with
  - (i) school and school division or school district student discipline and behaviour management policies, and
  - (ii) the school's code of conduct; and
- (b) take all reasonable measures to ensure the child attends school regularly.

**Right to enrol in programs**

[58.9\(1\)](#) Subject to the provisions of this Act, a person who has the right to attend school under section 259 may enrol or be enrolled in a program offered by any school in Manitoba.

**Right to attend school**

[259\(1\)](#) In accordance with this Act, a person who is six years of age or older on December 31 in a year has the right to attend school from the beginning of the fall term of that year until

- (a) the last school day of June in the year in which the person becomes 21 years of age; or
  - (b) the day the person receives a graduation diploma or certificate of completion, as defined in the regulations;
- whichever comes first.

# ***School Administration***

## ***Rights and Responsibilities of Parents***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 58.6 - 58.8
- *The Parental Responsibility Act* (possible application as described below)

### **GENERAL RESPONSIBILITIES:**

A person who is a resident in Manitoba is entitled to enrol his or her child in a program in any public school in Manitoba (subject to Schools of Choice and program not offered locally provisions) and to:

- a) Be informed regularly of the attendance, behaviour and academic achievement of his or her child in school;
- b) Consult with his or her child's teacher or other employee of the school division or school district about the child's program and academic achievement;
- c) Have access to his or her child's student file, subject to conditions;
- d) Receive information about programs available to his or her child;
- e) Be informed of the discipline and behaviour management policies of the school or school division or school district; and to be consulted before the policies are established or revised;
- f) Be a member of an advisory council, local school committee or school committee at his or her child's school; and
- g) Accompany his or her child and assist him or her to make representations to the school board before a decision is made to expel the child.

A parent of a child of compulsory school age or who is attending school shall:

- a) Cooperate fully with the child's teachers and other employees of the school division or school district to ensure the child complies with school and school division or school district student discipline and behaviour management policies;
- b) Take all reasonable measures to ensure the child attends school regularly;
- c) Assume responsibility jointly and severally with their child where school division/district property is damaged by the intentional or negligent act of that child; in accordance with Section 58.8 of *The Public Schools Act*, and

- d) Have the right to form an ACSL (or at least have an establishment meeting) where a petition has been signed by 10 or more parents.

**Note:** Legislation defines "parent" as including the legal guardian.

*The Parental Responsibility Act*

This legislation, unique in Canada, allows the owner of property which has been deliberately taken, damaged or destroyed by a child (up to 18 years of age) to bring an action to recover that property loss, up to a maximum of \$10,000.00, from the parent of that child. Such property loss may be pursued through an action against the parents, filed in small claims court. Although there is an expanded definition of 'parent', the Act does not impose liability on Child and Family Service agencies with respect to damage caused by children who are their wards.

This legislation may be available in a school context where the property taken or destroyed by a child does not belong to the school division (e.g. property of teachers, students, etc.).

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Manitoba Justice, 204-945-3594 or 1-800-282-8069 extension 3594
- Your Local School Division/District Office
- See also: Discrimination
  - Dispute Resolution
  - Program Not Offered
  - Pupil File
  - Reasonable Accommodation
  - Right to Attend School
  - Rights and Responsibilities of Students
  - Schools of Choice
  - Transportation Eligibility

# ***School Administration***

## ***Rights and Responsibilities of Students***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 58.8, 58.9, 58.10
- Manitoba Regulation 468/88 (Education Administration Miscellaneous Provisions Regulation)

### **GENERAL RESPONSIBILITIES:**

Students have a right to attend a designated public school in their home division/district. Once that school has been formally designated by the school board, a student having the right to attend school may opt to attend another public school within or outside of the home division/district under the Schools of Choice provisions, or where the student wishes to enrol in one of the 4 programs recognized by Manitoba Education and that program is not offered locally. Furthermore, a student is afforded specific rights with respect to his/her schooling. A student is entitled to:

- a) Receive regular testing and evaluation of his/her academic performance and achievement;
- b) Receive at least once a year and free of charge a transcript or record of his/her academic achievement;
- c) Subject to certain conditions, have access to his or her student file, if the student has attained the age of majority; and
- d) Be accompanied by a parent or other adult to assist him or her and make representations to the school board before a decision is made to expel him or her.

In addition to these student rights, students are responsible for the following:

- a) Attending school and classes regularly and punctually;
- b) Complying with the student discipline and behaviour management policies of the school;
- c) Completing assignments and other related work required by teachers or other employees of the school division or school district;
- d) Treating school property and the property of others employed at or attending the school with respect; and

- e) If property of a school division/district is destroyed, damaged, lost or converted by the intentional or negligent act of a child, the child and his/her parents are jointly and severally liable to the school board for the loss.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Your Local School Division/District Office
- See also: Discrimination
  - Dispute Resolution
  - Program Not Offered
  - Pupil File
  - Reasonable Accommodation
  - Right to Attend School
  - Rights and Responsibilities of Parents
  - Schools of Choice
  - Transportation Eligibility

# ***School Administration***

## ***School Day***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 76
- Manitoba Regulation 101/95 (School Days, Hours and Vacations Regulation)

### **GENERAL RESPONSIBILITIES:**

The instructional day must be not less than five and one-half hours including recesses, but excluding the midday intermission, unless the Minister approves otherwise. A school board, by resolution or by-law, can set the hours of opening and closing of the school day and the time and duration of the midday intermission so long as the instructional day is not less than five and one-half hours in length. School boards can, by resolution or by-law, extend the school day beyond five and one-half hours for instructional purposes.

Recess is compulsory for students from Grades K to 4 and must be between 10 and 15 minutes in length. There must be one recess in the morning and one in the afternoon. Recess is optional for all other grades and, at the discretion of local school boards, may be eliminated. A midday intermission is compulsory for Grades K to 6, and must be between 45 minutes and 1½ hours long.

If an instructional day is less than five and one-half hours because students have been dismissed for a staff meeting or a professional development activity, the lost instructional time must be:

- deducted from the 10 days set aside annually for teacher in-service and school administration purposes; or
- added to one or more instructional days that is extended beyond five and one-half hours.

If school boards, on behalf of a school, wish to deviate from the approved instructional day format, they may request ministerial permission to do so. Such a deviation may be in the form of a Balanced School Day model. A Balanced School Day consists of three 100-minute blocks of instruction time, with two 40-50 minute nutrition/physical activity breaks. In order to receive annual approval to implement a Balanced School Day, schools must ensure that the required 300 minutes of daily

instructional time is preserved, that consultation is undertaken with and support received from school staff and parents, and be able to demonstrate the expected benefits of implementing the change. Schools must continue to demonstrate, on an annual basis, the benefits, support and maintenance of instructional time, in order to continue to deviate from the approved instructional day format.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: School Year

# **School Administration**

## *School Safety and Security*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 47.1(1), 47.1(3), 48(1)(s), 231(1)-(7)
- *The Education Administration Act*, section 3(1)(i), 4(1)(p.1), (p.2), (p.3)
- Manitoba Regulation 77/2005, Safe Schools Regulation
- Manitoba Regulation 468/88R, sections 28(2), 37 (Education Administration Miscellaneous Provisions Regulation)
- Manitoba Regulation 101/95, section 10 (School Days, Hours and Vacations Regulation)

### **GENERAL RESPONSIBILITIES:**

Every school must establish a committee, known as the safe school advisory committee, to advise the principal in developing an emergency response plan (see Topic E1) for the school. The plan must outline the role of school personnel in the event of an emergency and outline procedures for controlling visitor access to the school, communication during an emergency, responding to various types of threats and other types of emergencies, and evacuation procedures. The plan must be reviewed and updated as necessary by the end of October each year.

Schools must hold fire drills at least 10 times in each school year. As well, schools must hold at least 1 lock-down drill each term or semester of the school year. The RCMP has published a *Lockdown Procedure Information Package*, which schools can refer to when implementing their lock-down procedures. Any lockdown that is not a drill must be reported as soon as reasonably practicable to Manitoba Education and Training.

The school principal is responsible for the supervision of buildings and grounds during school hours (see topics S2 and S3), and must regularly inspect school premises and report any necessary repairs promptly to the school division. The principal must ensure that school grounds, including all playground areas and equipment, are maintained in a clean and safe condition.

School boards have the authority to decide who is allowed to enter schools as visitors (see Topic S3). This includes the authority to set criteria for parental access to schools or classrooms. Trespassing, canvassing, and the selling of goods or services on

school property are prohibited. School personnel have the authority to direct an individual to leave school premises if that individual is causing a disturbance or interruption, trespasses or is present for a purpose not reasonably associated with the normal functioning of the school. They also have the authority to prohibit an individual from entering school property.

