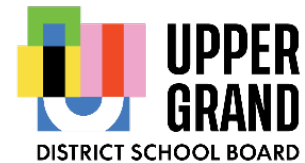


Privacy Protection and Information Access – Personal Health Information Procedures 315-B



Category: Administration
Administered by: Director of Education
First Adopted: June 2024
Revision History:
Next Review: 2028-29 School Year

1. General

The Upper Grand District School Board is a Health Information Custodian pursuant to the *Personal Health Information Protection Act, 2004* operating a group health practice and committed to ensuring the responsible collection, use, disclosure, and retention of the personal health information of students.

This procedure identifies the information practices of the UGDSB when Health Care Practitioners who are employed or retained by the UGDSB are collecting, using, disclosing, retaining, and disposing the personal health information of students to provide health care as defined by the procedure.

2. Definitions

Agent means an employee or service provider providing services to facilitate the secure collection, use, retention, processing, and disclosure of PHI of students for the purposes of the UGDSB and not for the agent's purpose.

Adult Student means a student who is 18 years of age or older or 16 or 17 years of age and removed from the care and control of their parent/guardian with legal authority to make education decisions pursuant to the *Education Act* and determined to be capable pursuant to the *Health Care Consent Act* and *Personal Health Information Protection Act, 2004* to make decisions regarding PHI and health care.

Capable Student means a student who is 12 years or older who is judged by the Health Care Practitioner to have capacity to consent to the collection, use, and disclosure of PHI and to consent to delivery of Health Care by a regulated Health Care Practitioner.

Electronic Documentation System for the purpose of this procedure is a digital tool that is used by Health Care Practitioners of the UGDSB to record, retain and reproduce, and to make accessible for use and disclosure, the PHI of students.

Health Care for the purposes of this procedure means any observation, examination, assessment, care or service that is done for a health-related purpose and that is carried out or provided by a Health Care Practitioner to diagnose, treat or maintain a student's physical or mental condition or to prevent disease or injury or to promote health.

Health Care Practitioner for the purposes of this procedure means an individual who is employed or retained by the UGDSB, provides health care, and is a member of a *Regulated Health Profession* or a social worker registered as a member of the College of Social Workers and Social Service Workers. Health care practitioners also include Child and Youth Counsellors, who are not regulated health professionals but supported under a regulated mental health professional.

Health Information Custodian has the same meaning as the *Personal Health Information Protection Act, 2004*

Instructional staff means members of the Ontario College Teachers, Ontario College of Early Childhood Educators and educational assistants who support student learning.

Legal Hold is process used to preserve all forms of relevant and potentially relevant information with respect to litigation, investigation, audit or FOI request, or other relevant legal issue or dispute requires or can be anticipated to require access to and/or production of records. A legal hold suspends routine retention and processing timelines and may require the implementation of different access, security and processing measures.

Ontario Student Record (OSR) means a record created and retained in accordance with s.266 of the *Education Act* and Ontario Student Record Guideline 2020, which contains documentation of student achievement and other documents conducive to the improvement of the student's instruction and other education of the student.

Parent means a parent as defined by the *Education Act* and a guardian, as defined by the *Education Act*, where applicable.

Personal Health Information (PHI) for the purposes of this procedure is identifying information about a student whether in oral or recorded form, which

relates to the physical or mental health of the student, (including health history) or to the provision of health care to the student.

Professional Student Services Personnel are regulated health professionals, Social Workers, Behaviour Analysts, Child and Youth Counsellors employed or retained by the UGDSB to deliver health care services or to support student mental health, student attendance and participation in education. Professional Student Services Personnel provide services to support the delivery of educational instruction, assessment, and evaluation services, including the implementation of accommodations, modifications, and alternative programs.

School Records are records, which may contain personal or PHI and might be retained in a student OSR or other school-based record, created by Instructional Staff for the purpose of instruction, assessment, evaluation or health and safety.

Services for the purpose of this procedure are direct or consultative services delivered by a Health Care Practitioner to support student attendance and participation in education, and to support the delivery of educational instruction, assessment, and evaluation, including the implementation of accommodations, modifications, and alternative programs.

