

## INFORMATION SHARING UNDER THE YOUTH CRIMINAL JUSTICE ACT POLICY

### PREAMBLE

It is the policy of the Halifax Regional School Board that involvement with the Youth Criminal Justice Act (YCJA) be guided by the following principles:

1. Access to information provided under the *YCJA* is restricted to approved personnel who have a 'need to know'. The Director - School Administration and principals will work in partnership to ensure accountability for the receipt and sharing of information under the *YCJA*. Utmost in this process is the need to maintain the balance between staffs' need to know, particularly with regards to maintaining safety, and the young person's right to privacy.
2. Information provided under the *YCJA* is to be filed and stored under secure conditions and separate from any other record the school or central office may have with regard to the young person.
3. Ongoing relationships between justice system personnel and school board personnel will be established to facilitate the Board's compliance with the Youth Criminal Justice Act.

### DEFINITIONS

- "'young person" means a person who is or, in the absence of evidence to the contrary, appears to be twelve years of age or older, but less than eighteen years of age and, where the context requires, includes any person who is charged under the *YCJA/YJA* with having committed an offence while the person was a young person or who is found guilty of an offence under the *YCJA* or *YJA*;
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- "'YCJA" – the *Youth Criminal Justice Act, Bill C-7* which replaces the *Young Offenders Act*.
- "'a report" – a Pre-Sentence Report (prepared by a youth worker to assist the court in determining a sentence or court order) or a progress report.
- "'justice system personnel" – people employed by the municipal, provincial or federal government, who are responsible for youth justice. This may include a youth worker, or provincial director, for example.
- "'regional police services"- include the Halifax Regional Municipality Police and Royal Canadian Mounted Police (RCMP).

## **1.0 Staff Responsibilities**

- 1.1 The Director, School Administration will oversee and monitor access to information provided by any justice system personnel under the *YCJA*, and the appropriate care of any records related to such information.
- 1.2 The Director of School Administration may delegate this authority to staff members, including principals, in order to support him/her in this responsibility.
- 1.3 No person other than the Director, School Administration and principals will relay or subsequently disclose information learned under the *YCJA*.
- 1.3 Notwithstanding 1.2, the Director, School Administration and principals, will ensure that appropriate staff will have access to the young person's information on a 'need to know' basis.
- 1.4 The Director, School Administration and principals will also
  - establish a clear understanding of the youth justice system;
  - be the people who decide who makes initial contact with justice system personnel and parents or guardians of the student (in the case that permission to release information from the student's school records is required);
  - request copies of relevant Justice documents; and
  - when possible, designate one staff person to monitor the program and progress of each young person.

## **2.0 Storage of Records**

- 2.1 In cases where information is disclosed to the HRSB about a young person to ensure the safety of staff or students, records will be kept in two places:
  - i. at the school board office, and
  - ii. at the school attended by the young person.
- 2.2 In cases where information is disclosed to the HRSB about a young person to facilitate rehabilitation or to ensure compliance of the young person with a reintegration leave or a court order concerning bail, probation, or the serving of a portion of the sentence in the community under supervision or conditional supervision, records will be kept at the school attended by the young person.
- 2.3 Information about a young person gathered under the *YCJA* will be kept separate (*YCJA* s. 125(7)) from the student's school record and from any other record accessible to other staff.

### **3.0 Destruction of Records**

Where records regarding information about a young person, gathered under the YCJA, are no longer required for the purpose for which the information was originally disclosed, such records as held by schools shall be returned to the office of the Director-School Administration, and all such records held by the HRSB for that young person shall be destroyed as soon as allowed by provincial legislation or under the conditions of s. 119 (2) of the YCJA.

### **4.0 Transfer of the Young Person**

- 4.1 In the event that a young person, for whom information has been disclosed under the YCJA, transfers schools or school districts, the principal of the school being left and the Director-School Administration will take all steps to protect the privacy of the young person, and they will follow all board policies and protocols, together with provincial Student Records Policies, in regard to the handling of any records of information disclosed under the YCJA for that young person.

### **5.0 Releasing Information from School Records**

- 5.1 The Director, School Administration or principals, upon request from justice system personnel to provide information for a report, shall arrange for the release of this information in keeping with the requirements of the YCJA, the YJA, and the Nova Scotia Freedom of Information and Protection of Privacy Act.
- 5.2 Only information from school board records will be released.

### **6.0 Co-operation between School Board Officials and Community Agencies**

- 6.1 The Director, School Administration or designate will establish and maintain links with Justice personnel to the best of his or her ability by arranging to meet regularly with representatives from Justice, youth workers, Community Services and Regional Police Services.

### **7.0 Other Staff Involvement in the Youth Justice System**

- 7.1 In the event that a school board staff member is invited to take part in a youth justice committee or a conference about a young person he or she may do so. Any information about the young person gathered at this conference may not be subsequently disclosed as it was gathered only for the purpose of the committee or conference.

