



pipa

Personal Information Protection Act

School Council Training

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Overview

- **Background**
- **What is “personal information”?**
- **What is PIPA?**
- **How does PIPA apply to school councils?**
- **The “rules” around handling personal information**
- **Other requirements**
- **Complaints and oversight**
- **Examples**



GOOD GRIEF, THE MAN NEXT DOOR
IS STARING AT ME THROUGH
HIGH-POWERED BINOCULARS.





What are “Privacy” Laws?

- **Privacy legislation, in Canada, deals with informational privacy**
 - “The right to exercise control over your personal information.” - Ann Cavoukian, Privacy Commissioner of Ontario
- **Public sector vs. private sector**
 - e.g., government vs. businesses



Common Principles

- **Right of access to all information – public sector laws only**
- **Protect personal information**
- **Access to own personal information**
- **Correction of personal information**
- **Independent review**
 - e.g., Information and Privacy Commissioner



Privacy Laws in Canada

- **Other Provinces: 1977 to 2002**
- ***Access to Information Act & Privacy Act: 1982***
 - Govern federal gov't departments, agencies and crown corporations
 - Combined into one Act in most provinces
- ***Personal Information Protection and Electronic Documents Act (PIPEDA): 2001***
 - Federally-regulated private sector organizations (e.g., telecommunications)
 - Organizations in jurisdictions without own private sector privacy law (e.g., Ontario)
 - Cross-boarder flow of personal information

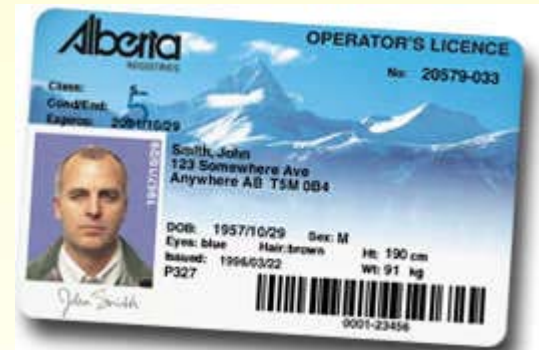


Privacy Laws in Alberta

- ***Freedom of Information and Protection of Privacy Act (the FOIP Act): 1995***
 - Public bodies (e.g., GoA, municipalities, public schools)
- ***Health Information Act (HIA): 2001***
 - Personal health information held by “custodians”
- ***Personal Information Protection Act (PIPA): 2004***
 - Provincially-regulated private sector organizations

What is Personal information?

- **“Personal information” is information about an identifiable individual, including:**
 - Name
 - Birth date
 - Gender
 - Address
 - Image
 - Employment
 - Income
 - E-mail address
 - S.I.N.





What is PIPA?

- **The *Personal Information Protection Act (PIPA)* balances:**
 - 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
- **Provides “common sense” rules for collection, use and disclosure of personal information by private-sector (non-government) organizations**
- **The Act also provides a right of access to one’s own personal information**



PIPA applies to...

“Organizations”, including:

- **Corporations**
- **Unincorporated associations**
- **Trade unions (*Labour Relations Code*)**
- **Partnerships (*Partnership Act*)**
- **Individuals acting in a commercial capacity**



Non-Profit Organizations

- **PIPA only applies to non-profit organizations carrying out commercial activities**
- **“Non-profit organizations” are defined as organizations incorporated under**
 - *the Societies Act*
 - *the Agricultural Societies Act, or*
 - *Part 9 of the Companies Act*
- **All other not-for-profit organizations must comply with PIPA for all their activities**



Does PIPA apply to School Councils?

- **YES!**
- **School Councils are created under the *School Act* and are considered unincorporated associations**
- **Meet definition of an “organization” under PIPA**
- **OIPC Order P2006-003 cleared things up**



What about Schools?

- **“Public bodies” subject to the FOIP Act**
- **Must collect, use and disclose personal information in compliance with the Act (e.g., of students, of parents)**
- **Generally, schools can collect only the personal information they require**
- **Can use or disclose personal information for the purposes it was collected for and individuals were notified of**
- **New use or disclosure permitted with an individual’s consent, or if the FOIP Act permits**



What does this Mean for School Councils?

