



## BOARD ADMINISTRATIVE PROCEDURE

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## 1002 Freedom of Information & Protection of Privacy

### DIRECTIONAL POLICY

## 1000 Positive Communications

### **Title of Administrative Procedure:**

Freedom of Information & Protection of Privacy

### **Date Approved:**

May 2025

### **Projected Review Date:**

May 2030

### **Directional Policy Alignment: 1000 Positive Communications**

This administrative procedure aligns with the proposed directional policy entitled Positive Communications and establishes parameters within the Board regarding its duties to comply with all legislative requirements under the provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Education Act, Bill 194, the Personal Health Information Protection Act, and all other relevant legislation governing the privacy of information held by the Board.

### **Alignment with Multi-Year Strategic Plan:**

The Freedom of Information and Protection of Privacy administrative procedure supports the Board's Multi-Year Strategic Plan through its commitment to the protection of privacy, and efforts to adhere to relevant privacy legislation.

[CDSBEO Strategic Plan 2025-2030](#)

## **Purpose**

The CDSBEO is committed to the protection of privacy and complies with all pertinent provisions in the Education Act, the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Personal Health Information Protection Act, and any other applicable privacy legislation.

The Board only collects personal information when it is necessary for the purpose of providing for the education of students and/or the employment of school board employees, or as required and authorized by law. This procedure outlines the process for collection, use, and disclosure of personal information held by the CDSBEO.

## **Administrative Procedure**

### **1) Information Collection, Management and Disclosure**

In compliance with the MFIPPA, the Board will:

- limit the collection of personal information to that which is necessary for its specified purposes in accordance with its statutory duties and responsibilities;
- ensure that personal information is accurate, complete, and up-to-date, in order to fulfill the specified purposes for its collection, use, disclosure, and retention;
- not use, retain, or disclose personal information for purposes other than those for which it was collected, except with the consent of the individual or as authorized or required by law;
- retain personal information in accordance with the Board's established Records Retention Schedule (see Administrative Procedure: Information and Records Management);
- ensure that personal information is secured and protected from unauthorized access, use, disclosure, and inadvertent destruction by adhering to safeguards appropriate to the sensitivity of the information;
- upon request, the Board shall allow an individual to access his/her personal information in accordance with privacy legislation, subject to any mandatory or discretionary exemptions.

### **2) Collection and Use of Student Personal Information**

- Personal information will be collected directly from the student or his/her parent/guardian for the development and delivery of educational programs and services.
- At the time of collection individuals must be given notice of the legal authority for collection, the purpose(s) of its intended use and the title and contact information of an individual who may respond to specific questions regarding the collection.
- A student's personal information may be used by employees of the Board who require the information in the performance of their duties. Use of personal information for this purpose is in accordance with MFIPPA and the Education Act.
- Use and disclosure of student personal information for a purpose other than planning and delivering educational programs and services, or a purpose reasonably consistent with that purpose, or in accordance with the specific exceptions outlined in MFIPPA, will

require express written consent.

- A student who is under 18 will generally have their privacy rights exercised by a parent/guardian, on the student's behalf without specific authorization.
- When a student aged 16 or 17 withdraws from parental custody and has informed the principal about such a withdrawal in writing, the student's sole consent for the collection, use and disclosure of their personal information shall be sufficient.

### **3) Limits to Access and Correction**

#### **Access:**

- If a student, parent or staff member wants to access their own personal information, they can request it informally. If the request is more complex, they can make a formal access request.
- This right to access is supported by both the Education Act and MFIPPA.
- Under the Education Act, requests need to be made directly to the school. Under MFIPPA, access requests must be made to the Board. If access is refused, the Board must explain why it was refused and refer the individual to the Information and Privacy Commissioner of Ontario (IPC).

#### **Correction:**

- The Board must take reasonable steps to ensure the personal information in its records is not used unless it is accurate and up to date.
- Under both MFIPPA and the Education Act, students, their parents, and staff members, have a right to request a correction to their personal information if they believe it is inaccurate. The parent or guardian of a student may make a request to the Principal to correct the personal information contained in their child's OSR where they believe the information is inaccurate. Where the student is 18 or older, they may make this request directly.
- Only matters of fact, not opinion, may be corrected.

