



REGULATIONS

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REGULATIONS

The Education Administration Act: Education Administration Miscellaneous Provisions Regulation, amendment (Regulation 156/2005): Overview

Overview

To support The Public Schools Amendment Act (Appropriate Educational Programming), The Education Administration Miscellaneous Provisions Regulation was also amended in October, 2005. The amendment includes, but is not limited to, the following:

29(3) The principal must provide the pupil file of a pupil who has transferred to another school to that school within one week of the school requesting it.

40.9 Every principal must

- (a) develop categories of the reasons for which a pupil may be suspended; and
- (b) ensure that
 - (i) each suspension is accordingly categorized,
and
 - (ii) for each category, the total number of pupils suspended and the duration of suspensions are tabulated.

40.10 A principal must ensure that educational programming is available to a pupil who has been suspended for more than five days.

40.11 Despite being expelled, a school board must ensure that educational programming is made available to a person under the age of 16 who is otherwise entitled to attend a school in the division or district, as provided in section 259 of The Public Schools Act.

40.12 Every teacher, principal, superintendent and school board must ensure a pupil's special needs, if any, are taken into account when deciding whether to suspend, expel or otherwise discipline the pupil.

The text of The Education Administration Miscellaneous Provisions Regulation amendment (Regulation 156/2005) is provided on the following pages.



For Further Information

The Education Administration Act: Education Administration Miscellaneous Provisions Regulation, amendment (Regulation 156/2005) is available online at:
<http://web2.gov.mb.ca/laws/regs/2005/pdf/156-e010.05.pdf>

Manitoba Education, Citizenship and Youth develops and supports school and community initiatives that encourage safety, caring, and security of all learners; professional development workshops and materials for educators; and website information on personal safety, violence and bullying prevention. Further information is available online at:

www.edu.gov.mb.ca/k12/safe_schools/

Manitoba Education, Citizenship and Youth
Education Administration Services Branch

Phone: 204-945-6899

Toll-Free in Manitoba: 1-800-282-8069 (extension 6899)

Manitoba Education, Citizenship and Youth
School Support Unit

Phone: 204-945-8867

Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



Further Information in This Handbook

Regulations

The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005), page 70

Education Administration Miscellaneous Provisions Regulation, amendment

Regulation 156/2005
Registered October 26, 2005

Manitoba Regulation 468/88 R amended

1 The *Education Administration Miscellaneous Provisions Regulation, Manitoba Regulation 468/88 R*, is amended by this regulation.

2 Subsection 29(3) is replaced with the following:

29(3) The principal must provide the pupil file of a pupil who has transferred to another school to that school within one week of the school requesting it.

29(4) In subsection (3), "pupil file" has the same meaning as in section 42.2 of *The Public Schools Act*.

3 The centred heading before section 40.3 is replaced with "SUSPENSION AND EXPULSION".

4 The following is added after section 40.8:

Statistics re suspensions

40.9 Every principal must

- (a) develop categories of the reasons for which a pupil may be suspended; and
- (b) ensure that
 - (i) each suspension is accordingly categorized, and
 - (ii) for each category, the total number of pupils suspended and the duration of suspensions are tabulated.

Where suspension exceeds five days

40.10 A principal must ensure that educational programming is available to a pupil who has been suspended for more than five days.

Alternative programming

40.11 Despite being expelled, a school board must ensure that educational programming is made available to a person under the age of 16 who is otherwise entitled to attend a school in the division or district, as provided in section 259 of *The Public Schools Act*.

Special needs of pupil to be taken into account

40.12 Every teacher, principal, superintendent and school board must ensure a pupil's special needs, if any, are taken into account when deciding whether to suspend, expel or otherwise discipline the pupil.

Coming into force

5 This regulation comes into force on the same day that *The Public Schools Amendment Act (Appropriate Educational Programming)*, S.M. 2004, c. 9, comes into force.

October 25, 2005

Minister of Education, Citizenship and Youth
Peter Bjornson

REGULATIONS

Information Supporting The Education Administration Miscellaneous Provisions Regulation, amendment (Regulation 156/2005)

- Pupil Files

Overview

The Public Schools Act (PSA) defines “pupil file” to mean “a record or 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, et cetera).

Practically speaking, a pupil file can potentially consist of one or more of three components comprising

- cumulative student information
- pupil support information
- youth criminal justice information

Under subsection 42.1 of the PSA, a school board or school division is required to establish written procedures respecting the collection, storage, retrieval, and use of information respecting pupils. These procedures should include provisions for the security of the personal information and the personal health information contained in the pupil file during the period of use and the period of retention and storage.

Each school division should also develop a policy, consistent with the requirements of the PSA, FIPPA, PHIA, and the YCJA, respecting access by board officers, administrative, teaching, professional (clinical/resource), and support staff employees to students’ personal information, personal health information, and youth criminal justice information contained in pupil records. School principals, in keeping with their general authority and responsibility for the supervision of schools and school staff, should ensure that all teaching, professional (clinical/resource), and support staff are aware of the access and privacy provisions of the PSA, FIPPA, PHIA, and the YCJA.