School boards may temporarily close schools (see Topic T1) due to emergencies, severe weather conditions, and utility failures (e.g. breakdowns in ventilating and heating systems), or for other reasons acceptable to the Minister. The closing of a school for any cause, incidental or emergency, must be communicated promptly by the school board to the Minister or his/her designate.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: School Visitors/Trespassing/Unauthorized Selling  
Temporary Closing of Schools: Emergency and Incidental  
Lockdown Procedure Information Package (RCMP, 2013)

# ***School Administration***

## ***School Visitors/Trespassing/Unauthorized Selling***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 48(1)(s), 231(1)-(7)

### **GENERAL RESPONSIBILITIES:**

School boards have the authority to decide who is allowed to enter schools as visitors. This includes the authority to set criteria for parental access to schools or classrooms. Trespassing on school premises is prohibited. No one is allowed to canvass or sell or offer to sell goods, services or merchandise to either staff or students on school premises without prior approval of the school board or designate thereof. Nor is anyone allowed to disturb or interrupt a school, a class in a school, or an activity of a school by their actions on school premises or in close proximity to school premises.

A principal or other person authorized by the school board may direct any person to leave school premises who is causing a disturbance or interruption, trespasses or is present for a purpose not reasonably associated with the normal functioning of the school. Once directed to leave school premises, the person shall leave immediately. Oral or written notice requesting that a person not enter school premises again without prior approval can also be given by the principal or school board authority. Peace officers can be asked to assist in maintaining order or to enforce an eviction notice. Persons contravening any orders given in these circumstances and found guilty are liable on summary conviction to various penalties including fines or imprisonment. The court may also prohibit the person from entering or being on the school premises where the offence was committed and/or order any other conditions that the court considers appropriate.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- School Division/District Legal Counsel
- Local Police Service Authorities

# ***School Administration***

## ***School Year***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 76, 77, 78
- Manitoba Regulation 101/95 (School Days, Hours and Vacations)

### **GENERAL RESPONSIBILITIES:**

Schools/school divisions/districts may establish their own school calendars in keeping with the provisions listed below. School boards may set the closing date for the school year within the parameters listed below. Schools/school boards require ministerial approval for deviations from these specifications for school calendars. School boards should consult with ACSL's, parent committees, and communities when establishing school calendars.

School boards and funded independent schools are required to send a copy of the finalized school year calendar to the Minister on or before May 1<sup>st</sup> of the school year immediately preceding. Manitoba Education and Training sends out an annual reminder to school boards of this obligation.

All changes to the approved school calendar are to be communicated promptly by the school board to the Minister. School boards shall take into account provincial examination dates, shared service agreements, and any locally observed religious holidays when setting their school year calendars.

### **Number of School Days**

The school year consists of the number of days prescribed annually by the Minister and is to be divided into:

- (a) two terms,
  - (i) one beginning no earlier than the day after Labour Day and ending on December 31, and
  - (ii) one beginning on no earlier than January 3 and ending on June 30;
- (b) two semesters,

- (i) one beginning no earlier than the day after Labour Day and ending on January 31, and
  - (ii) one beginning on no earlier than February 1 and ending on June 30; or
- (c) any other periods that the school board, with the approval of the Minister, may determine.

**In-Service Days, etc.**

The number of days set aside in each school year for teacher in-service, parent-teacher conferences, administration and pupil evaluation in Kindergarten through Grade 12 must not exceed 10 days, of which at least 5 must be used for teacher in-service. With the exception of The Frontier School Division, each division must ensure that at least 8 of the 10 days are common to all schools within that division.

**Christmas Vacation**

Unless otherwise stipulated by the Minister, Christmas vacation must begin on or prior to December 23, as determined by the school board, and must extend to at least January 2, or a later day that the school board may determine.

**Spring Break**

Unless otherwise stipulated by the Minister, spring break shall consist of the week beginning on the last Monday in March.

**Other Holidays**

All schools shall observe the following holidays: Louis Riel Day, Good Friday, Victoria Day, Thanksgiving Day and any other day designated by the Minister. When Remembrance Day falls on a weekday, schools shall be closed.

\*June 30 is not counted as a school day if it falls on a Monday.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Your Local School Division/District Office
- See also: School Day  
Vacations and Holidays

# ***School Administration***

## ***Schools of Choice***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 41(5.1), 41(6), 58.3, 58.4, 58.5 and 58.9
- Manitoba Regulation 468/88, sections 42(1), 42(2) (Education Administration Miscellaneous Provisions Regulation)
- Manitoba Regulation 259/2006, section 11(1) (Funding of Schools Program Regulation)

### **GENERAL RESPONSIBILITIES:**

The Schools of Choice initiative facilitates parental/student choice, within limits, in selecting the public school best suited to the student's learning requirements.

Only those students who qualify under "right to attend school" legislation may exercise choice. Application forms are available at public schools. There are deadlines for the submission and approval of Schools of Choice application forms. Responsibilities and obligations of parents, students and schools as they relate to Schools of Choice are outlined in the question and answer guide that follows.

The Schools of Choice initiative does not apply to students who attend a school other than their designated school, because the recognized program they wish to attend is not offered by the school division/district of which they are resident. Students in this category are covered under subsection 41(5) of *The Public Schools Act* (Programs not offered locally) and associated regulation and policy.

### **FOR FURTHER INFORMATION:**

- Schools' Finance Branch, 204-945-3163
- Education Administration Services, 204-945-6899
- See also: Program Not Offered Locally
  - Right to Attend School
  - Rights and Responsibilities of Parents
  - Rights and Responsibilities of Students
  - Transportation Eligibility

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**SCHOOLS OF CHOICE**  
**Question and Answer****A SCHOOLS OF CHOICE****1) *What is the basic right to attend school?***

Every school board shall designate a school to which a resident student is entitled to attend. A student may choose not to attend his or her designated school.

**2) *What is a “designated school”?***

A designated school is generally the closest school to the student’s residence within their home school division which offers the most appropriate education required by the student and which has available space. Parents will still have the ability to choose a school other than the one designated by the school board. A few conditions may apply, as outlined in this guide.

**3) *What is “choice”?***

Choice means the ability to choose a school to be attended inside or outside of the home school division. If a student wishes to attend a school other than the designated school because it is, for example, more convenient for parents for after-school child care purposes, this could be considered a reason to exercise school choice.

**4) *What is a “sending” or “home” school division?***

The sending or home school division is the division in which the student’s parents reside (or age of majority student resides), where school taxes are paid and where the student would ordinarily attend school.

**5) *What is a “receiving” school division?***

The receiving school division is the division, other than the home division, where a student chooses to attend.

**6) *Where do parents find information to help them choose a school?***

School boards will publish or make available to parents and students information about their schools, programs, and enrolment procedures.

**7) *If a student does not want to exercise school choice, will this affect his or her right to attend the designated school?***

No. Divisions must give priority to students identified to attend the designated school.

**8) *Is there priority of admission under schools of choice?***

Yes. Schools will enrol students in the following order of priority:

- students designated to attend that school,
- students residing in the school division, and
- other Manitoba students.

**9) Is a school required to accept a student who wishes to exercise choice?**

Yes. A school will enrol a student unless:

- space is not available,
- special equipment or physical facilities required by the student are not available,
- enrolling the student would be detrimental to the continuity of his or her education,
- the program is not suited to the age, ability, or aptitude of the student,
- enrolling the student would be detrimental to order, discipline and well-being of the students in the school, or
- proper notification is not provided by the parent or student.

**10) Who decides if there is space?**

The school decides if space is available.

**11) If there are more applications than vacant seats, how are the vacant seats filled?**

Schools will have to determine a fair method for prioritizing admission, in addition to the conditions mentioned above.

**12) Who decides if a program is suitable for a student?**

The school, in consultation with parents and students, will determine if a program is suitable for the learning requirements of students.

**13) Can a student be refused admission to a school of choice on the basis of past academic performance?**

No, except where the student is applying for specialized programming that has criteria or prerequisites that have been met by students already enrolled in that program.

**14) Can a student be refused on the basis of past disciplinary problems?**

Yes. A request can be denied if, in the opinion of the receiving division, disciplinary problems can be addressed only through additional support, which is available in the home division, and if the home division chooses not to pay for such support outside its boundaries.

**15) How does a student apply for school of choice? Are there any forms to fill out?**

Yes, there will be forms to fill out and submit to the school of choice. Parents must apply to potential receiving schools no later than May 15. The Department will develop a notification form that parents will use to advise the receiving school of a student's desire to transfer to a school of choice for the next school year.