- **Councils are required to comply with PIPA**
- **Councils must look to PIPA's general requirements when collecting, using and disclosing personal information**
- **Because schools often work closely with councils, both parties must be mindful of their respective privacy obligations**



Collecting personal information

- **Identify purposes for collection**
 - is purpose reasonable?
- **Collect personal information directly from the individual concerned**
- **Limit type and amount of personal information collected**
 - is information reasonable to fulfill purpose?
- **Legitimate business or legal purpose - not “just in case” or because “nice to have”**



Notification

- **Individuals must be notified of the purposes for collecting their personal information**
- **Must also list who can answer questions about the collection**
- **Notice may be**
 - in writing (e.g., on a form, a related section of a web site) or
 - given verbally (e.g., in person or during a phone call)
- **Should be appropriate for situation**
- **Avoid overly broad statements**



Obtain consent

- **Unless Act allows otherwise, organizations need consent:**
 - to collect, use or disclose personal information
 - to collect personal information from anyone other than the individual
- **Consent can be express, implied, or opt-out, depending on circumstances**
- **Consent invalid if obtained by deception or misleading means**



Collection without consent

- **The Act permits personal information to be collected without consent in limited circumstances, including:**
 - when clearly in the interests of the individual
 - when another law authorizes it
 - for investigations or legal proceedings
 - to collect a debt or repay monies owed
 - if information is “publicly available”

Section 14 of PIPA



Use and Disclosure of Personal Information

- **Use and disclose personal information only with consent, unless otherwise permitted by the Act**
- **Use and disclose personal information only for purposes that are reasonable**
- **Use and disclose only the personal information reasonably needed to fulfill the purposes**



Use and Disclosure without Consent

- **The Act permits the use of personal information without consent, in limited circumstances, including:**
 - when clearly in the interests of the individual
 - when another law authorizes it
 - for investigations or legal proceedings
 - to collect a debt or repay monies owed
 - to respond to an emergency threatening the life, health or security of an individual or the public

Sections 17 and 20 of PIPA



Personal employee information

- **“Personal employee information” means personal information of:**
 - **employees/volunteers or prospective employees/volunteers**
 - **reasonably required for the purposes of establishing, managing or terminating the employment or volunteer work relationship**



Personal employee information

- **Consent not required to collect, use and disclose personal employee information**
 - e.g., employment references
- **Notification still required**
- **Special “rules” only apply if solely for managing employees/volunteers – if not, consent required**



Accuracy, Retention and Correction

- **Take reasonable steps to ensure personal information is accurate and complete**
- **Keep personal information only as long as it is reasonable for business or legal purposes**
- **An individual who believes that his or her personal information has a mistake in it, or is missing some information, may ask the organization to correct it**



Protection

- **Must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, copying, modification, disposal or destruction**
- **Safeguards should be appropriate to the sensitivity of the information**



Protection - continued

- ***Physical safeguards*** include:
 - locking file cabinets and areas where files are stored
 - shredding papers containing personal information
- ***Administrative safeguards*** include:
 - training employees/volunteers so they know your policies or rules for protecting personal information
 - access to personal information on “need to know” basis only
- ***Technical safeguards*** include:
 - using passwords to protect personal information on computers
 - erasing computer hard drives before you sell or donate them



Access

- **Individuals can request access to:**
 - own personal information contained in a record
 - information about the purposes for which personal information has been and is being used, and
 - information about to whom the information is disclosed and under what circumstances
- **Organization has a duty to assist**
- **Organization must respond within 45 calendar days**



Access - continued

- **Organization may charge a reasonable fee (except for access to personal employee information)**
- **Any right under the Act may be exercised by another person on an individual's behalf**
 - e.g., a guardian of a minor
- **Right of access is subject limited exceptions, including:**
 - if would show personal information about another individual
 - if would identify the individual who gave an opinion about another individual in confidence




