

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER P2007-014

March 13, 2008

ALBERTA TEACHERS' ASSOCIATION

Case File Number P0300

Office URL: www.oipc.ab.ca

Summary: The Complainants complained to the Office of the Information and Privacy Commissioner that the Alberta Teachers' Association (the Organization) had published their names and places of work in the ATA News in conjunction with a statement that the Complainants were no longer required to adhere to the ATA's Code of Professional Conduct.

The Adjudicator found that the information in the ATA News article was the Complainants' personal information and was not exempt from the *Personal Privacy Protection Act* (PIPA). The Adjudicator found that the Organization had disclosed the Complainants' personal information contrary to sections 7 and 19 of PIPA.

Statutes Cited: **AB:** *Personal Information Protection Act* S.A. 2003, c. P-6.5 ss. 1, 3, 4, 7, 8, 19, 52; *Interpretation Act* c. I-8 s. 10; *Teaching Profession Act* c. T-2 ss. 2, 3, 4, 5

Regulations Cited: *Personal Information Protection Act Regulation* AR 366/2003 ss. 6, 7; *Teacher Membership Status Election Regulation* AR 260/2004 s. 4

Authorities Cited: **AB:** Orders P2005-004, P2006-011

Cases Cited: *Saskatchewan Government Insurance v. Bury* 75 D.L.R. (4th) 449; *Edmonton Journal v. Alberta (Attorney General)* [1989] 2 S.C.R. 1326

I. BACKGROUND

[para 1] The Complainants complained to the Office of the Information and Privacy Commissioner that the Organization had published their names in the ATA News in conjunction with a statement that the Complainants were no longer required to adhere to the ATA's Code of Professional Conduct.

[para 2] The Commissioner authorized mediation. As mediation was unsuccessful, the matter was scheduled for a written inquiry.

[para 3] The Organization and the Complainants both provided initial and rebuttal submissions.

II. RECORDS AT ISSUE

[para 4] There are no records at issue.

III. ISSUES

Issue A: Did the Organization disclose “personal information” of the Complainants’ as that term is defined in PIPA?

Issue B: Is the disclosure excluded from the Act by virtue of section 4(3)(c) (journalistic purposes)?

Issue C: Did the Organization disclose the information contrary to, or in compliance with section 19 of PIPA (disclosure for purposes that are reasonable?)

Issue D: Did the Organization disclose the information in contravention of, or in compliance with section 7(1) of PIPA (no disclosure without either authorization or consent?)

IV. DISCUSSION OF ISSUES

Issue A: Did the Organization disclose “personal information” of the Complainants’ as that term is defined in PIPA?

[para 5] The Complainants argue that by publishing their names and identifying them as employees of a particular office “who are no longer required to adhere to the ATA's Code of Professional Conduct”, the Organization disclosed their personal information.

[para 6] The Organization agrees that the news article does disclose the personal information of the Complainants. However, it argues that the information is “not highly sensitive personal information”. It argues that the personal information is actually “business contact information” under section 1(a) of PIPA.

[para 7] Section 1(k) of PIPA defines “personal information” for the purposes of the Act. It states:

1(k) “personal information” means information about an identifiable individual;

[para 8] Section 1(a) defines “business contact information”. It states:

1(a) “business contact information” means an individual’s name, position name or title, business telephone number, business address, business e-mail, business fax number and other similar business information;

[para 9] Section 4(3) contains the only reference “business contact information” is used in PIPA, other than the definition itself. Section 4(3)(d) excludes “business contact information” from the application of PIPA. It states:

(3) This Act does not apply to the following:

(d) the collection, use or disclosure of business contact information if the collection, use or disclosure, as the case may be, is for the purposes of contacting an individual in that individual’s capacity as an employee or an official of an organization and for no other purpose;

[para 10] I find that the article published in the ATA News contained the personal information of the Complainants, as it contained information about them as identifiable individuals within the meaning of section 1(k). The article contained their names, provided the names of the public bodies for whom they work, and stated that they are individuals to whom the ATA Code of Conduct does not apply.

