

Administrative Procedure 180 - Freedom of Information and Protection of Privacy

Background

The Division recognizes that information in its control and custody is governed in accordance with the fundamental principles of the *Freedom of Information and Protection of Privacy (FOIP) Act*, respecting the right of access to information and protection of individual privacy. Staff must balance the requirement to facilitate routine access to and active dissemination of recorded information with the obligation to protect the privacy of individuals in accordance with the FOIP Act.

Definition

Personal information means recorded information about an identifiable individual, as defined in the FOIP Act.

Privacy breach is an incident that involves unauthorized disclosure of personal information in custody or under the control of the Division. This includes situations in which personal information is stolen or lost or to which an unauthorized individual has gained access.

Procedures

1. The Superintendent has been named the Head of the Local Public Body for the purposes of FOIP.
2. The Secretary Treasurer shall act in the capacity of FOIP Coordinator.
3. The Principal/Director shall be responsible to ensure the protection of personal information in his/her school/department. The Principal/Director shall direct inquiries about disclosure of information to the FOIP Coordinator.
4. All Division employees are expected to assist with the administration of FOIP and the protection of personal information as defined in the FOIP Act.
5. All Division policies, administrative procedures, and routine disclosures shall be consistent with the FOIP Act.
6. The Division shall, in accordance with the FOIP Act, stipulate the manner in which its agents collect, use, disclose, safeguard, and dispose of personal information.

7. No personal information may be collected unless collection is specifically authorized by the Education Act, other provincial legislation, or the information relates directly to and is necessary for an operating program or activity of the Division.
8. The FOIP Coordinator will provide the appropriate forms where personal information is required to be collected. Staff shall not use forms that collect protected, personal information without this review.
9. The Division shall allow an individual or parent the right of access to their own personal information and for that individual to access records in the Division's custody or control subject only to those limited and specific exceptions stated in the FOIP Act.
10. The Division has a duty to maintain accurate and complete personal information that is used to make decisions. Under the FOIP Act, an individual has the right to request a correction when the applicant believes an error or omission has been made.
11. All formal FOIP requests shall immediately be forwarded to the FOIP Coordinator for action.
12. All persons making a request for release of information shall be notified of the appeal procedures related to FOIP.
13. A Directory of Personal Information Banks shall be compiled, maintained, and made available to the public as outlined in the FOIP Act.
14. All fees shall be assessed and charged in accordance with the FOIP Act.
15. Collection of Personal Information
 - 15.1. The collection of personal information must be limited to the minimum required to perform assigned duties and responsibilities.
 - 15.2. Any collection of personal information must be made directly from the individual the information is about except in certain limited circumstances.
 - 15.3. Information shall be collected directly from the individual or parent. At the time of collection, the individual must be notified of the:
 - 15.3.1. Purpose for which the information is being collected.
 - 15.3.2. Specific legal authority for the collection.
 - 15.3.3. Title and contact information of who can answer questions about the collection.
 - 15.4. When personal information is used to make a decision that affects an individual, every reasonable effort must be made by the Division and its staff to ensure the personal information is accurate and complete.
 - 15.5. Personal information used to make a decision about an individual must be retained, in most cases, for one year from the date of the last use.
 - 15.6. The Division must make reasonable security arrangements for the protection of personal information against unauthorized access, collection, use, disclosure, and

destruction. Only those staff that need access to a student or staff personal information should have access to the information.

- 15.7. The use of personal information is limited to the purposes(s) for which it was collected or a use consistent with that purpose.
 - 15.8. Personal information may only be disclosed in certain circumstances and for certain defined purposes and only when the disclosure is consistent with the purpose(s) for which it was collected.
 - 15.9. Personal information may be disclosed for research or statistical purposes only under specific controlled conditions.
 - 15.10. Any disclosure of personal information must be documented; tracking is done by the FOIP Coordinator for any disclosure that is handled formally under the Act.
16. Personnel Records
- 16.1. In accordance with the FOIP Act, all personnel have access to their own personal information at any reasonable time.
 - 16.2. A copy of the records shall at all times be retained at the point of origin (school, Division Office, etc.); however, original records must be sent to the Division office.
 - 16.3. All personnel files shall be kept in locked filing or other storage cabinets, in rooms that are also locked, when not in use. Personnel records in unlocked cabinets shall not be stored with other records.
 - 16.4. Information from interviews with unsuccessful candidates will be destroyed one (1) calendar year after the interview.
 - 16.5. All anecdotal notes/observations, etc., on school or site based files shall be signed and dated.
 - 16.6. Personnel records are accessible by the person to whom the records refer, the Secretary Treasurer, the Assistant Superintendent of Human Services, the school's Principal (as it relates to the individual school's personnel), Department Head (as it relates to the individual department's personnel), or other person authorized to act on their behalf, in the presence of a third party representing the Division.
 - 16.7. An individual is entitled to have copied any or all of her/his personnel file at no cost once a year. More frequent copying will be at the rates as specified in the FOIP Act Regulation 146/2009.
 - 16.8. Personal information may only be disclosed in certain circumstances and for certain defined purposes and only when the disclosure is consistent with the purpose(s) for which it was collected.

- 16.9. All school and department based personnel records and/or copies shall be sent to the Central Services Office after the person the record involves has left the school/department for incorporation with the master files.
- 16.10. All personnel records shall be destroyed in accordance with [Administrative Procedure 185 - Records Retention](#).
17. Privacy Breach
- 17.1. All information breaches shall be reported to the FOIP Coordinator. Action and communication surrounding the breach will be coordinated according to the FOIP Act and Division's internal processes.
- 17.2. Circumstances that could lead to a privacy breach and to which Division staff must pay particular attention include but are not limited to:
- 17.2.1. Personal information being faxed to a wrong number or mailed to an incorrect address or recipient.
 - 17.2.2. Loss of equipment containing personal information, such as memory sticks, laptops, fax machines or filing cabinets.
 - 17.2.3. Disposal of equipment without secure destruction of the personal information it contains.
 - 17.2.4. Intrusions into buildings, file storage containers/areas, or computer systems or networks.
- 17.3. The process for responding to privacy breaches contains four major steps:
- Step 1 – Respond. This includes reporting the incident to the FOIP Coordinator, assessing the situation, and containing the damage.
- Step 2 – Notify. There is a requirement to notify other parties, including, most importantly, the individuals whose personal information was involved in the incident. The FOIP Coordinator can assist with notification, particularly in those instances in which individuals external to the Division are affected.
- Step 3 – Investigate. The Division usually investigates its own privacy breaches. The FOIP Coordinator must be notified as early as possible and can assist with identifying causes/events and recommending remedial action to prevent future occurrences.
- Step 4 – Implement change. This may be a simple overt change, such as changes to the physical plant to enhance the protection of stored hard-copy records or more subtle changes, such as enhancing security provisions of software.
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Reference: Section 33, 52, 53, 65, 68, 196, 197, 222, 225 Education Act
Emergency Medical Aid Act
Freedom of Information and Protection of Privacy Act
Health Information Act
Occupational Health and Safety Act
Personal Information Protection Act
Public Health Act
Communicable Disease Regulation 238/1985
Dangerous Goods Transportation and Handling Regulation 157/97
Occupational Health and Safety Code
Occupational Health and Safety Regulations

Effective: 1998-05-14

Amended: 2022-01-01