

## SCHOOL ACT REFERENCES

As per Division 2 - 79 (2) of the School Act: *a board must, if required by the orders of the minister, permit a person providing health services, social services or other support services access to information in student records required to carry out that service.*

As per Division 3 - 9 (1) of the School Act: *A student and the parents of a student of school age are entitled, (a) on request and while accompanied by the principal or a person designated by the principal to interpret the records, to examine all student records kept by a board pertaining to that student, and (b) on request and on payment of the fee, if any, charged under subsection (2), to receive a copy of any student record that they are entitled to examine under paragraph (a).*

### *Student records*

*79 (1) Subject to the orders of the minister, a board must: (a) establish written procedures regarding the storage, retrieval and appropriate use of student records, and (b) ensure confidentiality of the information contained in the student records and ensure privacy for students and their families.*

*(1.1) definition of "student record", even though those records are excluded from that definition.*

*(2) Despite subsection (1), a board must, if required by the orders of the minister, permit a person providing health services, social services or other support services access to information in student records required to carry out that service.*

*(3) Subject to the orders of the minister, a board must establish and maintain a record for each student and for each child registered with the board's schools under section 13. [1999-8-17 effective June 29/99]*

### *Transmitting records*

*79.1 (1) Despite section 79 (1), if a francophone education authority enters into an agreement with a board or with another francophone education authority for the provision of services, including the provision of all or part of an educational program or a francophone educational program, each party to the agreement must provide to the other party access to information in those student records that are necessary for the other party to satisfactorily perform the contract.*

*2) Despite section 79 (1), if a student is enrolled with more than one board, each board must provide to the other access to information in those student records that is necessary for the other board to satisfactorily perform its obligations under this Act.*

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## **REFERENCE TO THE BC PERSONAL INFORMATION PROTECTION ACT**

### **Disclosure of personal information without consent**

**18 (1)** An organization may only disclose personal information about an individual without the consent of the individual, if

(a) the disclosure is clearly in the interests of the individual and consent cannot be obtained in a timely way,

(b) the disclosure is necessary for the medical treatment of the individual and the individual does not have the legal capacity to give consent,

(c) it is reasonable to expect that the disclosure with the consent of the individual would compromise an investigation or proceeding and the disclosure is reasonable for purposes related to an investigation or a

proceeding,

(d) the personal information is collected by observation at a performance, a sports meet or a similar event

(i) at which the individual voluntarily appears, and

(ii) that is open to the public,

(e) the personal information is available to the public from a source prescribed for the purposes of this paragraph,

(f) the disclosure is necessary to determine suitability

(i) to receive an honour, award or similar benefit, including an honorary degree, scholarship or bursary, or

(ii) to be selected for an athletic or artistic purpose,

(g) the disclosure is necessary in order to collect a debt owed to the organization or for the organization to repay an individual money owed to them by the organization,

(h) the personal information is disclosed in accordance with a provision of a treaty that

(i) authorizes or requires its disclosure, and

(ii) is made under an enactment of British Columbia or Canada,

(i) the disclosure is for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of personal information,

(j) the disclosure is to a public body or a law enforcement agency in Canada, concerning an offence under the laws of Canada or a province, to assist in an investigation, or in the making of a decision to undertake an investigation,

(i) to determine whether the offence has taken place, or

(ii) to prepare for the laying of a charge or the prosecution of the offence,

(k) there are reasonable grounds to believe that compelling circumstances exist that affect the health or safety of any individual and if notice of disclosure is mailed to the last known address of the individual to whom the personal information relates,

(l) the disclosure is for the purpose of contacting next of kin or a friend of an injured, ill or deceased individual,

(m) the disclosure is to a lawyer who is representing the organization,

(n) the disclosure is to an archival institution if the collection of the personal information is reasonable for research or archival purposes,

(o) the disclosure is required or authorized by law, or

(p) the disclosure is in accordance with sections 19 to 22.

(2) An organization may disclose personal information to another organization without consent of the individual to whom the information relates, if

(a) the individual consented to the collection of the personal information by the organization, and

(b) the personal information is disclosed to the other organization solely

(i) for the purposes for which the information was previously collected, and

(ii) to assist the other organization to carry out work on behalf of the first organization.

(3) An organization may disclose personal information to another organization without consent of the individual to whom the information relates, if the organization was authorized by section 12 (2) to collect the personal information from or on behalf of the other organization.

(4) An organization may disclose personal information to another organization, or to a public body, without consent of the individual to whom the information relates, if

(a) the personal information was collected by an organization under section 12 (1) (k) or (l),

(b) the disclosure between the organizations, or between the organization and the public body, is for the purposes for which the information was collected,

(c) the disclosure is necessary for those purposes, and

(d) for each disclosure under this subsection, the third party referred to in section 12 (1) (k) or (l), as applicable, consents to the disclosure.

## **DIRECTIVE ON THE ACCESS OF STUDENT RECORD.**

**Directive Part # 1: When a health service, social services, or other services agent requests to access a student file, the Administration must:**

- 1) Verify the identity of the person by calling the person in charge of the agency.
- 2) Verify and write down the component(s) of the student's file that need to be accessed.
- 3) Not grant access to the whole file, but rather hand out the specific components that were requested.
- 4) Be there at all times to ensure a) that nothing else is accessed, and b) that nothing is removed from the file, or added.
- 5) Write down a little note with the name of the person, the agency, the contact number and name of the person in charge, the purpose of the request, and what was accessed. The note must be signed by the Administrator, and becomes part of the student file.
- 6) Call the central office and/or the person responsible for Student services immediately.

**Under no circumstance:**

- A) **should a copy of the record, and/or part of the record be given to the agent. Granting access does not imply making copies. The central office will intervene should there be a request for a copy of the record.**
- B) **The Principal should not give in to pressure and attend to the matter immediately. Granting access to records must be done in a timely manner, when the principal can attend to the matter. Extremely urgent requests must be directed to the central office.**
- C) **Parents and/or legal guardians must be notified as soon as possible that an external agency accessed the student file.**
- D) **Any content in the student file that has been sealed by a Court of Law, can only be accessed by a Court order.**

**Directive Part # 2: When a) a parent and/or legal guardian; and b) a student 19 years or older requests to access the file, the administration must:**

- 1) Facilitate access to the whole file.
- 2) Provide a copy if requested
- 3) Get a signed receipt that a copy was given.
- 4) Insert the signed receipt in the student file, and indicate the date it was given.

**Directive Part # 3: When a student who is younger than 19 years old requests to access the file, the administration must:**

- 1) Ensure parents granted permission (Signed form, confirmed by a phone call to the parent (That must be recorded).
- 2) Clarify with the parent what components are to be accessed.

**Important notice:** The student can access his/her file *without parental consent* as expressed in the School Act. In this case, the Administrator acts in Loco Parentis and decides what components are to be accessed by the youth.