Student means a child or youth who is registered to receive educational services from the UGDSB. Student also includes a former student in the appropriate context.

Student Health Record means PHI of a student collected or created by a Health Care Practitioner for health-related purposes, which may also serve to inform educational purposes, but does **not** include records created by members of the UGDSB's Instructional Staff.

Transitory Records are records that have little to no legal, operational, evidentiary, or historical value and are not a business record for the purposes of the UGDSB records management process.

3. Information Practices

3.1 Health Information Custodian

The UGDSB is a Health Information Custodian operating a group practice of Health Care Practitioners pursuant to the *Personal Health Information Protection Act, 2004* (PHIPA).

- 3.1.1 In addition to Health Care Practitioners, the UGDSB also refers students to speech language pathologists, occupational therapists and physical therapists who are not employed by the UGDSB, but who provide school-based rehabilitation services to students in UGDSB schools. Summaries of service are thereafter usually disclosed by health care practitioners providing school-based rehabilitation services to UGDSB staff to inform a student's educational programming and services.
- 3.1.2 With appropriate consent, the UGDSB may collect, use and disclose the PHI of a student. The UGDSB may collect PHI directly from the student or indirectly from a third-party Health Information Custodian.
- 3.1.3 PHI may be retained in a Student Health Record or Ontario Student Record (OSR), or both. When PHI is used by UGDSB Student Support Services Staff to provide consultative or direct services, it will be maintained in a Student Health Record.
- 3.1.4 Questions regarding consent for the collection, use and disclosure of PHI may be raised with the school principal or appropriate Student Support Services Manager.

3.2 Purpose

- 3.2.1 The UGDSB collects, uses, retains, and discloses the PHI of students to provide health care services that support those students to benefit from the educational services provided by the UGDSB pursuant to the *Education Act*, regulations, and Policy Program Memoranda. PHI may be collected, used, and disclosed to support a student's attendance and participation in educational programming, the delivery of instruction, the assessment and evaluation of the student's achievement, and the implementation of educational accommodations, modifications, and alternative programs to support the student's learning.
- 3.2.2 This procedure identifies the practices followed by Health Care Practitioners of the UGDSB when the UGDSB, as a Health Information Custodian, is collecting, using, retaining and disclosing the PHI of students. It is the responsibility of the UGDSB and each Health Care Practitioner to only collect and retain PHI that is necessary and authorized by consent (when consent is required). It is the responsibility of the UGDSB and each Health Care Practitioner

to maintain the confidentiality of the PHI collected, and to only use and disclose the PHI within the scope of the health care provided to support the student's education, or as might otherwise be permissible in law.

- 3.2.3 PHI collected by the UGDSB includes a student's name together with information related to the physical or mental health of the student, including information that consists of the health history of the student or relates to the provision of health care to the student, including the identification of a person as a provider of health care to the student.
- 3.2.4 When the PHI of a student is necessary to comply with *PPM161 Supporting Students with Prevalent Medical Conditions* and/or to implement a request for the administration of medication, collection of the student's PHI and use of that PHI will be managed by the student's school principal and retained in the OSR. A copy of the student's Plan of Care and/or Administration of Medication Authorization shall not be retained in a Student Health Record. In such circumstances, the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) applies to regulate the collection, use, retention, and disclosure of the student's personal information.

3.3 Consent for Collection and Use by a Health Care Practitioner

- 3.3.1 Consent to collect the PHI of a student and consent to use and disclose the PHI is sought by the Health Care Practitioner as part of the consent process for the delivery of consultative or direct health care services. Consent to collect and use the PHI of a student by a Health Care Practitioner must be provided explicitly, unless necessary to respond to an emergency.
- 3.3.2 Prior to the creation of a Student Health Record, consent must be obtained in accordance with each Health Care Practitioner's scope and service. When necessary, a record may be created for a crisis or safety related intervention with a student; this would not require consent.
- 3.3.3 Consent may also be sought orally and logged in the Student Health Record. Where consent is sought in writing the record may be executed electronically or in paper format.