**16) Can a student apply to more than one school at a time?**

Yes, provided that proper notification to potential receiving schools is given and that application deadlines are met in all cases. It is the responsibility of parents to ensure that all forms are filled out correctly and completely and are submitted on time to receiving schools. Parents must decide on the school to be attended as soon as is reasonably possible and notify the schools involved.

**17) When are students notified if they have been accepted into their school of choice?**

The receiving school must advise the parents and sending school no later than June 30 whether or not the student has been accepted.

**18) Can parents still apply to a school of choice after the May 15 notification deadline?**

Yes, but the school can refuse to accept a student because of the missed deadline.

**19) Can choice be exercised after the May 15 deadline has passed?**

Perhaps. The exercise of school choice after the May 15 deadline has passed will be considered on a case by case basis by the school divisions involved. Parents are advised to consult with home division and receiving division officials about whether admission will be considered and whether transfer fees will be paid on their behalf. The home division is not obligated to send the transfer fee if the May 15 deadline has been missed. If the home division will not send the transfer fee after the deadlines, parents may be responsible for paying this fee to the receiving division for the first year in order to exercise school choice. (For further information, please see Part B of this guide.)

**20) If a school of choice does not work out, or if a parent changes his or her mind, can a student return a) to his or her former school division and b) to his or her former school?**

a) Yes. A student who has chosen to attend a school of choice may withdraw from that school and return to the home division. The home school board shall, at that time, designate a school for the student.

b) Generally yes, however, there is no guarantee that the designated school will be the school previously attended by the student. If the student chooses a different school in the home division from the one designated, his or her enrolment is subject to space and programming considerations, as noted in Point 9, above.

**21) Does a student have to reapply every year to continue to attend the school of choice?**

No. Once a student has exercised choice and is accepted into that school, he or she is entitled to attend that school. The student is assumed to be in attendance at that school year after year unless he or she wishes to exercise choice and leave.

School boards will keep track of local demographic trends so that schools can enrol designated and non-designated students alike. Boards are permitted to slow or stop movement of non-designated students into division schools so that designated students can be accommodated.

**22) Does this mean that the brothers and sisters of a student exercising choice will be accepted into the same school?**

Not necessarily. Admission of a student because of choice does not guarantee that brothers and sisters will have access to the school.

**23) *If a school denies a parent's request for admission under choice, is there an avenue of appeal?***

Yes, to the school board. Within the framework of legislation and regulation, school boards have the final authority in the decision to admit students to a school. Parents are encouraged to consult and work with school divisions should they have any concerns.

**B      FEES**

**1) *Will parents pay fees to exercise school choice?***

No, not in most cases, provided that deadlines have been met. Parents will not be required to pay a fee to enrol their child(ren) in one of the four programs recognized by Manitoba Education in a school of choice inside or outside the home division. (The four recognized programs are English, Français, Immersion or Technology Education.) Instead, the home division will pay an annual transfer fee to the receiving division in an amount to be determined by the Department.

**2) *If a student was eligible for special needs funding in his or her home division and decides to go to school in another division, does that funding go to the receiving school division?***

Yes. Special needs funding goes to the school division attended by the student provided that the student has been accepted by the receiving division.

**3) *Are transfer fees automatically sent to the receiving school division on parents' or students' behalf?***

Yes. Once choice has been exercised within deadlines, a transfer fee is paid by the home division. If a student returns to the home division during the year the transfer fee, or a portion of it, may be returned to the home division at the discretion of the receiving division.

The sending division is not obligated to pass on the transfer fee to the receiving division if the parental confirmation date is missed.

**C      TRANSPORTATION**

**1) *Will students receive transportation to their designated school?***

Yes, if a student is eligible based on distance, the school division will transport or provide for the transportation of the student. Transportation funding is given to the school division if the student is eligible and is transported to school on a school bus on an approved route. An eligible student lives at least 1.6 kilometres away from his or her designated school and is in any of grades K-12 in rural areas or in any of grades K-6 in urban areas.

A designated school will be identified for the purpose of determining eligibility for transportation funding. The designated school is the closest school that has space and offers the appropriate education required by the student, as determined by the board, which is accessible via an approved school bus route.

**2) Will a student receive transportation to a school of choice within the home school division?**

If the student is eligible to be transported to the original designated school, then the school division must provide transportation to that school but may provide transportation to the school of choice if transport is provided on an existing approved route and if the school of choice is more than 1.6 km from the student's place of residence.

**3) Will a student be transported to a school of choice outside the school division?**

Not in urban settings and generally, not in rural settings. Only in rural settings where a student lives closer to an out of division school than to the designated school in the home division by road route, chooses to attend out of division and is eligible for transport will a student be considered for transport to a school of choice outside the school division. The receiving division may transport the student and if it does so may claim a transported pupil grant from the Department.

**4) What is a grant-in-lieu?**

A grant-in-lieu is money equivalent to the per pupil transportation grant normally given to a school division by the Department.

**5) Will grants-in-lieu be paid to support transportation to schools of choice?**

Only in rural settings, as noted in Point 3, above. If the receiving rural division chooses not to transport, and the student wishes to attend the out of division school, the parent or student will be entitled to a grant-in-lieu paid by the receiving division.

**6) How much is a grant-in-lieu and who can claim it?**

The grant-in-lieu is \$375 per rural student, no loaded kilometres and is claimed by the receiving division and then turned over to the parent or student.

**7) If the home school division does not offer a program and the student must go out of the division, is this student eligible for transportation?**

Yes. This is a situation where a program is not offered locally and is different from choice. Transportation support and eligibility for room and board does not change from the current situation under this example ("program not offered locally").

**D TAXATION AND ELECTION ISSUES****1) If a student goes to school in another division, do his or her parents still have to pay school taxes to the school division where they live?**

Yes. Parents will still be required to pay the school tax levied by the division where they live.

**2) If a student goes to school in another division, can that student's parents vote in school board elections in the division where they live?**

Yes. All residents in a school division are allowed to vote in school board elections.

- 3) ***If a student goes to school in another division, can that student's parents vote in that division's school board elections?***

No. The parents must be residents of the school division to be able to vote in board elections.

- 4) ***If a student goes to a school other than his or her designated school either in the home division or in another school division, can his or her parents be members of the choice school's Advisory Council on School Leadership?***

Yes. All parents of students in a school can put their names forward for election as members of the school's Advisory Council.

**For more information about Schools of Choice, please contact:**

Schools' Finance Branch, 945-3163 (fax: 948-2000)

Education Administration Services Branch, 945-6899 (fax: 948-2154)

# ***School Administration***

## ***Student Attendance***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 1.1, 58.6, 58.7, 58.10, 96 and 258 - 279
- Manitoba Regulation 468/88, Sections 7, 8, 9, 10, 35(2), 40.1(1), 40.1(2), 40.2, 41, 42(1), 42(2) (Education Administration Miscellaneous Provisions)

### **GENERAL RESPONSIBILITIES:**

Right to Attend School: Children who are six years of age or older on December 31 in a given year have the right to attend school from the beginning of the fall term of that calendar year until they receive a graduation diploma as defined in the regulations, or until the last school day of June in the calendar year in which they become 21 years of age.

Compulsory School Age: Children are required to attend school from the time they reach compulsory school age (7 years of age or will be reaching 7 years of age by December 31 in a given calendar year) until they attain the age of 18. Every parent or legal guardian of a child of compulsory school age is responsible for sending his/her child to school. Every student is responsible for attending school and classes regularly and on time, and completing assignments and other related work.

Exception: A child can be exempted from the above requirements if he/she is attending a independent school, is being schooled at home and registered as such with Education, or by reason of sickness (or other unavoidable cause). A child may also be absent from school on any day regarded as a holy day by the church or religious denomination with which the child is affiliated. A child who is 16 years of age or older may be excused from school if the child is enrolled in an adult learning centre registered under *The Adult Learning Centres Act* and is taking a program of study leading to a high school diploma. A child may also be excused from school if the principal of the school has suspended the child from the school and the suspension is still in effect; the child has been expelled and has not been permitted to enrol in another school division; the child has received, or has completed the necessary requirements to receive, a graduation diploma or certificate of completion; the child is at least 15 years of age and is participating in an activity or program provided for in regulation; or the child is absent or excused from school as

authorized under *The Public Schools Act*, or a regulation made under the Act or another enactment.

If a compulsory school-age student has been suspended or expelled, his/her parents would be exempted from liability for non-attendance. They would have the option, though, of trying to enrol the child in a public school in another school division or in an independent school, or of registering the child for a home schooling or independent study program through the Department.

Attendance Reporting: Teachers must complete and deliver to the principal, any attendance reports that are required by the school division/district. The principal, in turn must compile and provide the secretary-treasurer of the division/district with the attendance reports that have been completed by teachers.

