

**Departmental Directive
on the
Management of Information
in the Student Record
and
Other Records
Pertaining to Students**

1998



Minister's Message

The development of this Directive coincides with the requirement for education bodies in the NWT to comply with the *Access to Information and Protection of Privacy Act*, or ATIP, effective July, 1998. This document provides direction to DECs, DEAs and schools to ensure that their records management procedures are consistent with ATIP. In addition, it integrates the requirements of other "guiding documents" already in place:

- the *Education Act* which legislates some procedures for managing the Student Record;
- the Student Record Regulations which further prescribe management procedures for the Student Record; and
- the Protocol for Sharing of Information on Young Offenders, a multi-department agreement.

Under a single cover, this Directive interprets the requirements of the various guiding documents and articulates records management procedures which ensure compliance with all four.

Education bodies, and schools in particular, are required to manage a wide range of information that does not belong in the Student Record (cum file) – everything from copies of court orders that apply to a particular student, to medical reports, to notes taken by school counsellors. Knowing where to keep such records is only the first consideration. Determining who has access to these records, and for how long they are to be retained, are others.

This Directive prescribes records management procedures for the types of records typically held by education bodies. In the event that schools, DECs or DEAs maintain other types of records, it is necessary for the education body to develop a policy to direct the management of those records. In most cases, however, it is anticipated that this Directive will suffice.

This Directive has been developed partly in response to numerous requests from school and DEC/DEA staff to provide direction on records management. Quite simply it addresses an expressed need.

The critical element, however, is the implementation of the Directive. Projects will likely have to be undertaken to ensure that existing records comply with prescribed procedures. While this may seem burdensome, the saying, "Short term pain, long term gain," is highly applicable in this situation. Each DEC/Yellowknife DEA has identified an ATIP coordinator who, among other things, will be able to help with the process.



Charles Dent, Minister
Education, Culture and Employment



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Departmental Directive: Management of Information in the Student Record and Other Records Pertaining to Students

Purpose

The purpose of this Directive is to provide direction to schools and education bodies regarding the management of information that is held on students within their jurisdiction.

Rationale

Schools and education bodies hold many types of information on students. The *Education Act* and *Regulations* prescribe the management of information held in the Student Record. However, many types of information, including that which is often considered confidential and sensitive, are excluded from the Student Record by the *Education Act* and *Regulations*. For example, medical reports and counsellors' notes are types of information which schools must manage yet they are excluded from the Student Record. This Directive provides direction on the management of all types of information typically held on students.

Education bodies were required to comply with the *Access to Information/Protection of Privacy Act* (ATIP) legislation beginning in July 1998; this legislation prescribes both an individual's right to privacy and an individual's right to access information that schools hold on them and their children. It is vital that education staff are aware that, in most cases, personal information may be accessed by the student or the parent/guardian of the student.

Scope

The Directive:

- addresses all forms of information held on students regardless of the format – electronic, paper, photograph;
- defines types of records that schools and education bodies typically hold on students; and
- prescribes records management procedures for each, i.e. content, storage, access, disclosure, maintenance, transfer, retention and disposal.

Any other records not addressed in this Directive that a school or an education body has on a student must be regulated by the development of a policy by the education body.

Definitions

- **Adult Student**
An adult student is a student of legal age – that is a student who has reached 19 years, the age of majority in the NWT.
- **Access**
Access to information includes both examining and copying the information in question. Access could include access to part of the information in a record or even within a given document in the record. This is referred to as “severing” under ATIP.
- **Assessment Protocol**
Assessment protocol means referencing the precise and detailed procedures to be followed in administering a given assessment.
- **Correction of Information**
Requests for correction of information include requests to add or remove information as well as to correct perceived inaccuracies.
- **Counsellor**
Counsellor means a person employed by an education body in the capacity of counsellor including a guidance counsellor, school-community counsellor or contracted counsellor, as defined in the *Education Staff Regulations*, subsection 60(1).
- As part of the counsellor’s primary duties, the counsellor:
 - a. discusses with a student personal issues raised by that student, education staff or other students;
 - b. refers a student to counselling or support services outside the school; or
 - c. counsels a student or a group of students regarding personal issues. *Education Staff Regulations*, subsection 60(1).
- **Education Body**
Education body means a District Education Authority, a Divisional Education Council or a commission scolaire francophone de division, or all of them, as the case may be.

- **Head of Education Body**
The Head of the Education Body is the Chairperson of the Divisional Education Council, the commission scolaire francophone de division, or, in the case of Yellowknife, the District Education Authority.
- **Parent**
Parent means parent or legal guardian. Where further clarification is needed to determine the parent, refer to the *Education Act*, subsection 1(2).
- **Record**
Record means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include a computer program or other mechanism that produces records. *Access to Information Act*.
- **Records Management**
Records management includes procedures for the creation and collection, distribution and use, protection, organization, storage and maintenance, and retention and disposal of recorded information.
- **Transitory Record**
Transitory records are those generated or received in daily work such as phone messages, notes to oneself, daybooks, drafts, most e-mail, and that have no real impact on anyone except the individual who generated or received them.
- **The Student Record**
The *Education Act* and *Regulations* define the Student Record as a record that many educators typically think of as the cumulative record. It contains basic information such as the student's name, birth date, grade, attendance and progress reports, but does not include more sensitive information such as medical or psychological reports, counsellors' notes, or reports from Social Services or Justice. A Student Record exists for **every** student.

