



## FEDERAL LEGISLATION

- The Constitution Act: Canadian Charter of Rights and Freedoms
- The Constitution Act: Rights of the Aboriginal Peoples of Canada
- Youth Criminal Justice Act (YCJA)



## The Constitution Act: Canadian Charter of Rights and Freedoms

### Overview

The Canadian Charter of Rights and Freedoms is Part I of The Constitution Act, 1982, and came into force on April 17, 1982. The Charter sets out those rights and freedoms that Canadians believe are necessary in a free and democratic society. It establishes equality rights before and under the law and states, in part, that

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Sections of the Charter of Rights and Freedoms that are applicable to students' legal rights include:

- 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 12: The right to not be subjected to any cruel or unusual treatment or punishment
- Section 15: The right to equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability



### For Further Information

The Canadian Charter of Rights and Freedoms is available online at:  
[http://laws.justice.gc.ca/en/const/annex\\_e.html#I](http://laws.justice.gc.ca/en/const/annex_e.html#I)

*Your Guide to the Canadian Charter of Rights and Freedoms*, a booklet published by the Human Rights Program of the Department of Canadian Heritage, is available online at:  
[www.canadianheritage.gc.ca/progs/pdp-hrp/canada/guide/index\\_e.cfm](http://www.canadianheritage.gc.ca/progs/pdp-hrp/canada/guide/index_e.cfm)

The *Administrative Handbook for Schools* is a practical compendium of information on legislative and regulatory authority that serves as a reference and resource guide, providing basic administrative information for educators.

Key sections of the *Administrative Handbook for Schools* are also available online at:  
[www.edu.gov.mb.ca/k12/docs/policy/admin](http://www.edu.gov.mb.ca/k12/docs/policy/admin)

Manitoba Education, Citizenship and Youth  
Education Administration Services Branch  
Phone: 204-945-6899  
Toll-Free in Manitoba: 1-800-282-8069 (extension 6899)

### The Constitution Act: Rights of the Aboriginal Peoples of Canada

#### Overview

“Rights of the Aboriginal Peoples of Canada” is Part II of The Constitution Act, 1982. This section of the Constitution

- recognizes and affirms the existing Aboriginal and treaty rights of Aboriginal peoples
- defines “Aboriginal peoples of Canada” as including Indian, Inuit, and Métis peoples
- recognizes and affirms existing land claims agreements
- guarantees Aboriginal and treaty rights equally to male and female persons
- establishes the commitment that representatives of Aboriginal peoples be invited to participate in constitutional conferences



#### For Further Information

*The Rights of the Aboriginal Peoples of Canada* is available online at:  
[http://laws.justice.gc.ca/en/const/annex\\_e.html#II](http://laws.justice.gc.ca/en/const/annex_e.html#II)

The Manitoba Aboriginal Education Directorate provides leadership and co-ordination for departmental initiatives in Aboriginal education and training through the departments of Education, Citizenship and Youth and Advanced Education and Literacy. The Aboriginal Education Directorate Links webpage provides a variety of web links, including provincial and federal education sites and Aboriginal political organizations in Manitoba. It is available at <[www.edu.gov.mb.ca/aed/links.html](http://www.edu.gov.mb.ca/aed/links.html)>.

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## Youth Criminal Justice Act (YCJA)

### Overview

On April 1, 2003, the Youth Criminal Justice Act (YCJA) came into force, replacing the Young Offenders Act. The YCJA is based on the premise that young people<sup>1</sup> should be held responsible for their actions but, as children, should be given the opportunity to mature, learn from their mistakes, accept the consequences of their actions, and make amends. Thus, they should be treated differently from adults who are expected to understand and be fully accountable for their actions.

The YCJA states that the criminal justice system for young people must

- be separate from that for adults
- emphasize rehabilitation and reintegration
- provide fair and proportionate accountability that reflects the reduced level of maturity of young persons
- provide intervention in a timely fashion
- provide enhanced procedural safeguards to ensure that young persons are treated fairly

Parents, extended families, the community, and social or other agencies may have a chance to be involved in a young person's case. A young person's gender, ethnic, cultural, and linguistic background, special needs, and Aboriginal heritage may be taken into consideration.

Subsection 125(6) of the Youth Criminal Justice Act authorizes the limited disclosure of information respecting young persons dealt with under that Act to school "representatives."

125(6) The provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to any professional or other person engaged in the supervision or care of a young person – including the representative of any school board or school or any other educational or training institution – any information contained in a record kept under subsections 114 to 116 if the disclosure is necessary

<sup>1</sup> The YCJA defines a young person, in part, as one who "in the absence of evidence to the contrary, appears to be twelve years or older, but less than eighteen years old."

- (a) to ensure compliance by the young person with an authorization under section 91 [for reintegration leave or day release] or an order of the youth justice court;
- (b) to ensure the safety of staff, students or other persons; or
- (c) to facilitate the rehabilitation of the young person



### For Further Information

The Youth Criminal Justice Act is available online at:  
<http://canada.justice.gc.ca/en/ps/yj/ycja/ycja.html>

Manitoba educators can borrow 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 (February 2004)* from the Manitoba Education, Citizenship and Youth Instructional Resources Unit (Education Library), available online at:  
<http://www3.edu.gov.mb.ca/pubcat>

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### Further Information in This Handbook

#### **Policies and Protocols**

*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 (February 2004)*, page 103