
Chapter 7

Notetaking, Information Sharing, and Record Keeping

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Notetaking, Information Sharing, and Record Keeping

In this chapter:

- The importance of creating and maintaining effective records
 - Access, storage, transfer, and disposal of records
 - Ethical decision making, information sharing, and disclosure
-

Record Keeping, Reporting, and Case Notes*



For further information, please see Manitoba Pupil File Guidelines at www.edu.gov.mb.ca/k12/docs/policy/mbpupil/ and Guidelines on the Retention and Disposition of School Division/District Records at www.edu.gov.mb.ca/k12/docs/policy/retention/retention.pdf.

The Importance of Proper Records

Counselling records exist for some students. School counsellors are required to maintain records to track the sequence and nature of the services provided within a counselling relationship. The purpose of these records is to enhance the counselling process and is not intended to be a means of “gathering evidence” to diagnose or to further a legal case. It is the responsibility of the counsellor to inform students, and parents, as appropriate, that counselling records are kept and of the purpose of such records. Information collected for such records is maintained and controlled in a responsible and efficient manner that is governed by strict rules of confidentiality.

Record Keeping

School counsellors

- record information in an objective, factual manner
- describe behaviour, avoiding the use of undefined and/or unnecessary adjectives
- avoid making opinions and assumptions; when personal impressions are required to clearly provide objective professional detail, identify clearly the personal impressions, observations, and hypotheses as opinion (e.g., an impression of student “uneasiness” or student “avoidance”)



Please see Appendix B for guidelines for ethical behaviour and further information related to case notes and records.

* Source: Prince Edward Island Department of Education. Student Services Division. *School Counselling Services: Standards and Guidelines, Handbook for School Counsellors*. Charlottetown, PEI: Prince Edward Island Department of Education, June 2005. 14–19. Adapted with permission.

- make and initial their own entries and record information in a timely manner
- note and initial any subsequent alterations or additions, leaving the original entry legible and intact, and never erase, delete, or white-out, etc.
- be brief, but ensure information is sufficient to support continuity of the counselling service

Maintenance and Retention of Case Notes



In addition to following provincial laws, school divisions are required to create policies and procedures related to the maintenance, retention, and disposal of records.

Counselling case notes are maintained in accordance with *The Public Schools Act*; regulations under *The Education Administration Act*; school division policies and protocols; the Manitoba Teachers' Society *Code of Professional Practice* and seven articles for "Making Decisions about Confidentiality"; *The Freedom of Information and Protection of Privacy Act*; and *The Personal Health Information Act*. Counselling records are retained according to the *Manitoba Pupil File Guidelines*, *Guidelines on the Retention and Disposition of School Division/District Records*, and school division policies. Counsellors have a responsibility to be aware of current laws, legislation, and policies relevant to record keeping.

The following guidelines assist school counsellors in creating effective, efficient documentation following a counselling session:

- Write case notes with the expectation that others will read them with a critical eye.
- Do not alter the record after the fact. Strike out the comment and replace it with the correction.
- Be as specific and precise as possible.
- Focus on objective, observable behaviours and statements.
- Avoid jargon or diagnostic labels.

School counsellors maintain counselling records with no less than the following information:

- Basic information
 - name, date of birth, address, telephone number
 - name of parent/guardian and/or contact person
 - reason for referral/visit
- Record of each professional contact
 - date of contact, length, name(s) of all present
 - counselling information sufficient to keep track of counselling issues and indications of progress
 - long-term/short-term goals



For sample communication, record keeping, case notes, and reporting sheets, please see Appendix C.

- plans/homework
 - actions taken
 - correspondence—written, telephone, email
 - record of consultations regarding student, including telephone calls and emails
- Additional information as pertinent to the counselling relationship, such as copies of
 - student drawings, letters, tests
 - assessment reports prepared by the counsellor
 - third party information, consultation notes, case conference notes
 - consent forms
 - copy of external referrals
 - relevant external agency reports

Case notes should show that reasonable, ethical steps have been taken.

Notes may be written, taped, computerized, or maintained in any other medium as long as their utility, confidentiality, security, and preservation are assured, and as long as any alterations made to them are clearly visible.



Counsellors use professional ethical guidelines to share information from counselling notes with student support team members on an “as needed” basis for the purposes of appropriate educational programming.

School counsellors do not leave notes or records on their desks, on their computer screen, in computer files, or in any other area or medium where they can be read by others.

Counselling notes are maintained in a separate, secure file in the school counsellor’s office at the school where the student attends. Information acquired by school counsellors that is used for the purpose of planning for the student is placed in the pupil support file record, cross referenced in the cumulative file, and separate from the counselling record.

A record of any assessments completed should be placed in the student’s support file and cross-referenced in the cumulative file. Assessment reports should be placed in a file, separate from the cumulative file, in a secure location within the school, as outlined in the school division policy.

