ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2013-41

October 24, 2013

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number F6032

Office URL: www.oipc.ab.ca

Summary: The Applicant made a request for everything contained in his student file to a college run by Alberta Justice and Solicitor General (the Public Body). The Public Body responded but severed information as non-responsive and pursuant to sections 4(1)(g)(question that is to be used on a test), 17 (disclosure harmful to personal privacy), and 26 (testing procedures, tests and audits) of the *Freedom of Information and Protection of Privacy Act* (the Act).

The Applicant asked the Office of the Information and Privacy Commissioner (this Office) to review the Public Body's response claiming that the Public Body did not perform an adequate search and did not properly apply sections 4, 17, and 26 of the Act.

The Adjudicator found that the Public Body did not perform an adequate search because the Public Body failed to search employees' e-mail accounts for responsive records. The Adjudicator also found that the Public Body withheld some responsive information as non-responsive. However, the Adjudicator did find that the Public Body properly applied section 4 of the Act to the records at issue. Finally, the Adjudicator found that the Public Body properly applied sections 17 and 26 to some of the information, but ordered the Public Body to disclose the other information to the Applicant to which section 17 and 26 had been applied.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 4, 10, 17, 26, 72, and 92.

Authorities Cited: AB: Orders 99-028, 2001-016, F2004-016, F2007-029, and F2009-016.

I. BACKGROUND

[para 1] The Applicant was a student at a college run by Alberta Justice and Solicitor General (the Public Body). On October 31, 2011, the Applicant made an access request to the Public Body stating:

> I wish to access "EVERYTHING" contained within my file at the "ALBERTA SOLICITOR GENERAL STAFF COLLEGE" including but not limited to receiving copies of all my written exams and exam marks, C.O.P.A.T score(s), evaluations, project marks, comments…basically EVERYTHING.

[para 2] On November 23, 2011, the Public Body responded to the Applicant, providing him with 107 pages of responsive records. Some of the information in the records was severed by the Public Body pursuant to sections 4, 17, and 26 of the *Freedom of Information and Protection of Privacy Act* (the Act).

[para 3] On December 1, 2011, the Applicant asked the Office of the Information and Privacy Commissioner (this Office) to review the Public Body's response to his access request. On February 7, 2012, upon being informed that this Office would be reviewing the matter, the Public Body performed another search and found an additional 29 pages of records, which it provided to the Applicant.

[para 4] Mediation was authorized but was not successful in resolving the issues between the parties so the Applicant requested an inquiry into the matter. I invited four parties, whose information was severed from the records, to participate as undisclosed Affected Parties. I received submissions from both the Applicant and Public Body but I received no submissions from the Affected Parties.

II. INFORMATION AT ISSUE

[para 5] The information at issue in this inquiry consists of the severed portions of the records that were responsive to the Applicant's request.

III. ISSUES

[para 6] The Notice of Inquiry dated March 28, 2013 sets out the issues in this inquiry as follows:

> **Issue A: Did the Public Body meet its duty to the Applicant as provided by section 10(1) of the Act (duty to assist applicants)? In this case, the Adjudicator will consider whether the Public Body conducted an adequate search for responsive records.**

Issue B: Is information in the records excluded from the application of the Act by section 4(1)(g)(question that is to be used on a test)?

Issue C: Does section 17 of the Act (disclosure harmful to personal privacy) apply to the information in the records?

Issue D: Did the Public Body properly apply section 26 of the Act (testing procedures, tests and audits) to the information in the records?

[para 7] Subsequent to the Notice of Inquiry being issued, the Applicant sent an additional Request for Review to this Office in which he claimed that he was not provided with all responsive records (specifically e-mails he thought existed) and suggested that an employee of the Public Body deliberately destroyed records responsive to the Applicant's request. Originally, this issue was to be added to the issues on file F6030; however, the Public Body noted that the new Request for Review was more closely related to the issues in this inquiry. I agree. Therefore, I will address the issue of not searching for e-mails of various employees of the Public Body, as part of my findings on section 10 of the Act. I will not be addressing issues raised by the Applicant in his Request for Review April 16, 2013 which speak to alleged wrongdoing by employees of the Public Body as the Information and Privacy Commissioner has already advised the Applicant that section 92 of the Act would not be an issue addressed in response to the Applicant's April 16, 2013 Request for Review.