Types of Records

- **The Program Support Record**

The Program Support Record includes information used to support programming decisions for students who require additional supports and services. A Program Support Record exists for some students.

- **The Support Services Record**

The Support Services Record includes information used to support programming decisions for students who require additional supports and services beyond those that a school is able to provide/coordinate. Those services are coordinated by the education body. A Support Services Record exists for some students in addition to the Program Support Record.

- **The Principal's Record**

The Principal's Record includes information relating to attendance problems, disciplinary actions, and correspondence to/from parents, agencies, or other parties about a student or a student's family. A Principal's Record exists for some students.

- **The Counselling Record**

The Counselling Record contains notes made by counsellors to document counselling sessions with students. Such notes would include attached documents and information pertinent to the counselling of the student and should be signed and dated by the Counsellor. A Counselling Record exists for some students.

- **The Young Offender's Record**

The Young Offender's Record contains information provided by youth justice personnel regarding a student who is a young offender. A Young Offender's Record exists for some students.

Connections to Legislation

Access to Information/ Protection of Privacy Act (ATIP)

Effective July 1, 1998 education bodies were required to comply with the *Access to Information/Protection of Privacy Act* (ATIP) 1994. This Act prescribes both an individual's right to privacy and an individual's right to access information schools hold on themselves or their children. Specifically, ATIP legislation serves:

- to protect personal privacy through establishing controls over the collection, use, disclosure, protection, accuracy and retention of personal information about an identifiable individual;
- to provide the right to request access to personal information, subject to limited and specific exceptions;
- to establish a broader right of access by any person to information, subject to limited and specific exceptions; and
- to allow for the review of decisions about access and protection of personal privacy by an independent authority (the Information and Privacy Commissioner).

Education Act and Regulations

Subsection 29(1) of the *Education Act* (1995) directs the Principal to establish and maintain a Student Record for each student registered with the school, in accordance with the *Regulations* (1996).

The *Education Act and Regulations* further prescribe:

- the contents of the Student Record;
- information excluded from the Student Record;
- liability and offenses to persons contributing to the Student Record;
- access to the Student Record;
- exceptions;
- record of disclosure of information; and
- correction of information in the Student Record.

The *Student Record Regulations* prescribe the management of information contained in the Student Record, but not in other types of records held on students.

Both the *Education Act* and the *Access to Information and Protection of Privacy Act* prescribe who has access to the information contained in the Student Record.

Principles

The following principles guide the management of information held on students:

- confidentiality of student data will be safeguarded;
- the information will be used only for the intended purpose for which it was originally collected unless written consent is obtained to use the information in another manner;
- personal information used to make decisions must be accurate and complete;
- a student or parent has the right to request correction of personal information;
- a student or parent has the right of as complete access as possible to personal information about themselves;
- only personal information relevant to and necessary for carrying out the activity or program underway will be collected and used; and
- the use and disclosure of personal information is limited to those who need-to-know in accordance with both the *Education Act* and *ATIP Act*.

Accountability

- **Council Chairperson**

As Head of a public body each Chairperson of an education body is responsible for developing a records management policy that ensures compliance with this Directive and that prescribes methods for the disposal of records in their jurisdiction and procedures for recording the date of destruction of a record.

- **Director/Superintendent**

Overall accountability for compliance with ATIP, generally, and with this Directive, specifically, rests with the Director/Superintendent, as Deputy Head.

- **Principal**

The Principal is responsible for the day to day management of student records held at the school in accordance with this Directive. The Principal may further delegate duties but not responsibility for compliance with this Directive.

Note: Inappropriate disclosure of personal information could result in a fine of \$500 under the *Education Act* or a fine of \$5,000 under ATIP.

The Student Record

The Student Record is defined in the *Education Act* and *Regulations*. The Student Record is the one typically thought of by educators as the cumulative record.

Contents and Storage

The Student Record shall include:

- a. all information that affects decisions made about the education of a student that is collected or maintained by the school or an education body, and a record of those decisions; and
- b. any other prescribed information. *Education Act*, subsection 29(2).

Note: Student Record Regulation 5 prescribes information to be excluded from the Student Record.
Refer to page 14 in this Directive.