- 3.3.4 The record of consent will identify who can collect and use the PHI of a student, to whom the PHI of a student can be disclosed, and where the PHI will be retained. A copy of the consent for collection, use and disclosure of PHI will be retained in the Student Health Record and (if required) in the OSR until the record is no longer required pursuant to the UGDSB Records Management Manual.
- 3.3.5 An Adult Student, or a Capable Student and the student's parent/guardian, or when the student is not capable, only the student's parent/guardian, are required to provide consent for the collection, use and disclosure of PHI for the purpose of delivering consultative or direct services by a Health Care Practitioner to support a student's education, with the exception of mental health counselling. In the event of disagreement between the capable student who is 16 years or 17 years of age and the student's parent/guardian regarding the indirect collection of PHI, the capable student who is 16 or 17 years of age shall prevail.
- 3.3.6 A Capable Student (and when the student is not capable, the student's parent/guardian), can provide consent for the collection, use and disclosure of PHI for the purpose of delivery of direct health care services from a member of the College of Nurses, College of Audiologists and Speech Language Pathologists, College of Psychologists or College of Social Workers and Social Service Workers to support the health of the student through the provision of health care services.

3.4 Consent Directive

- 3.4.1 A consent directive may be provided to the Health Information Custodian (the UGDSB) by the Capable Student, or where not capable, by the parent/guardian, where the directive relates to the provision of mental health services. In such circumstances, the consent directive must be communicated to the regulated health professional or social worker providing mental health services. A copy of receipt of a consent directive will be logged in the Student Health Record and confirmation of receipt will be provided orally and logged in the Student Health Record.
- 3.4.2 A consent directive is not effective to the extent that it purports to prohibit or restrict any recording of PHI by a Health Information Custodian (the UGDSB) that is required by law or by established

standards of professional or institutional practice.¹

4. Creation and Retention of a Student Health Record

- 4.1 A Student Health Record is created when a student receives consultative or direct services from a Health Care Practitioner of the UGDSB. Prior to the creation of a Student Health Record, consent must be obtained in accordance with scope of health care services to be provided.
- 4.2 If PHI in writing is disclosed by an Adult Student, Capable Student or parent/guardian but consent for health care services is not provided, the PHI will be retained in the student's OSR.
- 4.3 Unsolicited disclosure of PHI by staff, students and parents should be discouraged. An Adult Student, Capable Student or parent/guardian should be encouraged to only transfer PHI using a secure method. An encrypted, password protected electronic method of transfer is preferred. When PHI is received by the UGDSB Health Care Practitioner, the record will be retained in the Ontario Student Record (OSR) and/or Student Health Record, as appropriate.
- 4.4 The purpose of the Student Health Record is to record information relevant to the delivery of health care by the UGDSB, including consent for service, collection, use and disclosure of PHI.
- 4.5 A Student Health Record is retained in accordance with the Records and Information Management Procedure and Records Management Manual. Electronic and paper files will be destroyed according to the Records and Information Management Procedure.
- 4.6 When the PHI of a student is collected by Instructional Staff to support the delivery of educational services it will be retained as a School Record.² Specific School Records shall be retained in the student's OSR as required by the Ontario Student Record Guideline, 2000 (revised 2020).

5. Retention and Safe Storage of a Student Health Record

- 5.1 UGDSB staff with access to PHI shall receive training regarding the administrative, technical, and physical safeguards implemented by the

¹ s. 19(2) PHIPA

² NOTE When PHI is provided to facilitate transportation services; the record is a record of Wellington Dufferin Student Transportation Services, a third-party service provider.

