

**ALBERTA  
INFORMATION AND PRIVACY COMMISSIONER**

**Report on the Investigation into a Complaint regarding Disclosure  
of Personal Information**

**May 29, 2001**

**Calgary Board of Education**

**Investigation # 2043**

**I. The Complaint**

Two Complainants filed a complaint that an employee of the Calgary Board of Education (the “Public Body”) disclosed their personal information contrary to Part 2 of the *Freedom of Information and Protection of Privacy Act* (the “Act”).

Section 51(2)(e) of the Act authorizes the Commissioner to investigate complaints that personal information has been collected, used or disclosed by a public body contrary to Part 2 of the Act. The Commissioner authorized me to investigate this matter.

**II. Background Information**

The Complainants wrote three letters of complaint about a school principal (the “Principal”). Two of the letters were addressed to the Public Body. The third letter was addressed to the Principal. All three letters are about the Principal’s decision regarding split grade classes.

In their letter to the Commissioner, the Complainants said they wrote to the Public Body to request an investigation into the Principal’s decision.

The Complainants believed that three of their letters were disclosed by the Principal to “other parents and community members.” They believed the following letters were disclosed:

- letter faxed to the head of the Public Body on June 13, 2000 (Letter 1)
- June 15, 2000 letter to the Principal (Letter 2)
- June 23, 2000 letter to the Public Body (Letter 3)

The Complainants stated that they were informed by the Public Body that a copy of their letters would be provided to the Principal. However, they did not expect their letters to be disclosed to individuals who were not employees of the Public Body.

### **III. Findings**

The Public Body acknowledged that the Principal disclosed two of the Complainants' letters to the Chair of the School Council and the Head of the Volunteer Program for the school. According to the Public Body, the Principal disclosed Letters 1 and 2 to the Chair of the School Council and the Head of the Volunteer Program. The Principal did not recall disclosing Letter 3.

The third letter disclosed is believed to be the Principal's June 15, 2000 response to the Complainants' letter of June 15, 2000 (Letter 4).

The Public Body stated that the Chair of the School Council and the Head of the Volunteer Program subsequently disclosed Letters 1, 2 and 4 to the Vice-Chair of the School Council.

According to the Public Body, all the letters disclosed to the Chair of the School Council, the Head of the Volunteer Program and the Vice-Chair of the School Council were retrieved and the individuals involved kept no copies.

The Public Body stated that the Principal had been in communication with the Chair and Vice-Chair of the School Council and the Head of the Volunteer Program regarding the split grade issue. The Principal disclosed the Complainants' letters of complaint and the Principal's response to their complaint, in the context of discussion regarding this issue and was unaware doing so might be contrary to the Act. The Principal retrieved the letters upon being informed by the Public Body that disclosure might be contrary to the Act.

### **IV. Issues**

The issues are:

1. Do the disclosed letters contain the Complainants' personal information as defined in Section 1(1)(n) of the Act?
2. Was the disclosure of the Complainants' personal information to the Principal in accordance with Section 38(1)(b) of the Act?
3. Was the disclosure of the Complainants' personal information to the Chair of the School Council in accordance with Section 38(1) of the Act?
4. Was the disclosure of the Complainants' personal information to the Head of the Volunteer Program in accordance with Section 38(1) of the Act?
5. Was the disclosure of the Complainants' personal information by the Chair of the School Council and the Head of the Volunteer Program to the Vice-Chair of the School Council in accordance with Section 38(1) of the Act?

## V. Discussion

### 1. Do the disclosed letters contain the Complainants' personal information as defined in Section 1(1)(n) of the Act?

The relevant provisions of section 1(1)(n) reads:

*(1)(1) In this Act...*

*(n) "personal information" means recorded information about an identifiable individual, including*

- (i) the individual's name, home or business address or home or business telephone...*
- (iii) the individual's age, sex, marital status or family status...*
- (viii) anyone else's opinion about the individual, and*
- (ix) the individual's personal views or opinions, except if they are about someone else;*

The majority of the content of Letters 1, 2 and 3 is the Complainants' opinions about the Principal and therefore is the personal information of the Principal. The letters also contain the Complainants' views and opinions about other individuals, which is the personal information of those individuals.

The personal information of the Complainants in Letters 1, 2 and 3 consists of the Complainants' names and home address. Letter 1 contains their home phone number. Marital and family status are not stated but can be inferred from the contents of all three letters. Although minimal, Letters 1, 2, and 3 contain some information that is the views and opinions of the Complainants on other matters, and therefore is the Complainants' personal information.

Letter 4 was written to the Complainants by the Principal. The majority of information is non-personal information. The Complainants' personal information is their names, address and inferred marital and family status. To a limited degree, Letter 4 also contains the Principal's views and opinions about the Complainants, which is the Complainants' personal information.

It was noted that there was no sensitive personal information in any of the letters.