- 7.1.1 Youth justice committees and conferences for the purposes of the *YCJA* are separate from inter-agency meetings or conferences. An inter-agency meeting for the purpose of collaboration does not have information-sharing restrictions other than those restrictions placed by professionalism and provincial legislation.
- 7.2 In the event that school board staff members are requested to act in support of a young person in the absence of counsel, they do so at their own risk. Those people considering accepting this responsibility may wish to consider if it is in the best interest of the young person and if there are exceptional circumstances. They should realize that they undertake this task only as individuals, not as a representative of the school board. The school board discourages this involvement on the basis that there might be a conflict of interest if the incident is one on which the board may be taking disciplinary action. Staff members are normally expected to refuse in this circumstance. Any information gathered during this process should not be further disclosed as it was gathered only for the purpose of supporting the young person.

## **YOUTH CRIMINAL JUSTICE ACT PROCEDURES**

### **1.0 STAFF RESPONSIBILITIES**

- 1.1 In the event that the principal at the school attended by the young person or an alternate staff person is the first person to receive information under the *YCJA*, this person will keep a copy of the information securely at the school and send one copy to the Director, School Administration or designate. This information will be kept secure and confidential at all times.
- 1.2 The following staff will have access to the young person's information on a "need to know basis".
  - 1.2.1 School personnel who deal with the young person may have a need to access information from which appropriate responses can be made in order to preserve the safety of other students or of staff.
  - 1.2.2 School personnel who deal with the young person may need to have access to the information in order to facilitate compliance with a court order or to facilitate the rehabilitation of the young person.
  - 1.2.3 Where a student, a parent, guardian or a professional (e.g. social worker) requests information for the purposes of further counseling or coordinating services in the best interests of the young person, the request shall be referred to the relevant justice system personnel.
  - 1.2.4 If a school shares its facility with another agency, such as a Teen Health Centre or Police Liaison Office, information will be shared with this agency's personnel on the same 'need to know' basis as the rest of the school's staff.
- 1.3 Each person to whom the Director, School Administration (or principal) discloses the information will sign a confidentiality form acknowledging the possible consequences of subsequent disclosure. (Appendix A)
- 1.4 In the event that the Director, School Administration leaves that position for any reason, the individual acting Director, School Administration in his/her place shall oversee and monitor the receipt and sharing of information until a new Director, School Administration is designated.

## **2.0 STORAGE OF RECORDS**

- 2.1 A list of the people to whom the information is to be disclosed shall be appended to the young person's file and only those staff members whose names appear on the list shall have access to the file. (Appendix A) In an exceptional circumstance, access may be granted to the files and signatures obtained after the crisis has passed.
- 2.1.1 While these records are in use, they will not be left unattended in unsecured areas.
- 2.2 Records gathered under the YCJA will be kept in a locked cabinet and will be under the control of the Director, School Administration at the school board office and of the principal at the school attended by the young person.
- 2.2.1 The cabinets containing these records will be used only for these records.
- 2.2.2 The cabinets and file drawers used for these records will be labeled so as not to reveal the fact that they contain these records.

## **3.0 DESTRUCTION OF RECORDS**

- 3.1 Records are no longer required when:
- the young person leaves the jurisdiction of the school board,
  - justice system personnel notify the school board in writing that no further safety risk exists and board staff concur with this assessment, or,
  - justice system personnel advise the school board of the expiry of the court order relating to bail, probation, conditional supervision or temporary absence, which led to the creation of the record.
- 3.2 If being destroyed, paper or other physical records shall be shredded. Electronic records shall be destroyed: physically, if possible (e.g. if on disk) or erased and overwritten to render them inaccessible. Electronic records may need to be professionally cleared to ensure adequate destruction of the information.

## **4.0 TRANSFER OF THE YOUNG PERSON**

- 4.1 In the event that a young person, currently under the provisions of the YCJA, transfers schools within the school board district, the sending school principal will notify the Department of Justice in order to consult with them as to whether information received from the young person's YCJA records will be disclosed to the receiving school. The sending principal will inform the Director-School Administration of the transfer and of the DOJ's decision on the subsequent sharing of information with the receiving school, and any records regarding that young person, which contain information disclosed by

the DOJ and which are held by the sending school will be forwarded to the office of the Director-School Administration.

- 4.2 In the event that a young person, currently under the provisions of the YCJA, leaves the Halifax Regional School Board jurisdiction in order to reside within a different school district, or leaves school permanently, the principal will inform the appropriate DOJ official and the Director-School Administration. The principal will then ensure the destruction of all YCJA related records for the young person in accordance with provincial and school board policies.

