

**TRI-COUNTY REGIONAL CENTRE FOR EDUCATION
POLICY and PROCEDURES**

Title	Effective Date	Revision Date	Pages
No. 734 Youth Criminal Justice Act	2003 October 28		8

It is the policy of the Tri-County Regional Centre for Education to comply with the Youth Criminal Justice Act.

PROCEDURES Under Policy 734

Involvement with the Youth Criminal Justice Act (YCJA) will be guided by:

1. Access to information provided under the *YCJA* is restricted to approved personnel who have a “need to know”. A central, responsible and accountable person will make this approval decision. Utmost in this process is the need to maintain the balance between the Tri-County Regional Centre for Education’s 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 may have with regard to the young person.
3. Ongoing relationships between justice system personnel and Tri-County Regional Centre for Education personnel are strongly encouraged.

DEFINITIONS

- “young person” – according the *Youth Criminal Justice Act*, a young person is (or appears to be) between 12 and 18 years of age, or a person over 18 years of age who was found guilty of an offence under the *Youth Criminal Justice Act*.
- “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.

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- “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.

PROCEDURES**1.0 Central Information Person and their Responsibilities**

- 1.1 The Regional Executive Director of Education shall be the central information person and the custodian of all information provided by any justice system personnel under the *YCJA*. The Regional Executive Director of Education may delegate this authority to staff members in order to support him/her in this responsibility.
- 1.2 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 Regional Executive Director of Education. This information will be kept secure and confidential at all times.
- 1.3 No person other than the Regional Executive Director of Education (or designates) will relay or subsequently disclose information learned under the *YCJA*.
- 1.4 Notwithstanding 1.3, the Regional Executive Director of Education [or designates] will ensure that staff will have access to the young person’s information on a ‘need to know’ basis.
 - 1.4.1 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.
 - 1.4.2 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.
 - 1.4.3 Where a student, a parent, guardian or a professional (e.g. social worker) requests information for the purposes of further counselling or co-ordinating services in the best interests of the young person, the request shall be referred to the relevant justice system personnel.
 - 1.4.4 If a school shares its facility with another agency, information will be shared with this agency’s personnel on the same ‘need to know’ basis as the rest of the school’s staff.
- 1.5 Each person to whom the Regional Executive Director of Education or his or her designate discloses the information will sign a confidentiality form acknowledging the possible consequences of subsequent disclosure.

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- 1.6 In the event that the Regional Executive Director of Education leaves that position for any reason, the individual acting as the Regional Executive Director of Education in his/her place shall be the custodian of all information until a new Regional Executive Director of Education is designated.
- 1.7 The Regional Executive Director of Education will also
- establish a clear understanding of the youth justice system;
 - be the person who decides who makes the initial contacts with the 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 Records regarding information about a young person gathered under the *YCJA* will be kept in two places:
- i. at the Tri-County Regional Centre for Education office, and
 - ii. at the school attended by the young person.
- 2.2 Information about a young person gathered under the *YCJA* will be kept separate from the student's school record portfolio and from any other record accessible to other staff.
- 2.3 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. In an exceptional circumstance, access may be granted to the files and signatures obtained as soon as possible.
- 2.3.1 While these records are in use, they will not be left unattended in unsecured areas.
- 2.4 Records gathered under the *YCJA* will be kept in a locked cabinet and will be under the control of the Regional Executive Director of Education at the Tri-County Regional Centre for Education office and of the principal at the school attended by the young person.
- 2.4.1 The cabinets containing these records will be used only for these records.
- 2.4.1 The cabinets and file drawers used for these records will be labelled so as not to reveal the fact that they contain these records.

3.0 Destruction of Records

- 3.1 The records regarding information about a young person gathered under the *YCJA* shall be destroyed when they are no longer required for the purpose for which the information was disclosed.

