

**Response to the Department of Education  
on the Student Record Regulations and Policy Intentions**

Submitted by the Representative for Children and Youth's Office

October 16, 2019



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UQAQTIKHAANIK**

**REPRÉSENTANT DE  
L'ENFANCE ET DE LA JEUNESSE**

**REPRESENTATIVE FOR  
CHILDREN AND YOUTH**

The Representative for Children and Youth's Office (RCYO) is pleased to provide feedback to the Department of Education on the proposed updates to the Student Record Regulations. Our review of the department's proposals was guided by the United Nations *Convention on the Rights of the Child*; a legally binding, human rights agreement, which details young people's civil, political, economic, social, and cultural rights. The United Nations *Convention on the Rights of the Child* also lays out the roles and responsibilities that governments and families have in supporting these rights, and can be used as a guide to assess how child rights are supported in legislation, programs, and policies.

The RCYO provides this feedback to the Department of Education in support of young people's rights, and in accordance with our legal duty to make recommendations on child and youth-related legislation.

**Recommendation #1: Move forward with the proposal to review each student record biannually. [s.3(2)]**

The Department of Education proposes to review each student record twice per academic year instead of once per academic year. Increasing the review to biannually appears to be an improvement and in the best interest of the students.<sup>1</sup> For this reason, the RCYO recommends that the Department of Education move forward with this proposed update to the Student Record Regulations.

**Recommendation #2: Expand the proposed categories for the collection of student information to include student identification numbers from all Canadian jurisdictions, and not specifically Nunavut, Alberta, or the Northwest Territories. [s.4(1)(b)]**

It is not clear why student identifiers from two jurisdictions outside of Nunavut have been specifically named in the proposed amendments to the regulations. The RCYO recommends that student records contain all identifiers assigned to a student from all jurisdictions in Canada. Also, it appears that the proposed addition for s.4(1)(b)<sup>2</sup> may be better placed under s.4(1)(h), which speaks to collecting information on the name and address of schools a student previously

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<sup>1</sup> Review of the Ontario Student Record (OSR) Guideline, 2000, states in part that the contents of the OSR "should be reviewed on a regular basis according to the policies established by the school board to ensure that they remain conducive to the improvement of the instruction of the student." Government of Ontario, Ministry of Education (2019). Ontario Student Record (OSR) Guideline, 2000. Retrieved from <http://www.edu.gov.on.ca/eng/document/curricul/osr/osr.html#9>

<sup>2</sup> The proposed addition is to "include categories for the collection of: a) Government of Nunavut Student Identification Number; b) Alberta Student Number, if any; c) GNWT Student Identification Nunavut, if any; and d) all known aliases."

attended, the date registered, and the duration of attendance. Under s.4(1)(h), it is proposed that this information will be required for previously attended schools both in and outside of Nunavut. This proposal aligns with the RCYO's recommendation to collect student identifiers from all jurisdictions in Canada.

**Recommendation #3: Consider the ability of mature minors to consent to the inclusion of the information in their student record. [s.4]**

Currently, the Student Record Regulations are silent on the issue of young people's consent for the collection of their personal information for their student record. The RCYO recommends that the Department of Education provide minor students, who have the maturity to do so, the ability to consent to the information collected in their student record. This recommendation aligns with Article 12 of the United Nations *Convention on the Rights of the Child*, which gives young people the right to have their opinion heard and considered when decisions are being made about them.

**Recommendation #4: Allow signed statutory declarations to validate the name and date of birth in the student record, in addition to the list of government issued documents that are currently proposed. [s.4(1)(a) and s.4(1)(b)]**

A review of the RCYO's individual advocacy cases highlights challenges encountered by young Nunavummiut who do not have a record of their live birth document, which is required to apply for the government documents proposed under s.4(1)(b). In some instances, obtaining such a record has taken upwards of two years. This issue is not uncommon for Nunavummiut born outside of the territory and/or custom adopted under Aboriginal customary law. In an effort to ensure that students do not experience undue delays in school registration or transferring to a new school, the RCYO encourages the Department of Education to also accept legal written statements in the form of a statutory declaration to verify the name and date of birth of students.

**Recommendation #5: Use gender inclusive language in official documents and templates. [s.4(1)(c)]**

The RCYO strongly encourages the Department of Education to use gender inclusive language in official documents and templates, and to expand gender options on documents beyond male and female. Helpful information may be found on the following Government of Canada website: <https://www.canada.ca/en/employment-social-development/news/2018/08/neutral-gender-marker-option-for-employment-insurance-applicants.html>

**Recommendation #6: Ensure currently accepted terms for ethnicity are used. [s.4(1)(e)]**

A review of the federal government's department of Indigenous Services Canada demonstrates the use of the term Indigenous instead of Aboriginal, which also aligns with the use of the term Indigenous in the United Nations *Declaration on the Rights of Indigenous People*. The RCYO recommends that the Department of Education use currently accepted terms to describe ethnicity.