### **4) Collection and Use of Student Personal Health Information**

- The Board utilizes the services of and employs health professionals (e.g. speech language pathologists, psychologists, social workers) who are required to treat personal health information in accordance with the Personal Health Information Protection Act, and applicable professional standards through appropriate regulatory bodies.
- The Board collects personal health information from health professionals with the express consent of the parent/guardian/student and only as necessary for the purpose of delivering educational programs and services that best meet student needs.
- Personal health information received by board staff may be used for the purposes

identified in the consent form and may be shared only with staff members if it is necessary for them to perform their duties – i.e., ordinarily to staff members who are working directly with or have responsibility for the student.

- If a parent/guardian/student consents to have the Board collect, use or disclose personal health information, the individual may withdraw the consent, whether the consent is express or implied, by providing notice to the health information custodian, but the withdrawal of the consent shall not have retroactive effect.

## **5) Disclosure of Personal Information**

MFIPPA sets out when the board may use or disclose personal information in its custody and control without the consent of the individual to whom the information relates.

### **a. Consistent Purpose**

Information may be disclosed for the purpose for which it was obtained or compiled or for a consistent purpose provided that the individual about whom the information relates might reasonably have expected such a use or disclosure of the information.

### **b. With Consent**

If the person to whom the information relates has identified the information and has consented to its disclosure, that information may be disclosed. When dealing with minors, it is best to have consent in writing with an original signature from the parent.

### **c. Legal Authority**

Personal information may be disclosed for the purpose of complying with an Act of the Legislature or an Act of Parliament, an agreement or arrangement under such an Act.

### **d. Law Enforcement**

Personal information may be disclosed to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. Examples include police, and the Ministry of Community and Social Services Eligibility Review Officers. The contents of the OSR may be made available to the police in the following circumstances:

- i. With the written permission of the parent or guardian of the student or, where the student is an adult, with the written permission of the student, or where the student is 16 or 17 years of age and has withdrawn from parental support; and
- ii. Through a warrant requiring the surrender of an OSR to the police.

### **e. Health and Safety**

Personal information may be disclosed in compelling circumstances affecting the health or safety of an individual. When disclosing information under this section the imminence and reasonableness of the risk to health and safety must be considered and balanced

with the invasion of privacy.

## **6) Third Party Contractors and Sharing of Personal Information**

- The Board has entered into agreements with various service providers and contractors in relation to the development and delivery of educational programs and services, and in relation to the administrative operations required to support its mandate in that respect. Depending on the nature of the services provided by a contractor, it may be necessary for the contractor to have access to personal information in the Board's custody.
- Personal information will be shared with a contractor where reasonably required to perform the services for which the contractor has been retained. Personal information will be used and disclosed in this way where the purpose for the use is the same or reasonably consistent with the purpose for which it was collected.
- Where a contractor will have access to personal information in the Board's custody, the Board will ensure that it has agreements in place with the contractor requiring them to take all reasonable precautions to protect the personal information to which it has access from unauthorized access, use or disclosure.
- The contractor will be required to assume that any employee of the contractor who has access to personal information in the course of providing services to the Board will be required by the contractor to execute a confidentiality agreement as a condition of having access to personal information in the custody of the Board.
- The contractor will be required to ensure that all its employees have received relevant privacy training regarding legislated privacy and retention requirements for the Board's custodial data. The contractor will not retain the data beyond what is stipulated in the legislation, and by extension, the Board's records retention schedule.
- The Board will remain at all times responsible for personal information in its custody or control, whether in the hands of the Board or in the hands of a third-party contractor.