[para 11] I do not find that this personal information in the article is business contact information within the meaning of the Act, as argued by the Organization. The article did not refer to position names or titles, business telephone numbers, or any of the other information referred to in section 1(a). In addition, as the Complainants are not employees of the Organization, or, in fact, of “an organization” at all, section 4(3)(d) of the Act does not apply.

[para 12] PIPA does not distinguish between personal information that is “highly sensitive”, and that which is not, as the Organization suggests. Rather, it establishes restrictions for the collection, use, and disclosure of all personal information meeting the statutory definition. The purpose of PIPA is explained in section 3, which states:

3 The purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of an individual to have his or her personal information protected and the need of organizations to collect, use or disclose personal information for purposes that are reasonable.

PIPA requires an Organization to consider, prior to disclosing personal information, whether its disclosure is permitted by the Act, including whether its purpose in disclosing the information is reasonable, rather than considering whether, from its own perspective, the personal information is “sensitive”.

[para 13] For these reasons, I find that the Organization disclosed the personal information of the Complainants.

Issue B: Is the disclosure excluded from the Act by virtue of section 4(3)(c) (journalistic purposes)?

[para 14] Section 4(3)(c) excludes disclosures of personal information made for journalistic purposes from the application of PIPA. It states:

4(3) This Act does not apply to the following:

(c) the collection, use or disclosure of personal information, other than personal employee information that is collected, used or disclosed pursuant to section 15, 18 or 21, if the collection, use or disclosure, as the case may be, is for journalistic purposes and for no other purpose;

[para 15] The Organization argues that personal information contained in the ATA News article was disclosed for journalistic purposes. The Organization notes:

This “journalistic purposes” exception to privacy legislation is extremely important to the protection of the fundamental value which Canadian society places upon free expression and a free press. Numerous decisions from every level of Court in the country affirm freedom of expression as the essential attribute of a democratic society, and its protection demands its large and liberal interpretation by the Courts ...

...The fundamental importance of free expression and a free press is recognized even where privacy rights are at stake. The media are the “surrogates for the public”.

[para 16] The Organization argues that the phrase “and for no other purpose” contained in section 4(3)(c) must be interpreted narrowly “in keeping with the legislative intent to exclude materials written or published for “journalistic purposes”. The Organization proposes the following interpretation:

Moreover, since the plural, “journalistic purposes” is the term used in s. 4(3)(c) the analysis of “and for no other purpose” must be confined to a purpose which is inconsistent with any journalistic purpose... A purpose, to be “other”, cannot apply to any material written in the media which presents facts or occurrences or opinion, but must truly exhibit a quite “other” purpose, such as an intent to defraud or mislead, defame or commit criminal libel.

[para 17] The Complainants argue that the Organization published their personal information to punish them for electing to withdraw their memberships in the Organization. They argue that this is a purpose other than a journalistic purpose. It also notes that the Organization published the article in its own newspaper. It contends that

the Organization could not disclose the Complainants' personal information to an external newspaper, as that would be contrary to PIPA. By publishing the information in its own newspaper, they argue, it has attempted to do indirectly what it cannot do directly.

[para 18] Both parties rely on Order P2005-004 to support their positions. In that Order, the Commissioner said:

It is due to the protective nature of such sections that McNairn and Scott in *Privacy Law in Canada* (Markham, Ontario: Butterworths Canada Ltd., 2001) have advanced the argument that the express exception for journalistic purposes were motivated by a concern that the requirements of private sector privacy legislation would unduly restrict the activities of journalists and writers and risk infringing the "freedom of expression, including the freedom of the press and other media of communications" that is guaranteed by section 2(b) of the *Canadian Charter of Rights and Freedoms*. With this background in mind I now turn to the meaning of "journalistic purposes". [para 19] *Webster's New College Dictionary* defines "journalistic" as "Of, relating to, or typical of journalists." "Journalism" is defined as:

1. Collection, writing, editing and dissemination of news through the media 2. Material written for publication in the media 3. A style of writing used in newspapers and magazines, characterized by the direct presentation of facts or occurrences with little attempt at analysis or interpretation.

