

Child and Youth Counsellor Information Keel Cottrelle LLP, Publications

The Child and Youth Counsellor (CYC) in my school helps many students. I'd like to know how they are doing. Is she able to provide updates on their progress?

Based on an Ontario child protection case directing a school board to produce a student's entire school record, including notes, reports and records of any and all meetings involving the pupil and the school's guidance counsellor, and analyzing the issues, the Court reiterated there is a general expectation of privacy in communications made by a student to a guidance counsellor. The Court referenced subsections 266(1) and (2) of the *Education Act*, which govern the issue of "pupil records", but concluded that any notes made and kept by the guidance counsellor cannot be considered to form part of a "pupil record" as per subsection 266(2) and, therefore, could not come within the statutory protected privilege contained in subsection 266(2) of the *Education Act*. The Court, however, continued to maintain its view that a student has an "expectation of privacy" in communications made to a guidance counsellor, such as a CYC, insofar as such communications should be protected by a form of common law privilege. The purpose of the CYC referral is also an aspect to be considered, i.e. a CYC implementing social skills and/or behaviour programming is different than one providing counselling due to a family related issue.

Principal's Best Practice: In adhering to the expectation of privacy, consider confining your discussions with a CYC to general terms. Also, ensure that the CYC's notes are kept in a secure location and are not part of the student's OSR.