In general, access to and use of personal information and personal health information in a pupil file by school division staff is authorized if

- the information is used for the purpose for which it was collected or compiled
- the information is used for a purpose which is consistent with the purpose for which it was collected or compiled
- the pupil or (depending on the maturity of the pupil) the pupil’s parent(s) or legal guardian(s) consent to the use

Frequently Asked Questions

To whom does the pupil file belong?

All recorded information about a pupil that is either generated or received by school division staff is in the custody or under the control of the school division.

May professional staff (such as counsellors, clinicians, and resource coordinators) maintain a working file in addition to the pupil file?

Yes, as long as the school division pupil file policy allows staff to maintain a working file. The existence of any such file should be documented in both the cumulative file component and a master pupil support file component. Professional staff should be aware that any record made during the course of employment with a school division is in the custody or under the control of the school division; it is not the author's personal property.

Are personal notes of a teacher or school counsellor available to the parent, legal guardian, or age-of-majority pupil?

Information "recorded" in any form by a person in the employ of a school division about a pupil is a record in the custody or under the control of the employer, and is subject to all provisions respecting access to information and protection of personal information in the PSA, FIPPA, and PHIA. As such, parents, legal guardians, and age-of-majority pupils may request access to personal notes made by school division staff under the PSA. In addition, parents, legal guardians, and pupils, whether adults or not, may request access to these personal notes under FIPPA and PHIA.

Are independent schools and band-operated schools in Manitoba required to transfer the pupil file of a student who leaves an independent school or a band-operated school and enrolls in another school?

Funded independent schools in Manitoba are required to comply with The Education Administration Miscellaneous Provisions Regulation, which requires that, when a student transfers out of a school and enrolls in another school, the principal must provide the new school with the student's pupil file.

Band-operated schools and non-funded independent schools may choose, as a professional courtesy, to transfer the pupil file of a student who has enrolled in another school to the new school but are not required to do so by regulation.



For Further Information

Manitoba Pupil File Guidelines (Revised November 2004) is available to assist school boards in carrying out their duties and responsibilities respecting student information. It is available online at:

www.edu.gov.mb.ca/k12/docs/policy/mbpupil/mbpupil.pdf

Guidelines on the Retention and Disposition of School Division/District Records (Revised June 2000) is available to help school divisions fulfill their responsibilities respecting records management and information access and privacy. It is available online at:

www.edu.gov.mb.ca/k12/docs/policy/retention/retention.pdf

Manitoba Education, Citizenship and Youth

Education Administration Services Branch

Phone: 204-945-6899

Toll-Free in Manitoba: 1-800-282-8069 (extension 6899)



Further Information in This Handbook

Provincial Legislation

The Freedom of Information and Protection of Privacy Act (FIPPA), page 27

Provincial Legislation

The Personal Health Information Act (PHIA), page 31

Guidelines

Manitoba Pupil File Guidelines, page 115

Guidelines

Guidelines on the Retention and Disposition of School Division/District Records, page 117

REGULATIONS

The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005): Overview

Overview

The Public Schools Amendment Act (Appropriate Educational Programming) received Royal Assent on June 10, 2004, and came into force on October 28, 2005. The intent of this Amendment is to ensure that all students in Manitoba are entitled to receive appropriate educational programming that fosters their participation in both the academic and social life of the school. This legislation permits the Minister of Education, Citizenship and Youth to develop regulations regarding appropriate educational programming and dispute resolution.

The Appropriate Educational Programming Regulation (155/2005) came into effect on October 28, 2005. These regulations support The Public Schools Amendment Act (Appropriate Educational Programming).

The text of The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005) is provided on the following pages.



For Further Information

The Public Schools Amendment Act (Appropriate Educational Programming) Regulation 155/2005 is available online at:
<http://web2.gov.mb.ca/laws/regs/2005/pdf/155-p250.05.pdf>

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Phone: 204-945-8867
Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



Further Information in This Handbook

Provincial Legislation (Amendment)

The Public Schools Amendment Act (Appropriate Educational Programming), page 36

Appropriate Educational Programming Regulation

Regulation 155/2005
Registered October 26, 2005

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PART 1
INTRODUCTORY PROVISIONS

Definitions

1 The following definitions apply in this regulation.

"**Act**" means *The Public Schools Act*. (« Loi »)

"**adaptation**" means a change in the teaching process, materials, assignments or pupil products to assist a pupil to achieve the expected learning outcomes. (« adaptation »)

"**curriculum**" means the curriculum prescribed or approved by the minister. (« programme d'études »)

"**deputy minister**" means the deputy minister of the Department of Education, Citizenship and Youth.

"**differentiated instruction**" means a method of instruction or assessment that alters the presentation of the curriculum for the purpose of responding to the learning diversity, interests and strengths of pupils.

