

<b>Procedure Title</b>	<b>Mental Health Services – Age of Consent</b>		
<b>Date of Issue</b>	November 21, 2018	<b>Related Policy</b>	BP 6820-D
<b>Revision Dates</b>	November 18, 2020; December 2, 2020	<b>Related Forms</b>	AF 6840; AF 6841
<b>Review Date</b>		<b>Originator</b>	Administrative Council
<b>References</b>			
Education Act (Duties of Principals s.11 (1) (m)); Child, Youth, and Family Services Act, 2017; The Health Care Consent Act R.S.O. 1996, c. C.2, s. 10,11; Municipal Freedom of Information and Protection of Privacy Act; AF 6840 “Referral for Therapeutic Student Support and Consent for Release of Information”; Guidelines and Standards of Practice of the College of Psychologists of Ontario, College of Nurses of Ontario, Ontario College of Social Workers and Social Service Workers, and College of Registered Psychotherapists of Ontario			

## **1.0 RATIONALE**

- 1.1 Within the school board context, there is no single piece of governing legislation that dictates the age at which a student has the capacity to consent to mental health care treatment.
- 1.2 Common law, the Education Act 11 (1) (m) (Duties of Principals), the Child, Youth, and Family Services Act (s.23), the Health Care Consent Act (R.S.O. 1996, c. C.2, s. 10,11) of Ontario, and guidelines and standards of practice of all applicable regulatory colleges intersect and inform the following process.
- 1.3 Mental health clinicians employed by Bluewater District School Board are regulated professionals that belong to professional regulatory colleges and are governed by professional practice guidelines related to informed consent. If a school/student determines that parent/guardian consent is not possible, or potentially not in a student’s best interest, board regulated professionals will be asked to determine if the student has the ability to understand service and consent to therapeutic support independently. Examples of regulated mental health staff include: registered nurse, social worker, psychologist, or psychotherapist.

## **2.0 PROCEDURE**

### **2.1 Parental Consent**

Parents and guardians are important partners in the support of a child’s well-being and positive mental health. In all cases, principals and board mental health staff will first seek to gain parental consent for mental health services to support the child and complete AF 6841 “Consent for Involvement – Mental Health Services”. The mental health clinician will discuss with the child the benefits of parental involvement in their mental health care service plan.

- i. If parent/guardian consent is not obtained, placement of AF 6841 into the student’s Ontario Student Record (OSR) will be determined in consultation with the student, mental health worker, administrator, and learning services administrator, where appropriate.

### **2.2 Age 16 and Older**

- i. Based on the common law, children at age 16 have privacy rights against their parents and may withdraw from parental control. A student age 16 to 17 may request to a principal or mental health worker to not have parental involvement. In this instance, the board mental health clinician will:
  - a. have a discussion with the child about the benefits of parental involvement;

- b. conduct and document capacity assessments to determine the ability of the student to understand service and provide informed consent for therapeutic support based on the guidelines and standards of practice of the mental health clinician's regulatory college;
- c. require that the student consent to their own mental health services and sign administrative form AF 6841; and
- d. document appropriately in the student's clinical file.

2.3 **Age 12 – 15**

- i. For a child between the ages of 12 to 15, there may be rare cases, where obtaining parental consent puts the child at risk. In this instance, the school administration and board mental health clinicians will discuss the situation with the 'area of schools' superintendent and the superintendent with mental health in their portfolio. The consultation will be clearly documented in the student's clinical file by the mental health clinician.
- ii. These instances will be decided on a case-by-case basis.
- iii. If the above care team decides that obtaining parental consent is detrimental to the child, then a board mental health clinician will conduct, and document, capacity assessments based on the standards of practice outlined by their regulatory college and associated legislation, to ensure that a student, who is between the ages of 12 – 15, has the capacity to consent to treatment or care.
- iv. The student will consent to their own mental health services and sign administrative form AF 6841.

- 2.4 Where a student is found by a board health care clinician not to have the capacity to consent to treatment or care, parent/guardian consent must be obtained.