[para 8] The Public Body also severed information from two pages of the responsive records, claiming that the information was not responsive to the Applicant's request. I asked the Public Body for its argument for treating the information as non-responsive and will deal with whether the information is, in fact, non-responsive as a preliminary issue.

[para 9] In addition, as a preliminary issue, the Public Body raised a concern it had with the Applicant relying on the "Schedule A" that was attached to his Request for Inquiry on file F6031 as part of his initial submissions. The Public Body argued that I should disregard the document because it is essentially a review of the mediator's findings on file F6031 and this inquiry is a *de novo* process. Despite its objections, I note that the Public Body's initial submissions contain a sworn affidavit which details the findings of the portfolio officer in this matter.

[para 10] I agree with the Public Body that this is a *de novo* written inquiry and that the portfolio officer's findings on another file are not relevant to this inquiry. However, the Schedule A document refers more generally to the Applicant's argument about what "reasonable" means in the context of section 10 of the Act. That is relevant to this order and so I will consider the Applicant's Schedule A document insofar as it presents his arguments about reasonableness.

IV. DISCUSSION OF ISSUES

Preliminary Issue: Did the Public Body properly sever information that was not responsive to the Applicant's access request?

[para 11] The Public Body severed information on pages 118 and 131 of the responsive records because it believed the information was not responsive to the Applicant's request. This was not an issue noted in the Notice of Inquiry and so I specifically asked the Public Body to provide me with its argument as to why this information was not responsive and if there was an alternative reason the information was severed.

[para 12] The Public Body submitted that the information on these pages was information written by one staff member to another on a topic unrelated to the Applicant.

[para 13] With regard to the information severed on page 118, I agree with the Public Body. However, with regard to the information severed from page 131 of the responsive records, I believe this information is responsive to the Applicant's request. Page 131 of the responsive records is an e-mail written by an employee of the Public Body to other employees of the Public Body detailing the issues employees and other students were having with the Applicant. The subject line of the e-mail reads, "[Applicant] Alert…" The e-mail then begins by stating it is to let the recipients know a few thing about the Applicant. The e-mail then deals with specific concerns about the Applicant. Given the context and subject matter of the e-mail, I fail to see how the closing paragraph could be said to be on a topic that is unrelated to the Applicant. The Public Body offered no alternative reason for severing the information. Therefore, as no other exceptions apply, I find that the Public Body ought to disclose this information to the Applicant.

Issue A: Did the Public Body meet its duty to the Applicant as provided by section 10(1) of the Act (duty to assist applicants)? In this case, the Adjudicator will consider whether the Public Body conducted an adequate search for responsive records

[para 14] Section 10(1) of the Act states:

> 10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

[para 15] In Order 2001-016, the Commissioner stated:

> Previous orders…say that the public body must show that it conducted an adequate search to fulfill its obligation under section 9(1) [now section 10(1)] of the Act. An adequate search has two components: (1) every reasonable effort must be made to search for the actual record requested and (2) the applicant must be informed in a timely fashion about what has been done.
>
> (Order 2001-016 at para 13)

[para 16] Many previous orders issued by this office have stated evidence as to the adequacy of a search should cover the following points:

- The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request
- The scope of the search conducted - for example: physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Who did the search
- Why the Public Body believes no more responsive records exist than what has been found or produced

(Order F2007-029 at para. 66)

[para 17] In its initial submissions, the Public Body provided an affidavit sworn by its FOIP Advisor stating that:

- The FOIP Advisor processed the Applicant's request.
- The FOIP Advisor contacted an employee of the Staff College to locate records.
- On being advised of this Office's involvement in reviewing the Public Body's response to the Applicant's request, the FOIP Advisor reviewed the Staff College's file to determine if there were further records. As a result of this second search further records were recovered and provided to the Applicant.