"**expected learning outcomes**" means the learning outcomes consistent with the curriculum. (« résultats d'apprentissage prévus »)

"**minister**" means the minister responsible for the administration of the Act. (« ministre »)

"**parent**" includes a legal guardian. (« parent »)

"**pupil file**" has the same meaning as in section 42.2 of the Act. (« dossier scolaire »)

PART 2
APPROPRIATE EDUCATION

General obligation

2(1) The appropriate educational programming that a school board must provide is the curriculum.

2(2) A school board must ensure that, as far as reasonably practicable, appropriate educational programming is available to a pupil in a regular class of his or her peers at

- (a) the school whose catchment area includes his or her residence; or
- (b) another school that provides the program, as designated by the board, that the pupil is to be enrolled in, if the school described in clause (a) does not provide that program.

School-related activities

3 A school board must ensure that school-related activities such as assemblies, sports days and field trips reasonably accommodate the needs of all students.

Assessment

4(1) A principal must ensure that a pupil is assessed as soon as reasonably practicable if he or she is having difficulty meeting the expected learning outcomes.

4(2) A principal must ensure that a pupil is referred for a specialized assessment if the pupil's teacher and resource teacher, guidance counsellor or other applicable in-school personnel are

- (a) unable to assess why the pupil is having difficulty meeting those outcomes; or
- (b) of the opinion that differentiated instruction and adaptations are insufficient to assist the pupil in meeting those outcomes.

4(3) A principal must ensure that the pupil's parent is informed before the pupil is referred for a specialized assessment, and no interviewing or testing as part of the assessment may occur without the parent's consent.

- 4(4)** A specialized assessment must be
- (a) coordinated by a person who has been designated by the school board or, if the board has not designated such a person, by the principal; and
 - (b) conducted by one or more qualified practitioners, as designated by the person coordinating the assessment, who may, if relevant in the circumstances, take into account reports and other information obtained
 - (i) from the pupil's pupil file, or
 - (ii) from or with the consent of the pupil's parent.
- 4(5)** A specialized assessment must identify the following, as applicable:
- (a) other methods of differentiated instruction and adaptations that can be used to assist the pupil in meeting the expected learning outcomes, if it is determined that such methods or adaptations will be sufficient to assist the pupil in meeting those outcomes;
 - (b) if it is determined that differentiated instruction and adaptations will be insufficient to assist the pupil in meeting the expected learning outcomes, what the pupil requires to meet or approximate
 - (i) the expected learning outcomes, or
 - (ii) the learning outcomes the pupil can reasonably be expected to achieve.

Individual education plans

- 5(1)** A principal must ensure that an individual education plan is prepared for a pupil who has requirements identified under clause 4(5)(b). The plan must identify
- (a) how the pupil's requirements for meeting or approximating the expected learning outcomes are to be addressed, where it is reasonable to expect the pupil to meet or approximate those outcomes; or
 - (b) where it is not reasonable to expect the pupil to meet or approximate the expected learning outcomes,
 - (i) the learning outcomes the pupil can reasonably be expected to meet, and
 - (ii) how the pupil's requirements for meeting those learning outcomes are to be addressed.
- 5(2)** The principal must ensure that a pupil's individual education plan
- (a) is prepared with the assistance of the pupil's teacher and other in-school personnel, as directed by the principal;
 - (b) takes into account a pupil's behavioural or health care needs, if any;
 - (c) is consistent with provincial protocols respecting a pupil's transition to and from school; and
 - (d) is updated annually or sooner if required by a change in a pupil's behaviour or needs.
- 5(3)** The principal must ensure that the pupil's parents, and the pupil if appropriate, are given opportunity to
- (a) participate in preparing and updating the pupil's plan; and
 - (b) be accompanied and assisted by a person of their choosing when doing so.
- 5(4)** The content of a pupil's individual education plan may be inconsistent with the requirements of section 2. In that case, the requirements of section 2 do not apply to the pupil.

Transition into school

- 6(1)** In this section, "eligible person" means a person who
- (i) is eligible to be enrolled as a pupil but who has not yet begun attending school; or
 - (ii) will be transferring into a school.
- 6(2)** When differentiated instruction methods and adaptations are likely to be insufficient to assist an eligible person in meeting the expected learning outcomes,
- (a) a principal must ensure that the person is referred for a specialized assessment; and
 - (b) if required, the principal must ensure that an individual education plan is prepared for the person;

and sections 4 and 5 apply, with necessary changes, to the assessment and plan to be done under this section.

Educational programming not to be unduly delayed

- 7(1)** A school board must ensure that a pupil is not denied educational programming in the following circumstances:
- (a) for more than 14 days after the pupil seeks to be enrolled in a school within the division or district, regardless of whether that school has received the pupil's pupil file;
 - (b) pending
 - (i) the conduct of any assessment, or
 - (ii) the preparation of an individual education plan for the pupil.

7(2) A school board's obligation to provide educational programming under clause (1)(a) does not limit or restrict it from taking reasonable steps to address any significant risks to safety which a pupil may present to himself or herself, or to others.

