

321 - YOUTH CRIMINAL JUSTICE ACT RECORDS

Background

The Superintendent will communicate with justice personnel about students who have been dealt with under the *Youth Criminal Justice Act* in accordance with the provisions outlined in the *Young Offenders' Information Sharing Protocol*.

The Young Offenders' 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.

Initial disclosure of information was to be made by the youth justice worker to a designate of the school board, e.g. Superintendent or coordinator of students' services. Boards were charged with the responsibility of selecting a designated staff member at the school level (e.g. Principal) to receive the information and ensure disclosure was limited on a "need to know" basis, as breach of confidentiality carries legal and professional consequences.

Procedures

1. Youth justice workers employed or contracted by Alberta Justice, e.g. probation officer, group home staff or any other person engaged in the provision of services to young persons, may provide oral or written information identifying a young person with young offender status to the Superintendent or other designated school board staff member, and subsequently to the designated member at the school level for the following reasons:
 - 1.1 To protect the safety of students and staff;
 - 1.2 To assist Justice with the preparation of disposition/other reports; and
 - 1.3 To ensure compliance with court orders.
2. The information that may be provided by the designated member of the school board or by the youth justice worker to designated school staff regarding disclosure to ensure the safety of staff, students or other persons may include:
 - 2.1 The type of disposition; e.g. open custody, probation, temporary release;
 - 2.2 The type of violent and/or other offences in relation to young offender status;
 - 2.3 Prior record of offences;
 - 2.4 Indications of violent tendencies or patterns of behavior;
 - 2.5 Identifiable group of persons who could be at risk from the young offender;

- 2.6 The expiry date of young offender status; and
 - 2.7 Willingness of the young offender to avail himself or herself of services and facilities.
3. The following are examples of the types of offences which may assist youth justice workers in making decisions to disclose information, as well as to ensure that all offences which threaten the safety of students or other persons result in disclosure to designated school staff;
- 3.1 Arson;
 - 3.2 Illegal possession of firearms, including offensive weapons;
 - 3.3 Trafficking in illegal drugs;
 - 3.4 Possession of explosives;
 - 3.5 Criminal negligence;
 - 3.6 Extortion;
 - 3.7 Procuring for purposes of prostitution;
 - 3.8 Sexual offences.
4. The Superintendent, or the youth justice worker if so directed by the Superintendent, will disclose information only on a “need to know” basis to those school staff members and others who may have to provide for the safety of students and staff. The following are examples where information sharing with designated school staff could be deemed necessary to ensure the safety of staff and students:
- 4.1 Any offences or a prior record of offences that result in concerns about the safety of staff and students in jeopardy;
 - 4.2 Recommendations for reducing the risk of violence and increasing the level of safety;
 - 4.3 Patterns of behavior that may signal the onset of activity that could affect safety;
 - 4.4 Individuals or groups of persons who may be at risk from the student; and
 - 4.5 The identity of other youths convicted along with the youth as a result of gang activity.
5. In keeping with Section 129 of the *Youth Criminal Justice Act*,
- “No person who is given access to a record or to whom information is disclosed under this Act shall disclose that information to any other person unless the disclosure is authorized under this Act.”
- This respects “the need for balance between the right to know and the rights of the young offender to confidentiality.” Each young offender’s file will contain a record of the individual staff members who are provided information about the young offender. In determining the persons to whom to release information, the Superintendent shall bear in mind that:
- 5.1 Inappropriate disclosure could result in a fine or imprisonment; and
 - 5.2 The right of the young offender to confidentiality must be maintained.
6. When designated school personnel are approached directly by youth justice workers

regarding young offenders, it is imperative that the Board's designate has been involved in the process. A phone call or a personal contact by the school designate would be in order to verify proper procedures have been followed.

7. The Superintendent, or the youth justice worker on behalf of the Superintendent, 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' Information Sharing Protocol, such as:
 - 7.1 Impressing upon the student the requirement to attend school in order to comply with a probation order, conditional supervision, or bail;
 - 7.2 Establishing appropriate monitoring procedures;
 - 7.3 Developing an education program to assist the student in areas such as socialization and anger management;
 - 7.4 Providing an environment in which the student could participate in an educational program while ensuring the safety of other students and staff members; and
 - 7.5 Training for staff in dealing with violent persons.
8. The Superintendent shall arrange for management of records about students and any such management procedure shall address the following:
 - 8.1 Storage: Files
 - 8.1.1 May be kept at the school and at the Division office, but must be kept separate from other student records; and
 - 8.1.2 Shall be kept in a secure location.
 - 8.2 Access shall be:
 - 8.2.1 Restricted to those who require access in order to meet the needs of the student; and
 - 8.2.2 Limited to those staff or others within the school system placed on a list affixed to the file.
 - 8.3 Destruction shall occur when the information is no longer required for the purpose for which it was disclosed such as when the youth justice worker:
 - 8.3.1 Notifies the Superintendent, in writing, that no further safety risk exists, or
 - 8.3.2 Advises the Superintendent or designate of the expiry of the court order which led to the creation of the record. The Superintendent shall then advise the worker in writing of the destruction of the record.
 - 8.4 Transfer of a student:
 - 8.4.1 Within the jurisdiction:
 - ♦ It is the responsibility of the youth justice worker to advise the Principal of the receiving school of the safety concerns, or the Court Order relative to that student, not the former Principal.
 - ♦ The former Principal of the sending school shall destroy the record.
 - 8.4.2 Outside the jurisdiction:

- ♦ It is the responsibility of the youth justice worker to inform the superintendent of the receiving jurisdiction of safety concerns or the relevant Court Order; and
 - ♦ the Superintendent of the sending jurisdiction shall arrange for the destruction of that jurisdiction's record.
9. The Superintendent, upon request from youth justice worker to provide information for a report ordered by a youth court judge, shall arrange for the release of information from the student record that may include the following:
- 9.1 Name;
 - 9.2 Age;
 - 9.3 The nature of the report to be provided and the section of the Youth Criminal Justice Act under which such a report is authorized;
 - 9.4 Timelines with respect to providing information;
 - 9.5 Specific description of the information required such as:
 - 9.5.1 Attendance of the student;
 - 9.5.2 The program or courses in which the student is enrolled;
 - 9.5.3 The performance of the student;
 - 9.5.4 The nature of incidents resulting in any disciplinary action and type of discipline imposed;
 - 9.5.5 The number of years for which the information is required (for the current school year or the student's entire career in the school).
10. Before any information is released, the Superintendent must obtain the written consent of the parent or legal guardian. If the student is 16 years of age or older, written consent from the student must be obtained.
11. The Superintendent is authorized to request from the youth justice worker additional information such as:
- 11.1 Disclosure of pertinent psychological assessments; or
 - 11.2 Additional information that will assist school personnel in providing an educational program for the student and creating an appropriate environment for that program.
12. The Superintendent is the delegated authority to act on behalf of the Board with youth justice supervisory personnel whenever a resolution cannot be reached between school-based personnel and youth court justice personnel.

Reference: Section 8, 13, 14, 15, 23, 47, School Act
Youth Criminal Justice Act
Student Records Regulation 71/99