[para 20] The personal information disclosed was in the form of a newspaper article which was published by the Organization. This in itself meets the definition of "material written for publication in the media". Having reviewed the newspaper article itself, the personal information within it is a direct presentation of the facts and is clearly collected and disclosed for journalistic purposes. There is no evidence before me or any evidence from the newspaper article itself that would lead me to conclude that the collection, use and disclosure of the personal information was for any other purpose other than for journalistic purposes.

[para 19] I do not interpret the Commissioner as saying that as long as information is published in a form of media, that it is published for a journalistic purpose. Rather, he found that the purpose of the article in that case was to present facts, which he considered to be a journalistic purpose. As there was no other evidence that the Calgary Herald had any purpose other than presenting facts, he found that the personal information in the article was disclosed for a journalistic purpose and no other purpose.

[para 20] In the Organization's view, so long as an organization sets for itself a "journalistic task", and the organization does not have criminal or tortious motives for doing so, the personal information in an article is exempt from PIPA under section 4(3)(c). I do not accept that only criminal or tortious purposes are "other purposes" within the meaning of section 4(3)(c). This interpretation is contrary to the plain ordinary meaning of the phrase, "and for no other purpose". If the legislature had intended to limit "other purposes" to purposes that are contrary to law, it could easily have said so. The interpretation proposed by the Organization has the effect of greatly narrowing the application of the Act, which, as noted above, is intended to govern the collection, use and disclosure of personal information by organizations. Section 10 of the *Interpretation Act* requires a large and liberal interpretation of enactments, such as PIPA:

10 An enactment shall be construed as being remedial, and shall be given the fair, large and liberal construction and interpretation that best ensures the attainment of its objects.

[para 21] In my view, the phrase “and for no other purpose” is intended to capture purposes other than journalistic purposes for which an organization may publish personal information in the media. For example, newspapers often publish advertising for purposes of generating revenue. Increasing revenue is an example of a legitimate purpose for publishing information in the media that is not a journalistic purpose. Retractions are also examples of articles published for purposes other than purely journalistic purposes, as these may be placed in a newspaper to protect the newspaper’s legal position. Consequently, newspapers must consider whether advertisements and retractions contain personal information, and if so, whether disclosure of that information is permitted by PIPA.

[para 22] The Organization relies on *Edmonton Journal v. Alberta (Attorney General)* [1989] 2 S.C.R. 1326 in support of its argument that 4(3)(c) should be interpreted broadly to avoid restriction of the freedom of expression. However, I do not consider that case to be on point. In that case, the Court weighed the importance of freedom of the press and public access to the courts in relation to the importance of protection or privacy. The Court did not find that privacy was an insignificant right; rather, it found that the legislation in that case did not minimally impair freedom of expression and public access to justice.

The importance of freedom of expression and of public access to the courts through the press reports of the evidence, arguments and the conduct of judges and judicial officers is of such paramount importance that any interference with it must be of a minimal nature.

It cannot be said that s. 30(1) interferes as little as possible with the fundamentally important right to freedom of expression particularly as it applies to informing the public of court proceedings. Nor does it reflect that proportionality which is required between the effect of the measure and the attainment of the objectives.

[para 23] I do not agree that a narrower interpretation of section 4(3)(c) than that proposed by the Organization would interfere disproportionately with the constitutionally protected rights of freedom of expression and public access to the courts. I will therefore consider whether the Organization published the article in the ATA News for a journalistic purpose, and if so, whether it did so for any other purpose.

[para 24] As the Complainants note, the Organization is not a newspaper. Rather, it is a statutory corporation created by section 2 of the *Teaching Profession Act*. Consequently, it may act only for the purposes set out in its governing legislation. The powers of statutory corporations were summarized by the Saskatchewan Court of Appeal in *Saskatchewan Government Insurance v. Bury* 75 D.L.R. (4th) 449:

It is well settled law that a statutory corporation does not possess the powers of a natural person. Instead, it only possesses the powers given it by its incorporating statute, express or implied. This doctrine dates back at least to the case of *Ashbury Railway Carriage and Iron Co. Ltd. v. Riché* (1875), 44 L.J. 185 (H.L.). At p. 209 of that decision, Lord Selborne commented as follows:

But this, in my judgment, is really decisive of the whole case. I only repeat what Lord Cranworth in *Hawkes v. The Eastern Counties Railway Company* (21) (when moving the judgment of this House) stated to be settled law, when I say that a statutory corporation, created by Act of Parliament for a particular purpose, is limited as to all its powers by the purpose of its incorporation as defined in that Act.