Other assessments and reports not limited

- 8** An assessment, including a specialized assessment, of a pupil conducted under this Part does not limit or restrict a school board's obligation to ensure that
- (a) any other required assessment of the pupil is carried out; and
 - (b) the pupil's progress is evaluated and progress reports are provided to parents.

PART 3

DISPUTE RESOLUTION

Appointment of review coordinator

9 The minister must appoint a person as the review coordinator.

Complaint may be made to the review coordinator

10(1) A parent of a pupil, or a pupil who is over the age of 18, may complain to the review coordinator about the appropriateness of the following, as identified in the pupil's individual education plan:

- (a) how the pupil's programming requirements for meeting or approximating the expected learning outcomes, or the outcomes the pupil can reasonably be expected to meet, are addressed;
- (b) where a pupil is placed in relation to his or her receiving educational programming.

10(2) A complaint must be in writing and must specify

- (a) the complainant's name and address;
- (b) the name of the pupil, where the complaint is made by the pupil's parent; and
- (c) the reason or reasons why the complaint is made.

Preliminary inquiries by review coordinator

11(1) The review coordinator must, as soon as reasonably practicable after receiving a complaint, make any preliminary inquiries that he or she considers necessary to determine if

- (a) the complaint relates to a matter set out in subsection 10(1); and
- (b) the complainant has attempted to resolve the matter
 - (i) with the pupil's principal,
 - (ii) with the superintendent, and
 - (iii) by following the appeal process established by the school board, if any.

11(2) The review coordinator must decline to take any further action in respect of the complaint, and advise the complainant in writing of the reason for doing so, if he or she determines

- (a) the complaint does not relate to a matter set out in subsection 10(1);
- (b) where the school board has established an appeal process,
 - (i) that appeal process has not been completed, or
 - (ii) more than 30 days have passed since the matter complained of was finally determined by the school board;
- (c) a review committee has previously considered a complaint respecting the same pupil, and there has been no material change in the pupil's circumstances since that previous complaint was determined; or
- (d) the complaint is frivolous, vexatious or made in bad faith.

Alternative dispute resolution

12(1) The review coordinator may, if he or she considers it appropriate in the circumstances, offer the complainant and the school board an alternative process for resolving the complaint.

12(2) Where a complaint is resolved through an alternative process,

- (a) the school board must advise the review coordinator of the resolution in writing; and
- (b) the review coordinator must confirm the resolution with the complainant.

Establishment of review committee

13(1) The minister must appoint a review committee when advised by the review coordinator that a complaint has been received and that

- (a) in the circumstances, it is not appropriate to offer an alternative process for resolving the complaint;
- (b) the complainant or the board do not agree to an alternative process to resolve the complaint; or
- (c) the alternative process was unsuccessful in resolving the complaint.

13(2) A review committee must consist of three members, and the minister must designate one of the members as chair of the committee.

13(3) The minister may appoint a review committee for more than one complaint where the minister is satisfied

- (a) the complaints are substantially similar in nature; and
- (b) it would be fair and reasonable in the circumstances for the complaints to be dealt with at the same time and by the same committee.

13(4) If a member of a review committee dies or is otherwise incapacitated, the minister must appoint a new review committee.

Role of review committee

- 14(1)** Where a review committee is appointed in respect of a complaint, the committee must
- (a) investigate the complaint; and
 - (b) prepare a written report that sets out
 - (i) the nature of the complaint and the respective positions of the complainant and the school board, and
 - (ii) the committee's recommendations for meeting the pupil's requirements, placement of the pupil, or both.
- 14(2)** A review committee may investigate a complaint in any manner that the committee considers suitable in the circumstances, and may
- (a) request any person, including the school board, to answer any questions and to produce for the committee any documents, papers, notes, records and other material relevant to the complaint or to appropriate education programming within the division or district; and
 - (b) copy and keep copies of any of the material that is produced under clause (a).
- 14(3)** A school board must comply with a request of a review committee described in subsection (2).

Hearing is optional

- 15(1)** A review committee may hold a hearing but is not required to do so.
- 15(2)** A review committee that decides to hold a hearing
- (a) is not bound by the rules of evidence that apply to judicial proceedings; and
 - (b) may establish its own rules of practice and procedure for the hearing.

Parties to be provided report and recommendation

- 16(1)** After preparing its written report and recommendation, the review committee must provide the complainant and the school board an opportunity to review and comment on it.
- 16(2)** On receiving comments from the complainant, the school board or both, the review committee may confirm or amend its recommendation.
- 16(3)** A recommendation of the review committee must be in accordance with the enactments of Manitoba.
- 16(4)** The review committee must file a copy of its report and final recommendation with the deputy minister.

Final recommendation is decision

- 17(1)** The final recommendation of a majority of the committee's members is the decision of the committee. Where there is no majority, the recommendation of the committee's chair is the decision of the committee.
- 17(2)** The review committee must give the complainant and the school board a copy of the final decision and inform them of their right to appeal to the deputy minister.
- 17(3)** The final decision must be given to the complainant and the school board personally, by regular lettermail or by another method acceptable to the review committee, the complainant and the school board.