## **7) Access to Information/Court Orders**

Access to OSR and non-OSR student personal information is governed as follows:

- All parents/legal guardians have a right to examine the OSR, request corrections and request the removal of information, subject to the dispute resolution mechanisms outlined in the *Education Act*, until their child turns 18 unless this right is limited by a court order, custody, or separation agreement. It does not give the right to access personal information about the other parent or other individuals.
- Access to other information not contained in the OSR is governed by MFIPPA or the Personal Health Information Protection Act.
- A person who has access rights to the OSR also has the right to receive a copy of anything in the OSR. A student has access to his/her OSR at any age and is entitled to

receive copies; however, access shall occur in the presence of the principal or designate, who can provide explanations about the records.

- In the absence of a court order or separation agreement, a parent who had legal custody continues to have access to the same information about the student's health, education and welfare until the student turns 18 or turns 16 or 17 and removes him/herself from care and control of his/her parent/guardian.
- Principals shall abide by court orders, however they are not responsible for enforcing the order and should problems arise, the parent must apply to the family court for enforcement.
- All relevant staff shall be made aware of any custody orders regarding their students, which include any limitations on a parent's right to information about a student.
- A non-custodial parent does not have access to the child at school unless it is specifically set out in the court order that access to the child at school shall be permitted.
- Custodial parents and noncustodial parents with a right of access to their child ("access parents") also have a general right to be given information concerning their children's health, education, and welfare unless this right is limited by a court order, custody or separation agreement. Non-custodial parents with access have a right to information and may examine an OSR.

## **8) Third Party Requests for Information**

- Information will not be disclosed to third parties upon request, including legal counsel, without the consent of the parent/guardian/student, as applicable. An executed release form which clearly identifies the information requested may be used as authority to release the information.
- Staff must take reasonable care to authenticate the request, which may include contacting the parent/guardian/adult student or requesting identification or credentials.
- Consent forms for access to OSR records shall be retained in the OSR.  
Staff will not:
  - a. provide letters supporting parenting capability or otherwise become involved in a parent's litigation, beyond providing access to student personal information where permitted by these procedures;
  - b. agree to participate in an interview with a parent's lawyer;
  - c. complete testing or assessment reports that do not comply with established Board testing criteria; or
  - d. provide assessments or opinions on matters other than a student's educational progress or educational needs.

## 9) Release of Information

Government agencies or officials may request student personal information in the course of conducting their duties. Board staff members shall take steps to ensure the request is properly authorized and that the legal authority is valid. Such requests may include:

- **Family and Children's Services:** In accordance with the *Child and Family Services Act*, Family and Children's Services may collect information about a student under 16 when investigating child protection cases.
- **Ministry of Education:** In accordance with *Section 8.1* of the *Education Act*, the Minister of Education may collect personal information directly or indirectly, for purposes related to the following matters, and may use it for those purposes:
  - a. administering the *Education Act* and the regulations, and implementing the policies and guidelines made under the *Education Act*;
  - b. ensuring compliance with the *Education Act*, the regulations, and the policies and guidelines made under the *Education Act*;
  - c. planning or delivering programs or services that the Ministry of Education provides or funds, in whole or in part, allocating resources to any of them, evaluating or monitoring any of them or detecting, monitoring and preventing fraud or any unauthorized receipt of services or benefits related to any of them; and
  - d. implementing risk management, error management or activities to improve or maintain the quality of the programs or services that the Ministry of Education provides or funds, in whole or in part; conducting research and statistical activities that relate to education and are conducted by or on behalf of the Ministry.
- **Medical Officer of Health:** Section 266(2.1) of the *Education Act* states that the following information is available, upon request, to the Medical Officer of Health serving the area in which the Board is located: the pupil's name, address and telephone number; the pupil's date of birth; and the name, address and telephone number of the pupil's parent(s) or guardian(s). The required information is normally requested through the appropriate school principal, Superintendent or the Director's Office and forwarded to the Medical Officer of Health. Personal information may also be required to support Mandatory Public Health Programs, e.g., communicable disease and oral health, under the *Health Protection and Promotion Act*.
- **The Office of the Children's Lawyer:** Any school board information requested by the office of the Children's Lawyer or representative, will be provided directly to the custodial or access parent(s).
- **Youth Criminal Justice Act:** The Youth Criminal Justice Act (YCJA) protects the privacy and identity of young persons involved in the criminal justice system. The provisions of the YCJA prohibit all persons, including police, youth courts and school board officials, from disclosing the identity of a young offender. Disclosure is allowed between police

services and school authorities to ensure the safety of staff, students, or other persons or when authorized by a court order.