Student Record Regulation 4 states that every Student Record must contain the following information, with regard to the student for whom it is prepared:

- a. name;
- b. date of birth;
- c. gender;
- d. country of citizenship;
- e. ethnicity;
- f. parent's name and address and a telephone number at which the parent may be reached during school hours;
- g. student's residential address and a telephone number at which the student may be reached;
- h. names and addresses of schools previously attended, the date registered and the duration of the attendance;

- i. grade;
- j. mother tongue and language spoken most often at home;
- k. eligibility for French first language instruction, as defined in regulations made under the Act, under section 23 of the Constitution Act, 1982;
- l. an annual summary of attendance and participation in the school program;
- m. a copy of any individual education plan in effect;
- n. a semi-annual summary of progress in the education program or individual education plan;
- o. a semi-annual summary of any recommended learning strategies;
- p. information relating to suspension or an expulsion; and
- q. information relating to any serious violent incident that led to a suspension, an expulsion or the involvement of the police on school premises, including:
 - (i) a description of the incident that led to the suspension, expulsion or involvement of the police;
 - (ii) a description of any involvement of the police;
 - (iii) a description of any disciplinary steps taken by school staff or the education body; and
 - (iv) a copy of all correspondence regarding the incident to the student or the student's parent from the school or education body.

Student Record Regulation subsection 4(2) states that every Student Record for a student registered in a secondary school must also contain the following information, with regard to the student for whom it is prepared:

- a. mailing address;
- b. courses enrolled in;
- c. number of credits earned; and

The Student Record

- d. marks earned or progress shown in courses the student is enrolled in or has completed.

Parental consent is required to include the student's health care number and information related to physical health. *Student Record Regulation 4(3)*.

The Principal of a school shall ensure that a Student Record exists for each student registered with the school, within 30 days of the start of the academic year or the day the student is registered, whichever is later. The Principal shall also ensure that each Student Record is kept up to date and shall review each Student Record at least once during the academic year. *Student Record Regulation*, subsections 3(1) and 3(2).

Every Student Record must also indicate which other records for a student exist, if any. i.e. Program Support Record, Principal's Record, Counselling Record, Support Services Record.

Information excluded from the Student Record

Student Record Regulation section 5 states that no person shall include in the Student Record:

- a. a medical or psychological report;
- b. any information relating to an investigation under the *Child Welfare Act* regarding a student or the family of a student; and
- c. notes prepared by a teacher or the principal for the exclusive use of that teacher or Principal that deal with matters other than the student's progress in the education program, in an individual education plan or in the program of education.

Liability and offenses to persons contributing to the Student Record

A person who contributes information to a Student Record is exempt from any liability with respect to the provision of that information if the person, in providing the information,

- a. acted in good faith;
- b. acted within the scope of his or her duties and responsibilities; and
- c. did not act in a negligent manner. *Education Act*, subsection 29(4).

Every person is guilty of an offense and is liable on summary conviction to a fine not exceeding \$500 where that person discloses information that is to be excluded or has been excluded from a Student Record pursuant to the regulation and that person obtained that information:

- a. through the course of their employment as a member of a school staff; or
- b. through the course of their employment while dealing with a member of a school staff. *Education Act*, subsection 29(5).

The Student Record must be stored in a secure, confidential manner in accordance with section 42 of ATIP.

Access and Disclosure

A parent of a student and a student are entitled to examine and copy the Student Record. *Education Act*, subsection 30(1).

Education staff who are responsible for the delivery of the school program to a student are entitled to examine the Student Record. *Education Act*, subsection 30(2).

A parent of a student or an adult student may give written consent to other persons to examine the Student Record. *Education Act*, subsection 30(3).

Exceptions

A member of a school staff may disclose information from a Student Record to a health or social services professional without the above mentioned consent where, in the opinion of the staff member, disclosing the information is in the best interests of the student and the disclosure is necessary for the establishment of support services for the student. *Education Act*, subsection 30(4).

Record of disclosure of information

A person who discloses information as described in the preceding paragraph shall indicate on the Student Record the date of disclosure, the information disclosed and the person to whom the information was disclosed and shall, in writing, advise the student and the student's parent of the disclosure. *Education Act*, subsection 30(5).

Correction of Information

If, on examining the Student Record, the student's parent or the student is of the opinion that the Student Record contains inaccurate or incomplete information, the parent or student may request the Principal to correct the information that the parent believes to be inaccurate or incomplete.

If the Principal does not correct the information as requested by the student's parent or the student within the prescribed time, the parent or student may lodge a written disagreement, under section 39 of the *Education Act*, with the Principal's decision not to correct the information as requested. *Education Act*, section 31.

Maintenance, Transfer, Retention, and Disposal

Maintenance

At least once every three years and prior to a transfer of record, the Principal or designate shall conduct a record improvement project to:

- ensure that the Student Record contains only prescribed, accurate information;
- remove and destroy duplicate copies;
- remove and destroy information relating to an incident that led to a suspension, if after three years no further incidents of the same nature, i.e. serious violent incident which involved the police, have occurred; *Student Record Regulation*, paragraph 6(a).
- remove and destroy information relating to any serious violent incident that led to an expulsion, if after five years no further serious incidents of the same nature have occurred; *Student Record Regulation*, paragraph 6(a).
- remove any information prescribed by this Directive to be in another record and to place that information in the appropriate record.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

Where a student transfers from one school to another, the Principal of the school to which the student transfers shall contact the Principal of the school from which the student transferred and shall request the Student Record of the student. *Student Record Regulation*, subsection 9(1). Refer to the Request for Transfer of Records Form, page 27.

