

Ontario Student Record (OSR) Ontario Student Record (OSR) Guideline, 2000

Who establishes and is responsible for maintaining the OSR?

School boards are responsible for establishing the OSR. It is the responsibility of the principal to implement school board standards for the establishment and maintenance of the OSR.

Who is permitted access to an OSR?

Access to an OSR means that a person authorized under the Education Act or other legislation has the right to examine the contents of the OSR. In addition, municipal and provincial freedom of information legislation permits that a person who has the right to access personal information has the right to receive copies of the information. Those who are authorized to examine and receive copies of the contents of the OSR are identified as follows:

- Students, of their own OSR
- Parents/Guardians of students under the age of 18 of their child's OSR, unless access has been denied by a court order or other legal documentation

Please note: When a parent/guardian examines OSR contents, they must do so in the presence of the school counsellor, teacher or a principal to provide security for the record.

- Superintendent of the Student's School
- Principal of the Student's School
- Teachers of the Student - includes Classroom Teachers, Special Education and Program Consultants, and Itinerant Teachers (e.g. Vision, Deaf/Hard of Hearing, Behaviour, Orthopaedic, Learning Disabilities, Psychology staff, speech-language pathologists, etc.). For example, in a secondary school setting, a teacher organizing an out-of-country trip, would not be able to access students' OSR's, to review aspects of behaviour, medical history etc. for the purpose of deciding who participates in the trip.
- Principal Designated School Secretarial staff (for OSR establishment and maintenance purposes)

The following may also have the right of access to all OSRs, if designated by the "head" i.e. The Director of Education:

- Internal Auditor
- Enrolment Officer
- Records Manager/Privacy (FOI) Coordinator

A parent has requested that I, as principal, correct personal information that's in her child's OSR. Does she have the right to request that? [TDSB & OIPCO, FAQ #2](#)

Under Section 266, ss. 3, 4 and 5 of the Education Act, a parent of a pupil under 18 years of age may examine the pupil's OSR. The OSR guidelines sets out a process to be followed to request the correction of information contained in an OSR as follows:

If the parent(s) or adult student is (are) of the opinion that the information contained in the student's OSR is inaccurately recorded or that it is not conducive to the improvement of the instruction of the student, the parent(s) or adult student may request in writing that the principal correct the alleged inaccuracy or remove the information from the record. If the principal complies with the request, the material will be corrected or will be removed from the file and destroyed or returned to the parent(s) or the adult student, and no record of the request will be retained in the OSR.

If the principal refuses to comply with the request, the parent(s) or the adult student may request in writing that the principal refer the request to the appropriate supervisory officer. The supervisory officer will either (a) require that the principal comply with the request, or (b) submit the OSR and the request to a person designated by the Minister of Education. If the supervisory officer requires that the principal comply with the request, no record of the request will be retained in the OSR. If the supervisory officer submits the request to a person designated by the Minister, that person will hold a hearing, which the principal and the person(s) who made the request will attend. After the hearing, the person designated by the Minister will make a decision on the matter. This decision will be final and binding. If the person designated by the Minister requires that the principal comply with the request, no record of the request will be retained in the OSR. If the person designated by the Minister denies the request, the original request, including the date on which it was made, and the statement of this final decision will be retained in the documentation file.

Freedom of information legislation also permits persons to request that recorded personal information be corrected. MFIPPA allows that individuals such as parents can attach a statement of disagreement to a record when the request to remove or correct an OSR document is denied. This statement stays attached to the record so that all users of the record may view it for the life of the record.

Am I compelled to produce an OSR for a court proceeding?

Subsection 266(2) of the Education Act states that the OSR will not be produced in the course of any legal proceedings. There may be occasions, however, when access to the OSR of current students or former students will be sought. In such cases, boards should obtain legal advice from their lawyers in order to deal with such issues as the following:

- whether the Education Act in fact prevents the production of the OSR
- whether the OSR in question is relevant to the proceedings
- if the OSR is relevant to the proceedings, whether a copy, rather than the original, may be submitted to the court

Release of Information to the Police (refer to Board Police School Protocol)

Both the municipal and provincial freedom of information acts permit disclosure of personal information for the purposes of law enforcement. Section 32 (g) of the MFIPPA provides for the disclosure of personal information to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. This is a discretionary release and in exercising their discretion the Principal shall consider the following:

- is the information OSR information;

- has a nexus been established;
- is the information relevant to the investigation being undertaken;
- has the identity of the officer been verified (name, badge, phone number)?