### **10) Formal Requests for Information under MFIPPA**

- Official requests for access to information will be directed to the Office of the Director of Education for registration, documentation, and receipt acknowledgment.
- A copy of the requests will be shared with the Privacy Officer, for follow-up and response, and to the appropriate supervisory officer.
- All responses will be shared with the Director of Education for review prior to dispatching them to the requester.
- Any delay in preparing a response within the 30-day limit will be promptly reported to the Privacy Officer to allow appropriate notice to be given to the requester.
- Where permissible, when request processing fees are estimated to exceed \$25.00, a cost estimate will be sent to the Privacy Officer for appropriate action.
- Any processing fees collected will be credited to the department which incurred the cost.
- Any disagreements in the interpretation and application of the provisions under MFIPPA, or any other disagreements regarding access and privacy issues, will be submitted to the Director of Education for final resolution.

### **11) Media at School**

- Principals are responsible for ensuring each student in their school has a signed copy of the Use and Disclosure of Student Information and Image form (AP1012)
- Principals, in conjunction with the Superintendent and Communications Lead, will decide if the media will have access to the school, staff or students. When the media is present, students should not participate if there is no consent granted on their Use and Disclosure of Student Information and Image form
- The Communications Lead is available to give guidance and support for high-profile events. As a courtesy where possible, parents/guardians should be notified prior to any high-profile school media coverage

## **Responsibilities**

### **The Director of Education is responsible for:**

- Authorizing decisions with respect to the release of information under MFIPPA
- Designating resources for ensuring the implementation of and compliance with this administrative procedure



- Provide the Privacy Officer with ready access to records and information responsive to a formal access request

**The Privacy Officer is responsible for:**

- Receiving and processing all requests for information under MFIPPA including appeals
- Report any privacy breaches to the Information and Privacy Commission of Ontario
- Provide consultation and support regarding access to information from staff and members of the public
- Implementing a board-wide privacy program which includes a staff training program
- Being informed of, and reporting to Executive Council on, any legislative changes regarding privacy legislation that affects the Board

**Superintendents/Managers and Principals are responsible for:**

- Complying with MFIPPA, the Education Act, and other laws related to the privacy of and access to students' personal information, along with relevant guidelines and policies
- Collecting personal information only where permitted under the law
- Implementing reasonable security measures to protect student personal information
- Ensuring that staff are aware of and adequately trained in their responsibilities
- Ensuring that agreements with service providers contain provisions to protect the privacy and security of personal information

**Staff are responsible for:**

- Complying with legislation, professional standards, guidelines, and school board policies when collecting, retaining, using, and disclosing personal information
- Protecting personal information by following school policies and procedures
- Reporting any suspected privacy or security breaches to the school principal
- Participating in training and learning and understanding their duties and obligations to protect personal information

**Definitions**

**Personal Information:** "personal information" means recorded information about an identifiable individual, including:

- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual
- Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions

in which the individual has been involved

- Any identifying number, symbol, photo or other particular assigned to the individual
- The address, telephone number, fingerprints or blood type of the individual
- The personal opinions or views of the individual except where they relate to another individual
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence
- The views or opinions of another individual about the individual
- The individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual

## Related Documents

- [F1:2 Use of Student Information and Image](#)
- [F2:2 Ontario Student Records](#)
- [F2:3 Transcript Requests](#)
- [1006 Privacy Breaches](#)
- [F3:1 Information and Records Management](#)

## References

- [Municipal Freedom of Information and Protection of Privacy Act](#), R.S.O. 1990, c. M.56
- [Education Act](#), R.S.O. (1990), O. Reg. 440/20
- [Personal Health Information Protection Act](#), 2004, S.O. 2004, c. 3, Sched. A
- [Bill 194, Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024](#)