[para 25] The objects of association are set out in section 3 of the *Teaching Profession Act*, which states, in part:

3(1) The association may take any measure that is not inconsistent with this Act or any Act or regulation of Alberta and that it considers necessary in order to give effect to any policy adopted by it with respect to any question or matter directly or indirectly affecting the teaching profession.

[para 26] The powers of the Organization are set out in section 4, which states:

4 The objects of the association are

- (a) to advance and promote the cause of education in Alberta;*
- (b) to improve the teaching profession*
 - (i) by promoting and supporting recruitment and selection practices that ensure capable candidates for teacher education,*
 - (ii) by promoting and supporting adequate programs of preservice preparation, internship and certification,*
 - (iii) by promoting the establishment of working conditions that will make possible the best level of professional service,*
 - (iv) by organizing and supporting groups that tend to improve the knowledge and skill of teachers,*
 - (v) by meetings, publications, research and other activities designed to maintain and improve the competence of teachers,*
 - (vi) by advising, assisting, protecting and disciplining members in the discharge of their professional duties and relationships, and*
 - (vii) by assessing the professional competence of its members by means of a professional practice review process provided for under the bylaws of the association;*
- (c) to arouse and increase public interest in the importance of education and public knowledge of the aims of education, financial support for education, and other education matters;*
- (d) to co-operate with other organizations and bodies in Canada and elsewhere having the same or like aims and objects.*

[para 27] Sections 3 and 4 of the *Teaching Profession Act* authorize the Organization to establish a newspaper and publish articles, as these are measures that are reasonably associated with the Organization's objects. However, section 3 is clear that the Organization can only take action to the extent that it considers it necessary to give effect to any *intra vires* policy adopted with respect to questions and matters affecting the teaching profession. Consequently, the Organization lacks the capacity to publish articles for purely journalistic purposes. Rather, it may publish articles provided that this action advances its legislative objects and is consistent with the legislation.

[para 28] The Organization provided the affidavit evidence of the employee who decided to publish the article. He explained that the article was published for the following purposes:

The ability on the part of central office staff to opt out of Association membership or to choose associate membership is not only a newsworthy and noteworthy subject in general terms, but is a subject with implications which could not be fully explored and communicated unless the individual's names were conveyed publicly, since the election made by these individuals under the *Teaching Profession Act* has had and will continue to have a direct impact on members of the public and teachers in Alberta who are in contact with them. The Complainants' individual elections affect the interests and relationships between them and other with whom they interact... The sole purpose of the news article was to present all the facts about an important and newsworthy issue to the readers of the ATA News, a disclosure which was consistent with and a natural extension of the notification these individuals were required to and did give us under s. 4 of Alta Reg. 260/2004.

[para 29] I am not satisfied that the stated purposes for publishing the article accords with any of the provisions of the *Teaching Profession Act*. The author of the affidavit indicates that the article was intended to present a newsworthy issue and that the decision to publish the names was made to fully explore that issue. While opting out of association membership may be an important and newsworthy labour relations issue, I find, on the evidence before me, that the purposes of the Organization in publishing the article do not accord with any of its powers set out in sections 3 and 4 of the *Teaching Profession Act*.

[para 30] I agree that if an organization such as a newspaper published the article for the reasons provided by the Organization that this would likely be a journalistic purpose. However, the Organization is not a newspaper, but a statutory corporation created to fulfill specific statutory functions. Consequently, as its empowering legislation does not authorize it to publish for solely journalistic purposes, it lacks the legal capacity to publish articles for solely journalistic purposes.