Appeal to deputy minister

18(1) A complainant or a school board may appeal the review committee's decision to the deputy minister.

18(2) An appeal to the deputy minister must be made within 30 days after the date of the review committee's decision. The appeal must be made in writing and the party making the appeal must give a copy of it to the other party.

18(3) The parties may file submissions respecting the appeal with the deputy minister. Submissions must be in writing and must be filed within 14 days of the appeal being filed but, at the request of a party, the deputy minister may grant an extension.

Deputy's decision is final

19(1) After receiving the review committee's report and final recommendation, and after considering any submissions made by the parties to the appeal, the deputy minister may make any decision he or she determines appropriate regarding meeting the pupil's requirements, placement of the pupil, or both.

19(2) The deputy minister's decision is final and, if applicable, the school board must implement the decision as directed by the deputy minister.

19(3) For certainty, the deputy minister is not bound by the recommendation of the review committee and may make any decision that is in accordance with the enactments of Manitoba.

PART 4

TRANSITION AND COMING INTO FORCE DISPOSITIONS

Previous determinations of board may be reviewed

20(1) Despite subclause 11(2)(b)(ii), the review coordinator may take further action in respect of a complaint — including advising the minister that a review committee needs to be appointed in respect of it — if

- (a) the complaint, which complies with section 10, is filed with the review coordinator before December 16, 2005;
- (b) the subject matter of the complaint
 - (i) was finally determined under the school board's appeal process before the coming into force of this regulation, and
 - (ii) relates to educational programming or placement for the 2005-06 school year; and
- (c) the review coordinator is satisfied that
 - (i) there has been no change in circumstances that warrant the school board's reconsidering the matter, or
 - (ii) the school board has declined to reconsider the matter.

20(2) This section is repealed on December 16, 2005.

Coming into force

21 This regulation comes into force on the same day that *The Public Schools Amendment Act (Appropriate Educational Programming)*, S.M. 2004, c. 9, comes into force.

October 25, 2005

Minister of Education, Citizenship and Youth
Peter Bjornson

REGULATIONS

Information Supporting The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005)

- Assessment and Appropriate Educational Programming

Overview

Appropriate educational programming is a collaborative school-family-community process where school communities create learning environments and provide resources and services that are responsive to the lifelong learning, social, and emotional needs of all students. Fair assessment practice is an important and ongoing support in the development and implementation of appropriate educational programming.

Learning is an interactive process by which learners try to make sense of new information and integrate it into what they already know. Monitoring a student's progress, determining a student's needs, and developing a plan to appropriately address these needs is a team process. In most cases this process starts with a core team comprising the student, the student's classroom teacher, and the student's parents.

Teachers use classroom assessment to become aware of the knowledge, skills, and beliefs that their students bring to a learning task, and use this knowledge as a starting point for new instruction. They monitor students' progress as instruction proceeds, gathering evidence and providing feedback to adjust instruction. In these ways, classroom assessment promotes learning. Teachers share this information with parents on a regular basis.

In some cases, a student continues to demonstrate difficulty meeting the expected learning outcomes and the core team decides it is appropriate to request the involvement of other members of the in-school team, such as the resource teacher, school counselor, and/or principal. It is the responsibility of the school team under the direction of the school principal to ensure that this assessment occurs. The in-school team continues gathering and sharing information to develop a student profile that describes the unique development of the individual student, to determine priority learning needs, and to implement and monitor appropriate supports. Information can be gathered in a variety of ways and may include student observation in a variety of environments, a review of work samples, and formal assessment instruments.

Members of the in-school team determine the information needed to answer the questions they have and the most appropriate ways of gathering this information, based on their experience and training. The team then shares this information and uses it as they develop, implement, and monitor an appropriate student plan. As members of the core team, parents continue to be informed and involved throughout this process.

If a student continues to demonstrate difficulty meeting the expected learning outcomes, the school team, under the direction of the principal, will ensure that the student is referred for a specialized assessment. (Note: A student's parent(s) should be informed before the student is referred for a specialized assessment and this assessment should not occur without the parent's consent.) Specialized assessment involves members of a wider support team, which includes clinicians, therapists, mental health professionals, consultants, and/or others. These specialists work with the in-school team to determine the most appropriate ways of gathering the information to support the in-school team in planning educational programming to meet the expected learning outcomes.