I find that Letters 1, 2, 3, and 4 contain the following personal information of the Complainants: name, address, phone number, inferred marital and family status as well as views and opinions that are not the personal information of the Principal or other individuals.

### 2. Was the disclosure of the Complainants' personal information to the Principal contrary to Section 38(1) of the Act?

Section 38(1) of the Act identifies circumstances under which a public body may disclose personal information.

Section 38(1)(b) states that a public body may disclose personal information *for the purpose for which the information was collected or compiled or for a use consistent with that purpose.*

The Complainants sent Letters 1 and 3 to the Public Body to complain about the Principal and to request that the Public Body initiate an investigation or some action in response to their complaints.

In this case, the Public Body obtained the personal information for the purpose of dealing with the Complainants' complaints about the Principal. The information was disclosed to the Principal in order to deal with the complaints. Therefore, the Public Body disclosed the personal information for a purpose that is clearly related and consistent with the purpose for which the information was collected.

I find that the disclosure of the Complainants' personal information in Letters 1 and 3 to the Principal was in accordance with section 38(1)(b) of the Act.

**3. Was the disclosure of the Complainants' personal information to the Chair of the School Council in accordance with Section 38(1) of the Act?**

The Public Body acknowledged that Letters 1, 2 and 4 were disclosed to the Chair of the School Council.

I recognize that in this situation the Principal's relationship with the Chair of the School Council was collegial. However, there is no circumstance in section 38 that permits the disclosure of the Complainants' personal information to a member of the School Council in this situation. In Order 2001-010, the Commissioner found that members of a School Council "function in their own right as Council members" and are not employees of the school board. In this case, there is no provision in section 38(1) that allows for the disclosure of the Complainants' personal information.

I find that the disclosure of the Complainants' personal information to the Chair of the School Council was not in accordance with section 38(1).

**4. Was the disclosure of the Complainants' personal information to the Head of the Volunteer Program in accordance with Section 38(1) of the Act?**

The Public Body acknowledged that Letters 1, 2 and 4 were disclosed to the Head of the Volunteer Program, who is a school volunteer.

In Investigation Report 2000-IR-007, it was found that school volunteers are employees for the purposes of the Act.

Section 38(1)(g) specifies that disclosure of personal information to an employee is permissible if the information is necessary for the performance of the duties of the employee.

I am mindful that schools are very dynamic environments and the relationships between employees and volunteers may be collegial, as in this case. However, there is no evidence that the disclosure of the Complainants' personal information was necessary for the performance of the duties of the Volunteer Head and therefore Section 38(1)(g) is not applicable.

I find that the disclosure of the Complainants' personal information to the Head of the Volunteer Program was not in accordance with section 38(1)(g).

**5. Was the disclosure of the Complainants' personal information by the Chair of the School Council and the Head of the Volunteer Program to the Vice-Chair of the School Council in accordance with Section 38(1) of the Act?**

According to the Public Body, Letters 1, 2 and 4 were disclosed by the Chair of the School Council and the Head of the Volunteer Program to the Vice-Chair of the School Council.

School Councils are not public bodies under the Act. Therefore, the Commissioner does not have jurisdiction to make a finding regarding the participation of the Chair of the School Council in the disclosure of Letters 1, 2 and 4. This investigation can only make findings regarding the participation of the Head of the Volunteer Program, as volunteers are considered employees of the Public Body for the purposes of the Act.

There is no provision under section 38(1) that authorized the disclosure of the Complainants' personal information by the Head of the Volunteer Program to the Vice-Chair of the School Council. Therefore, I find that the disclosure by the Head of the Volunteer Program is not in accordance with the Act.

**VI. Summary of Investigation Findings**

1. The disclosure of the Complainants' personal information in Letters 1 and 3 to the Principal was in accordance with 38(1)(b).
2. The disclosure of the Complainants' personal information in Letters 1, 2 and 4 to the Chair of the School Council was not in accordance with section 38(1).
3. The disclosure of the Complainants' personal information in Letters 1, 2 and 4 to the Head of the Volunteer Program was not in accordance with section 38(1)(g).
4. The Commissioner does not have jurisdiction to address the disclosure of the Complainants' personal information by the Chair of the School Council.
5. The disclosure of the Complainants' personal information in Letters 1, 2, and 4 by the Head of the Volunteer Program to the Vice-Chair of the School Council was not in accordance with section 38(1).

In the interests of resolving this complaint, the Public Body produced an information bulletin for employees entitled "Privacy Issues." The bulletin states that breaches of privacy allegations can

arise out of the disclosure of letters of complaint. Employees are advised that letters of complaint should be treated as confidential material to be handled in accordance with the principles of the Act.

**VII. Recommendations**

The Public Body has taken appropriate corrective action by developing an information bulletin for employees on disclosure of letters of complaint.

It is recommended that this complaint be considered concluded.

Submitted by,

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Portfolio Officer