[para 31] In addition, although the author of the affidavit indicates that publishing the Complainants' names was intended to fully explore and communicate a newsworthy issue, in fact, the article contains no exploration, context, or analysis of the issue at all. The article does not explain the nature of the issue. Rather, it simply states the Complainants' names and their employers' names, accompanied by statements that the *Teaching Profession Act* has been amended and that the Complainants are not bound by the ATA Code of Professional Conduct. Consequently, I am not satisfied that the

Organization published the names of the Complainants for the purposes it provides. In other words, I do not accept the Organization's evidence that it published the Complainants' information in order to fully explore a newsworthy issue.

[para 32] For these reasons, I find that section 4(3)(c) of PIPA does not apply to the disclosure of personal information contained in the article.

Issue C: Did the Organization disclose the information contrary to, or in compliance with section 19 of PIPA (disclosure for purposes that are reasonable?)

[para 33] Section 19 of PIPA limits the ability of an organization to disclose personal information. It states:

19(1) An organization may disclose personal information only for purposes that are reasonable.

(2) Where an organization discloses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is disclosed.

[para 34] Section 19(1) is clear that an organization's purpose for disclosing personal information must be reasonable. Section 19(2) is equally clear that the actual disclosure of personal information must be reasonably related to that purpose. For example, the stated purpose for disclosure may be a reasonable purpose in the abstract, but an organization must also establish that its disclosure of personal information, in this case, the names of the Complainants, their employers, and the fact that they are not bound by the ATA Code of Professional Conduct, is reasonably related to that purpose to meet the requirements of section 19.

[para 35] I have already found that the Organization did not disclose the Complainant's personal information for a journalistic purpose. I also rejected the evidence of the Organization that it disclosed the Complainants' personal information to explore and communicate a newsworthy issue.

[para 36] The author of the affidavit offers an additional purpose for disclosing the Complainants' personal information. As noted above, he considers publishing the article to be a natural extension of the notice process in section 4 of the Teaching Membership Election Status Regulation. He also provides the following reason for disclosing the information:

I am informed by the Association's legal counsel as well as by my own experience as the head of the Association as a self-regulatory professional organization, and do verily believe that this type of membership "registry information" is commonly made available to the public by the professions in Alberta as part of the transparency required to regulate professions in the public interest. If this were not so, then how would a member of the public or the profession be able to confirm the membership status of an individual as a "nurse" or a "physiotherapist" or a "teacher" for purposes of making inquiries or complaining to the profession's regulatory body?

[para 37] This statement suggests that the author of the affidavit disclosed the Complainants' personal information to inform the public that the Complainants were no longer members and because section 4 of the Teacher Membership Status Election Regulation contemplated public disclosure.

[para 38] While I do not necessarily agree that informing the public that the Complainants were no longer members of the Organization was a reasonable purpose for disclosing the Complainants' personal information, the article itself contradicts the affidavit evidence on this point. The article merely indicates that the Complainants are not bound by the ATA Code of Professional Conduct. The article does not actually explain that the Complainants are no longer members of the Organization, which, if informing the public of the Complainants' membership status was the purpose of the article, it must necessarily do.

[para 39] Section 4 of the Teacher Membership Status Election Regulation explains the process that must be followed when a teacher makes an election for the purposes of section 5(1)(c) of the *Teaching Profession Act*. It states:

4(1) Within 60 days of receiving a notice under section 3, a teacher must provide written notice to the association and the board of the teacher's election with respect to the teacher's membership status.

(2) A notice under subsection (1) must be in the form prescribed in the Schedule.

(3) A teacher who does not comply with this section is deemed on the expiration of the 60 days referred to in subsection (1) to retain the teacher's existing membership status.

[para 40] I do not agree that section 4 contemplates publicizing a teacher's election outside the association. Section 4 states that only the association and the board are to receive notice. Providing the board with notice enables a board, as employer, to determine whether its employee is subject to contract or collective agreement, and to carry out its duties as employer accordingly. Providing the association with notice enables the association to determine whether it continues to represent the employee, and whether the employee continues to be subject to its jurisdiction. I do not agree that publishing teachers' elections in a publication, which the evidence indicates has world wide distribution and is not confined to association members, is a necessary extension of section 4 of the *Teaching Profession Act*.