A Principal in the Northwest Territories who receives a request shall, as soon as practicable, send the Student Record requested by registered mail. *Student Record Regulation*, subsection 9(2).

Where a Program Support Record, Support Services Record, or Principal's Record exists for a student, it will be transferred along with the Student Record following the same procedure.

Retention and Disposal

When a student graduates or ceases to attend a school, the Principal shall remove that student's name from the school register and shall ensure that the Student Record is retained in a secure, confidential manner for 10 years from the date on which the student graduates from grade 12, or 10 years from the date the student would have been expected to graduate from grade 12. *Student Record Regulation*, subsections 10(1) and 10(2).

The record of a student who is deceased will be retained for one year after the student's death.

After this period of time, the Student Record will be disposed of in a manner which is consistent with privacy legislation, for example shredding, incineration or electronic purging, and a record kept of the date of the destruction.

Records of Destruction

Records of Destruction are permanent records indicating what records were destroyed, when and under what authority. Records of Destruction should be kept by the Director/Superintendent of the education body.

Program Support Record

The Program Support Record exists for some students. It includes:

- information used to make programming decisions for students who require additional supports and services; and
- records of those decisions.

In most instances the Program Support Record is managed by the Program Support Teacher or the Principal's designate at the school. In rare instances, such as when a student is not attending a school within the district but is attending school in a southern placement or treatment centre, the Program Support Record is managed by the Student Support Consultant at the office of the education body.

The Program Support Record contains the following information if/as applicable:

- medical reports such as Speech and Language Pathology;
- psychological reports;
- assessments such as miscue analysis;
- forms such as referral forms, consent for referral forms and release of information forms;
- original Individual Education Plan(s) IEP(s);
- records of decisions from IEP meetings or other team meetings, including inter-agency meetings;
- PST notes; and
- notes/reports from the Student Support Consultant.

The Principal shall ensure that the Program Support Record is stored in a secure and confidential manner in accordance with section 42 of ATIP.

Access and Disclosure

When considering access to information contained in the Program Support Record it is important to keep in mind that access does not mean "all or nothing". While parents/students generally have access to all personal information held on them [unless an exception can be cited under ATIP, for example, subsections 21(1) and 21(2)] other people may have only partial, or no access. When in doubt, consult your ATIP coordinator.

Notwithstanding the above:

- education staff involved in the delivery of a child's education program have access to information in the Program Support Record through the Program Support Teacher (PST) on a need-to-know basis;
- parents and students have access to information in the Program Support Record through the PST;
- if the student is attending an institution contracted by the education body or is receiving services contracted by the school/education body, the contractor has access to the information in the Program Support Record through the Program Support Teacher (or Student Support Consultant when the record is managed by the education body) on a need-to-know basis, just as education staff in the school have access to the information in the Program Support Record; and
- a parent or adult student may give written consent to others to have access to information in the Program Support Record through the Program Support Teacher (or, when the record is managed by the education body, through the Student Support Consultant).

Exceptions

The Program Support Teacher (or Student Support Consultant) may disclose information from a Program Support Record to a health or social services or other professional without the above mentioned consent where, in his/her opinion, disclosure would clearly benefit the individual to whom the information relates and as long as it doesn't harm another person's safety or prejudice a law enforcement matter. Consistent with ATIP subsections 20(1)(a), 21(1) and 48(s)(ii).

Program Support Record

Record of disclosure of information

A person who discloses information, as described in the preceding paragraph, shall indicate on the Program Support Record the date of disclosure, the information disclosed and the person to whom the information was disclosed. In general, notice of disclosure should be given to the parent unless notice of the disclosure would not be in the best interest of the child or would be harmful to another person.

Correction of Information

Both the *Education Act* and ATIP have provisions for the correction of information held on students. If, on examining the Program Support Record, the student's parent or the student are of the opinion that the Program Support Record contains inaccurate or incomplete information:

- the parent or student may, under section 45 of ATIP, request the Chairperson of the education body to correct the information that the parent believes to be inaccurate or incomplete; or
- if the inaccuracy significantly affects the education, health or safety of a student, the parent or student may, under subsection 31(1) of the *Education Act*, request the Principal (or Director/Superintendent when the record is managed by the education body) to correct the information that the parent believes to be inaccurate or incomplete.

If the Principal or Director/Superintendent does not correct the information as requested by the student's parent or the student within 14 calendar days, and this inaccuracy significantly affects the education, health or safety of a student, the parent or student may lodge a written disagreement under section 39 of the *Education Act* with the Principal's (or Director/Superintendent's) decision not to correct the information as requested.

