

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

Report on Investigation Regarding Disclosure of Personal Information

June 5, 2003

Livingstone Range School Division #68

Investigation #2665

I. INTRODUCTION

[1] On February 20, 2003, the Commissioner received a privacy complaint against the Livingstone Range School Division #68 (“the School Division”). The Complainant expressed concerns regarding the amount of personal information disclosed in a letter issued by a school within the jurisdiction of the School Division. The Complainant asked the Commissioner to review this matter.

[2] Section 53 of the *Freedom of Information and Protection of Privacy Act* (“the FOIP Act”) sets out the Commissioner’s general powers. Under section 53(1)(a), the Commissioner may conduct investigations to ensure compliance with any provision of the FOIP Act. In addition, section 53(2)(e) allows the Commissioner to investigate complaints that personal information has been collected, used or disclosed in contravention of Part 2 of the FOIP Act.

[3] In response to the complaint, the Commissioner authorized me to investigate this matter. This report outlines the findings and analysis of my investigation.

II. BACKGROUND INFORMATION

[4] In January 2003, the school principal issued a letter to “Students, Staff and Parents” regarding the death of a student (“the Student”).

[5] The Commissioner received the privacy complaint in February 2003 and notified the School Division accordingly.

[6] On March 2003, the School Division issued a second letter, with the consent of the Student’s parents, to “Parents and Guardians”. The second letter explained the need to communicate “the essential facts” so that the appropriate assistance and support could be provided to students and staff affected by the death. However, the second letter acknowledged that the January 2003 letter contained “a level of detail” that was upsetting to the Student’s family. The second letter indicated the School Division sincerely regretted any misunderstanding and grief due to the contents of the January 2003 letter and that appropriate measures have been taken to ensure that similar situations can be avoided in the future.

III. INFORMATION AT ISSUE

[7] Section 1(n) of the FOIP Act defines personal information as “recorded information about an identifiable individual”. There is no dispute that the information disclosed in the January 2003 letter contained information about the Student and is “personal information”.

IV. ISSUES

[8] The issues of this investigation are:

1. Did the School Division have authority to disclose personal information under section 40(1) of the FOIP Act?
2. Did the School Division disclose personal information only to the extent necessary as required by section 40(4) of the FOIP Act?

V. INVESTIGATION FINDINGS AND ANALYSIS

1. Did the School Division have authority to disclose personal information under section 40(1) of the FOIP Act?

[9] Section 40(1) of the FOIP Act identifies the circumstances under which a public body may disclose personal information. If a circumstance listed in section 40(1) applies, then the public body has authority to disclose the personal information. A public body needs to establish its authority to disclose personal information under only one of the circumstances listed in section 40(1).

[10] Under the *School Act*, a principal is required to direct the management of the school (section 20(e)); maintain order and discipline in the school (section 20(f)); and ensure students are provided with a safe and caring environment (section 45(8)). The School Division said the information about the Student was obtained as part of the principal's responsibility for managing the school and ensuring the safety of students in the school. The School Division claims the disclosure was for the same purpose and therefore, authorized under section 40(1)(c) of the FOIP Act, which states:

40(1) A public body may disclose personal information only

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

[11] I find that the purpose of the January 2003 letter was to provide information to staff to enable them to attend to the needs of the students, to communicate the resources available to assist students in coping with this situation; and to provide advice to parents as to how they could assist their child in this situation. Therefore, I agree with the School Division that this purpose falls under the principal's responsibility for managing the school and overseeing the well-being of the students. As the disclosure is for the purpose

for which the information was collected, I find the disclosure is authorized under section 40(1)(c) of the FOIP Act.

2. Did the School Division disclose personal information only to the extent necessary as required under section 40(4) of the FOIP Act?

[12] Section 40(4) of the FOIP Act states that public bodies may disclose personal information only to the extent necessary to carry out the purposes described in section 40(1).

[13] In my view, the disclosure in the January 2003 letter to staff is necessary to enable the School Division to carry out its purpose of managing the school and ensuring the well-being of the students in the school. Therefore, I find the disclosure to the staff is in accordance with section 40(4) of the FOIP Act.

[14] However, I find that the disclosure to the students and parents was more than what was necessary to enable the School Division to carry out its purpose of communicating to students the support resources available to them and providing advice to parents as to how they could assist their child in this situation. In my view, a notification statement of the death would be sufficient. I do not believe it is necessary to disclose details of the situation. Therefore, I find that the disclosure to the students and parents was not in accordance with section 40(4) of the FOIP Act.

[15] The School Division said the principal was contacted about the situation by a relative of the Student. In the interests of respecting the family's privacy and not wishing to unnecessarily disturb the family, the principal proceeded on the basis that the relative was authorized to act on behalf of the Student's family. The principal reviewed the contents of the January 2003 letter with the relative on the understanding that the relative would inform the Student's family and would contact the principal if the family had any concerns with the contents of the letter. As the principal did not hear back from the relative, the January 2003 letter was released. Subsequently, the School Division learned that the Student's parents were not informed of the release. The School Division said it would have taken into account any of the family's concerns or objections prior to the release of the January 2003 letter. It seems to me that, had the concerns or objections of the family been known to the School Division, the disclosure would have included less personal information. This supports my finding that the School Division disclosed more personal information to the students and parents than was required under section 40(4) of the FOIP Act.

VI. CONCLUSION AND CLOSING REMARKS

[16] In summary, I conclude:

- the disclosure of personal information in the January 2003 letter was authorized under section 40(1)(c) of the FOIP Act;

- the disclosure to the staff was in accordance with section 40(4) of the FOIP Act; and
- the disclosure to students and parents was not in accordance with section 40(4) of the FOIP Act.

[17] In closing, I would like to commend the School Division's willingness to independently review this matter and its decision to issue the second letter on its own initiative. I also commend the School Division's approach in using this complaint as an opportunity to review its practices and procedures. I understand that this was a difficult situation and I believe the principal had the best intentions in mind. As there is no further action warranted on this matter, this case is now closed.

Submitted by,

Marilyn Mun
Team Leader, FOIP