[para 41] In fact, the article does not actually explain that the Complainants made an election, but rather that the Complainants are not bound by the ATA Code of Professional Conduct. There are many reasons why an individual may not be bound by the ATA Code of Professional Conduct. The individual may be a superintendent. The individual may not be and may never have been a teacher. The individual may have had his or her membership in the Organization suspended or cancelled because he or she was found guilty of unprofessional conduct. The individual may have chosen to leave the profession and the association. The individual may also have made an election under section 5(1)(c) of the *Teaching Profession Act*. Consequently, I do not find disclosing that an individual

is not subject to the ATA Code of Professional Conduct is, in any way, authorized or contemplated by section 4 of the Teacher Membership Status Election Regulation.

[para 42] As I do not accept the evidence relating to any of the Organization's stated purposes in disclosing the Complainants' personal information, I cannot reach any conclusion as to what that purpose was. Therefore, I cannot conclude that the Organization disclosed the Complainants' personal information for a reasonable purpose.

[para 43] For these reasons, I find that the Organization disclosed the Complainants' personal information contrary to section 19 of PIPA.

Issue D: Did the Organization disclose the information in contravention of, or in compliance with section 7(1) of PIPA (no disclosure without either authorization or consent?)

[para 44] Section 7 of the Act requires an organization to obtain consent prior to collecting, using, or disclosing personal information, except in certain circumstances. It states:

7(1) Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,

- (a) collect that information unless the individual consents to the collection of that information,*
- (b) collect that information from a source other than the individual unless the individual consents to the collection of that information from the other source,*
- (c) use that information unless the individual consents to the use of that information, or*
- (d) disclose that information unless the individual consents to the disclosure of that information.*

(2) An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service.

(3) An individual may give a consent subject to any reasonable terms, conditions or qualifications established, set, approved by or otherwise acceptable to the individual.

[para 45] Section 20(j) of the Act creates an exception to the requirement to obtain consent. It states:

20 *An organization may disclose personal information about an individual without the consent of the individual but only if one or more of the following are applicable:*

(j) *the information is publicly available;*

[para 46] Subsections 7(c) and (e) of the Personal Information Protection Act Regulation create two situations in which personal information is considered “publicly available”:

7) *For the purposes of sections 14(e), 17(e) and 20(j) of the Act, personal information does not come within the meaning of “the information is publicly available” except in the following circumstances:*

(c) *the personal information is contained in a registry that is*

- (i) *a Government registry, or*
- (ii) *a non-governmental registry,*

but only if the collection, use or disclosure of the information relates directly to the purpose for which the information appears in the registry and that purpose is an established purpose of the registry;

(e) *the personal information is contained in a publication, including, but not limited to, a magazine, book or newspaper, whether in printed or electronic form, but only if*

- (i) *the publication is available to the public, and*
- (ii) *it is reasonable to assume that the individual that the information is about provided that information;*

[para 47] Section 6(e) of the Personal Information Protection Act Regulation explains what is meant by a non-governmental registry in section 7. It states:

6 *In this Part*

- (e) *“non-governmental registry” means a registry*
 - (i) *that is operated by an organization or a local public body pursuant to a statute of Alberta or an Alberta regulation, and*
 - (ii) *to which a right of public access is authorized by law.*

[para 48] The Organization argues that it disclosed personal information of the Complainants that was publicly available within the meaning of sections 7(c) and (e) of

the Personal Information Protection Act Regulation, as permitted by section 7. In addition, it contends that the disclosure was authorized by law.

[para 49] The Complainants contend that the publication of their statutory elections in the ATA News is not authorized by law. The Complainants also argue that the Organization does not consistently make it public when members become ineligible for membership in the Organization.