Maintenance, Transfer, Retention, and Disposal

Maintenance

Section 44 of ATIP requires that personal information used to make decisions that affect an individual be accurate and complete. To that end, at least once every three years and prior to a transfer of record, the Principal or designate shall conduct a record improvement project to:

- ensure that the Program Support Record contains only prescribed, accurate and current information, i.e. information that is pertinent to student programming decisions;
- remove and destroy duplicate copies;
- remove any information prescribed by this Directive to be in another record and to place that information in the appropriate record; and
- remove and destroy assessment information after four years, unless it is still current/useful.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

Where a student transfers from one school to another the Program Support Record will be forwarded along with the Student Record according to the procedures identified under the Student Record above.

Retention and Disposal

When a student graduates or ceases to attend a school, the Program Support Record shall be retained for one year from the date on which the student graduates from grade 12, or three years from the date the student would have been expected to graduate.

The record of a student who is deceased will be retained for one year after the student's death.

The Program Support Record will be disposed of in a manner which is consistent with privacy legislation, for example shredding, incineration or electronic purging, and a record will be kept of the date of the destruction.

Records of Destruction

Records of Destruction are permanent records indicating what records were destroyed, when and under what authority. Records of Destruction should be kept by the Director/Superintendent of the education body.

Support Services Record

The Support Services Record exists for some students in addition to the Program Support Record. It includes:

- information used to support programming decisions for students who require additional supports and services where those services are coordinated by the education body rather than the school; and
- records of those decisions.

The Support Services Record is managed by the Student Support Consultant at the office of the education body.

Contents and Storage

Every Support Services Record must contain:

- the student's name;
- date of birth;
- the name of the student's parent/guardian and a contact number for the parent/guardian; and
- the name of the student's school and community.

The Support Services Record also contains the following information related to programming supports and services, if/as applicable:

- inter-agency correspondence related to the student;
- record of inter-agency consultations about the student;
- records of decisions/recommendations about the student;
- parental consent for referral to specialists/assessments (if these services are organized by the education body);
- copies of contracts re: services for the student; and
- assessment protocols.

The Director/Superintendent shall ensure that the Student Support Record is stored in a secure and confidential manner in accordance with section 42 of ATIP.

Access and Disclosure

When considering access to information contained in the Support Services Record, it is important to keep in mind that access does not mean “all or nothing”. While parents/students generally have access to all personal information held on them [unless an exception can be cited under ATIP, for example, subsections 21(1) and (2)] other people may have only partial, or no access. When in doubt, consult your ATIP coordinator.

Notwithstanding the above:

- education staff involved in the delivery of a child’s education program have access to information in the Support Services Record through the Student Support Consultant on a need-to-know basis;
- parents and students have access to information in the Support Services Record through the Student Support Consultant. Where a Support Services Record contains a test, test result or an evaluation of a student that is given by a person who has recognized expertise or training, the education body shall ensure that a person who is competent to explain and interpret the test or test results is available to provide the explanation and interpretation;
- if the student is attending an institution contracted by the education body or is receiving services contracted by the school/education body, the contractor may have access to the information in the Support Services Record through the Student Support Consultant, on a need-to-know basis just as education staff in the school have access to the information in the Support Services Record; and
- a parent or adult student may give written consent to others to have access to information in the Support Services Record through the Student Support Consultant.

Exceptions

The Student Support Consultant may disclose information from a Support Services Record to a health or social services or other professional without the above mentioned consent where, in his/her opinion, disclosure would clearly benefit the individual to whom the information relates and as long as it doesn't harm another person's safety or prejudice a law enforcement matter. [Consistent with ATIP, subsections 20(1)(a), 21(1) and 48(s)(ii).]

Record of disclosure of information

A person who discloses information, as described in the preceding paragraph, shall indicate on the Support Services Record the date of disclosure, the information disclosed and the person to whom the information was disclosed. In general, notice of disclosure should be given to the parent unless notice of the disclosure would not be in the best interest of the child or would be harmful to another person.

Correction of Information

Both the *Education Act* and ATIP have provisions for the correction of information held on students. If, on examining the Support Services Record, the student's parent or the student are of the opinion that the Support Services Record contains inaccurate or incomplete information:

- the parent or student may, under section 45 of ATIP request the Chair of the education body to correct the information that the parent believes to be inaccurate or incomplete; and
- if the inaccuracy significantly affects the education, health or safety of a student, the parent or student may, under section 31(1) of the *Education Act*, request the Director/Superintendent to correct the information that the parent believes to be inaccurate or incomplete.

If the Director/Superintendent does not correct the information as requested by the student's parent or the student within 14 calendar days, and this inaccuracy significantly affects the education, health or safety of a student, the parent or student may lodge a written disagreement under section 39 of the *Education Act* with the Director/Superintendent's decision not to correct the information as requested.