**PROCEDURES Under Policy 734 Cont'd****3.1.1 The record is no longer required when**

- the young person leaves the jurisdiction of the Tri-County Regional Centre for Education,
- justice system personnel notify the Tri-County Regional Centre for Education in writing that no further safety risk exists and Tri-County Regional Centre for Education staff concur with this assessment, or,
- justice system personnel advise the Tri-County Regional Centre for Education 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 the young person transfers schools or school districts, the principal of the school being left should ensure the destruction of their *YCJA* records regarding the young person having ensured that copies of all records exist at the Tri-County Regional Centre for Education office.

4.2 In the event that the young person changes schools within the Tri-County Regional Centre for Education, the Director of Education will relay the *YCJA* information and records to the appropriate staff at the school to which the young person is moving. If the school district is not using the central information person as primary contact with justice system personnel, there is a need for the youth worker to inform the new school.

4.3 In the event that the young person leaves the Tri-County Regional Centre for Education, the provincial director or youth worker should relay the *YCJA* information and records to the central information person in the young person's new Tri-County Regional Centre for Education. The destruction of the former school's records will occur immediately or as soon as is allowed by provincial legislation.

4.4 The Regional Executive Director of Education may inform the youth worker in the event that the young person transfers to another school or Tri-County Regional Centre for Education.

**PROCEDURES Under Policy 734 Cont'd****5.0 Releasing Information from School Records**

- 5.1 The Regional Executive Director of Education, or designate, upon request from justice system personnel to provide information for a report, shall arrange for the release of information from the student record portfolio after first receiving as much as possible of the following information
- (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* under which such a report is authorized;
 - (d) the nature of the offence alleged or committed and the disposition or status of the matter (when the offence is related to the school);
 - (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 Tri-County Regional Centre for Education).

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

- 5.1.1 Before any information is released, it would be advisable for the Regional Executive Director of Education or designate, to obtain the consent of the parent (or of the student or the parent if the student is 18 years of age or older).
- 5.1.2 As there may be no need to know of the request for information, the Regional Executive Director of Education is to use his or her discretion when deciding whether to inform the young person and his or her parents about the request for information from Justice. This decision may be made in consultation with legal counsel.
- 5.2 If a request is made without the appropriate information, the Regional Executive Director of Education 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 Only information from Tri-County Regional Centre for Education's records will be released.

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- 5.4 A copy of the information released, dated and signed by the Regional Executive Director of Education, shall be kept by the Tri-County Regional Centre for Education.

6.0 Co-operation between Tri-County Regional Centre for Education Officials and Community Agencies

- 6.1 The Regional Executive Director of Education, 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 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, and (c) strategies for prevention and rehabilitation. It is suggested that these meetings include the principal or guidance counsellor at the school attended by the young person when the deems it appropriate.

6.1.1 In the event that a protocol for cooperation between the Tri-County Regional Centre for Education and community agencies has not been written and signed by all stakeholders, the Regional Executive Director of Education, or designate, will undertake the coordination of this task.

- 6.2 The Regional Executive Director of Education should expect the following information:

- (a) 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.
- (b) 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,
 - 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;

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- 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 Tri-County Regional Centre for Education 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.
- (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,
 - 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 Regional Executive Director of Education 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 Tri-County Regional Centre for Education. 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 Tri-County Regional Centre for Education 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 Tri-County Regional Centre for Education employee for the 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.

**PROCEDURES Under Policy 734 Cont'd****7.0 Other Staff Involvement in the Youth Justice System**

- 7.1 In the event that a Tri-County Regional Centre for Education 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 as part of their role as a staff member. They are expected to bear in mind the safety of staff and students as well as their professional ethics when making decisions about sharing information gathered in the process of their participation.
- 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 a Tri-County Regional Centre for Education staff member is requested to act in support of a young person in the absence of counsel, they may do so unless there is a conflict of interest. As with information gathered for a conference or committee, the participant is expected to bear in mind the safety of staff and students as well as their professional ethics when making decisions about sharing information gathered in the process of their participation.

fhh03Nov20