Reporting of Non-Attendance: A principal who receives a report of an absence must, if satisfied that the child is in fact absent, report the absence to the child's parent or legal guardian; and inform them of their obligation to ensure that the child attends school, or if the child is at least 15 years old, participates in an activity or program provided for in regulation. A principal must report a child's absence to the local school attendance officer if the principal is satisfied that the child continues to be absent from school after the child's parent or legal guardian has been informed of the absence, and the parent or legal guardian has had a reasonable opportunity to comply with their obligations to ensure their child attends school.

School Attendance Officer: Every school board must appoint one or more school attendance officers who have jurisdiction in the area of attendance over each child in the division/district. This may constitute an individual's sole job function, or may form part of the position responsibilities of an existing staff member. The school board must also set rules, consistent with provisions of *The Public Schools Act*, to direct and assist the school attendance officer in the performing of his/her duties.

The school attendance officer, upon receiving a report concerning student absence, must initiate an investigation to confirm that the child is unlawfully absent. The attendance officer may then serve, in person or by certified mail to the person having control or in charge of the child, a notice obliging this person to cause the child to attend school or be liable to prosecution under *The Public Schools Act*. The required notices are contained in schedules at the end of *The Public Schools Act*.

The attendance officer may enter any place of public entertainment, any workplace, or any other place where a child of compulsory school age could work or congregate with peers, and he/she may conduct the child to the school where he/she is supposed to be in attendance.

Student Employment: No employer shall employ a student of compulsory school age during those hours in which the individual is required to be in attendance at a

school. For those students of compulsory school age who wish to work outside of regular school hours, the principal may be asked to sign off an Application for a Child Employment Permit.

**COMMONLY ASKED QUESTIONS:**

1. What is the maximum fine for non-compliance with a notice from the attendance officer?

When a school attendance officer finds that a pupil is unlawfully absent, he/she may serve the parent/legal guardian of that pupil with a written notice that they will be liable to prosecution. If the parent/legal guardian fails, refuses or neglects to comply with the term and directions of the notice, they can be subject, on summary conviction, to a fine not exceeding \$500.

A pupil who is 16 years of age or older, who has withdrawn from parental control, and who either refuses to attend school or is habitually absent from school, may be found guilty of an offence and be liable, on summary conviction, to a fine not exceeding \$200.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- Employment Standards Division, 204-945-3352 or 1-800-821-4307
- See also: Expulsion  
Suspension

# ***School Administration***

## ***Student Marks Reporting***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 41(1)r
- Manitoba Regulation 468/88 R, sections 16(4), 40.1(2) (Education Administration Miscellaneous Provisions)

### **GENERAL RESPONSIBILITIES:**

The Student Records Unit of Manitoba Education and Training collects final marks for all students attending public schools and funded independent schools who are enrolled in grades 9 through 12 inclusive. This activity allows the Department to meet its mandate of providing a central repository of student marks information (as a back-up to school records) and permits the Student Records Unit to generate official transcripts as a public service.

Public schools and funded independent schools with students registered in Grade 9, Grade 10, Grade 11 and/or Grade 12 are required to provide student marks to the Department. Reporting of marks is encouraged, but optional for First Nations schools unless they wish to issue the provincial high school diploma and have credits awarded recognized by the province, in which case reporting is compulsory. The Department is able to accept marks from these schools, however, **only** in circumstances where the principal gives written attestation that the provincial curriculum is followed, Manitoba certified teachers are delivering classroom instruction, students write mandated standards tests and the length of the school year is similar to that of provincial schools. Data must be submitted in the required format.

Student marks should be submitted for every subject taken through regular instruction, Independent Study Option (ISO), Teacher Mediated Option (TMO), private music option, special language credits, out of province credits, etc. Marks achieved through ISO or at vocational schools or summer schools/evening schools are to be reported by the home school except in cases where the student has been out of school for a period of time and is no longer registered with a home school. In these instances, marks should be reported directly by Distance Learning & Information Technologies Unit, vocational schools or summer schools/evening schools as the case may be.

Instructions regarding procedures, format and deadline for submission of student marks are provided to schools on an annual basis.

**FOR FURTHER INFORMATION:**

- Professional Certification and Student Records Unit, 1-800-667-2378 or 204-773-2998
- See also: Pupil File
  - Records Retention and Disposition
  - Student Record of Achievement

# ***School Administration***

## ***Student Record of Achievement***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 41(1)(r), 58.6, 58.9, 96(1)(g), 96(2)
- *The Education Administration Act*, section 4(1)(r.9)
- Manitoba Regulation 468/88R, sections 10, 14, 16(4)(b), 28(3), 29(2), 38, 39(d), 39(e), 40.1(2) (Education Administration Miscellaneous Provisions)

### **GENERAL RESPONSIBILITIES:**

School divisions/districts are required by law to maintain a record of achievement for all students. School boards must determine the times and the manner in which reports and other information respecting students will be delivered, provided or made available by teachers. Teachers, in turn, are to provide the parent or guardian, of each student that they teach, with the reports specified by the school board. The form and content of any such report must comply with standards prescribed by regulation under *The Education Administration Act*.

School boards, in setting the reporting schedule, should keep in mind the right of parents to be kept regularly informed of their child's academic achievement in school and the responsibility of principals to provide such information. Furthermore, school divisions/districts are required to state student marks as percentage scores for all subject areas from Grades 9 to 12 (or in another manner authorized by the Minister for those subject areas where the Minister is satisfied percentage scores are not assigned), and comply with any other reporting requirements or grade calculation formulas that the Minister of Education and Training may prescribe. Copies of records of achievement should be filed in the respective pupil file.

Principals must provide each student, free of charge, a transcript of his or her record of achievement at least at the end of each school year. Upon request, principals must also provide a person no longer enrolled in the school with a transcript free of charge. Transcripts cannot be held back for any reason (e.g. unpaid library fees, textbook fines.)

**FOR FURTHER INFORMATION:**

- Professional Certification and Student Records Unit, 1-800-667-2378
- Education Administration Services, 204-945-6899
- Instruction, Curriculum and Assessment Branch, 204-945-5162
- See also: Pupil File
  - Records Retention and Disposition
  - Rights and Responsibilities of Parents
  - Rights and Responsibilities of Students
  - Student Marks Reporting
  - Transcripts (High School/G.E.D.)

# ***School Administration***

## ***Students' Legal Rights Under Federal Law***

### **LEGISLATIVE REFERENCE:**

- *Canadian Charter of Rights and Freedoms*
- *Youth Criminal Justice Act (Canada)*

The following sections of the *Canadian Charter of Rights and Freedoms* outline students' rights:

- **Section 2: The right to freedom of expression, religion, peaceful assembly and association**
- **Section 7:** The right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
- **Section 8:** The right to be secure against unreasonable search and seizure.
- **Section 9:** The right to not be arbitrarily detained or arrested.
- **Section 10:** The right, on arrest or detention, to be informed promptly of the reasons for it; to retain counsel without delay; to be informed of the right to retain counsel without delay; to challenge the validity of the arrest or detention and to be released if it is unlawful.
- **Section 12:** The right to not be subjected to any cruel and unusual treatment or punishment.
- **Section 15: The right to equal treatment without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability**
- **Section 24(2):** The right to have evidence obtained in a manner that infringed or denied any Charter rights or freedoms be excluded from court proceedings if, having regard to all the circumstances, the admission of the evidence would bring the administration of justice into disrepute.

- **Section 1: Rights may be subject to reasonable limits but only to the extent that such limits can be demonstrably justified in a free and democratic society.**

### ***Youth Criminal Justice Act***

The *Youth Criminal Justice Act* was designed to hold young offenders more accountable for their acts while recognizing their special needs. It expressly states that young persons, defined as those between the ages of 12 and 17 inclusive, have rights and freedoms in their own right, such as a right to be heard in the course of and to participate in the processes, other than the decision to prosecute, that lead to decisions that affect them, and young persons have special guarantees of their rights and freedoms. In addition to Charter rights, the *Youth Criminal Justice Act* sets out the following additional rights for young persons.