Other Responsibilities

- **Must designate individual(s) to be responsible for compliance with the Act**
 - e.g., Privacy Officer
- **Develop policies, practices and procedures and make information about them available to public on request**
- **In meeting responsibilities under the Act, school councils must act in a reasonable manner**




Oversight

- **PIPA enforced by the Information and Privacy Commissioner (OIPC) of Alberta**
 - same Commissioner for the FOIP Act and HIA
 - independent Officer of the Legislature
- **The Commissioner can:**
 - investigate complaints
 - initiate own investigations & issue Orders
 - authorize an organization to disregard access requests from individuals



What happens if organizations don't comply with PIPA?



- **Commissioner may make an Order if:**
 - complaint or request for review is made
- **If convicted of an offence, fines are**
 - up to \$10,000 for individuals
 - up to \$100,000 for organizations
- **An individual can pursue damages in court for loss or injury suffered as a result of breach of privacy**



Let's look at some "real world" examples of how PIPA may apply to school councils...



Example 1

-  **Can a school council collect parents' contact information, such as name, address and phone number?**
-  **Yes. Can collect personal information directly from the parent. The council would provide the parent with notice of the purpose for collecting the information (e.g., to communicate with parent about upcoming meetings, school events, etc.) and obtain consent.**



Example 2



Can a school provide parents' contact information to the school council?



School may

- a) obtain consent to disclose personal information from its records, or**
- b) it can facilitate the collection of the personal information by the council directly from parents**



Example 3

- 🔑 **Can a school distribute notices and newsletters from the school council for students to take home to parents?**
- ✓ **This is up to the school. There is no personal information exchanged in this process, so privacy is not a concern.**



Summary

- **Collect, use and disclose only the amount of personal information needed to fulfill a reasonable purpose**
- **Get consent**
- **Tell people why your collecting their personal information**
- **Protect the personal information you have**
- **Only keep it for as long as you need it**
- **Provide access to an individual's own personal information, on request**
- **Create a privacy policy, and**
- **Appoint a Privacy Officer**



PIPA Resources

- **PIPA web site: www.pipa.gov.ab.ca**
 - *FAQs for School Councils and School Fundraising Societies*
 - *Guide for Organizations and Businesses on PIPA*
 - *Ten Steps to Implement PIPA*
 - *Personal Information Protection Policy for Small and Medium-Size Businesses*
- **PIPA Information Line**
 - (780) 644-PIPA (7472)
 - pspinfo@gov.ab.ca
- **OIPC web site: www.oipc.ab.ca**



This document will be updated periodically as other questions are raised regarding Alberta's *Personal Information Protection Act*.

This document is not a substitute for legal advice.

1. Is a school council an organization under PIPA?

Yes. A school council, as established under section 22 of the *School Act*, is an unincorporated association and, as such, is an "organization" under PIPA (section 1(i)(ii)). Therefore school councils are subject to the provisions of PIPA. School councils are not subject to the *Freedom of Information and Protection of Privacy Act* (the FOIP Act), as they are not "public bodies" as defined in the FOIP Act (see IPC Orders F2006-003 and P2006-003).

2. Is a school council considered to be a non-profit organization under PIPA?

No. School councils as established under section 22 of the *School Act* do not meet the definition of a non-profit organization under PIPA. As a result, school councils are expected to comply with all the provisions in PIPA.

3. What are a school council's responsibilities under PIPA?

PIPA sets out requirements for how organizations may collect, use, and disclose personal information. The *Guide for Businesses and Organizations on the Personal Information Protection Act* is available to help organizations understand PIPA. School councils need to designate someone to be the contact person for any questions that may be received about the council's handling of personal information. Councils also need to develop a privacy policy. The Alberta Home and School Councils' Association is currently writing a sample privacy policy that school councils could adopt. Please see *A Summary for Organizations* for a more complete description of an organization's key obligations under PIPA.