[para 18] The Public Body did not provide evidence or argument on:

- The scope of the search conducted - for example: physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Why the Public Body believes no more responsive records exist than what has been found or produced.

[para 19] As a result of the deficiencies in the Public Body's evidence, I asked that it provide further evidence on the points mentioned above.

[para 20] The Public Body responded that:

- Only the Staff College was searched and only for the specified time frame because of the wording of the Applicant's request;

- Staff College staff identified the appropriate file and provided a copy of it;

- There was an additional search performed which uncovered additional records within the file and another file. These additional records were severed and provided to the Applicant as part of the mediation process.

- The Public Body also noted that it only searched for paper copies of e-mails and not for electronic copies. It justified this approach because it interpreted the Applicant's request as being limited to records in his paper file;

- Finally, the Public Body notes that the Applicant has made another access request for e-mail records from various employees of the Staff College and the Public Body's response to that access request is currently under review;

- The Public Body believes that its search was thorough given the narrow parameters of the Applicant's request and so no other responsive records exist.

[para 21] Based on the evidence of the Public Body, I find that it failed to meet its duty to the Applicant under section 10 of the Act. I believe that the Public Body inappropriately narrowed the Applicant's access request to only paper copies of records in his file. It seems clear to me that the Applicant was looking for all the information the Public Body had concerning him. At the very least, his request was unclear and the Public Body ought to have contacted him to determine if he wanted just his paper file. However, because the Applicant has made another access request for the electronic records which is currently under review by this Office, I will not order the Public Body to do another search and respond to the Applicant again.

[para 22] As well, I find that the Public Body's initial search for responsive records was inadequate to meet its duty under section 10 of the Act, because that search failed to capture the additional records and file that the Public Body found after the Applicant submitted his Request for Review to this Office. The Public Body offered no explanation as to why these records were missed during the first search. However, given that the Public Body has now provided the Applicant with copies of these records, I will not order it perform another search or provide the records again.

Issue B: Is information in the records excluded from the application of the Act by section 4(1)(g)(question that is to be used on a test)?

[para 23] Section 4(1)(g) of the Act states:

> *4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records,*

but does not apply to the following:
…
(g) a question that is to be used on an examination or test…

[para 24] The Public Body argues that it severed test questions which are still in use by the Public Body on examinations administered to recruits in its program.

[para 25] I have reviewed the portions of the responsive records which were severed by the Public Body relying on section 4(1)(g) of the Act. These records contain multiple choice and written questions which appeared on examinations taken by the Applicant throughout his training at the staff college. The Applicant's answers to the written questions were also severed by the Public Body because it believed that the Applicant's answers would reveal what the test questions were.

[para 26] Other records set out techniques the Applicant was asked to perform as part of a practical evaluation, and his performance was also graded. The techniques were mentioned, along with what appear to be the essential methods for performing the techniques correctly. These records constitute 'questions' insofar as they indicate which particular skills a student will be required to demonstrate when being tested.

[para 27] Although the written and practical tests taken by the Applicant have already occurred, given the Public Body's evidence that the questions are still in use, I accept that the records severed relying on section 4(1)(g) of the Act are questions that are to be used on examinations or tests given by the Public Body. Therefore, the Act does not apply to these records.

[para 28] The Public Body also applied section 26 of the Act to the records to which it applied section 4(1)(g) of the Act. Given my finding that the Act does not apply to the questions, I will not discuss them further in this order. However, the Applicant's answers to the test questions do not fall under section 4(1)(g) and so I will discuss that information when I examine the application of section 26 of the Act below.

Issue C: Does section 17 of the Act (disclosure harmful to personal privacy) apply to the information in the records?

[para 29] Section 17 of the Act prohibits a Public Body from disclosing personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy. Section 17(1) states:

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(a) Did the Public Body withhold "personal information?