In all cases, disclosures of information shall be limited and narrow to fulfill the stated purpose. Principals shall consult with their Superintendent of Education with any questions regarding release of student personal information to law enforcement officials. Further, information security shall be considered when releasing personal information to law enforcement officials.

The OSR in Legal Proceedings

In court proceedings, subject to an appeal, the judge's order must be followed. If a principal receives a court order requiring the release of an OSR, the principal should contact the board's legal counsel. Although court orders must be followed, the principal should consult with their Superintendent about the issues listed above.

In civil suits:

- A principal may be served with a subpoena requiring that he or she appear in court on a particular date and bring part or all of an OSR. If a principal receives a subpoena, he or she must comply with it, but should obtain legal advice from the board's legal counsel.
- As a general rule, the principal should go to court with both the original OSR and three complete and exact photocopies of it, and should propose to the judge that the photocopy be submitted instead of the original. The principal should identify subsection 266(2) of the *Education Act* regarding the OSR's privileged status. The principal must, however, relinquish the documents if ordered to do so by the judge.

In Cases Involving the Criminal Code:

- The Criminal Code is federal legislation; where there is a conflict between it and provincial legislation, it takes precedence. Therefore, if a principal is served with a search warrant under the Criminal Code requiring the surrender of an OSR to the police, or is served with a subpoena requiring his or her appearance at court with the OSR, he or she is obliged to comply with the search warrant or the subpoena. In both cases, the principal should obtain legal advice from the board's legal counsel about any relevant issues. The principal should also identify the privileged status of the OSR pursuant to subsection 266(2) of the *Education Act*. The principal should present the police or the judge with both the original OSR and a complete and exact photocopy of it, and should propose that the photocopy be submitted instead of the original.

Under provisions of the Child and Family Services Act, R.S.O. 1990, c. C.11:

- It is possible for a court to order a principal of a school to produce a student's OSR for inspection and copying. A court may make such an order if it is satisfied that (a) a record contains information that may be relevant to a consideration of whether a child is suffering abuse or likely to suffer abuse, and (b) the person in control of the record has refused to permit a Children's Aid Society director to inspect it. If a principal receives a court order under the Child and Family Services Act, he or she should seek legal advice about how to comply with it.

How do I manage the paperwork trail associated with the OSR?

Comply with specifications for components of the OSR: an OSR folder in Form 1A or Form 1, report cards, an Ontario Student Transcript, where applicable, documentation file, where applicable, an office index card and additional information identified as being conducive to the improvement of the instruction of the student. Reports and other records should only be included if, in the principal's opinion, they are conducive to the improvement of the instruction of the student. Be vigilant in maintaining accuracy of the OSR i.e. ensure clerical staff keep personal information current. Report cards should be in a chronological order. Documentation files are cross-referenced with relevant documents. It would be appropriate for the Principal to write "Included in OSR, _____ (date)", followed by his/her signature or initials.

Principal's Best Practice: If a request is made to view an OSR, allow sufficient time (24 hours) before meeting in the principal's office. This will provide you with time to review the OSR contents, ensure that everything is in order and that all records are conducive to the instruction of the student. Sit adjacent to, or across from, the person. Provide access to the folder itself and all other components, one piece at a time, after each piece has subsequently been returned to you. In the event the person wishes a copy of any OSR records, you must comply.

I have student teachers in my school. Should they be able to view an OSR of a student in their classes?

It is best to adhere to the procedures in the OSR Guidelines. They are not the certified teachers of these children. They shouldn't be with the OSR. Remember that you need to keep diligent records when the OSR is removed from its storage place.

Principal's Best Practice: In order to perform their duties and meet the needs of their class, your student teachers may need some information found in the OSR. Have their Associate Teacher (your staff) pass this along in another fashion, if it's critical to meeting students' needs. This would hold true for other forms of personal information as well. Your teachers should always check with you first. Not all information must be shared. Aspects of family life, counselling, etc. may not be relevant.