Maintenance, Transfer, Retention, and Disposal

Maintenance

Section 44 of ATIP requires that personal information used to make decisions that affect an individual be accurate and complete. To that end, at least once every three years and prior to a transfer of record, the Student Support Consultant or designate shall conduct a record improvement project to:

- ensure that the Support Services Record contains only prescribed, accurate and current information, i.e. information that is pertinent to student programming decisions;
- remove and destroy duplicate copies;
- remove any information prescribed by this Directive to be in another record and to place that information in the appropriate record; and
- remove and destroy assessment reports after four years, unless a report is still current or useful.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

Where a student transfers from one school to another the Student Support Consultant will ensure that the Support Services Record is transferred to the Student Support Consultant of the receiving education body.

Retention and Disposal

When a student graduates or ceases to attend school, the Support Services Record shall be retained for one year from the date on which the student graduates from grade 12, or three years from the date the student would have been expected to graduate.

The record of a student who is deceased will be retained for one year after the student's death.

Support Services Record

The Support Services Record will be disposed of in a manner which is consistent with privacy legislation, for example, shredding, incineration or electronic purging, and a record kept of the date of the destruction.

Records of Destruction

Records of Destruction are permanent records indicating what records were destroyed, when and under what authority. Records of Destruction should be kept by the Director/Superintendent of the education body.

The Principal's Record

The Principal's Record exists for some students. It includes:

- information relating to disciplinary actions; and
- correspondence between other agencies or parties pertaining to a student.

The Principal's Record is managed by the school administrator(s).

Contents and Storage

The Principal's Record includes, if applicable:

- information about disciplinary actions;
- information relating to violent incidents (some of which is required to be on the Student Record. See transfer below.);
- information relating to the involvement of the police on school premises;
- correspondence with parents and other agencies; and
- sensitive information that doesn't belong in any other record such as correspondence between lawyers pertaining to a particular student and information from other agencies dealing with family situations.

The Principal's Record will be kept in a locked filing cabinet in the Principal's office in accordance with section 42 of ATIP.

Access and Disclosure

When considering access to information contained in the Principal's Record, it is important to keep in mind that access does not mean "all or nothing". While parents/students generally have access to all personal information held on them [unless an exception can be cited under ATIP, for example, subsections 21(1) and (2)] other people may have only partial, or no access. Furthermore, ATIP does not require you to provide access to records originated by someone else, i.e. Justice. The person requesting the information should be directed to the person or agency that originated the record. When in doubt, consult your ATIP coordinator.

Notwithstanding the above:

- education staff involved in the delivery of a child's education program have access to information in the Principal's Record through the principal on a need-to-know basis;
- if the student is attending an institution contracted by the education body or is receiving services contracted by the school/education body, the contractor has access to the information in the Principal's Record through the Principal on a need-to-know basis just as education staff in the school have access to the information in the Principal's Record;
- parents and students have access to "personal information" in the Principal's Record as defined in the *ATIP Act*; and
- parents or students can give written consent to others to access information in the Principal's Record.

Exceptions

The Principal may disclose information from a Principal's Record without the above mentioned consent where, in the opinion of the Principal, disclosure would clearly benefit the individual to whom the information relates as long as it doesn't harm another person's safety or prejudice a law enforcement matter. Consistent with ATIP, subsections 20(1)(a), 21(1) and 48(s)(ii).

Record of disclosure of information

A Principal who discloses information, as described in the preceding paragraph, shall indicate on the Principal's Record the date of disclosure, the information disclosed and the person to whom the information was disclosed. In general, notice of disclosure should be given to the parent unless notice of the disclosure would not be in the best interest of the child or would be harmful to another person.

Correction of Information

Both the *Education Act* and ATIP have provisions for the correction of information held on students. If, on examining the Principal's Record the student's parent or the student are of the opinion that the Principal's Record contains inaccurate or incomplete information:

- the parent or student may, under section 45 of ATIP request the Chairperson of the education body to correct the information that the parent believes to be inaccurate or incomplete; and
- if the inaccuracy significantly affects the education, health or safety of a student, the parent or student may, under subsection 31(1) of the *Education Act*, request the Principal to correct the information that the parent believes to be inaccurate or incomplete.

If the Principal does not correct the information as requested by the student's parent or the student within 14 calendar days, and this inaccuracy significantly affects the education, health or safety of a student, the parent or student may lodge a written disagreement under section 39 of the *Education Act* with the Principal's decision not to correct the information as requested.

Maintenance, Transfer, Retention, and Disposal

Maintenance

Section 44 of ATIP requires that personal information used to make decisions that affect an individual be accurate and complete. To that end, at least once every three years and prior to a transfer of record, the Principal or designate shall conduct a record improvement project to:

- ensure that the Principal's Record contains only prescribed, accurate and current information;
- remove and destroy duplicate copies;
- remove any information prescribed by this Directive to be in another record and to place that information in the appropriate record;
- remove and destroy information relating to an incident that led to a suspension, if after three years no further incidents of the same nature, i.e. serious violent incident which involved the police, have occurred; and

- remove and destroy information relating to any serious violent incident that led to an expulsion, if after five years no further serious incidents of the same nature have occurred.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

When a student transfers to another school the Principal's Record, where it exists, is transferred using the same procedures outlined in the Student Record.