A school policy is required for the culling and archiving of records, based on information located in the *Manitoba Pupil File Guidelines* and *Guidelines for the Retention and Disposition of School Division/District Records*. It is recommended that, on a yearly basis, school counsellors review counselling records to ensure they are current and in compliance with school policy.



Providing parents, as appropriate, with accurate information in a caring manner, while respecting the privacy and dignity of the student, is part of working ethically with minors in a school setting.

Access to Records

Students have a right of access to their counselling records. Parents/guardians do not have an absolute right to know all the details of their child's counselling. Each request for access to records from a parent/guardian should be evaluated individually and decisions should be supported by the best interests of the child, school division policy, and privacy laws. Disclosure to others of information from these records only occurs with the written consent of the student, or parent, if deemed appropriate.

School counsellors may be required by law to release information contained in the counselling record. Otherwise, no person will have access to a counsellor's records except the school counsellor, the school counsellor's successor, or a person authorized to do so by law.



For further information, please see Manitoba Pupil File Guidelines at www.edu.gov.mb.ca/k12/docs/policy/mbpupil/

In deciding who has access or to whom information should be disclosed, the school counsellor will be guided by school division policy and the school division's Privacy Officer.

Release of Confidential Information to an External Agency

Before information from the counselling record is released to an external agency, written consent must be obtained from the parent/guardian or the student, as appropriate. A copy of the written consent, which outlines the information to be released, will be maintained within the counselling record.

These conditions do not apply when the school counsellor's notes are subpoenaed.



Counsellors keep a record of students who receive guidance education services. Personal information related to these students is retained only as long as necessary for the fulfillment of the purpose for which it was collected. This is distinct from the retention of records of students who receive counselling services.

Transfer

When a school counsellor leaves the school, the counselling records are transferred to the school counsellor's successor. It is important to note that the files, notes, and records of a school counsellor are the property of the school division in which he/she is employed, and therefore requests for information and transfer of files are regulated by school division policy and *The Public Schools Act* and guided by the *Manitoba Pupil File Guidelines*.

When a student transfers or transitions to another school within Manitoba, summary counselling records are transferred according to the regulations set out under *The Education Administration Act** and the policies of the school division. Generally, it is the summary counselling records that are included in the pupil support file and that are transferred within that file when the receiving school requests them. For students who receive counselling services but who do not have a pupil support file, a summary counselling record should be forwarded according to school division policy. Specific counselling session notes are retained at the school (or a prescribed secure location) for a period of 10 years once the student has left the school (*Guidelines for the Retention and Disposition of School Division/District Records, Manitoba Pupil File Guidelines*).



Please see Appendix C for Manitoba Pupil File Transfer Request Form.

Schools receiving a request for pupil files shall forward the cumulative file and pupil support file in a timely and secure manner as per the requirements of the Education Administration Miscellaneous Provisions Regulation.

To assist the student with understanding the transition process and building a positive relationship with the school counsellor at the receiving school, this transfer will be conducted in consultation with the student whenever possible.

Storage and Disposal

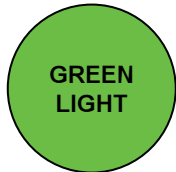
All personal information used to make a decision about a student must be retained according to the *Guidelines on the Retention and Disposition of School Division/District Records*.

Inactive files are to be archived and stored for a time period and in a manner that ensures easy access and identification for disposal, according to school division policy as guided by the *Manitoba Pupil File Guidelines*.

Disposal of inactive files is to be carried out in a manner that will ensure no portion of the information can be retrieved. Disposal of records should follow the guidelines as set out in the *Guidelines on the Retention and Disposition of School Division/District Records* and use school division policies and procedures.

* The pupil's file is transferred as per the provisions of the Education Administration Miscellaneous Provisions Regulation. Although there is no specific reference to summary counselling records in the regulations, as part of the pupil support file, the records are transferred.

Information Sharing and Disclosure*



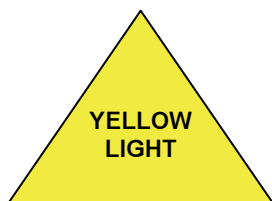
Generally, personal information **CAN** be shared under the following circumstances:

- with written consent
- or**
- to avert or minimize imminent danger to the health or safety of any person
- or**
- to report a child who might need protection under *The Child and Family Services Act*
- or**
- where organizations that are subject to *The Freedom of Information and Protection of Privacy Act (FIPPA)* are involved in a common program or integrated service
- or**
- by Order of the Court
- or**
- as under the *Youth Criminal Justice Act (Canada)* to facilitate the rehabilitation of a young person
- or**
- to co-operate with a police and/or child welfare investigation