- **Section 25(1)** provides that a young person has the right to retain and instruct counsel personally without delay and at any stage of the proceedings against him/her, and the right to do this prior to and during any consideration of whether to use alternative measures to deal with the young person, instead of commencing or continuing judicial proceedings under the Act.
- **Section 119** outlines who may have access to records created under the Act, the period of access to those records, exceptions, and what may be introduced into evidence. It specifically states that the young person to whom the record relates, on request, shall be given access to a record kept by a youth justice court, review board or any court of any case that comes before it arising under the Act. It also states that the young person to whom the record relates may be given access to any record kept by any police force responsible for or participating in the investigation of an offence; or any record kept by a department or agency of any government pertaining to an investigation of any offence, for use in proceedings against that young person, for administering a youth sentence or an order of the youth court, for considering whether to use extrajudicial measure to deal with a young person, or as a result of the use of extrajudicial measures to deal with a young person.
- **Sections 110 to 129** sets out a framework to protect information about young persons who have been dealt with under the Act. This framework serves three purposes: it reinforces the basic rule protecting the privacy of young persons as offenders, witnesses or victims; it recognizes that publication of the names of young offenders may seriously impair rehabilitative goals of the young justice system, handicap the youths' prospects for adjustment in society and acceptance by the public, and thus, jeopardize the long-term protection of the public; and it provides for strict limitations on the publication of information about young persons, as offenders or as witnesses or victims of youth crime.

**COMMONLY ASKED QUESTIONS:**

(The following should be used for informational purposes only and must not be considered as legal advice. If you require legal advice, please contact your school division's legal counsel.)

**QUESTION 1:** What happens if I witness a crime being committed by a student? Am I compelled to report this to the police?

**ANSWER:** In general, mere presence at the commission of an offence is not sufficient to constitute a crime of non-reporting. Some acts must be done to facilitate the commission of an offence, such as keeping watch or encouraging the person committing the crime. However, it is possible that mere presence without action to prevent the crime may constitute encouragement where the person committing the offence might reasonably expect that teacher who observes him or her breaking the law will attempt to intervene. It is possible that no objection from the teacher in these circumstances may be considered encouragement and the teacher might be liable as a party to the offence in accordance with Section 21(1) of the *Criminal Code*.

**QUESTION 2:** Does a teacher or guidance counsellor have a legal obligation to contact the police if he/she has been informed by a student that the student has been involved in a crime?

**ANSWER:** There is no legal obligation to get in touch with the police. However, the teacher or guidance counsellor must be very careful to avoid any positive act or statement that might assist the student in avoiding detection. In addition, there are serious ethical as well as legal issues involved when a student discloses participation in a crime. The precise facts of the case will determine what the correct approach should be. It may be wise for a teacher to consult with his or her supervisor and obtain legal advice before choosing a course of action.

**QUESTION 3:** When may I conduct a search of student's locker, desk or cell phone?

**ANSWER:** Students have the right to privacy and to be secure against unreasonable search and seizure under the *Charter* in the face of administrative actions and decisions by school officials. As such, only reasonable searches are permissible. Three Supreme Court decisions confirm that teachers and principals have authority to conduct reasonable searches to enforce school rules and protect the health and safety of students in their care.

"Reasonable" usually means that the school authority has probable grounds to believe the student has breached, or is breaching, the school rules, policies or code of conduct. Consequently, blanket searches of all students are generally unlawful. When searches are conducted, information and items searched for should be tightly restricted to the grounds for the search. School administrators should not therefore,

either on their own behalf as administrators enforcing administrative rules, or as “agents” of the police, undertake groundless, “proactive” school searches (i.e. “fishing expeditions”) by, for example, generally using drug-sniffing dogs.” Principals or teachers should in fact always avoid being an “agent” of police, meaning that they should not take it upon themselves to enforce the criminal law on behalf of criminal law investigations. Should they do so, wittingly or unwittingly, they will be held to the same *Charter* standards that apply to police investigations. *Charter* standards that apply to administrative searches and criminal searches differ because warrants are usually required in the criminal law.

A search is only reasonable when school administrators have honest and reasonable grounds to believe that there has been a breach of school regulations and that a search would reveal evidence of that breach. The following may provide reasonable grounds for a search:

- Information received from one student considered to be credible;
- Information received from more than one student; and
- A teacher’s or principal’s own observations.

The compelling nature of the information and the credibility of these or other sources must be assessed by the school authority in the circumstances at the particular school. A search is more likely to be reasonable if the student contravening the school’s policy is aware of the policy before the breach.

The search itself must be carried out in a sensitive and reasonable manner. It should be minimally intrusive and, where needed, take into account the student’s age and gender. To determine whether a search was reasonable, all of the surrounding circumstances must be considered. It is best if school divisions or districts have a policy in place regarding search and seizures and that staff be made aware of such a policy.

#### *Search of Locker or Desk*

If a school official has authority over the school premises, that authority carries with it the power to search those premises, including student lockers and desks. This assumption is based on the idea that lockers are school property and that students are only given temporary possession of them. The same reasoning may be used to argue that school officials, rather than students, are entitled to consent to a search of a locker by police. However, the search must still be reasonable and subject to the legal tests described above.

### *Search of Student's Cell Phone*

If a school official has reasonable grounds to believe that a student has violated the school's policies, code of conduct, or regulations, etc., and a search of the cell phone is deemed reasonably necessary in the circumstances to advance the investigation of the alleged breaches, the school official may be justified to search the cell phone. However, the search must still be reasonable and subject to the legal tests described above. Officials should be very careful to be mindful of a student's privacy interests and only search the phone for contents that reasonably relate to the grounds of the search. For example, this might include recent text messages and e-mails. Officials do not have *carte blanche* to examine all the contents of a phone.

**QUESTION 4:** What do I do if the police arrive at school looking to question and/or charge a student?

**ANSWER:** School officials should cooperate with the police, and should never put themselves into a position where they could be charged with obstruction of an investigation.

When determining how to deal with the situation, there are two possible scenarios to consider: is the police contact/interview with a student as a possible witness to an event, or is it because the student him/herself is suspected on criminal activity.

Where a student is merely a possible witness and the police are trying to confirm whether the student has any valuable information, there appears to be no legal requirement that the parent or school needs to be involved, regardless of what views on that subject the student may have.

However, if the police are about to charge the student, or are trying to determine whether they should do so (i.e. is he/she facing a possible charge) then the matter differs and s. 146 of the *Youth Criminal Justice Act* applies. In such a situation, the student has certain rights, and ultimately it is up to the student whether he/she wishes to take advantage of them. This includes the right to have his/her parents (or another appropriate adult) contacted and to be with him/her in the interview. A student can, however, opt to speak to the police alone. From a practical point of view this means that the police must explain to the student what his/her rights are in this area; otherwise they put into risk the admissibility of any evidence they obtain.

If the police arrive at the school when the student is in class, as a general rule they should not simply walk into a classroom and remove the student. This would be disruptive to everyone and may cause misunderstandings. The police should instead advise the principal that they need to see the student immediately (or as soon as possible), and also advise whether it is to talk to him/her as a possible witness or as the possible subject of charges. If it is the latter, the Principal can then ask whether they will be explaining the student's rights under the YCJA to have counsel, parental

or other adult involvement; and document the response. The principal can advise the police that if the student wants a parent present, but no parent is available and the student so chooses, the Principal (or another teacher) will be ready to attend in place of the parents.

Actions such as described above should meet the 'loco parentis' role of the school.

The police visit should be documented. For the purpose of proper reporting, the principal should prepare a record of the visit which includes:

- the name of the officer(s);
- the time;
- the nature of the visit;
- the people being questioned;
- the duration of the questioning;
- the name of the issuing authority on any search warrant or warrant for arrest; and
- the nature of the charges.

A student can be advised that they are not obligated to make a statement to police without legal counsel present. Should the student request that the principal be present during the interview and should the student offer to make a statement, the principal should take the following steps:

- maintain accurate notes of what was said by the student;
- in such notes, do not editorialize or offer personal commentary on what the pupil said. Otherwise, such comments could be used later to challenge the accuracy of the notes due to a perceived bias on the part of the author;
- note the date and time of interview, who was in attendance, etc.;
- ensure that the pupil is aware that what he/she states will be recorded.

**FOR FURTHER INFORMATION:**

- Your School Division/District Legal Counsel
- Education Administration Services, 204-945-6899

# ***School Administration***

## ***Supervisory Responsibility - Buses***

### **LEGISLATIVE REFERENCE:**

- Manitoba Regulation 465/88R, sections 13, 14(1) (School Buses Regulation)

### **GENERAL RESPONSIBILITIES:**

The principal of the school attended has disciplinary authority over students from the period they enter in, ride on, and alight from a school bus. The school bus is considered to be an extension of the classroom. The bus driver must maintain order on his/her bus, if he/she is to ensure the safety of the students being transported.

### **PRINCIPAL'S RESPONSIBILITIES:**

The ultimate legal responsibility for behaviour of student riders lies with the principal as described previously. The driver of the school bus must report to the principal any misconduct of students while entering, riding or leaving the school bus, including activities outside regular school hours, (e.g. extra-curricular activities). It is then the role of the principal to discipline the student as appropriate and in keeping with school/division code of behaviour.