[para 30] In order for section 17 of the Act to apply, the information severed by the Public Body must be personal information. Personal information is defined in the Act as follows:

> *1(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 number,*
> >
> > *(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,*
> >
> > *(iii) the individual's age, sex, marital status or family status,*
> >
> > *(iv) an identifying number, symbol or other particular assigned to the individual,*
> >
> > *(v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*
> >
> > *(vi) information about the individual's health and health care history, including information about a physical or mental disability,*
> >
> > *(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,*
> >
> > *(viii) anyone else's opinions about the individual, and*
> >
> > *(ix) the individual's personal views or opinions, except if they are about someone else;*

[para 31] The information that was severed consisted of names, educational and employment history, and opinions of third parties. I find that the information severed was personal information of third parties.

(b) Would the disclosure of the third parties' personal information be an unreasonable invasion of their personal privacy?

[para 32] Section 17(4) of the Act lists circumstances when the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy. The Public Body argues that section 17(4)(g) of the Act applies to the information at issue. Section 17(4)(g) of the Act states:

> *17(4)(g) the personal information consists of the third party's name when*

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party…

[para 33] From my review of the records at issue, third parties' names were severed along with employment, educational and other personal information. Therefore, section 17(4)(g)(i) of the Act applies and creates a presumption that disclosure of the third parties' personal information would be an unreasonable invasion of their personal privacy.

(c) Do any section 17(5) factors apply?

[para 34] Although section 17(4)(g)(i) of the Act creates a presumption that disclosure of a third party's personal information would be an unreasonable invasion of his or her privacy, the Public Body must still weigh all the factors listed in section 17(5) of the Act and any other relevant factors to determine if it is appropriate to withhold the information at issue. Section 17(5) of the Act states:

17(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

(b) the disclosure is likely to promote public health and safety or the protection of the environment,

(c) the personal information is relevant to a fair determination of the applicant's rights,

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any

person referred to in the record requested by the applicant, and

(i) the personal information was originally provided by the applicant.

[para 35] The Public Body submits that section 17(5)(c), (e), (f), and (h) of the Act weigh in favour of not disclosing the information and only section 17(5)(i) of the Act weighs in favour of disclosing the information.

i. Section 17(5) factors weighing in favour of disclosure:

[para 36] On my review of the information severed by the Public Body pursuant to section 17 of the Act, none of it appears to have been provided by the Applicant. Therefore, I do not believe that section 17(5)(i) of the Act (information provided by the Applicant) weighs in favour of disclosure.

[para 37] However, I note that some of the information severed pursuant to section 17 of the Act consisted of names and employment information of employees of the Public Body. While not an enumerated factor, several past orders issued by this Office have found that if the information severed consists of business contact information or records of activities of employees of a Public Body acting in their official capacities, this is a factor that weighs in favour of disclosure (see F2009-016 at para 17-18 for example).

[para 38] The third parties whose information was severed and who were employees of the Public Body provided information and opinions about the Applicant's performance at the staff college as part of their employment. Therefore, I find that this is a factor that weighs in favour of disclosing the personal information of employees of the staff college including their names and their opinions about the Applicant.

[para 39] The Public Body argues that section 17(5)(c) (information relevant to a fair determination of the Applicant's rights) does not apply and therefore weighs in favour of not disclosing the information at issue, but this is an incorrect analysis. If section 17(5)(c) of the Act is found to not be applicable to the records at issue, then it does not weigh against disclosure, it is just not applicable.

[para 40] In order for section 17(5)(c) of the Act to apply the following four factors must be met:

1. The right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds;

2. The right is related to a proceeding which is either existing or contemplated, not one which has already been completed;

3. The personal information which the applicant is seeking access to has some bearing on or is significant to the determination of the right in question; and

4. The personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.

(Order 99-028 at para 32)

[para 41] In his initial and rebuttal submissions, the Applicant stated that he had grievances and legal action pending, but made no specific argument as to the applicability of section 17(5)(c) of the Act, so I asked the Applicant for further details of his legal actions, including why he would need the records to assist in those actions.

[para 42] The Applicant provided me with a list of several grievances, court actions, human rights complaints and privacy complaints he has started and are in various stages of completion. From the information provided, I believe that the Applicant met the first two parts of the test mentioned above. However, the Applicant offered no direct argument or evidence as to why he needs or wants the information at issue, which I require to assess whether he meets the last two parts of the test noted above.

