



Q & A
GORDON THOMAS,
Executive Secretary

Q: A parent of a 6-year-old special needs child sent me an e-mail requesting copies of her child's documents. The child is in a segregated special needs program and, due to the specialized programming, the teacher's lesson plans form the daily documentation for each child: the lesson, the behaviour record, the goals etc. Does the parent have a legal right to ask for the teacher's documents?

A: Section 23 of the *School Act* establishes that students and their parents are entitled to access information contained in a school record. Section 2(1) of the *Student Record Regulation* establishes the type of information that must be included in the student record, including the student's name, birth date, the results obtained on any diagnostic or achievement tests, and "any action taken as program planning as a result of the assessment, evaluation or interpretive report." In this case, the teacher's daily lesson plans likely constitute documents relating to "program planning" for the student. The parent would be entitled to access that part of the daily lesson plan that relates to his or her child.

In addition, the records sought are also governed by the *Freedom of Information and Protection of Privacy Act* (FOIP). FOIP allows any person a right of access to any record in the custody or control of a public body, subject to the specific exceptions enumerated in FOIP. If the daily lesson plan pertains only to the student whose information is being sought, then it is unlikely that any of the exceptions in FOIP would apply, meaning that the information would also be accessible under FOIP. However, if the lesson plans contain the personal information of other students in the class (such as the names of other students and the daily programming for other students in the class) then s 17 of FOIP would be applicable. Section 17 provides that a public body must refuse to disclose personal information about a third party if it would be an unreasonable invasion of a third party's privacy.

In the event that the daily lesson plans relate to more than one student, you may want to refer the request for access to information to the district's FOIP coordinator, who will be in the best position to sever any third-party information contained in the records before providing it to the parent making the request. Where the request is referred to the FOIP coordinator, the school should inform the parent (in writing) that the request will be administered under FOIP and a response will be coming from district office.