Information from the Principal's Record to be included in the Student Record

Student Record Regulation, paragraphs 4(p) and (q) require that the Student Record contain information pertaining to any suspension, expulsion or any serious incident leading to suspension, expulsion or the involvement of the police.

To ensure compliance with the *Student Record Regulations*, Principals should ensure that any letter of suspension or expulsion include the following:

- a description of the incident(s) that led to the suspension or expulsion; *Student Record Regulation*, paragraph 4(q) 1.
- a description of any involvement of the police on school premises; *Student Record Regulation*, paragraph 4(q) 2.
- any disciplinary steps taken by the school staff, or by the education body; *Student Record Regulation*, paragraph 4(q) 3.
- a copy of relevant correspondence about the incident. *Student Record Regulation*, paragraph 4(q) 4.

A copy of this letter could then be placed in the Student Record to ensure compliance with the *Student Record Regulation*, paragraphs 4(p) and (q).

Retention and Disposal

Information should be kept only as long as that information is current and necessary to meet the needs of the student. Once information is no longer current and necessary, it should be removed and destroyed. For example, when a school receives a notice concerning a change in the custody of a child, the previous notification is destroyed since it is no longer current or necessary.

When a student graduates or ceases to attend school, the Principal's Record shall be retained for one year from the date on which the student graduates from grade 12, or three years from the date the student would have been expected to graduate.

The record of a student who is deceased will be retained for one year after the student's death.

The Principal's Record will be disposed of in a manner which is consistent with privacy legislation, for example, shredding, incineration or electronic purging, and a record kept of the date of the destruction.

Records of Destruction

Records of Destruction are permanent records indicating what records were destroyed, when and under what authority. Records of Destruction should be kept by the Director/Superintendent of the education body.

The Counselling Record

The Counselling Record exists for some students. It contains notes made by counsellors to document counselling sessions with students. Such notes would include attached documents and information pertinent to the counselling of the student and should be signed and dated by the counsellor.

The Counselling Record is managed by the Counsellor.

Contents and Storage

A person employed by the education body in the capacity of counsellor including a guidance counsellor, school-community counsellor or contracted counsellor, as defined in the *Education Staff Regulation*, subsection 60(1), shall establish a record for each student who is seen in a counselling capacity.

Notes on personal counselling sessions with students shall contain:

- the name of the student;
- who referred the student, and the reason for the referral;
- the date and length of each session;
- a brief description of the process, results, what was involved and suggestions on how to proceed in the next session; and
- attachments – other pertinent information including student generated work such as writing and artwork, signed and dated by the Counsellor.

The counsellor shall ensure that the Counselling Records are stored in a secure, confidential manner in accordance with section 42 of ATIP.

Access and Disclosure

No person shall have access to notes taken by a school counsellor about a student except the school counsellor, a person who has the permission of the school counsellor or the school counsellor's successor. *Education Act*, subsection 32(1).

This does not preclude counsellor's notes being subpoenaed.

In deciding who has access or to whom information should be disclosed, the Counsellor shall be guided by *ATIP*, section 48.

Correction of Information

Since access to information in the Counselling Record is limited, requests for correction of information are unlikely. Should a request for correction of information be received, the Counsellor shall follow the same procedures that are outlined in the correction of information section of the Principal's Record – except substitute Counsellor/ Counselling Record for Principal/Principal's Record.

Maintenance, Retention, Transfer and Disposal

Maintenance,

Section 44 of *ATIP* requires that personal information used to make decisions that affect an individual be accurate and complete. To that end, at least once every three years and prior to a transfer of Counselling Record, the Counsellor shall conduct a record improvement project to:

- ensure that the Counselling Record contains only prescribed, accurate and current information;
- remove and destroy duplicate copies; and
- remove any information prescribed by this Directive to be in another record and to place that information in the appropriate record.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

When the Counsellor leaves a school, the Counselling Records are transferred to the Counsellor's successor. *Education Act*, subsection 32(2).

When a student transfers to another school the Counselling Record is not transferred; however its existence is acknowledged on the Request for Transfer of Records and Information Form, Part B. Refer to page 40.

The Counselling Record

If the student who transfers to another school visits a Counsellor, the new Counsellor should complete the Request for Transfer of the Counselling Record Form. Refer to page 41. A Counsellor in the Northwest Territories who receives a request shall, as soon as practicable, send the Counselling Record requested to the Counsellor who initiated the request in a manner which ensures the security of the record.

Retention and Disposal

Counselling Records will be kept for three years from the day of last use.

The Counselling Record will be destroyed in a manner that ensures its confidentiality, such as shredding, incineration or electronic purging, and a record kept of the date of the destruction.

Records of Destruction

Records of Destruction are permanent records indicating what records were destroyed, when and under what authority. Records of Destruction should be kept by the Director/Superintendent of the education body.

The Young Offender's Record

The Young Offender's Record exists for some students. It includes:

- records provided by youth justice personnel regarding a student who is a young offender.