For Further Information

Rethinking Classroom Assessment with Purpose in Mind: Assessment for Learning; Assessment as Learning; Assessment of Learning (2006)
www.edu.gov.mb.ca/k12/assess/wncp/rethinking_assess_mb.pdf

The Public Schools Amendment Act (Appropriate Educational Programming) is available online:
web2.gov.mb.ca/bills/37-4/b017e.php

The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005) is available online:
web2.gov.mb.ca/laws/regs/2005/pdf/155-p250.05.pdf

Manitoba Education, Citizenship and Youth
School Support Unit
Phone: 204-945-8867
Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



Further Information in This Handbook

Standards

Appropriate Educational Programming in Manitoba: Standards for Student Services (2006),
page 97

REGULATIONS

Information Supporting The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005)

- Specialized Assessment: Qualifications of Test Users

Overview

Appropriate educational programming for all students includes the expectation that specialized assessments will be conducted by qualified practitioners. The regulations state:

4(4) A specialized assessment must be

- (b) conducted by one or more qualified practitioners, as designated by the person coordinating the assessment who may if relevant in the circumstances, take into account reports and other information...

It is the school division's responsibility to ensure that division employees who use tests have appropriate training and experience. To determine the test-user qualifications required to purchase and administer a particular test or product, consult the catalogue of the test publisher. A specialized assessment may involve the administration of a standardized test. Standardized tests are carefully constructed measurement instruments that require specially trained individuals to ensure they are properly selected, interpreted, and used. The results of these tests are often used when making important programming and placement decisions that can affect students' current and future educational options. Professional associations require test publishers to ensure that tests are sold only to individuals who meet approved training requirements. To reduce the possibility of test misuse, standardized tests are available only to individuals with specific training, education, and experience in relevant areas of assessment.

Three levels of tests (Level A, B, and C) are typically designated by test publishers. These levels correspond with the test-user qualifications required to purchase and administer a particular test or product. Test publishers make this determination based on the standards and guidelines for testing provided by professional associations (e.g., the Canadian Psychological Association). In addition to the three-level classification system, some professional associations have developed purchaser classification systems based on the purpose for which the test has been purchased. Individuals who use tests to teach or make decisions about students are held to a higher standard of practice, given the potential impact of test-based decisions on students' lives and the risk of negative consequences for a student if test results are misinterpreted or misused.



For Further Information

Standards for Educational and Psychological Testing (1999), a publication of the American Psychological Association, is recommended by the Board of Directors of the Canadian Psychological Association. To order this publication, contact the American Educational Research Association by phone at 1-800-628-4094.

Recommendations by the Canadian Psychological Association for Improving the North American Safeguards that Help Protect the Public Against Test Misuse (1994) is available online at:

www.cpa.ca/documents/TestMisuse.pdf

Ethical Use and Reporting of Psychological Assessment Results for Student Placement, Canadian Psychological Association (2004) is available online at:

www.cpa.ca/documents/policy.html

Manitoba Education, Citizenship and Youth

School Support Unit

Phone: 204-945-8867

Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



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- Individual Education Planning

Overview

Individual education planning is a process that educators and other members of student support teams use to

- develop a common understanding of the student's strengths, interests, and needs
- share information and observations about the student's behaviour and learning in a variety of settings
- establish current levels of performance
- identify priorities for programming
- communicate programming information to all members of the student's support team
- monitor and report on student progress and achievement
- ensure continuity in programming

Individual education planning is appropriate when planning to support a diverse range and variety of student needs, including academic, communication, behavioural, and/or physical needs, and begins when someone working with a student notices that she or he is struggling to meet expected learning outcomes.

The team, which includes the student, parent, and classroom or subject area teacher(s), begins the individual education planning process by gathering and sharing information to develop a comprehensive picture of a student's characteristics, preferences, strengths, and needs. The resulting Student Profile serves as a basis for identifying priority learning needs, determining required supports, and other decision making.

The decisions and plans resulting from the individual education planning process are documented in an Individual Education Plan (IEP). An IEP is a global term referring to a written document developed and implemented by a collaborative team to address the specific learning needs of a student. An IEP details the student's current level of performance, the outcomes the student is working to achieve, the strategies and materials that will be utilized, and the assessment strategies that will be used to determine the student's achievement. Team-based written plans may have a variety of titles, including Adapted Learning Plans, Behaviour Intervention Plans, and Individual Transition Plans, but all can be considered to be IEPs. There is no provincially mandated format for an IEP; it may be a single page if a student requires minimal support or multiple pages if the students' needs are complex and the required supports are comprehensive.



For Further Information

The Manitoba Education, Citizenship and Youth support document *Individual Education Planning: A Handbook for Developing and Implementing IEPs, Early to Senior Years* is available online at:

www.edu.gov.mb.ca/k12/specedu/iep/index.html

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- Behaviour Intervention Planning

Overview

Manitoba Education, Citizenship and Youth's Philosophy of Inclusion encourages school divisions to develop a continuum of supports for students with behavioural problems. When school-wide positive discipline programs, positive school and classroom environments, and good classroom management techniques are not sufficient to address severe behavioural concerns, individual behaviour planning is necessary. Behaviour intervention planning involves a *process* of school and community team members coming together to develop an understanding of the student's behaviour difficulties and a plan to address the student's needs that are underlying the behaviour. Behaviour intervention planning also involves a *product*, often a written document that identifies proactive and reactive intervention strategies along with specific indicators of student success that will permit ongoing monitoring and evaluation of the effectiveness of the plan. The written Behaviour Intervention Plan may take many forms. An Individual Education Plan may be used for students experiencing a broad range of difficulties to address academic, behaviour, social, and communication domains. A Functional Behaviour Assessment may be conducted to determine the specific interventions that will best meet the student's needs. *Appropriate Educational Programming in Manitoba: Standards for Student Services* states that "Written Behaviour Intervention Plans shall be developed for students who have been suspended out of school more than twice during a given academic year."



