



# Huron-Superior Catholic

## DISTRICT SCHOOL BOARD

### PROCEDURAL GUIDELINES RELEASE OF INFORMATION REGARDING STUDENTS

#### 1. Release of Information by Principal or Teachers:

- a) "Student records" may be examined by a student, and/or his or her custodial parent or guardian where the pupil is under the age of 18 years of age.
- b) A student's name, date of birth, address and telephone number and the student's parent or guardian's name, address and telephone number may be released to a medical officer of health by the principal.

#### Commentary:

*Nothing in the above prevents the providing of student records or reports to the Ministry of Education or School Board for use in a disciplinary proceeding.*

#### 2. Release of Personal Information by the Person Designated as the Head Under the MFIPPA (Director of Education):

- a) All requests by lawyers, non-custodial parents or other third parties for personal information concerning a student shall be forwarded in writing to the Director of Education. Employees shall not discuss any student's personal information (broadly defined as the conduct, appearance, academic performance or opinions of and about a student) that they are aware of as a consequence of their employment, other than in accordance with this policy.
- b) The party requesting the personal information shall be advised that such information can only be released pursuant to the MFIPPA and therefore the request must be in writing, specifying what information is requested. The Director of Education, pursuant to the MFIPPA, may refuse to release personal information concerning a student unless written consent for the release of such information accompanies the request for the information as follows:
  - i) a consent signed by the student who is 16 years of age and older; or
  - ii) where the student is under the age of 16 years of age, the consent of the custodial parent or guardian of the student.

Consents From Non-Custodial Parents:

- a) Consents from parents who have only been granted visitation or access rights by way of Court Order or Separation agreement are not sufficient to allow the release of personal information. A consent of the custodial parent or guardian, or the student if 16 years of age or over, or a Court Order requiring the release of such personal information is required to release personal information to the non-custodial parent.
- b) Consents signed by students for the release of personal information, which is not a student record (academic records and OSR) are effective under the MFIPPA if signed by a student 16 years of age and over.

3. Release of Personal Health Information

Record Keeping and Release of Information by Student and Family Counsellors:

- a) Findings and Reports prepared by Student and Family Counsellors employed by the Board are not part of student records, but are personal health information and are therefore governed by the PHIPA. All requests for access to such information should be directed to the Head of the School Board.
- b) Student and Family Counsellors should not discuss with third parties' personal information regarding students that they obtain as a consequence of their employment.
- c) Student and Family Counsellor records and all of the information which they receive as a consequence of their employment are the property of the board and shall be maintained on board premises.
- d) Student and Family Counsellors should not extend promises of confidentiality to a student, as the information which the student may give to a counsellor may by law (the Child and Family Services Act and the fiduciary duties imposed by common law) require the counsellor to report such information to the Children's Aid Society, the police or school board personnel as outlined in board policy. This shall be clearly explained to all students/parents and form part of the Acknowledgement of Service form.

Consents From Non-Custodial Parents:

- a) Consents by parents who have only been granted visitation or access rights, by way of court order or separation agreement are not sufficient to allow the release of

“personal health information”. A consent of the custodial parent or guardian, or the student, if the student is 12 years of age and deemed “competent” to make this decision by the health information custodian, or a court order requiring release of such information to the non-custodial parent.

- b) Consents signed by students for “personal health information” who are 12 years of age and deemed “competent” by the health information custodian are effective under PHIPA.

#### 4. Legal Considerations

##### Receipt of a Subpoena:

- a) A subpoena is a Court Order to attend in Court to give evidence and on occasion the subpoena will require that records containing personal information be brought with the subpoena to the Court, by the witness served.
- b) An employee who receives a subpoena must appear at the time and place appointed and should bring with them the information required by the subpoena in a sealed envelope. The documents in the sealed envelope should only be given to the judge at the request of the judge and not to any third party. The judge shall decide which documents, if any, in the sealed envelope should be provided to parties to the Court proceedings, pursuant to the rules laid down by the Supreme Court of Canada, the MFIPPA, the PHIPA and the Education Act,

##### Process:

- a) It is important that when employees receive requests for “personal information” or “personal health information” out of sequence, that they reroute the request to the Director.
- b) Following the request of “personal” or “personal health” information the Head under MFIPPA will work with the Mental Health Leader, who serves as the Board’s lead Health Information Custodian (PHIPA) and the Superintendent responsible for special education to determine the nature of the request and what, if any, information will be released.
- c) Depending on the complexity of each request, a legal opinion may be sought prior to responding.