4. Can a school council collect parents' contact information, such as name, address and phone number?

A school council can collect personal information directly from the parent. The council would provide the parent with notice of the purpose for collecting the information (e.g. to communicate with parents about upcoming meetings, school events, etc.) and obtain consent. It is important that the notice cover all the intended uses and disclosures of the information.

5. Can a school provide parents' contact information to the school council?

Schools are required to comply with the FOIP Act. A school can provide the information in one of two ways. A school may obtain consent to disclose personal information from its records, or it can facilitate the collection of the personal information by the council directly from parents.

In the first approach, the school provides the personal information after obtaining consent. Schools normally collect the parents' contact information as part of the student registration process. A school can ask the parent to consent to the school providing his or her contact information to the school council or the school fund-raising society. A sample form for this purpose is available in the publication entitled *Using and Disclosing Personal Information in School Jurisdictions* on the FOIP website.

Alternatively, a school council can develop a form requesting this information from the parents. The school would provide the form to parents, and the school would collect and forward the completed forms directly to the school council.

6. Can a school distribute notices and newsletters from the school council for students to take home to parents?

This is up to the school. There is no personal information exchanged in this process so privacy is not a concern.

7. If a school board receives a FOIP request for copies of school council minutes, can the school board transfer the request to the school council?

No. Under the *School Councils Regulation A.R. 113/2007*, a copy of the minutes of each meeting must be retained at the school and made available to the school board or the public on request. Since the board has custody of the minutes, the board must process the request under the FOIP Act. Also, a board cannot transfer a FOIP request to an organization that is not subject to the FOIP Act.

8. Could an individual make a request under PIPA to the school council for the minutes?

Under PIPA, an individual can only make a request to access his or her own personal information. The Act could only be used to obtain records containing that individual's personal information. A request cannot be made under PIPA for non-personal information. However, because the *School Councils Regulation* requires minutes be made available to the public on request, minutes would be provided as required by the regulation, rather than under PIPA.

9. Is a school fund-raising society an organization under PIPA?

Yes. A school fund-raising society is a "corporation" and as such is an organization as defined under PIPA (section 1(i)(i)). Further, societies are identified as "non-profit organizations" under PIPA (section 56 (b)). The Act applies on a limited basis to these non-profit organizations. For societies (non-profit organizations), the Act only applies to personal information that is collected, used or disclosed as part of a commercial activity. Fund-raising is not considered to be a commercial activity. For more information, please see *Information Sheet 1: Non-profit organizations*.

10. What are a school fund-raising society's responsibilities under PIPA?

As a non-profit organization under PIPA, a society does not need to follow PIPA unless it collects, uses or discloses personal information as part of a commercial activity. Most school fund-raising societies will not have to implement PIPA.

11. Can a school fund-raising society collect parents' contact information, such as name, address and phone number?

The society can collect personal information directly from the parent or indirectly from another source. In practice, the society may want to follow the same consent process adopted by the school council. This will enable the school council to collect personal information from the society, in accordance with PIPA.

12. Can a school provide parents' contact information to the school fund-raising society?

Schools are required to comply with the FOIP Act. A school can provide the information in one of two ways. A school may obtain consent to disclose personal information from its records, or it can facilitate the collection of the personal information by the society directly from parents.

In the first approach, the school provides the personal information after obtaining consent. Schools normally collect the parents' contact information as part of the student registration process. A school can ask the parent to consent to the school providing his or her contact information to the school council or the school fund-raising society. A sample form for this purpose is available in the publication entitled *Using and Disclosing Personal Information in School Jurisdictions*.

Alternatively, a society can develop a form requesting this information from the parents. The school would provide the form to parents, and the school would collect and forward the completed forms directly to the society.

13. Can a school distribute notices and newsletters from the school fund-raising society for students to take home to parents?

This is up to the school. There is no personal information exchanged in this process so privacy is not a concern.

14. Could an individual make a request under PIPA to the school fund-raising society for minutes of its meetings?

No. PIPA would not apply to personal information in the society's minutes. The minutes may be available under procedures set out in the *Societies Act*.