## **5.0 RELEASING INFORMATION FROM SCHOOL RECORDS**

- 5.1 The Director, School Administration and principals, upon request from justice system personnel to provide information for a report, shall arrange for the release of information from the student record after first receiving as much as possible of the following information: (Appendix B)

- (a) the name of the young person;
- (b) the age of the young person;
- (c) the nature of the report to be provided and the section of the *YCJA or YJA* under which such a report is authorized;
- (e) the timeline for providing the information;
- (f) the specific information required, such as
  - attendance of the young person,
  - the program of courses in which the young person is enrolled,
  - the performance of the young person
  - the nature of incidents giving rise to discipline and the type of discipline imposed, and
  - the number of years for which the information is required (e.g. for the current year, for the past four years, or for the young person's entire career in the school board).

5.1.1 In the event that the information is requested by a court order (as is the usual practice), the Director, School Administration will ensure that the terms of the court order are followed.

5.1.2 Before any information is released, it would be advisable for the Director, School Administration or principal, to obtain the consent of the parent (or the student if the student is 18 years of age or older).

5.1.3 Where there is an immediate need for student information by DOJ staff, or in situations where health and safety are a concern, or where individuals may have refused written consent for disclosure, the HRSB may, under sections

27(f), 27(g), and 27(o) of The Nova Scotia Freedom of Information and Protection of Privacy Act, disclose information requested by the DOJ.

- 5.2 If a request is made without the appropriate information, the Director, School Administration or principal will reply to justice system personnel with a request for specific information and will not release any information until the request is complete.
- 5.3 A copy of the information released, dated and signed by the Director, School Administration or principal, shall be kept by the school board or school.

## **6.0 CO-OPERATION BETWEEN SCHOOL BOARD OFFICIALS AND COMMUNITY AGENCIES**

6.1 Principals and the Director, School Administration will establish and maintain links with Justice personnel to the best of his or her ability by arranging to meet regularly with representatives from the Justice Department, , Community Services and Regional Police to discuss:

- (a) an individual young person, as required,
- (b) any changes regarding probation, conditional supervision or temporary absence orders, including the expiration of such orders
- (c) strategies for prevention and rehabilitation. Where appropriate, it is suggested that these meetings include the principal or guidance counsellor at the school attended by the young person.

6.2 Justice system personnel may disclose information to the school board or school if necessary under the following conditions:

- To ensure compliance of the young person with a reintegration leave or a court order concerning bail, probation, or the serving of a portion of the sentence in the community under supervision or conditional supervision
- For the safety of staff, students, or other people; or
- To facilitate the rehabilitation of the young person.

6.2.1 When information is released under the conditions described above, the Director, School Administration or principals should expect to receive the following information:

- (a) when information is being released to ensure the safety of staff and students
  - the type of offence (particularly when the offence in question is committed in relation to the school), for example,
    - assault
    - arson
    - illegal possession of firearms or other offensive weapons,
    - drug trafficking (under the *Food and Drugs Act* or the *Controlled Drugs and Substances Act*),

- possession of explosives
- criminal negligence
- extortion
- intimidation
- procuring for purposes of prostitution
- molestation, and
- hate crimes;
- details of particular aspects of the circumstances of the offence which make the sharing of information necessary;
- recommendations for reducing the risk of violence and increasing the level of safety;
- information regarding any pattern of behaviour which may signal the onset of activity which could affect the safety of staff and students;
- any identifiable individual or group of people who could be at risk from this student;  
whether more than one person was convicted in the circumstances of the offence, or as a result of a gang or group activity, and if some or all those young people present a risk to safety, the school board should be informed of the link between or among these young people so the school is aware of the interrelationship among the youths who pose a threat to safety.

(b) if information is being released to ensure compliance with a court order

- the type of order with which the young person is expected to comply (a bail order, probation order, conditional supervision order, etc.),
- the anticipated date of expiry of the order,
- the offence in relation to which the order has been made, and
- the particular terms in the order which relate to school attendance or any other education matter.

(c) if information is being released to facilitate the rehabilitation of the young person

- any recommendations concerning the nature of the support the young person may require,
- the nature of the community support available to the young person,
- any 'triggers' or possible warning signs that the young person is in difficulty,
- any individual or group of individuals with whom the young person should not fraternize if it is avoidable,
- any special academic requirements to be taken into consideration.

6.3 If information is not forthcoming, the Director, School Administration is authorized to make a request to justice system personnel (such as a youth worker, the Attorney General, an agent of the Attorney General, a peace officer, or the Provincial Young Offender's Director) for disclosure of information on behalf of the school board. This request may be made when

- i a staff member believes that a student poses a risk to the safety of staff or students,
  - ii it is believed that the information will assist school personnel in providing an educational program for the young person and creating an appropriate environment for that program, or
  - iii it is believed that the information will assist in the rehabilitation of the young person.
- 6.4 In the event that there is a difference of opinion between the youth worker and school board personnel regarding the nature or extent of information to be provided by one party or the other, the matter shall be referred to the most senior available school board employee for resolution with an appropriate supervisor of the youth worker at the provincial Department of Justice. An application may be filed under section 119 (1) (s) for access to the record if necessary.