For Further Information

Towards Inclusion: From Challenges to Possibilities: Planning for Behaviour, a Manitoba Education, Citizenship and Youth planning resource intended to provide support to educators developing proactive and reactive approaches to behaviour, is available online at:

www.edu.gov.mb.ca/k12/specedu/beh/index.html

Guidelines for behaviour intervention planning are available on the Manitoba Education, Citizenship and Youth website at:

www.edu.gov.mb.ca/k12/specedu/bip/index.html

An overview of the The Public Schools Amendment Act (Appropriate Educational Programming) is available online at:

www.edu.gov.mb.ca/k12/specedu/aep/index.html

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- Multi-System (Circle of Care) Planning

Overview

Some students have experienced profoundly damaging life circumstances and/or events, resulting in extremely dangerous and violent behaviour. The complexity and intensity of the students' needs require involvement from statutory or non-statutory service providers outside of the school system (e.g., Child and Family Services, Mental Health, Youth Corrections). For this reason, shared service goals need to be developed by the school team so that each care provider is not working in isolation, and these shared service goals form the pillars of a Circle of Care. Shared service goals are for the team to work toward in each of the students' living/learning environments through planned intensive interventions; they are goals for the team to achieve in supporting the students. Students' behavioural goals are contained in a separate Behaviour Intervention Plan. In addition to shared service goals, the Circle of Care team must have an identified case manager, planned regular meetings throughout the school year, and a willingness to work together to support the parents in working effectively with the student. While Level III EBD applications require a Circle of Care plan, multi-system planning is *recommended* for all students with complex or intense needs where outside agency involvement is occurring or is required.



For Further Information

Towards Inclusion: From Challenges to Possibilities: Planning for Behaviour, a Manitoba Education, Citizenship and Youth planning resource intended to provide support to educators developing proactive and reactive approaches to behaviour, is available online at:

www.edu.gov.mb.ca/k12/specedu/beh/index.html

An overview of the Circle of Care planning process is available on the Manitoba Education, Citizenship and Youth website at:

www.edu.gov.mb.ca/k12/specedu/coc/index.html

Interdepartmental Protocol Agreement for Children/Adolescents with Severe to Profound Emotional/Behavioural Disorders (June 1995)

Manitoba Education and Training, Family Services, Health, and Justice

Manitoba Education, Citizenship and Youth

School Support Unit

Phone: 204-945-8867

Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



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Standards

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- Suspension of Students

Overview

Manitoba Education, Citizenship and Youth endorses a Philosophy of Inclusion where all students, including those experiencing behavioural difficulties, feel accepted, valued, and safe. Schools use suspension as a discipline strategy for a number of purposes: ensuring the safety of everyone in the school community; assigning clear consequences for inappropriate behaviour; providing time for planning to address student needs; and promoting collaboration among family, school, and community services to solve problems.

Research demonstrates, however, that suspensions are an ineffective strategy for promoting long-term behavioural change and may place students at greater risk of engaging in disruptive and dangerous behaviour.

The Education Administration Miscellaneous Provisions Regulation was amended in 2005. The following provisions address student suspension:

40.9 Every principal must

- (a) develop categories of the reasons for which a pupil may be suspended; and
- (b) ensure that
 - (i) each suspension is accordingly categorized,
 - and
 - (ii) for each category, the total number of pupils suspended and the duration of suspensions are tabulated.

Where suspension exceeds five days

40.10 A principal must ensure that educational programming is available to a pupil who has been suspended for more than five days.

Special needs of pupil to be taken into account

40.12 Every teacher, principal, superintendent and school board must ensure a pupil's special needs, if any, are taken into account when deciding whether to suspend, expel or otherwise discipline the pupil.



For Further Information

The Education Administration Act: Education Administration Miscellaneous Provisions Regulation, amendment (Regulation 156/2005) is available online at:
<http://web2.gov.mb.ca/laws/regs/2005/pdf/156-e010.05.pdf>

For further information regarding The Education Administration Act, please contact:
Manitoba Education, Citizenship and Youth
Education Administration Services Branch
Phone: 204-945-6899

For further information regarding student behaviour, please contact:
Manitoba Education, Citizenship and Youth
School Support Unit
Phone: 204-945-8867
Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



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Standards

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- Expulsion of Students

Overview

Manitoba Education, Citizenship and Youth endorses a Philosophy of Inclusion where all students, including those experiencing behavioural difficulties, feel accepted, valued, and safe. Schools are expected to develop proactive interventions and strategies that will prevent the majority of behaviour problems from occurring. When behavioural difficulties do arise, school divisions are encouraged to develop and apply an appropriate range of disciplinary consequences depending on the severity of the incident, the frequency of the behaviour, and the diverse needs of the student.