### **COMMONLY ASKED QUESTIONS:**

1. Can a school board develop guidelines to maintain discipline on buses within its jurisdiction?

Yes. A school board may write such guidelines to assist the principal in administration of discipline.

2. Can principal deny transportation privileges to a misbehaving student?

Yes. As the principal has disciplinary authority over the conduct of students, and can suspend students for conduct deemed injurious to the welfare of the school, such disciplinary sanctions could include short-term denial of transportation privileges for bussed students. While this is generally covered

in local board policy, the principal can suspend for up to five consecutive days from the school and from the school bus. Longer suspensions will rest with the superintendent and the school board. The principal may also deny transportation privileges to students for extra-curricular or co-curricular outings where, in his/her estimation, their behaviour has warranted such action.

**FOR FURTHER INFORMATION:**

- Pupil Transportation Unit, 204-945-6900
- Your Local School Division/District Transportation Department

# ***School Administration***

## ***Supervisory Responsibility - Noon Hours and Field Trips***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, section 96(c)
- Manitoba Regulation 468/88R, sections 28(1), 28(2), 34, 39 (Education Administration Miscellaneous Provisions Regulation)

### **PRINCIPAL'S RESPONSIBILITIES:**

The principal is responsible for the supervision and discipline of each student in his or her school from the time of the student's arrival at school until the student's departure for the day, including the noon hour for those students who are eligible to remain at school.

Field trips are simply an extension of normal school activities and therefore the principal, as well as teachers, are legally responsible for maintaining discipline during these outings. Careful planning before a field trip and responsible supervision during the trip will lessen the chances of an accident happening, of school officials being found negligent, and, most important, of students being injured.

If the supervisors are unfamiliar with the place where the students are to be taken, a pre-visit by the supervisors when possible is advisable. This helps them to anticipate any dangerous situations.

Another important consideration is the clarity of instructions given to students. If students are being taken into situations where special skills are required (for example, a canoe trip), it is important to prepare students in advance, in terms of skills as well as in safety and emergency procedures. Any "ground rules", especially those concerning hazards, should be made clear to students and should be conscientiously enforced. In isolated locations, properly trained personnel (for instance, supervisors trained in life saving and first aid on a camping trip) should be in attendance and adequate emergency equipment should be taken along. Any equipment that is being used should be checked for safety before setting out, and periodically re-checked.

Certainly, in spite of the best efforts of teachers, students will sometimes act unwisely and become involved in a mishap, or an accident may happen which no one could have anticipated or prevented. If the teachers have acted reasonably and prudently under the circumstances in terms of preparing, briefing, and supervising students (with the level of maturity of the students being a major consideration), then those teachers are less likely to be found negligent.

**COMMONLY ASKED QUESTIONS:**

1. Is a principal legally responsible for a student, if the student is absent from the school premises at the request of the student's parent or guardian?

No, the parent or guardian then assumes responsibility for the student.

2. If a school-sanctioned field trip takes place outside regular school hours, are the principal and/or teachers still legally responsible for the supervision of students?

Yes, they are responsible because a field trip is still considered to be an extension of the regular school day, and still have care and control of students.

**FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- Manitoba School Boards Association, Insurance and Risk Management area, 204-233-1595
- See also: Discipline  
Supervisory Responsibility – Buses
- YouthSafe Manitoba: School Field Trip Resource Document (2004)

# ***School Administration***

## ***Suspension***

### **LEGISLATIVE REFERENCES:**

- *The Public Schools Act*, section 48(4)
- *The Education Administration Act*, section 4(1)(d)
- Manitoba Regulation 92/2013 (Appropriate Disciplinary Consequences in Schools Regulation)

### **GENERAL RESPONSIBILITIES:**

Suspension occurs when a student is removed from the classroom or dismissed from a school for a finite period of time. Policies on suspension should follow precepts of due process, procedural fairness and natural justice which are features likely to receive attention in the event of a legal challenge. The policies should include categories of the reasons for which a student may be suspended. The principal ensures that each suspension is categorized accordingly, and that the total number of pupils suspended and the duration of suspensions are tabulated. A student's special needs, if any, must also be taken into account when deciding whether to suspend a student. Teachers, principals, superintendents and school boards may authorize suspensions as follows:

#### Teachers:

- Every teacher has a right to suspend from the **classroom** for a period not exceeding two days, a student who engages in conduct the teacher considers detrimental to the classroom learning environment, or which contravenes a school code of conduct.
- A teacher who suspends a student must promptly document and report the suspension to the principal who in turn must ensure that the parent(s) is/are promptly informed of the suspension.
- School boards may limit, or place conditions, on a teacher's right to suspend with respect to an individual student or generally if a teacher:
  - (a) has repeatedly suspended an individual student from the classroom for reasons that are not justified; or

- (b) has repeatedly exercised his or her right to suspend students from the classroom in a manner or for reasons that are not justified.

Principals:

- A principal may suspend a student from **school** for a period not exceeding one week for engaging in conduct that the principal considers injurious to the school's welfare or educational purpose.
- A school board may, by resolution, prohibit a principal from suspending a student for more than one week without the superintendent's approval.

Superintendents:

- Superintendents may suspend a student from **school** for a period not exceeding six weeks (as authorized by school board resolution) for engaging in conduct that the superintendent considers injurious to the school's welfare.

School Boards:

- A school board may suspend from a school any student who, upon investigation by the school board, is found to be guilty of conduct injurious to the welfare of the school.
- School boards may determine the length of any suspension which they may order.

Within 24 hours of a student being suspended from school, the principal of the school or superintendent who suspended the student must report the suspension in writing to the school board or its designate. The report must state the name of the student, the period of suspension and the acts or conduct for which the student was suspended. The principal or superintendent must also ensure that the student's parent(s) is/are notified promptly of a suspension, and the reasons for the suspension.

In cases where the suspension is for more than five days, the student and parent(s) have the right to appeal the suspension to the school board, which in turn can confirm, modify or cancel the suspension. A scheduled meeting with the board does not necessarily delay the commencement of a suspension. The school principal must also ensure that educational programming is available to a student who has been suspended for more than five days. The programming may include an alternative program, a formalized home study arrangement or other accommodation. If a student of compulsory school age has been suspended, his/her parents would be exempted from liability for non-attendance during the period of the suspension. The main difference between expulsion and suspension is that when a student is

expelled, the student is not expected to return to any school operated by the school division/district until such time as the school board rescinds the expulsion.

**FOR FURTHER INFORMATION:**

- Appropriate Educational Programming in Manitoba: Standards for Student Services
- Local School Division/District
- Education Administration Services, 204-945-6899
- See also: Codes of Conduct
  - Discipline
  - Expulsion
  - Student Attendance
  - Weapons

# ***School Administration***

## ***Temporary Closing of Schools: Emergency and Incidental***

### **LEGISLATIVE REFERENCES:**

- *The Education Administration Act*, section 3(1)(i)
- Manitoba Regulation 101/95, section 10 (School Days, Hours and Vacations Regulation)
- Manitoba Regulation 259/06, section 28(1)(d) (Funding of Schools Program Regulation)

The Minister of Education and Training may order a public school to be closed in an emergency or where he/she deems it in the best interest of the community in which the school is located. Furthermore, the Minister may cancel the order where the emergency no longer exists.

As well, school boards in Manitoba may temporarily close schools due to emergencies, severe weather conditions, and utility failures (e.g. breakdowns in ventilating and heating systems), or for other reasons acceptable to the Minister. The closing of a school for any cause, incidental or emergency, must be communicated promptly by the school board to the Minister or his/her designate. Forms to report incidental or emergency school closures are available on the Department's website at [www.edu.gov.mb.ca/k12/finance/forms/public/](http://www.edu.gov.mb.ca/k12/finance/forms/public/) - Incidental School Closure Notification Form. In cases where a school board has closed a school or schools and has communicated this to the Minister of Education and Training, and where the Minister approves that the closure was warranted, the day(s) during which the school was closed will be counted for grant purposes.

### **GENERAL RESPONSIBILITIES:**

If a decision is made by the principal or the school division/district to close a school temporarily, it is recommended that the following procedures be followed:

1. Upon detection of a problem for which no immediate solution can be found and that is deemed to be potentially hazardous to the health and safety of the occupants of the school, close the building or a portion thereof and evacuate all occupants.

2. Promptly notify local school authorities and parents of the school closure and ensure that the school closure is communicated to the Minister or his/her designate.
3. Adequately publicize the closing of a school in the local media if the closure will or is likely to continue for several days.
4. Reopen the building only when the local school board is completely satisfied that the hazardous condition has been removed or reduced.