Contents and Storage

The Young Offender's Record includes information provided to the school by the youth justice worker such as:

- information that relates to the preparation of a report required by the *Young Offenders Act* (bail, predisposition report, progress report, or pre-trial, conditional supervision); and
- a copy of a court order where it is necessary for immediate enforcement purposes.

In accordance with the Information Sharing Protocol, Appendix (i), between the Department of Justice – NWT, the Department of Justice – Canada, the Department of Education, Culture & Employment, the Department of Health and Social Services and the RCMP, the Principal shall ensure that information disclosed by Justice is kept separate from any other record of the student.

The Young Offender's Record will be kept in a locked filing cabinet in the Principal's office in accordance with section 42 of ATIP.

Access and Disclosure

The Principal, or designate, to whom information is disclosed shall not disclose that information to any other person unless the disclosure is necessary to obtain information for a report required by the *Young Offenders Act*, to ensure compliance with a youth court order or to ensure the safety of staff, students or other persons in the school system.

The Principal must put procedures in place to ensure no other person has access to the information disclosed by Justice.

Correction of Information

Requests for the correction of information do not apply to the Young Offender's Record since records contained therein have been generated by another agency. If an individual requests access s/he should be referred to the agency that generated the record.

Maintenance, Transfer, Retention and Disposal

Maintenance

The Principal shall be the primary custodian of all young offender information. If the Principal elects to share this information with others, for example the Vice-Principal, the Principal must ensure the legal restrictions and limitations are shared, i.e. the penalty for sharing information may be up to a maximum of two years imprisonment. *Young Offenders Act.*

The Principal shall include information about young offender status in regular school reports to the Director/Superintendent; however, the report shall not reveal the name of the student or any information that may serve to identify the student.

Note: Transitory records are not to be kept on the record but are to be destroyed shortly after the events to which they relate occur.

Transfer

When a student transfers to another school the youth justice worker shall advise the Principal of the receiving school about pertinent information relative to the student. The Principal of the sending school does **not** transfer the Young Offender's Record, but **destroys** the record that was maintained by the sending school.

Retention and Disposal

Information disclosed to the school by the youth justice worker must be destroyed when it is no longer required for the purpose for which it was disclosed. Any court documents in the Young Offender's Record must be destroyed at the end of the disposition.

The Young Offender's Record will be disposed of as soon as it is no longer required for the purpose for which it was created and in a manner which is consistent with privacy legislation, for example, shredding, incineration, or electronic purging, and a record will be kept of the date of the destruction.

Records of Destruction

Records of destruction are a permanent record indicating what records were destroyed, when and under what authority. Records of destruction should be kept by the Director/Superintendent of the education body.

Note:

Any other records not addressed in this Directive that a school or an education body has on a student must be regulated by the development of a policy by the education body, which prescribes all aspects of records management i.e. content, storage, access, disclosure, maintenance, transfer, retention and disposal.

This Directive shall be monitored and reviewed by the Department of Education, Culture and Employment at least every five years calculated from the date of issuance.

Approvals:

Review

The image shows two handwritten signatures. The signature on the left is "Mark Cleveland" and the signature on the right is "Charles Dent". Both signatures are written in black ink on a white background.

Mark Cleveland
Deputy Minister
Department of Education,
Culture and Employment

Charles Dent
Minister
Department of Education,
Culture and Employment

June 1998

June 1998

Transfer of Records Forms

Request for Transfer of Records

PART A:

To be completed by the principal of the *receiving school*.

Name of student for whom records/information are being requested:

Date of Birth: _____

Transferring from:

(school/community/prov./terr.)

Transferring to:

(school/community/prov./terr.)

The above named student is now registered in _____ (school). The following records are requested to be transferred in accordance with the procedures in the *Student Record Regulations* (1996), section 9(2) and the Departmental Directive on the Management of Information in the Student Record and other Records Pertaining to Students (1998).

- Student Record
- Program Support Record (if applicable)
- Principal's Record (if applicable)

PART B:

To be completed by the principal of the *sending school*.

Does a Counselling Record file exist? Yes No

Does any other record exist? Yes No

PROCEDURES:

1. The Principal of the school to whom a student has transferred (the receiving school) completes Part A above and faxes this form to the Principal of the school from which the student transferred (the sending school).
2. The sending school Principal completes Part B of this form within 72 hours (or as soon as possible if the request is received when a school is closed) and faxes it to the Principal of the receiving school.
3. The sending school Principal transfers requested records as soon as possible in accordance with *Student Record Regulations* 9(2).

Request for Transfer of Counselling Records

To be completed by the Principal of the *receiving school*.

Name of student for whom the Counselling Record is being requested:

Date of Birth: _____

Transferring from:

_____ (school/community/prov./terr.)

Transferring to:

_____ (school/community/prov./terr.)

I am presently counselling the above named student and am requesting the transfer of the Counselling Record as per *Education Act*, section 32(2).

Current Counsellor's signature

Date

The Counselling Record is to be transferred to the receiving school's Counsellor as soon as possible in an envelope marked Private & Confidential.