[para 43] Furthermore, I do not myself see how the limited information that I find below was severed properly pursuant to section 17of the Act, could have a bearing on or be significant to the determination of the right in question, or be required to prepare for any of the proceedings mentioned by the Applicant. Therefore, I find that section 17(5)(c) of the Act does not apply.

ii. Section 17(5) factors weighing against disclosure:

[para 44] The Public Body also argues that section 17(5)(e) of the Act (the third party will be exposed to financial or other harm) weighs in favour of severing the information at issue. The Public Body submits:

> The Public Body has a reasonable belief that the Applicant *may* unfairly targeted (*sic*) third party individuals by making unfair accusations regarding their motives and integrity, which *possibly could* result in unfair damage to the personal reputation and employment of these third parties…[emphasis added]

[para 45] In support, the Public Body cites Order F2004-016 in which the Adjudicator found evidence that the Applicant would likely make unwanted contact with third parties whose information was severed from the records at issue.

[para 46] In order for section 17(5)(e) of the Act to apply, there needs to be more than a mere possibly of unfair damage. The argument put forward by the Public Body is that if the Applicant is given access to the information at issue he may 'target' the third parties whose information has been severed. There is no indication that this would actually be the case and I am not convinced by the Public Body's argument. Therefore, I find that section 17(5)(e) of the Act does not apply to the information at issue.

[para 47] The Public Body also argues that section 17(5)(f) of the Act (information supplied in confidence) applies to the information at issue and weighs in favour of not disclosing the information. The Public Body submits:

> These records are used as a tool to determine a recruit's ability to pass the training course as well as their suitability as an employee with the Public Body and are considered confidential. Third parties submitting information had a reasonable expectation that their information was being collected for a specific purpose and that it would be treated as confidential. Therefore, it is the position of the Public Body, taking under consideration the sensitive nature of the information, that the third parties implicity considered their personal information to have been supplied in confidence.

[para 48] Previous orders of this Office have found that confidentiality does not have to be explicit and can be implied from the circumstances. I believe that confidentiality can be implied in the circumstances where other students of the staff college mentioned issues they had with the Applicant to employees of the staff college. While I am not certain of the merit in these assessments of the Applicant, I think, given that this is what the Applicant's fellow students felt about him, it is likely that when they spoke with employees of the staff college about the Applicant's conduct, they did so in confidence, not wishing to create conflict with the Applicant.

[para 49] With regard to the employees of the staff college whose personal information was severed, I am unable to input such confidentiality to their severed information. I was not persuded by the Public Body's argument that the information provided is confidential on the baisis that it is used to assess a recruit's suitability. I believe that the information provided by employees of the staff college is in fact used this way; however, I found no indication that there was an assumption it would be confidential.

[para 50] I find that section 17(5)(f) of the Act weighs in favour of withholding the personal information of third parties, with the exception of employees of the staff college.

[para 51] Finally, the Public Body argued that section 17(5)(h) of the Act (disclosure may unfairly damage the reputation of any person referred to in the records) weighs in favour of severing the information at issue. The Public Body made the same argument as it did for section 17(5)(e) of the Act quoted above.

[para 52] For the same reasons I rejected the Public Body's argument regarding section 17(5)(e) of the Act, I also find section 17(5)(h) of the Act is not applicable. The Public Body simply provided no sound basis for its belief that the Applicant would 'target' third parties or that he could do anything with the information at issue that would unfairly damage the reputation of the third parties.

iii. Conclusion regarding section 17(5):

[para 53] With the exception of personal information of employees of the staff college, I find that the section 17(5) factors that weigh in favour of withholding the third parties'

personal information are sufficient to justify the Public Body's application of section 17 of the Act. However, with regard to the personal information of employees of the staff college is concerned, no section 17(5) factors weigh in favour of withholding their personal information. Therefore, I find that the Public Body must disclose all of the personal information of the employees of the staff college that it severed pursuant to section 17 of the Act.

Issue D: Did the Public Body properly apply section 26 of the Act (testing procedures, tests and audits) to the information in the records?