Expulsion is the most serious consequence applied by school divisions and should be reserved for the most extreme behavioural infractions. The Public Schools Act authorizes school boards to expel from school a student who, upon investigation by the school board, is found to be guilty of conduct injurious to the welfare of the school. This means that the student may not attend any school within the division/district until such time as the school board rescinds the expulsion. Students and parents have the right to make representations to the school board before a decision is made to expel the student.

The Education Administration Miscellaneous Provisions Regulation was amended in 2005. The following provisions address student expulsion:

Alternative programming

40.11 Despite being expelled, a school board must ensure that educational programming is made available to a person under the age of 16 who is otherwise entitled to attend a school in the division or district, as provided in section 259 of The Public Schools Act.

Special needs of pupil to be taken into account

40.12 Every teacher, principal, superintendent and school board must ensure a pupil's special needs, if any, are taken into account when deciding whether to suspend, expel or otherwise discipline the pupil.



For Further Information

The Public Schools Act is available online at:
<http://web2.gov.mb.ca/laws/statutes/ccsm/p250e.php>



Further Information in This Handbook

Provincial Legislation (Amendment)

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- Dispute Resolution: Informal

Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities

Overview

Manitoba schools are diverse centres of learning and activity. Educators, parents, and administrators work together on a daily basis to create safe, respectful, and positive schools where each student has the opportunity to do his or her best. Nevertheless, even in the most positive school environment, disagreements or misunderstandings are bound to occur.

Different opinions are a natural part of working relationships. Sometimes these differences can lead to disagreements or even disputes. This, in itself, is neither positive nor negative. It is the way in which we choose to handle these differences that can lead to positive or negative outcomes.

Working together to create the kind of environment where disagreements do not become disputes is a worthwhile goal, but it is important to keep in mind that dispute resolution is not about avoiding dispute at all costs. When we take positive approaches to resolving our disputes, we are creating opportunities to build strong working relationships.

Most disputes can be resolved, and most disputes are worth resolving. Approaches to dispute resolution range from informal to formal. Informal dispute resolution involves conversations with the person or people who are most directly involved with the dispute and are most likely to help find solutions. Problem solving, negotiation, and conciliation are the most local and informal approaches to dispute resolution.

Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities is a resource provided by Manitoba Education, Citizenship and Youth to support dispute resolution at the local level.



For Further Information

Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities is available online at:

www.edu.gov.mb.ca/k12/specedu/problem_solving/index.html

Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities is available online as a 12-page pamphlet at:

www.edu.gov.mb.ca/k12/specedu/problem_solving/pdf/DR_Pamphlet.pdf

Working Together: A Guide to Positive Problem Solving for Schools, Families, and Communities is available online as a two-page brochure at:

www.edu.gov.mb.ca/k12/specedu/problem_solving/pdf/DR_Brochure.pdf

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School Support Unit

Phone: 204-945-8867

Toll-Free in Manitoba: 1-800-282-8069 (extension 8867)



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Information Supporting The Public Schools Act: Appropriate Educational Programming (Regulation 155/2005)

- Dispute Resolution: Formal
Appropriate Educational Programming in Manitoba: A Formal Dispute Resolution Process (2006)

Overview

Children and youth have a right to appropriate educational programming and appropriate educational placement. School teams, including parents, work together making decisions about students' educational programming and placement. Differences of opinion will occur in some situations but they can usually be resolved by the people who are directly involved. Some differences, however, may require a more formal process.

Appropriate Educational Programming in Manitoba: A Formal Dispute Resolution Process describes the formal dispute resolution process at the departmental level: a formal review of a school board decision about appropriate educational programming by a review committee appointed by the Minister of Education, Citizenship and Youth.

To qualify for a formal review, the dispute must

- involve a student who has an Individual Education Plan
- concern the appropriateness of the student's educational programming or placement

In addition, there must be

- attempts to resolve the dispute at the school, school division, and school board levels
- a written decision by the school board concerning the issue



For Further Information

Appropriate Educational Programming in Manitoba: A Formal Dispute Resolution Process is available on the Manitoba Education, Citizenship and Youth website at:
www.edu.gov.mb.ca/k12/spcedu/aep/pdf/Formal_DR_Process.pdf

Information concerning informal approaches to problem solving and dispute resolution is also available on the Manitoba Education, Citizenship and Youth website at:
www.edu.gov.mb.ca/k12/spcedu/problem_solving/index.html

Working Together: A Parent's Guide to Formal Dispute Resolution is available online at:
www.edu.gov.mb.ca/k12/docs/parents/dr/index.html

Office of the Review Coordinator
Room 370-1181 Portage Avenue
Winnipeg, MB R3G 0T3
Phone: 204-945-8417
Toll-Free in Manitoba: 1-800-282-8069 (extension 8417)



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