

## **YOUNG OFFENDER RECORDS**

### **Background**

The Division believes that its primary responsibility is to provide a learning environment that is safe and secure. Employees require the access to information that will enable them to protect the safety of staff and students. However, the Division acknowledges its responsibility to provide individual students with access to programs that meet their needs; and to protect the right of individual students to the preservation and responsible use of confidential information.

The Division recognizes that confidentiality is the cornerstone of the Young Offenders' Act and accepts its responsibility to adopt appropriate measures designed to safeguard information and to release it only to Division staff members and others who have to provide for the safety of staff and students. The Division also acknowledges the necessity for personnel to work in close cooperation with other agencies responsible for children; specifically, youth justice personnel.

The Young Offender Information Sharing Protocol developed by Alberta Education and Alberta Justice in 1996 authorized Alberta Justice to share information with respect to the identity and relevant information related to young offenders who pose a potential threat to the safety or security of students or staff. It also specified procedures for sharing of information between Justice and Education to assist with preparation of disposition reports or to ensure compliance with court orders.

The Superintendent or designate has the authority to communicate with justice personnel about students who have been dealt with under the Young Offenders' Act in accordance with the provisions outlined in the Young Offenders' Information Sharing Protocol.

### **Procedures**

1. The Superintendent or designate may receive or provide relevant information regarding a specific student to:
  - 1.1. Protect the safety of students and staff;
  - 1.2. Assist justice with the preparation of disposition/other reports; and
  - 1.3. Ensure compliance with court orders.
  
2. Information requested may include:

- 2.1. Any offences or a prior record of offences that result in concerns about the safety of staff and students in jeopardy;
  - 2.2. Recommendations for reducing the risk of violence and increasing the level of safety;
  - 2.3. Patterns of behavior that may signal the onset of activity that could affect safety;
  - 2.4. Individuals or groups of persons who may be at risk from the student; and
  - 2.5. The identity of other youths who were convicted along with the youth as a result of gang activity.
3. The Superintendent or designate will disclose information only on a “need to know basis” to those staff and others who may have to provide for the safety of students and staff.
  4. In determining the persons to whom to release information, the Superintendent or designate shall bear in mind that:
    - 4.1. Inappropriate disclosure could result in a fine or imprisonment; and
    - 4.2. The right of the young offender to confidentiality must be maintained.
  5. The Superintendent or designate may advise school personnel who are involved with the students with Young Offenders’ status about circumstances which uphold the spirit and mandate of the Young Offenders’ protocol such as:
    - 5.1. Impressing upon the student the requirement to attend school in order to comply with a probation order or conditional supervision or bail;
    - 5.2. Establishing appropriate monitoring procedures;
    - 5.3. Developing an educational program to assist the student in areas such as socialization and anger management;
    - 5.4. Providing an environment in which the student could participate in an educational program while ensuring the safety of other students and staff members;
    - 5.5. Training for staff in Nonviolent Crisis Intervention to assist with proactive intervention, de-escalation, and handling crisis situations.
    - 5.6. Training for staff (i.e., leadership teams) in Violence Threat Risk Assessment (VTRA) to assist in identifying worrisome, high-risk, and/or threatening behaviour and when to activate a Stage 1 or 2 VTRA with community partners.
  6. The Superintendent or designate shall arrange for management of records about students and any such management procedure shall properly address the following:
    - 6.1. Files

- 6.1.1. May be stored at the school and at EICS Central Learning Services but must be kept separate from other student records; and
  - 6.1.2. Shall be kept in a secure location.
  - 6.1.3. If a VTRA level 1 or 2 has been initiated, protocols will be stored according to the guidelines in the Elk Island VTRA Protocol (Please link to our Online Protocol).
- 6.2. Access shall be:
  - 6.2.1. Restricted to those who require access in order to meet the needs of the student; and
  - 6.2.2. Limited to those staff or others within the school system placed on a list affixed to the file.
- 6.3. Destruction shall occur when:
  - 6.3.1. The information is no longer required for the purpose for which it was disclosed:
  - 6.3.2. Youth justice personnel notifies the Superintendent or designate, in writing, that no further safety risk exists; or
  - 6.3.3. Youth justice personnel advises the Superintendent or designate of the expiry of the court order relating to bail, probation, conditional supervision or temporary absence, which led to creation of the record.
  - 6.3.4. Notification shall be made to youth justice personnel, in writing, when the school system's record has been destroyed.
- 6.4. Transfer of a Student: Within the Jurisdiction
  - 6.4.1. It is the responsibility of youth justice personnel to advise the Principal of the receiving school of the safety concerns, or the Court Order relative to that student, not the former Principal.
  - 6.4.2. The former Principal of the sending school shall destroy the record.
- 6.5. Transfer of a Student: Outside the Jurisdiction
  - 6.5.1. It is the responsibility of youth justice personnel to inform the Superintendent of the receiving jurisdiction of safety concerns or the relevant Court Order; and
  - 6.5.2. The Superintendent or designate of the sending jurisdiction shall arrange for the destruction of that jurisdiction's record.
7. The Superintendent or designate, upon request from youth justice personnel to provide information for a report ordered by a youth court judge, shall arrange for the release of information from the student record after first receiving the following information from youth justice personnel:

- 7.1. Name;
- 7.2. Age;
- 7.3. Nature of the report to be provided and the section of the Young Offenders' Act under which such a report is authorized; and
- 7.4. Timelines with respect to providing information.
- 7.5. Specific description of the information required such as:
  - 7.5.1. Attendance of the student;
  - 7.5.2. Program or courses in which the student is enrolled;
  - 7.5.3. Performance of the student;
  - 7.5.4. Nature of incidents resulting in any disciplinary action and type of discipline imposed; and
  - 7.5.5. Number of years for which the information is required (for the current school year or the student's entire career in the school).
- 7.6. Before any information is released, however, the Superintendent or designate must obtain the written consent of the parent.
  - 7.6.1. If the student is sixteen (16) years of age or older, student or parental written consent must be obtained.
8. The Superintendent or designate is authorized to request from youth justice personnel additional information such as:
  - 8.1. Disclosure of pertinent psychological assessments; or
  - 8.2. Additional information that will assist school personnel in providing an educational program for the student and creating an appropriate environment for that program.
9. The Superintendent or designate is the delegated authority to act on behalf of the Division with youth justice supervisory personnel whenever a resolution cannot be reached between a school employee and youth court justice personnel.

Reference: *Education Act*, SA 2012, c E-0.3, ss. 31, 32, 33, 53, 196, 197, 222  
*Youth Justice Act*, RSA 2000, c Y-1  
Elk Island VTRA Protocol  
*Youth Criminal Justice Act*, S.C.2002, c.1, s. 125  
Guide to information sharing under the Children First Act  
*Student Records Regulation*, AR 97/2019