[para 50] In Order P2006-011, the Commissioner explained that section 7 does not enable individuals to consent to the unreasonable collection, use, or disclosure of their personal information. He said:

Section 7 must also be read within the context of section 11 of the Act. As the Act prohibits collection for unreasonable purposes, it does not matter whether the Complainant consented within the meaning of section 8 to the collection or not: the Organization is prohibited from collecting his driver's license information if its purpose for collection is unreasonable. The limit section 11(1) places on the collection of personal information would have no purpose if individuals could consent to the unreasonable collection of personal information under sections 7 and 8.

Similarly, sections 7 and 20 must be interpreted in the context of section 19 of the Act. Section 19 prohibits disclosure of personal information for purposes that are not reasonable. As a result, an individual cannot consent under section 7 to the unreasonable disclosure of his or her personal information. In addition, section 20(j) does not authorize an organization to disclose personal information that is publicly available if the organization does not have a reasonable purpose for disclosing the information.

[para 51] In relation to the issue of whether the Complainants' personal information was publicly available, the author of the affidavit states:

It has long been Association practice that if a school board, a teacher, or a member of the public contacts the Association and wants to know whether an individual is an active member and is subject to the Code of Professional Conduct or is an associate or life or student member and whether such other membership status means that they are subject to the Code of Professional Conduct or not, then the Association provides that information. We have always considered the names of our members and their membership status to be public information.

I have never encountered a situation in which a school board, a teacher, or a member of the public contacts the Association to seek confirmation of a teacher's employing jurisdiction, since when the caller is dealing with a particular member, it is usually in the context of that member's actions or conduct while employed in a particular school jurisdiction. However, I expect that the Association would verify or provide the name of the employing school jurisdiction upon request.

[para 52] In relation to whether the Complainants' personal information was contained in a registry, the affidavit supplied by the Organization in support of its position states:

Once the initial notification process under Alta.Reg.260/2004 had taken place over the six or so months following December 1, 2004, and the Association began receiving notice under the process for election set out in the Teaching Profession Act and in the regulation, eventually receiving notice from approximately 550 central office administrators identified by their

employers as entitled to make the election, the Association needed to keep track of them. Therefore, we established a new field in the Association's registry of membership information in order to record each election. As of the summer of 2005, I was reasonably confident that the Association had heard from most if not all of the members who were entitled to make the election under s. 5.1 of the *Teaching Profession Act*.

[para 53] Despite its arguments to the contrary, the evidence of the Organization simply does not establish that the Complainant's personal information was contained in a registry or publication within the meaning of subsections 7(c) or (e) of the Personal Information Protection Act Regulation at the time the disclosure was made.

[para 54] The Organization partly relies on the fact that it published the Complainants' personal information in the ATA News to establish that the information is contained in a publication for the purposes of section 7(e). However, in my view, both section 20 of the Act and section 7(e) of the Personal Information Protection Act Regulation require personal information to be contained in a publication *prior* to disclosure, and not as a result of disclosure. To interpret the legislation otherwise would render the provisions in the Act limiting disclosure meaningless.

[para 55] While the Organization added fields to its database, I am not satisfied that it has met the requirements of section 7(c). Section 7(c) requires the information disclosed from a registry to relate directly to the purpose of the registry. The evidence does not indicate the Organization's purpose in establishing a registry, and so it has not established that disclosing the Complainants' personal information as it did was directly related to that purpose.

[para 56] In addition, I do not find that the Organization's registry is operated pursuant to a statute or that there is a public right of access to the registry authorized by law for the purposes of section 6 of the Personal Information Protection Act Regulation.

[para 57] I have already found that the disclosure of the Complainants' personal information was not authorized by the statutory provisions on which the Organization relies, and that the information was not disclosed for a reasonable purpose. I find that the Organization did not obtain the Complainants' consent to disclose their personal information. I also find that the Organization is unable to rely on section 20 of the Act.

[para 58] For these reasons, I find that the Organization disclosed the Complainants' personal information contrary to section 7 of PIPA.

V. ORDER

[para 59] I make this Order under section 52 of PIPA.

[para 60] I order the Organization to cease disclosing the personal information of the Complainants in contravention of sections 7 and 19 of PIPA.

Teresa Cunningham
Adjudicator