[para 54] Section 26 of the Act states:

> *26 The head of a public body may refuse to disclose to an applicant information relating to*
>
> > *(a) testing or auditing procedures or techniques,*
> >
> > *(b) details of specific tests to be given or audits to be conducted, or*
> >
> > *(c) standardized tests used by a public body, including intelligence tests,*
>
> *if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.*

[para 55] As I mentioned above, section 4(1)(g) of the Act applies to much of the information that the Public Body severed pursuant to section 26 of the Act, including the Applicant's answers to test questions. However, pages 109-116, 129, and 130 had information severed in reliance on only section 26 of the Act.

[para 56] The Public Body severed questions and the Applicant's written answers to a "Charter Take Home Assignment" on pages 36-39. While these questions may constitute a test as that term is used in section 4(1)(g) or 26 of the Act, I do not believe that disclosing the answers could reasonably be expected to prejudice the use or results of particular tests or audits even though the Applicant's answers would likely reveal the question he was answering. The assignment was graded but it was a take home assignment. Therefore, there was no element of unpredictability which would normally accompany a test. I have no information that would suggest that individuals who were given the assignment were not allowed to access any external resources prior to answering the questions, or that there were any significant time constraints imposed on answering the questions. Therefore, the effectiveness of the assignment would not be compromised if an individual had the assignment questions before the assignment was handed out. Presumably the individual would have the same ability to look up the answers to the questions no matter how far in advance he or she had a copy of the assignment. Therefore I find that section 26 does not apply to the Applicant's answers on

pages 36 – 39 and order the Public Body to disclose the information on those pages to the Applicant.

[para 57] The Public Body also severed the Applicant's written answers to other tests which do not appear to have been take-home assignments such as the "Progress Test", "Mid-Term Exam" and "Mid-Term Exam Re-Write". Disclosing the Applicant's written answers to questions on these exams would be disclosing information relating to tests, and the disclosure could reasonably be expected to prejudice the use of the test, because they could reveal the test questions prior to the test being administered.

[para 58] I asked the Public Body for further information as to what pages 109-116 were. On the face of the records, I could not discern if the records related to tests or audits. The Public Body confirmed that these records constitute a standardized exercise which is part of training. Based on this additional information and my review of the records, I find that these records meet the requirements of section 26 of the Act.

[para 59] Section 26 of the Act was also used to sever page 129 and portions of page 130. These pages contain a statement by an employee of the Public Body and a summary of an interview of the Applicant by an employee of the Public Body, regarding questions the Applicant asked an instructor during the exam.

[para 60] The Public Body argues that the information severed is information relating to a standardized test that it still uses. It further argues that the disclosure of the information would reasonably be expected to prejudice the future use of the exam.

[para 61] The information severed regarding the test question is limited. While the specific question number is noted as is the subject matter, generally, it does not say what the question was or what the answer to the question was. I fail to see how disclosing this limited and general information would prejudice the use of this test by the Public Body. Therefore, I find that the Public Body did not properly apply section 26 of the Act to the information on pages 129 and 130.

V. ORDER

[para 62] I make this Order under section 72 of the Act.

[para 63] I find that the Public Body failed to meet its duty under section 10(1) of the Act.

[para 64] I find that the information on page 131 of the responsive records that was severed as unresponsive to be responsive to the Applicant's request and order the Public Body to disclose that information to the Applicant.

[para 65] I find that the Public Body properly applied section 4(1)(g) of the Act to the records at issue.

[para 66] I find that the Public Body properly applied section 17 of the Act to the records at issue with the exception of personal information of employees of the Public Body. I order the Public Body to disclose the personal information of the employees of the Public Body which it severed from the records in reliance on section 17 of the Act.

[para 67] I find that the Public Body properly applied section 26 of the Act to the records at issue with the exception of pages 36-39 and 129-130. I order the Public Body to disclose pages 36-39 and 129-130 of the responsive records to the Applicant.

[para 68] I further order the Public Body to notify me in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

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Keri H. Ridley
Adjudicator