Generally, health information **CAN** be shared if the situation meets at least ONE of the following:

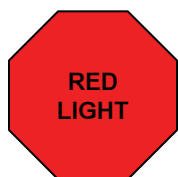
- with written consent
- or**
- to avert or minimize imminent danger to the health or safety of any person
- or**
- to report a child who might need protection under *The Child and Family Services Act*
- or**
- by Order of the Court
- or**
- to a person who is responsible for providing continuing treatment and care to the individual (need not be a formal health services provider)

* Source: Alberta Children and Youth Initiative. "Information Sharing Overview for Children and Youth in Alberta." *Information Sharing: "Together for our Children" Fact Sheet*. Edmonton, AB: Alberta Children and Youth Initiative, June 2003. Adapted with permission.



In the following circumstances, school counsellors should obtain more information and/or get advice from a supervisor, consultant, or lawyer:

- consent is not provided or refused but there may be a health or safety issue for any individual or groups
- to report criminal activity to police (pursuant to FIPPA)
- where there is a subpoena, warrant, or order to produce information for a legal proceeding
- when a professional code of ethics may limit disclosure



Information should **NEVER** be shared if there is

- a legislative requirement barring disclosure
- no consent and no need to know nor overriding health/safety concerns
- consent but no need to know nor overriding health/safety concerns

Decision Making*



School divisions support school counsellors in ethical decision making with policies and procedures that clearly address issues of student privacy and dignity while ensuring appropriate information sharing and professional ethics within the limits of the law.

The school counsellor is principally concerned with the personal, social, educational, and career needs of students, keeping in mind the best interests of the students. Many ethical situations facing school counsellors are complex and require professional judgment. The guidelines that follow are primarily for support and clarity as school counsellors respond to ethical dilemmas facing them. The school counsellor must respect students' rights, dignity, and privacy. At the same time, the rights and concerns of parents, the school, the school division, and staff must also be considered. The guidelines are also intended to support school boards and associations in their development of policies and protocols founded on professional counsellor ethics.

Ethical decision making requires that school counsellors stay abreast of legal and ethical issues related to their practices. **The guidelines that follow are designed to provide principles and suggestions to help understand, prevent, and respond to ethical dilemmas.**

* Source: Nova Scotia Education. *Comprehensive Guidance and Counselling Program*. Student Services Series. Halifax, NS: Nova Scotia Education, April 2002. 41–44. Adapted with permission.

Principles

- Students have the right to access the services of the school counsellor and counselling program in schools.
- Counselling services are most effective when students voluntarily seek them.
- Disclosure of confidential information regarding a student should be done with the student's knowledge.
- Co-operation with parents is desirable and preferable; therefore, the school counsellor should consider informing the parents of the counselling services in the event that there is
 - significant interference to other aspects of the student's educational program
 - group counselling
 - a student who is personally or academically at risk
 - an immediate opportunity for the parent to be a part of the solution
- When, in the counsellor's professional opinion, a staff member's understanding and support may be helpful, he/she is informed with the expressed confidentiality and preferably with the consent of the student.
- The principal should be informed and consulted when parent(s) object to counselling service for the student. The resolution of this ethical dilemma should take into consideration
 - the wishes and needs of the student
 - the professional judgment of the school counsellor
 - the concerns of parents and others

Resolving Ethical Dilemmas

Before an ethical dilemma occurs, the school counsellor, whose role may include being an advocate for students, should

- attempt to meet the guidance and counselling needs of students in the school (along with any other school counsellors on staff)
- become knowledgeable and keep abreast of current information, practices, laws, policies, and standards regarding counselling strategies and relationship, especially
 - ethical decision-making models
 - the *Canadian Charter of Rights and Freedoms*
 - *The Public Schools Act*
 - regulations under *The Public Schools Act* and *The Education Administration Act*
 - the *Youth Criminal Justice Act (Canada)*

- federal and provincial freedom of information and privacy laws
- Manitoba Teachers' Society Code of Professional Practice
- codes of ethics of related professional associations
- school division policies
- be cognizant of professional responsibility to use the above knowledge in making professional judgments
- maintain positive public relations for guidance and counselling services by enhancing awareness of the guidance and counselling services and related services available and the manner in which they are accessed and provided
- make students aware of the limits of confidentiality in entering the counselling relationship
- keep case notes
- continue professional learning, particularly regular professional dialogue about ethical matters
- participate in related professional associations, such as the Manitoba School Counsellors' Association and the Canadian Counselling Association

When an ethical dilemma occurs, the school counsellor takes the time required to

- identify and articulate the conflicting principles creating the ethical dilemma
- assess whether additional information is required and available
- establish a timeline for decision making
- acknowledge his/her own emotional response(s)
- list positive and negative consequences of each course of action for all concerned individuals
- consider possible legalities surrounding the issue
- identify boundaries of professional competence
- consult with a peer, other related professional, employing authority, or other appropriate authority
- rationalize his/her own decision and take action

After an ethical dilemma has been resolved, the school counsellor

- documents his/her professional decision
- considers informing the principal and/or other appropriate authorities
- reflects on the decision's impact on the student, counsellor, and others (e.g., staff, parents) and on future decision making

Related Issues



The school counsellor weighs the rights of students to privacy and dignity with potential for harm. Professional ethics require that school counsellors work in the best interests of the student within the boundaries of the law.