**FOR FURTHER INFORMATION:**

- Schools' Finance Branch, 204-945-6910
- Education Administration Services, 204-945-6899
- Manitoba Emergency Measures Organization  
Telephone: (204) 945-4772 /Toll-free: 1-888-267-8298  
Emergency: 204-945-5555  
[www.manitobaemo.ca](http://www.manitobaemo.ca)
- See also: Emergency Response Plans  
Parental Notification

# **School Administration**

## *Transcripts (High School/G.E.D.)*

### **LEGISLATIVE REFERENCE:**

- Manitoba Regulation 468/88 R, section 15 (Education Administration Miscellaneous Provisions Regulation)
- Manitoba Regulation 86/2010 (Education Certificates, Transcripts and Miscellaneous Fees Regulation)

### **GENERAL RESPONSIBILITIES:**

The issuance of high school transcripts to students is primarily the responsibility of schools. Principals must provide students with a transcript, free of charge, at least at the end of the school year or on request of persons who are no longer enrolled.

Manitoba Education and Training collects Grade 9 to 12 marks for back-up service in the event that records become unavailable at the school level or for the issuance of official transcripts bearing the departmental seal.

Persons no longer enrolled in school who require high school transcripts, without the departmental seal, should first contact the last school attended. If the school is not able to provide the transcript or if a transcript bearing the departmental seal is required, contact:

Professional Certification and Student Records Unit  
P.O. 700  
Russell MB R0J 1W0  
Toll free within Manitoba: 1-800-667-2378  
Phone: 204-773-2998

The transcript fee is \$12.00\* and can be paid by money order or cheque payable to Minister of Finance, by credit card over the phone, or by cash or debit card in person.

Applicants must provide the information listed below in order to have a high school transcript request processed:

- Name under which schooling was received

- Date of birth
- School and year at which grades 10, 11, 12 were taken

The following list represents the records available through the Student Records office for production of high school transcripts:

Prior to 1969:	First, second and third year transcripts (Grades 10, 11, 12)
1969 - 1974:	Only third year transcripts (Grade 12)
1975 - 1985:	First, second and third year transcripts (Grades 10, 11, 12)
1986 - Present:	High School records for most students. Applicants should contact Student Records prior to requesting transcripts to confirm availability.

Persons who require duplicate G.E.D. Statements (transcripts) should contact:

G.E.D. Testing Office  
Room 362, 340 – 9<sup>th</sup> Street  
Brandon MB R7A 6C2  
Toll Free within Manitoba: 1-800-853-7402 or 204-726-6338  
Fax: (204)726-6339

The Statement fee is \$31.50\* and can be paid by money order or cheque payable to Minister of Finance, by credit card over the phone, or by cash or debit card in person.

Applicants must provide the information listed below in order to have a G.E.D. transcript request processed:

- Name under which G.E.D. was received
- Social Insurance Number
- Date of birth

\*Subject to change without notice.

**FOR FURTHER INFORMATION:**

- Professional Certification and Student Records Unit 1-800-667-2378 (toll free within Manitoba) or 204-773-2998
- G.E.D. Testing Office 1-800-853-7402 (toll free within Manitoba) or 204-726-6338
- See also: Student Record of Achievement

# **School Administration**

## *Transportation Eligibility*

### **LEGISLATIVE REFERENCES:**

- *The Public Schools Act*, sections 43-47
- Manitoba Regulation 259/06, sections 11-14 (Funding of Schools Program Regulation)

*Please Note:* For information regarding transportation eligibility for students exercising choice please see **Schools of Choice**.

### **GENERAL RESPONSIBILITIES:**

School divisions/districts, in accordance with provincial requirements and local school board policy, normally determine eligibility for school bus transportation.

Eligibility is based upon the following criteria:

- distance from the catchment area school: a student must live further than 1.6 kilometres (walking distance) from the catchment area school. Walking distance is calculated from the edge of residential property to the catchment area school using the shortest travelled route available to the student.
- residence of the student: divisions/districts **may** transport students in cities, towns and villages who meet the distance criteria to their catchment school but are not obligated to do so, with the exception of special class/physically handicapped students.
- grade level: urban school divisions/districts, that choose to provide transportation, may receive funding for K to Grade 6 students who meet the distance criteria. Urban school divisions/districts may also receive funding for students in Grades 7 to 12 who reside more than 1.6 kilometres from a public transit stop and their school if transportation is provided to these students. In rural areas, funding is provided for the transportation of students enrolled in K to Grade 12 who meet the distance criteria.
- students that attend a school outside the catchment area for **approved program reasons** are eligible for transportation if distance and residence location criteria are met.

- Level II or Level III special needs category students and students with mental or physical disabilities who are unable to walk safely to school are eligible for transportation.
- supplementary funding may be claimed by school divisions/districts for students requiring transportation on specially equipped vehicles.

Generally speaking, school divisions/districts are required to provide or make provision for transportation for all resident students eligible for such transportation.

Where a school division/district is required to provide transportation but is unable to, the parent or legal guardian of the student is entitled to receive compensation from the school division/district in order for them to transport the student to/from school. The rate of compensation is established by the school division/district and must be paid at least once a month or as mutually agreed upon.

A school division/district is also entitled to receive support (within prescribed funding limitations) for the cost of board and room, transportation and other miscellaneous living expenses paid by the school division/district for each student who is required to live away from his or her residence to take a program not offered in the student's home school if the one-way distance from the student's residence to the school attended is 80 kilometres or more.

Support amounts and reimbursement rates for transportation related expenditures are set annually and published in the **Funding of Schools** booklet (<http://www.edu.gov.mb.ca/k12/finance/index.html>), and in the Schools Finance Program Regulation.

**FOR FURTHER INFORMATION:**

- Pupil Transportation Unit, 204-945-6900
- Schools' Finance Branch, 204-945-6910
- Level II and III Special Needs Funding information:  
<http://www.edu.gov.mb.ca/k12/specedu/funding/level2-3.html>
- See also: Appropriate Educational Programming  
Discrimination  
Dispute Resolution  
Reasonable Accommodation  
Schools of Choice

# ***School Administration***

## ***Use of Corrective Force***

### **LEGISLATIVE REFERENCE:**

- *Criminal Code*, section 43
- *The Public Schools Act*, section 58.6

### **GENERAL RESPONSIBILITIES:**

*The Public Schools Act* and supporting regulations are silent with respect to corporal punishment. Other than granting authority to expel or suspend students, the Act does not prescribe the type of disciplinary measures teachers and principals can use. However, the criminal law only authorizes teachers to use minor corrective force against students, and only as required in some circumstances. Corporal punishment, i.e. using force as a means of discipline, is criminally prohibited in schools.

In January 2004 the Supreme Court of Canada ruled in *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)* on the constitutionality of section 43 of the *Criminal Code*, which states that:

“Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances”.

The Court held that s. 43 only exempts from criminal sanction “minor corrective force of a transitory or trifling nature” that is reasonable in the circumstances. Correctional force authorized by s. 43 may only be applied to children between the ages of two and twelve and must not be applied to any children who are incapable of learning from the application of force because of disability or some other contextual factor. The Court defined “reasonable” as a force that would have a “transitory and trifling” effect on a child. Discipline by the use of objects or blows or slaps to the head is, for example, unreasonable. Discipline that is degrading, inhuman or harmful is unreasonable and not authorized by s.43. The use of force is to be corrective and must not satisfy the desire to strike out in anger.

In terms of the application of s. 43 to teachers, the Court held that s. 43 does not authorize them to use corporal punishment on students. Teachers may be justified in some circumstances to reasonably apply force to remove a child from a classroom or secure compliance with instructions, but never to do so as corporal punishment.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office's legal counsel
- Education Administration Services, 204-945-6899
- See also: Discipline

# **School Administration**

## *User Fees Charged by Public Schools*

### LEGISLATIVE REFERENCE:

- *The Public Schools Act*, sections 41(1)(n), 47.4(3), 48(1)(f)(h)(j)&(w), 73, 75

### GENERAL RESPONSIBILITIES:

*The Public Schools Act* states that school divisions and school districts may purchase books and other instructional materials to be given to the students or to be loaned to them with or without charge as the school board may decide. Textbooks must be distributed free of charge to students.

The Act also authorizes school divisions/districts to impose fees in certain circumstances. For example, *The Public Schools Act*, allows schools to levy caution fees (damage deposits) for the use of school property and charge fines for such things as overdue library materials. *The Public Schools Act* however does not allow school boards to charge tuition fees to those students who have a right to attend school.

The fee charged in respect of the public's use of a school facility must not exceed the amount necessary for the school division or school district to recover the costs it incurs because of the public's use of the facility.