- UGDSB to protect the confidentiality of PHI, including updates to ensure the implementation of best practices.
- 5.2 Records will be maintained electronically or as paper documents. Agents are used by the UGDSB to assist with collection, processing, retention, and disclosure of the PHI of students.
 - 5.3 The UGDSB will limit the creation and retention of copies of PHI. Staff who have collected PHI will be responsible for ensuring that transitory records, which may include draft versions, copies, and notes later transposed, are not retained as Student Health Records and are confidentially destroyed when use is no longer required. PHI recorded electronically will not be printed off-site and will be treated as a transitory record.
 - 5.4 PHI will not be stored on any employee's personal electronic devices (i.e., phone, tablet, computer, external hard drive, USB drive). Employees will be issued electronic hardware by the UGDSB and will be required to safely and securely store and transfer PHI using UGDSB approved cloud or network solutions.
 - 5.5 The transfer of PHI will be accomplished using password and encryption protected pre-authorized cloud or network solutions. If it is necessary to transfer PHI using an encrypted USB drive, a log will be created of the transfer to a UGDSB electronic solution, at which time any PHI on the USB drive will be securely deleted.
 - 5.6 Student Support Services staff will document the PHI of students on a dedicated secure electronic health record system. Access to the student health data stored electronically by Student Support Services staff will be protected with security authentication, including access, modification, and destruction privileges, as well as network passwords. Access will be digitally logged and may be retrieved for audit purposes.
 - 5.7 Student Support Services staff may continue to record some PHI in paper records and historic records will continue to be retained as paper records. Paper records will be retained in a secure, locked area at the UGDSB or in an approved third-party record storage facility. Access to paper records is restricted to those with appropriate credentials, is logged by the individual accessing the record, and is subject to periodic auditing for compliance purposes.

- 5.8 It is the expectation of the UGDSB that all staff maintain a clean desk standard for their work area, ensuring that PHI is securely stored at the end of each work day.
- 5.9 Personal information, including PHI, is reported to the Information and Privacy Commissioner of Ontario pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*.

6. Breach Notification

- 6.1 Employees with access to PHI have a duty to maintain the confidentiality of the PHI, and to comply with the [UGDSB's Privacy Breach Procedures](#).
- 6.2 Where a breach of PHI occurs, the UGDSB will comply with notice and reporting requirements identified by the Information and Privacy Commissioner of Ontario.

7. Access to a Student Health Record

- 7.1 The PHI of a student retained in a Student Health Record can be disclosed without consent by the UGDSB to a person carrying out an inspection, investigation or similar procedure that is authorized by a warrant, or for the purpose of complying with legal or statutory duty, such as reporting a child in need of protection to the appropriate Children's Aid Society, or reporting a suspected criminal offense with potential consequences to school safety to the appropriate Police Service. In all other circumstances, the UGDSB will seek appropriate consent.

7.2 Request for Access to a Health Record

- 7.2.1 A Capable Student or parent/guardian may make a request in writing to access the Student Health Record.³ Reasonable steps will be taken to ensure that the requested PHI is made available in a format that can be understood by the Capable Student/parent/guardian.

- 7.2.1.1 Requests for access to the Student Health Record can be made by completing and emailing the form found on the website (<https://www.ugdsb.ca/board/personal-health-information-requests/>).

³ Pursuant to s.266 a student of any age or parent may access the Ontario Student Record.

- 7.2.2 Some PHI retained in the Student Health Record may not be disclosed where disclosure might impact the health of the student or other individual, where the health information might be subject to legal privilege or where disclosure might compromise test integrity or violate copyright.
- 7.2.3 Access will be recorded, and where paper copies of records are received, they will be stamped “Copy”.
- 7.2.4 Capable students who are age 12 and over, Adult Students, or parents/guardians may request that the UGDSB disclose PHI of a student directly to a third-party Health Information Custodian. Where a record is a paper copy it will be stamped “Copy.”
- 7.2.5 An original paper record will not be disclosed unless required by law.

7.3 **Correction of a Student Health Record**

Capable Students (or parents/guardians where students are not capable) have a right to ask for PHI to be corrected if it can be demonstrated that the record is inaccurate or incomplete given the purposes for which the UGDSB holds that information. In some cases, instead of making a correction, the UGDSB may offer the individual an opportunity to append a statement of disagreement to their file. The record will not be corrected if the record consists of a professional opinion or is the result of professional advice that was made in good faith.

8. **Destruction of a Student Health Record**

When PHI is no longer needed, it is securely destroyed. All Student Health Records are kept until the student’s 31st birthday. In rare circumstances, files may be kept longer due to ongoing litigation or other court processes. Upon the student’s 31st birthday and when the information is no longer needed the UGDSB will ensure it is destroyed securely.