**Recommendation #7: Move forward with the proposal to collect email addresses and reject the proposal to replace residential address with mailing address only. [s.4(1)(f) and s.4(1)(g)]**

The Department of Education's proposal to collect email addresses aligns with the increased use of technology. However, some families may not possess email addresses or access to the internet. Mailing addresses across the territory often consist only of a post office box number or general delivery. Therefore, having a physical, residential address on the student record is important as it may assist when attempting to reach some students or families who do not have a telephone or email, as well as in cases where the school is of the opinion that there is a duty to report under the *Child and Family Services Act*. In these cases, which may be of an urgent nature, a residential address is likely to be of more use than a mailing address. For these reasons, the RCYO recommends that a residential address always be collected, with the option to include a mailing address and email address when applicable.

**Recommendation #8: Add a provision to exclude any information relating to advocacy cases that involve the work of the Representative for Children and Youth's Office from the student record. [s.5(b)]**

Currently, the Student Record Regulations note that a student record shall not include any information relating to an investigation under the *Child Welfare Act*.<sup>3</sup> In addition, the Department of Education is proposing to add a provision to exclude any information relating to an investigation or offence under the *Young Offenders Act*. The RCYO supports both of these exclusions and recommends a provision be added to the Student Record Regulations that any information relating to advocacy cases under the *Representative for Child and Youth Act* be excluded from student records, as well.

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<sup>3</sup> With a proposal to update this regulation to reflect the title of the current legislation, the *Child and Family Services Act*.

**Recommendation #9: Add specific timelines in the student record transfer process. [s.9]**

The Student Record Regulations do not establish specific service standards for the transfer of student records. A review of our individual advocacy cases highlights incidents where principals were unavailable to initiate or administer the student record transfer process for extended periods of time resulting in unnecessary delays for students to attend school. The addition of maximum timeframes for the transfer of records in section 9 will set clear expectations. Specifically, section 9(1) should be amended to require that requests for records be made within three days of the notification of the transfer; and section 9(2) should be amended to require that a principal who receives a request under (1) will send the record as soon as practicable but no later than three days after receiving the request.

**Recommendation #10: Establish an electronic transfer process to address the challenges and delays that arise by exclusively using registered mail for the transfer of student records. [s.9(2)]**

The proposed updates to the Student Record Regulations include adding a definition for student record(s) that would clarify that the student record includes student information collected and stored in both paper and/or electronic (e-record) formats. However, it does not appear that any updates have been proposed to allow for student records to be transferred electronically. As outlined in the regulations,<sup>4</sup> student records are to be sent between schools by registered mail. This method of transferring student records has been brought to the RCYO's attention as a barrier for students transferring schools, as the mailing of their records has been reported to cause delay. Further, documentation received from the Department of Education in 2018 states, in part, that "the student record transfer process is not being actively followed or monitored by schools or the department. The current process leads to some records being lost or delayed in travel which negatively impacts the student."<sup>5</sup> The ability to transfer student records electronically may cut down on delays from travel and documents being lost, which is why the RCYO makes this recommendation.

**Recommendation #11: Deliberately and thoughtfully seek input from students past and present during this process to ensure their opinions are considered.**

The RCYO recommends that, in addition to education partners and stakeholders, the Department of Education seek input from students themselves on the proposed changes to the

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<sup>4</sup> Refer to s.9 (2) of the Student Record Regulations Policy Intentions document.

<sup>5</sup> Government of Nunavut, Department of Education (2018). *Student Record Transfer Process October 2018*. Iqaluit, NU: Department of Education. p. 2.

Student Record Regulations. This recommendation also aligns with Article 12 of the United Nations *Convention on the Rights of the Child*, as well as the Inuit societal values of *aajiiqatigiinni*, decision making through consensus; *pilimmaksarniq*, learning through observation, mentoring, practice and effort; *piliriqatigiinni*, which emphasizes working together for a common cause; and, *qanuqtuurniq*, which encourages being innovative and resourceful.

We believe our feedback and recommendations support young Nunavummiut's rights under the United Nations *Convention on the Rights of the Child*, particularly:

**Article 2:** The right to protection against discrimination;

**Article 3:** The right to the protection of the best interests of the child;

**Article 4:** The right to the protection of children's rights;

**Article 12:** The right to have one's opinion heard and considered;

**Article 16:** The right to privacy;

**Article 19:** The right to be protected from all forms of violence;

**Article 28-29:** The right to education.

We thank you for the opportunity to contribute to this important work. We look forward to following how the Department of Education responds to the feedback put forward by the RCYO and other interested parties.

Sincerely,



Jane Bates  
Representative for Children and Youth

CC: Lynn Matte, Director of Child and Youth Advocacy Services  
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