The Manitoba Public Schools Fee Policy has been developed to provide guidance to divisions/districts regarding fees and charges not specifically referenced in the Act. The policy is:

1. A school division/district shall not charge fees for goods and services provided to students of school age without which the student could not meet required learning outcomes or assessment requirements of an educational program provided by the division/district except for:
  - (a) materials used in goods that are intended for the student to take home for personal use;
  - (b) the purchase of paper, writing tools, calculators, student planners, exercise books, computer diskettes and other school supplies and equipment for a student's personal use;
  - (c) the rental of a musical instrument for a student's personal use;

- (d) fees in respect of field trips, team trips or special events to recover associated actual expenses only, including transportation, accommodation, meals, entrance fees and equipment rental but not including substitute teacher costs.
2. A school division/district may not charge fees for items included under Sections 1(a) – 1(d) unless the board has established policies and procedures to facilitate participation by students who would otherwise be excluded due to financial hardship.
  3. A school division/district may not charge fees for transportation of students to their designated school as mandated (primarily related to distance from school) by *The Public Schools Act*. A fee may be charged for all other transported school students.
  4. A school division/district may require students, at the students'/parents' expense, to provide appropriate personal clothing for school activities such as gym wear, footwear, outerwear, personal safety equipment and musical instruments or require a student to bring appropriate materials, supplies and equipment for their personal use at school.
  5. This policy applies to school age students, i.e. students having the right to attend school.
  6. A school division/district must ensure that advisory councils, parent councils and/or student councils do not charge fees that would be in violation of this policy.
  7. Effective with the 1999/2000 school year, school divisions/districts must make available to parents a comprehensive fee schedule prior to the start of each school year.

*NOTE: Non-payment of user fees cannot be used as a reason for withholding transcripts or mark statements.*

#### **COMMONLY ASKED QUESTIONS:**

1. Can a school board charge user fees for all children remaining at school during the lunch hour?

Depending on the age of students, lunch hour supervision must be provided without cost for students whom the school division has an obligation to transport, where those students remain at school for the midday break. User fees may be charged for non-transported students.

2. Does funding received from Manitoba Education and Training for the purposes of transporting students include transportation for extra- or co-curricular purposes?

No. Departmental transportation funding covers only the costs of transporting eligible students to and from school. School(s) and/or divisions are responsible for all costs associated with transportation of students to and from extra- or co-curricular activities, and may charge fees to offset those costs.

**FOR FURTHER INFORMATION:**

- Schools' Finance Branch, 204-945-6910
- Education Administration Services, 204-945-6899
- Pupil Transportation Unit, 204-945-6900
- Manitoba Public School Fee Policy:  
<http://www.edu.gov.mb.ca/k12/finance/feepolicy.html>
- See also: Right to Attend School

# ***School Administration***

## ***Vacations and Holidays***

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 76, 77, 78
- Manitoba Regulation 101/95, sections 6, 7 (School Days, Hours and Vacations Regulation)

### **Christmas Vacation**

Unless otherwise stipulated by the Minister, Christmas vacation must begin not later than the end of the school day on December 22, or an earlier day that the school board may determine, and must extend to the opening of the school day on January 3 inclusive, or a later day that the school board may determine.

### **Spring Break**

Unless otherwise stipulated by the Minister, spring break will begin on the last Monday in March and will continue through to the following Friday.

### **Summer Vacation**

Summer vacation shall begin no later than July 1 and extends to the first Tuesday after Labour Day.

### **Other Holidays**

All schools shall observe the following holidays: Louis Riel Day, Good Friday, Victoria Day, Thanksgiving Day, Remembrance Day (when it falls on a week day) and any other day designated by the Minister.

### **FOR FURTHER INFORMATION:**

- Education Administration Services, 204-945-6899
- See also: School Year

# **School Administration**

## *Volunteers*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 86, 89, 91(2)
- Manitoba Regulation 23/2000 (Persons Having Care and Charge of Pupils Regulation)

### **PRINCIPAL'S RESPONSIBILITY:**

A principal may, upon authorization of the school board, leave students in the care of a responsible adult other than a certified teacher. In response to non-contact time provisions contained in many collective agreements, as well as to meet the demands created by a plethora of extra-curricular activities, school divisions/districts are turning to volunteers for supervisory and other assistance.

Prior to vesting responsibility for supervision, coaching, etc., with a volunteer, the following points are worth considering:

1. Wherever possible and feasible, it is desirable to have extracurricular activities supervised by a certified teacher.
2. Where this is not possible, there would seem to be sufficient latitude for a volunteer to have care and charge of students where this person is adequately supervised by the school principal or a designated teacher (Regulation 23/00). Subsection 91(2) of *The Public Schools Act* indicates that supervision need not necessarily involve co-attendance by a principal/teacher and the volunteer.
3. It would be useful to have in place, as a minimum, the following:
  - an orientation of the volunteer at which time the expectations, guidelines, pertinent policy(ies) of the Division/District vis à vis extracurricular activities, student safety, student conduct, person in charge conduct, procedures to be followed in an emergency, confidentiality, and similar are discussed. (You may wish to have some sort of sign off by the volunteer confirming that an orientation took place and that the parameters are understood).
  - a formal reporting mechanism with both regular contact and "as needed" contact between the volunteer and supervisor.

- the staff supervisor (or designated back up) being available by telephone or other means to provide consultation/advice during the time(s) when the volunteer has care and charge of students.
- 4. The Board of Trustees, at its discretion, should retain the option of performing background/reference checks on volunteers as a part of the approval process. (In most circumstances, it would be highly prudent to exercise this right).
- 5. A volunteer authorized by the Board could be considered an agent of the Board per Section 86 and 89 of *The Public Schools Act*. Given the degree of control which the Board has over how volunteers carry out their duties, it is highly likely that volunteers would be considered agents of the School Board, such that the Board may become vicariously liable for negligent acts by the agent, providing the agent acts within the scope of his/her authority. This makes it crucial for school boards to ensure that the agent understands the limits, if any, on his/her authority and is capable of performing the assigned duties, etc.
- 6. Prior to embarking on any volunteer program, the Board of Trustees should check with its insurers to confirm that its insurance coverage, as presently written, is broad enough to protect the volunteer and the Board in the event of damage/injury to third parties.
- 7. It would be prudent, as well, for the school division/district to research the matter of protection of volunteers themselves, from the perspectives of insurance and workers' compensation. Do existing insurance policies protect volunteers in the event of injury while performing assigned duties? Would any lost income be compensable through Workers' Compensation?

All persons in charge of students (volunteers) who become aware that a student may have engaged in unacceptable conduct at school or at school-approved activities are required to report the matter to the principal as soon as reasonably possible.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Manitoba School Boards Association, 204-233-1595
- School Division/District Legal Counsel
- Education Administration Services, 204-945-6899
- See also: Reporting Unacceptable Conduct

# **School Administration**

## *Weapons*

### **LEGISLATIVE REFERENCE:**

- *The Public Schools Act*, sections 47.1(2)(c), 96(f), 236

### **GENERAL RESPONSIBILITIES:**

Under *The Public Schools Act*, it is an offence to carry an offensive weapon, as defined in the *Criminal Code*, to school. "Weapons", as defined by the *Criminal Code*, means "anything used, designed to be used or intended for use for the purpose of threatening or intimidating any person; or causing death or injury". Prohibited weapons include handguns, switchblade knives, nunchaku sticks, etc. Non-prohibited weapons are other items/objects which can be used as a weapon such as screw drivers, sections of pipe, sawed-off hockey sticks, pocket jack knives, etc.

According to the Act, teachers are required to seize or cause to be seized and take possession of any offensive or dangerous weapon that is brought to school by a pupil and hand any such weapon to the principal. School policies and procedures should be developed related to the seizure of weapons and such guidance should give due consideration to the personal safety of teachers, students, staff and any other persons who may be in the vicinity. Regular discussion by principals and teachers regarding the application of policies and procedures for dealing with weapons would be appropriate.

Every school's Code of Conduct must include a statement that possessing a weapon will not be tolerated on the school site. School policies on behaviour/discipline should contain sections which define what is considered to be a weapon, advise that there is a proscription against bringing such items to school, and indicate what the penalties might be. Students and their parents should be warned via a published code of conduct, student handbook, etc. that suspension or expulsion from school may result if a student brings a weapon to school.

Majority age students, or parents/guardians of students under the age of majority, who bring a weapon to school, are liable to fines or other penalties upon conviction. This penalty is in addition to any other penalties or punishments under any other Act in force in the province and emanating from the school's Code of Conduct.

**FOR FURTHER INFORMATION:**

- Your Local School Division/District Office
- Education Administration Services, 204-945-6899
- See also: Codes of Conduct
  - Discipline
  - Emergency Response Plans
  - Expulsion
  - Suspension