Disclosure*

Any disclosures should be made in a way that respects confidentiality and its limitations. The maturity and developmental level of the individual students must be taken into consideration when determining their understanding of the purpose and potential implications of the disclosure.

It is understood that the nature of certain concerns warrants discussion with the individual students regarding the value of informing their parents. The school counsellor's primary ethical concern is the well-being of the student. While informed consent is ideal, there may be times when the school counsellor deems it necessary to consult with parents or others without the student's consent. This is particularly true in cases with potential harm to self and others. In these cases, the counsellor has a duty to inform.

Referral*

The school counsellor has a responsibility to consider the student's privacy in the use of any forms of communication or referral. It is important for school counsellors to have access to communication equipment (fax machines, telephones, computers, etc.) that can be used privately and to have private facilities in which to meet with students. While word of mouth can be a private form of referral, it is not considered to be reliable; therefore, a process of written referral using school division processes (as appropriate) is recommended.

Referral forms make the referral process more efficient overall and generally provide better information because more thought is required for their completion.

School counsellors are encouraged to use the referral form that best facilitates the process, being private, user friendly, and expedient. There may be different types of forms for staff referral, parental referral, and student self-referral.



See Appendix C for a sample Confidential Counselling Referral form.

Pledge of Confidentiality

The Personal Health Information Act (PHIA) stipulates that all teachers must sign a pledge of confidentiality with the following conditions:

- that the teacher pledge only to the board policy (not the *Act*)
- that the board policy properly reflect the intent of *PHIA*

* Source: Nova Scotia Education. *Comprehensive Guidance and Counselling Program*. Student Services Series. Halifax, NS: Nova Scotia Education, April 2002. 45–46. Adapted with permission.

School divisions in Manitoba are required to have a board policy pertaining to confidentiality. Employees show their agreement to appropriate professional confidentiality practices by signing a pledge of confidentiality. Below is a sample pledge that aligns with the intent of *The Personal Health Information Act*.

Sample Pledge of Confidentiality*

As an employee of _____ School Division, I acknowledge and understand that I may/will have access to personal health information (statutory definition attached) about others, including students, the confidentiality and protection of which is governed by *The Personal Health Information Act* (the Act).

I further acknowledge and understand that the School Division has established written policies and procedures containing provisions for the security of personal health information in the Division's possession during its collection, use, disclosure, storage, and destruction; provisions for the recording of security breaches; and corrective procedures to address security breaches.

I further acknowledge that I have been provided orientation and that I have received or will receive ongoing training about these policies and procedures.

I acknowledge that I am bound by the policies and procedures established by the School Division in accordance with the Act and I am aware that a consequence of breaching them is prosecution under the Act and/or disciplinary action.

Chapter Summary

- School counsellors are required to maintain records to track the sequence and nature of the services provided.
- Records should be objective and factual.
- Files must be maintained in accordance with federal and provincial laws and school division policies guided by the *Manitoba Pupil File Guidelines* and the *Guidelines for the Retention and Disposal of Pupil Files*.
- Case notes must be maintained in accordance with *The Public Schools Act*, *The Education Administration Act*, and several other legislated acts, regulations, policies, and procedures.
- Ethical decision making requires professional judgment and adherence to the legal requirements.
- Disclosure for the purposes of consultation and referral is an important component of the school counsellor's work.

* Source: The Manitoba Teachers' Society. "Pledge of Confidentiality." <www.mbteach.org/confidential.htm>. (7 March 2007). Reproduced with permission.

Supportive Resources

Canada. Department of Justice Canada. *Canadian Charter of Rights and Freedoms*. Ottawa, ON: Department of Justice, 1982. Available online at <laws.justice.gc.ca/en/charter/index.html>.

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Manitoba. *The Child and Family Services Act*. C.C.S.M. c. C80. Winnipeg, MB: Queen's Printer—Statutory Publications, 1985. Available online at <web2.gov.mb.ca/laws/statutes/ccsm/c080e.php>.

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Manitoba Education and Training. *Guidelines on the Retention and Disposition of School Division/District Records*. Winnipeg, MB: Manitoba Education and Training, 2000. Available online at <www.edu.gov.mb.ca/k12/docs/policy/retention/retention.pdf>.

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